

# ECONOMICS 421: Law and Economics

Winter 2023

Mr. Kearnl

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consultation: TTh 9:45-11:30 (can also meet via Zoom)

Text: *Law & Economics*, 6<sup>th</sup> edition, Robert Cooter and Thomas Ulen  
available free in pdf format at: <https://lawcat.berkeley.edu/record/1127400?ln=en>  
*Principles of Law & Economics*, 2<sup>nd</sup> edition, Daniel Cole and Peter Grossman  
available for purchase at BYU Store

Grading:

midterm exam 50 points  
final 100 points  
research memo 50 points, but failure to submit a paper on time will result in an E for the class  
case discussion -20 points to +20 points  
homework half grade penalty for each missed deadline or each incomplete assignment

Homework:

You are to create a homework journal as a Word document that contains your answers to each of the within-chapter questions in the Cooter/Ulen text. Relevant sections of your homework journal are to be submitted electronically 5 times over the course of the semester as detailed below. Please answer all within-chapter questions in your homework journal – questions should be answered fully and completely as you read and study the chapter, hence the term “journal.” Each of your homework journal submissions is due in my email box before noon on the specified due date.

Case Discussion:

These discussions are conducted using the Socratic method. If called upon, you must be able to provide the facts in the case and summarize the court’s decision. The discussions will focus on the incentives. Points earned or lost based on preparation and participation.

Research Memo: This is a research project with five parts.

First, select a legal issue from the list below.

Second, find the relevant Supreme Court and/or Federal Appellate court decisions dealing with the issue. Provide a very brief summary of what you believe the law dealing with the issue to be, citing to the cases you’ve found. (By brief, I mean no more than a paragraph.)

Third, assemble a comprehensive bibliography of **all** economics journal articles and monographs dealing with the issue. You may include law review or more general academic publications but only if written by either an economist or a law faculty member. Please exclude anything written by law students (fyi, most law review articles are written by law students). Your comprehensive bibliography, in standard bibliography format, has to be attached to your memo. **Do not** use web address or access information in your bibliography except for on-line publications and ephemeral. The cases you reviewed should be included at the end of the comprehensive bibliography under “Cases Reviewed” using standard legal citation format.

Fourth, select the articles that you believe to be the most insightful or helpful or informative with regard to how economists view the legal issue. In order to do this you will have to scan through **every** paper in your bibliography. Which means, in turn, that you will need to assemble your comprehensive bibliography as soon as possible. Provide a synthesis of the articles you’re selected. Include key assumptions, the formal or informal model, and the insights provided by the author(s) into the legal issue you’ve chosen.

Fifth, conclude with a one paragraph justification for your choice of the article(s) you’ve just discussed.

Legal Issue (select one):

1. Punitive Damages
2. Class Action
3. Eminent Domain and the Takings Clause
4. Patent Damages
5. Product Liability

Foundations

Jan 10 Introduction  
the court system

Jan 12 A Short History of the Common Law  
Anatomy of a Lawsuit

Jan 17 Economic Tools

Jan 19 Damages

Cooter & Ulen assignments

Chpt 3  
Chpt 2 (Cole and Grossman)

Chpt 2

Property Law

Jan 24 An Economic Theory of Property

Jan 26 Topics in Property  
Patents

**Jan 31** discussion of property cases and articles

**Feb 2** discussion of property cases and articles, continued

Chpt 4  
Chpt 5, 135 to end  
Chpt 5, p 112-134  
see next page

**Feb 2** homework journal

Chpts 4 and 5

Tort Law

Feb 7 An Economic Theory of Tort Law

Feb 9 continued

Feb 14 Topics in Torts

Feb 16 continued

**Feb 23** discussion of tort cases

Chpt 6

Chpt 7

see next page

**Feb 23** homework journal

Chpts 6 and 7

**Feb 28** **MIDTERM EXAM**

**Testing Center**

Mar 2 work on memo

Mar 7 work on memo

Mar 9 work on memo

Contract Law

Mar 14 An Economic Theory of Contract Law

Mar 16 continued

Mar 21 continued

Mar 23 Topics in Contracts

Mar 28 continued

**Mar 30** discussion of contract cases

Chpt 8

Chpt 9

see next page

**Mar 30** homework journal

Chpts 8 and 9

**Apr 4** **PAPER DUE**

**Noon, attachment to email**

Economics of Legal Process

Apr 4 An Economic Theory of the Legal Process

Apr 6 Topics in Legal Process

**Apr 11** homework journal

Chpts 10 and 11

Economics of Crime

Apr 11 An Economic Theory of Crime and Punishment

Apr 13 Topics in Crime and Punishment

Apr 18 continued

Chpt 12

Chpt 13

**Apr 18** homework journal

Chpts 12 and 13

**Tuesday, April 25, 11:00-2:00**

**FINAL EXAMINATION**

**in class**

## Cases and Articles

except where noted, all pages cite to Cole and Grossman:

Legal System:	<i>Chicago Board of Realtors v Chicago</i>	p 57
	<i>Baker v. Weedon</i>	p 59
	<i>Keeble v. Hickinggill</i>	p 65
	<i>Butterfield v Forrester</i>	Cooter & Ulen p 64
	<i>Davies v Mann</i>	Cooter & Ulen p 66
Property:	<i>Sturges v. Bridgman</i>	p 97
	<i>Bryant v. Lefever</i>	p 100
	<i>Paschal v Hamilton</i>	p 111
	Hardin, Tragedy of the Commons	p 118
	Demsetz, Toward of Theory of Property Rights	p 121
	<i>Cheney Brothers v Doris Silk Corp</i>	p 126
	Ellickson, Order Without Law,	p 133
	<i>Carpenter v Double B Cattle Company</i>	p 141
	Calabresei and Melamed, Property Rules, Liability Rules...	p 145
	<i>Whalen v Union Bag and Paper</i>	p 151
	<i>Boomer v Atlantic Cement Co.</i>	p 153
	<i>Spur Industries v Del E Webb Development</i>	p 156
	<i>Andrus v Allard</i>	p 161
	<i>Rylands v Fletcher</i>	p 165
	<i>Amphitheaters, Inc. v Portland Meadows</i>	p 166
	<i>Rick v West</i>	p 170
	<i>Village of Euclid v Ambler Realty Co</i>	p 173
	<i>Kelo v City of New London</i>	p 176
	<i>Pennsylvania Coal Co. v Mahon</i>	p 185
	<i>Lucas v South Carolina Coastal Council</i>	p 187
Michelman, Property, Utility and Fairness	p 191	
Torts:	<i>Vincent v Lake Erie Transportation Co.</i>	p 265
	<i>Winn Dixie Stores, Inc. v Benton</i>	p 274
	<i>Scott v Alpha Beta Company</i>	p 280
	<i>Guille v Swan</i>	p 288
	<i>Shepard v. Superior Court of Alameda County</i>	p 291
	<i>Doe v Miles Laboratories, Inc.</i>	p 293
	<i>Mathias v Accor Economy Lodging , Inc</i>	p 324
Contracts:	<i>Mills v Wyman</i>	p 200
	<i>Sherwood v Walker</i>	p 214
	<i>Harris v. Tyson</i>	p 215
	<i>Williams v Walker-Thomas Furniture Co.</i>	p 220
	<i>Opera Company of Boston v Wolf Trap Foundation</i>	p 223
	<i>Oklahoma Natural Gas Corp v Municipal Gas</i>	p 231
	<i>Neri v Retail Marine Corporation</i>	p 236
	<i>Peevyhouse v Garland Coal &amp; Mining Co.</i>	p 238
	<i>Franklin M. Groves v John Wunder Company</i>	p 242
	<i>Hadley v Baxendale</i>	p 248
	<i>Security Stove &amp; Mfg v American Railway Express</i>	p 250
<i>Deitsch v Music Company</i>	p 253	

## **UNIVERSITY POLICIES**

### **Honor Code**

In keeping with the principles of the BYU Honor Code, students are expected to be honest in all of their academic work. Academic honesty means, most fundamentally, that any work you present as your own must in fact be your own work and not that of another. Violations of this principle may result in a failing grade in the course and additional disciplinary action by the university. Students are also expected to adhere to the Dress and Grooming Standards. Adherence demonstrates respect for yourself and others and ensures an effective learning and working environment. It is the university's expectation, and every instructor's expectation in class, that each student will abide by all Honor Code standards. Please call the Honor Code Office at 422-2847 if you have questions about those standards.

### **Preventing Sexual Misconduct**

Brigham Young University prohibits all forms of sexual harassment—including sexual assault, dating violence, domestic violence, and stalking on the basis of sex—by its personnel and students and in all its education programs or activities. University policy requires all faculty members to promptly report incidents of sexual harassment that come to their attention in any way and encourages reports by students who experience or become aware of sexual harassment. Incidents should be reported to the Title IX Coordinator at [t9coordinator@byu.edu](mailto:t9coordinator@byu.edu) or (801) 422-8692 or 1085 WSC. Reports may also be submitted online at <https://titleix.byu.edu/report> or 1-888-238-1062 (24-hours a day). BYU offers a number of resources and services for those affected by sexual harassment, including the university's confidential Sexual Assault Survivor Advocate. Additional information about sexual harassment, the university's Sexual Harassment Policy, reporting requirements, and resources can be found in the University Catalog, by visiting <http://titleix.byu.edu>, or by contacting the university's Title IX Coordinator.

### **Student Disability**

Brigham Young University is committed to providing a working and learning atmosphere that reasonably accommodates qualified persons with disabilities. A disability is a physical or mental impairment that substantially limits one or more major life activities. Whether an impairment is substantially limiting depends on its nature and severity, its duration or expected duration, and its permanent or expected permanent or long-term impact. Examples include vision or hearing impairments, physical disabilities, chronic illnesses, emotional disorders (e.g., depression, anxiety), learning disorders, and attention disorders (e.g., ADHD). If you have a disability which impairs your ability to complete this course successfully, please contact the University Accessibility Center (UAC), 2170 WSC or 801-422-2767 to request a reasonable accommodation. The UAC can also assess students for learning, attention, and emotional concerns. If you feel you have been unlawfully discriminated against on the basis of disability, please contact the Equal Opportunity Office at 801-422-5895, [eo\\_manager@byu.edu](mailto:eo_manager@byu.edu), or visit <https://hrs.byu.edu/equal-opportunity> for help.