E351 Law and Economics
Sect. 11692; TR 9:30 am -10:45 am; BH 307

Required Texts:

R. Cooter and T. Ulen, Law and Economics, 6th ed., Addison-Wesley, 2011 (hereafter, C&U); this text is available for download free of charge at http://scholarship.law.berkeley.edu/books/2/; other editions can be used, but page numbers in them differ from the 6th edition

Optional Texts:

D. Friedman, Law’s Order, Princeton University Press, 2000 (hereafter, FR) [Note: This text is available on-line free of charge at www.daviddfriedman.com/laws_order/. This is an excellent book and it offers many supplementary materials.]

Required readings are marked with an asterisk (*). Students are encouraged to read additional sources and use them in class discussions. Later in the semester, I may add some other materials to the list of required readings. Also, I strongly encourage you to use other web-based sources on law and economics. One very useful and comprehensive source, particularly for those students who would like to gain a deeper understanding of the issues, is the on-line Encyclopedia of Law and Economics. Many blogs relevant to this course are also available. For example, you may find stimulating discussions at the following blogs: http://marginalrevolution.com/, http://ericposner.com/, http://reason.com/volokh, http://www.overlawyered.com/. The first blog is rather general and contains some discussions that may not be directly relevant to the topics in this course. The other blogs are focused on law with some emphasis on economics. Incidentally, blogs usually provide references to other potentially useful blogs.

Grading

The final grade for the course will be determined by two midterm exams (25% each), and a final exam (40%) and attendance (10%). Those who participate in class by asking questions or making comments will be able to increase their final grade score by up to 10 percentage points. The examinations will consist of short essays (one or two), problem-type questions involving math, and, possibly, short answer questions (e.g., short definitions of concepts or explanations of terms). Class participation will be evaluated based on its frequency and quality of comments and questions, although erroneous comments will not lower your score for participation. As for attendance, students are allowed to miss two classes without any consequences to the attendance score. Any absences after that will deduct proportionally from the 10% attendance score.

The final examination is cumulative. However, the students who are satisfied with their (curved) average grade for the first two midterms will have an option of taking only the post-second midterm portion of the
final examination. In this case, each of the three exams will have the weight of 33.3%. (That is, the average grade for the two midterms will count for 66.6% and the shortened final will count for 33.3%.) I will communicate the curved average midterm grade to each student shortly after the second midterm.

Other matters

The best way to contact me to set up an appointment, to ask a question, etc., is by e-mail. I check it several times a day.

Please note that our class web page has a link to lecture slides. The slides for topics that we have not yet covered this semester are from the previous semester and I may modify them somewhat for your class. While I think the slides would be very useful for you in your review of the material, they mainly provide a guide to what I think are important points and issues. The slides alone are not sufficient for adequate understanding of the material. In particular, they are not a substitute for lecture attendance and for studying the texts and the handouts. There is also a link to "Questions for discussion." I urge you to review these questions as you study the topics. In addition, note that the class web page contains exams from previous years with answers to numerical problems (see “Sample exams”) and class handouts.

Course Outline
(time allotted for each topic is approximate; Required readings are marked with an asterisk (*)

1. Introduction (0.5 week).
   * C&U, Ch. 1
     FR, Ch. 1

2. Review of the most relevant economic concepts. (0.5-1 week).
   * C&U, Ch. 2
   * POL, Chs. 1, 2
   FR, Chs. 2, 3, 6, 7, 8
     Ellickson, “Bringing Culture and Human Frailty to Rational Actors…,” pp. 66-80)
     G. Becker, "Nobel Lecture: The Economic Way of Looking at Behavior," J. Political Economy,

3. Civil law and common law traditions; court systems; the evolution of legal rules (0.5 week).
   * C&U, Ch. 3
     FR, Ch. 9 (pp. 103-111: Intermezzo)

4. Economics of tort law and liability (3 weeks)
   * C&U, Chs. 6, 7
   * POL, Chs. 6, 9, 14, 17
   * FR, Ch. 9
Viscusi, “The Value of Risks to Life and Health,” (D&U, pp. 423-36)
Shavell, “Strict Liability versus Negligence,” pp. 376-80;
Fried, “The Value of Life,” pp. 417-23)
FR, Ch. 14
RP, Ch. 6

MIDTERM (date to be determined)

5. The Coase Theorem. Property law and an economic theory of property (1.5 weeks).

* C&U, Chs. 4; 5.II-5.IV (except 5.II.B, 5.III.D, and 5.IV.C)
* POL, Chs. 3, 4
  also reprinted in D&U (Coase, "The Problem of Social Cost," pp. 81-112)
  Roger Myerson, “Justice, Institutions, And Multiple Equilibria,” *Chicago J. of International Law*,
  v. 5 (2004):91-107;  (also available at: http://home.uchicago.edu/~rmyerson/research/justice.pdf)
  D&U (Regan, “The Problem of Social Cost Revisited,” pp. 113-9;
  Demsetz, “When Does the Rule of Liability Matter?,” pp. 120-9)
  D&U (Hardin, “The Tragedy of the Commons,” p. 176-7;

6. Intellectual Property Rights (2.5 weeks)

* C&U, Ch. 5.I (pp. 112-142)
  v. 19:57-73 (Spring 2005)
* Scotchmer, "Standing on the Shoulders of Giants: Cumulative Research and the Patent Law"
* Bessen and Maskin, *Sequential Innovation, Patents, and Imitation*, Sections 1 and 2 (pp. 1-6)
* R. Posner, “Why there are too many patents in America” (available in Class Handouts and here:
  http://www.theatlantic.com/business/archive/2012/07/why-there-are-too-many-patents-in-
  america/259725/)
  Gallini and Scotchmer, "Intellectual Property: When Is It the Best Incentive System?"
  Heller, M. A. and Eisenberg, R.: Can Patents Deter Innovation? The Anticommons in Biomedical
  Research, *Science* 280, 5364 (1 May 1998)
  FR, Chs. 4, 10, 11
  RP, Ch. 3

MIDTERM (date to be determined)

7. Economics of contract law and remedies (3 weeks).

* C&U, Chs. 8, 9
* POL, Chs. 5, 7, 8
* A. Kronman, "Contract Law and the State of Nature" *J. Law, Economics, and Organization*,
  v. 1:1-32 (Spring 1985)
Hermalin et al., “The Law and Economics of Contracts”
FR, Ch. 12
RP, Ch. 4

8. Efficiency, equity, and the common law; concluding comments (0.5 weeks)

* FR, Ch. 19
* POL, Ch. 17, 18