

Economics and the Law (Seminar)
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University of Nevada Las Vegas
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Syllabus

A shipwreck has left a physicist, a chemist, and an economist without food on a deserted island. A few days later a can of beans washes up on the shore. The physicist proposes the following method of opening the can: "I've calculated that the terminal velocity of a one-pound object – the weight of the can – thrown to a height of twenty feet is 183 feet per second. If we place a rock under the can the impact should just burst the seams without spilling the beans."

The chemist's response is: "That's too risky since we can't be sure we will throw the can to the correct height. I've got a better idea. Let's start a fire and heat the can on the coals for one minute, thirty-seven seconds. I've calculated that this should just burst the seams. This method is less risky since we can always push the can off the fire if it starts to burst sooner."

The economist's reaction is: "Both of your methods may work, but they are too complicated. My approach is much simpler: Assume a can opener."¹

Goals and Objectives (a.k.a. The Purpose of This Course)

I aspire, at a minimum, to:

- (re-)introduce you to the basic methodologies of economics and some of the ways in which they can be – indeed, in many cases, already have been – applied to (1) understanding existing legal rules and institutions and at least some of the rationales underlying them, (2) critiquing existing legal rules and institutions and at least some of the rationales underlying them, and (3) improving legal rules and institutions and at least some of the rationales underlying them;
- discuss some of the many ways in which lawyers, judges, and lawmakers use economics and economists in assessing a legal issue or dispute, advocating a position, reaching a decision, and justifying that decision;

¹ A. MITCHELL POLINSKY, AN INTRODUCTION TO LAW AND ECONOMICS 1 (3d ed. 2003). This joke was "old" when I started studying economics more than twenty years ago. For those of you who find yourselves "adrift" (pun intended) this semester as we work our way through the principal texts, you may want to consider turning to Professor Polinsky's book, which is completely devoid of graphs and virtually devoid of math. It may help you better understand some of the concepts we are studying. The reason I did not require or recommend it is that it not only assumes no prior knowledge of economics, it also assumes no prior knowledge of *law*. I certainly hope that is a faulty assumption for students in this class. If it isn't, please don't disabuse me of my blissful ignorance.

- further hone your analytical and writing skills in ways that will serve you well in your future legal endeavors;
- apply those skills to discussing and assessing the explanations and arguments made in the assigned course materials and in one another's written work and in-class discussion and presentations; and
- enable those of you who have chosen to do so to satisfy the graduation writing requirement by writing a paper on any substantive topic you choose, provided that you utilize and critique one or more of the methodological tools in an economist's tool kit.

Class Meetings

Class is scheduled to meet every **Thursday from 1:30 to 3:25 p.m. in Room 101** (not Room 106, as originally advertised). I reserve the right to schedule a make-up for any class I must miss.

Office Hours

My office is **Room 428**. My "posted" office hours this semester will be **Thursdays from 3:30-6:00 P.M.** I am in my office (except for occasional forays to the Library or committee meetings) almost every afternoon and many mornings, too. Feel free to "drop in." I will either see you at that time, or arrange a time to meet with you. I will also make every effort to accommodate you in the event that you would like to schedule an appointment either during or outside of my posted office hours. You may also e-mail me at keith.rowley@ccmail.nevada.edu. I check my e-mail frequently, usually beginning around 8:00 a.m. and often as late as 1:00 a.m., whether I am in town or not. I will respond to your e-mails as promptly as I can.

Course Materials

Our principal texts will be Richard A. Posner, *Economic Analysis of Law* (6th ed. 2003), Kenneth G. Dau-Schmidt & Thomas S. Ulen eds., *Law and Economics Anthology* (1998), and Eric M. Posner ed., *Chicago Lectures in Law and Economics* (2000). For those who have little or no prior exposure to economics, or who want a quick refresher, I also recommend Mark Seidenfeld, *Microeconomic Predicates to Law and Economics* (1996). All of these titles should be available in the UNLV Bookstore. I may also assign additional materials, which I will distribute in class and provide links to on the class web site.

Grades

Unlike most (or all) of the courses you have taken to date in law school, your grade in this seminar will not be determined primarily (or exclusively) by your performance on an end-of-semester exam. Instead, your grade will be based on your participation in in-class discussions, your performance on written assignments made during the course of the semester, and the paper you will write between now and the end of the semester.

Class Attendance and Participation

I envision this class being highly interactive and, to some extent at least, directed by your own interests and intellectual curiosity. Therefore, whether you enrolled for the two- or three-credit version of this course, I expect you to attend *every* class meeting (there will be no more than thirteen, after all) and to participate in our discussion of the assigned readings, your and others' paper topics, and your and others' written work. **I reserve the right to drop any student from this class who misses three or more class meetings (with or without excuse). Alternatively, I reserve the right to reduce your course grade by up to one full letter grade for each class you miss following your second absence.**

Homework Assignments

Several times during the semester, I will assign a handful of questions, including but not necessarily limited to the questions following each chapter of Richard Posner's *Economic Analysis of Law*, each lecture in Eric Posner's *Chicago Lectures*, and each reading in Dau-Schmidt & Ulen's *Anthology*. I will ask you to submit one-page-or-less answers to each question by the stated deadline, which I will grade and/or copy and distribute for in-class discussion and evaluation.

Papers and Presentations

Those students who opt for the **two-credit** version of the class must write one 15-25 page paper during the course of the semester. I must pre-approve all topics, which you should choose no later than March 18th. Each student will present his or her short paper in class. I will give you the option of doing so while you are still working on the paper, so that you may benefit from your classmates' comments and suggestions, or after you have finished it. All short papers will be due on or before Thursday, April 22nd.

Those students who opt for the **three-credit** version of the class must write one 30-50 page paper during the course of the semester. I must pre-approve the topic for your paper, which you should choose no later than March 4th. You must both submit a substantial first draft of the paper to me and present your work-in-progress in class no later than Thursday, March 25th. You must submit a second draft and make a second in-class presentation no later than Thursday, April 22nd. You must submit the final draft of your paper no later than Thursday, May 13th.

When grading each paper, I will consider its substantive quality and your use or critique of economic methodology, as well as the paper's structure, grammar, punctuation, style, and citation form. All papers must conform to the current edition of *The Bluebook*. For guidance on grammar, punctuation, and style, I recommend Bryan Garner, *The Elements of Legal Style*.

I will calculate your course grade in the following manner:

Paper	50%
Homework Assignments	25%
Class Participation	25%

Reading Assignments

Because I want to “customize” the course readings to some extent based on your interests, I have not yet finalized the Reading List for the semester. (Indeed, I reserve the right to modify the Reading List as the semester progresses, as needed). **For the first class meeting, read pages 1-28 of Richard A. Posner, *Economic Analysis of Law* and pp. 189-201 & 29-47 of Eric M. Posner ed., *Chicago Lectures in Law and Economics*.** If you are having difficulty with the concepts covered by any of the assigned readings, or you simply want more, I recommend that you read pp. 1-48 & 85-90 of Mark Seidenfeld, *Microeconomic Predicates to Law and Economics*.

Class E-Mail List and Web Site

I will create a class e-mail list and will post course materials on a web site accessible through <http://www.law.unlv.edu/faculty/rowley.htm>. You should check your e-mail and the web site for announcements and for reading and writing assignments.

Accommodating Disabilities

Learning Enhancement Services (LES) houses Disability Services, Learning Strategies, and Supplemental Instruction. If you have a documented disability that may require assistance, you should contact LES to coordinate your academic accommodations. LES is located in the Reynolds Student Services Complex, suite 137. Tel: (702) 895-0866. TDD: (702) 895-0652. You may also visit their website at www.unlv.edu/studentlife/les.