

**LAW & ECONOMICS**  
**FALL 2008**

**PROFESSOR ALLEN BLAIR**

Office Hours

Monday 9:00 – 10:00  
Tuesday 11:00 – 12:00  
Wednesday 9:00 – 10:00  
*Other Times By Appointment*

Contact Information

Phone: 651-523-2794  
email: [hblair01@hamline.edu](mailto:hblair01@hamline.edu)

*Practical [people], who believe themselves to be quite exempt from any intellectual influence, are usually the slaves of some defunct economist.*

JOHN MAYNARD KEYNES, *The General Theory of Employment, Interest and Money* (1935).

Introduction

At its core, economics is the study of incentives: how people get what they want or need, particularly when other people want or need the same thing. Notably, most incentives do not arise organically. Instead, they are created. Incentives may, of course, be monetary, social, moral, or legal. In this course, we will focus most of our attention on the incentives embodied in legal rules that are created by legislatures, courts, or even parties themselves. We will study fundamental economic theory in order to predict how rational individuals respond to such legal rules and what the likely consequences of the rules will be. We will also, however, explore some of the key criticisms of and alternatives to classic economic approaches to law.

Significantly, this course does not rely on equations or inscrutable diagrams. This is not a microeconomics or econometrics course. While mathematics can offer a simple and elegant way of expressing complex ideas, and while we will think mathematically, we will avoid algebraic statements. Rigorous logic and, occasionally, basic arithmetic will be our tools.

Required Texts

- JEFFREY L. HARRISON, *LAW AND ECONOMICS: POSITIVE, NORMATIVE AND BEHAVIORAL PERSPECTIVES* (2d ed. 2007) (“Textbook”).

Preparation and Participation

While challenging, I believe that this class will pay large dividends to you, both during the remainder of your time in law school and in your life after law school. This class is imminently practical. Many of your future clients will be well versed in economic approaches to business, management, and policymaking, and they will expect you to have a working understanding of economic theories. Additionally, more and more law students are being exposed to law and economics, which means that more and more of your future colleagues, opponents, and judges will be thinking about law through an economic lens. Finally, the fundamental analytical tools that you will gain in this class will serve you well in thinking about and solving your clients’ problems, even if they have never thought about or heard of law and economics.

As an elective course, I anticipate that you are in it because you want to be. I therefore expect your engaged and thoughtful participation.

Each assignment that we cover, particularly during the first ten classes, builds on the previous one. Accordingly, it is essential that you keep up. Because the materials in the first ten classes lay the foundation for the rest of the course, you should expect to invest significant time in them. As the semester progresses, you will notice that we will be revisiting many of the same themes and theories. I suspect, as a result, that the back half of the class will be substantially easier for you than the front half.

### Attendance

Missing more than three classes will constitute excessive absence for purposes of the Law School's attendance policy. If a conflict arises with a particular class, please let me know as soon as possible. I will endeavor to make reasonable accommodations to folks who have personal, religious, or other conflicts and let me know about such conflicts in a timely manner.

### TWEN

You will need to register for this course's page on TWEN as soon as possible. I will be posting materials that you will need on TWEN during the semester.

### Computer Use

You may use laptop computers or other electronic devices in class to take notes and access course-related materials. You should not use your laptop or electronic devices for other purposes.

### Grading and The Exam

Your grade this semester will be based on a final examination (70%) and two short papers (30%).

#### *The Final Examination*

The final examination will be a two-and-a-half hour, open-book test. We will discuss the structure and format of the examination in more detail as the semester progresses.

#### *The Short Papers*

Over the course of the semester, you will need to turn in two short papers (1,200 – 1,600 words each). You will be able to choose a topic for these papers from several options, which will be made available to you during the first week of class. The first paper will be due no later than October 10. The second paper will be due no later than December 5.

### Reading Assignments

*This semester, we will cover chapters 1-3; and 5-6 of the Textbook. We will also be spending several classes discussing law and economic approaches to contract law. I will be providing most of the materials for this discussion (supplemented with some of the materials provided in chapter 4). Finally, I am providing you, as you will see, with a number of handouts. The handouts are important, so please make sure that you read them as carefully and thoughtfully as you do the Textbook.*

*Rather than trying to predict how quickly we will move through the materials for the entire semester, I am providing you with the first 9 assignments. I will distribute another 8-10 assignment bundle no later than Monday, September 8. I will then continue to distribute similar assignment bundles every couple of weeks until we are done.*

**8/21** *An Introduction to Law and Economics & What's Demand Got to Do With Anything?***Textbook 1-14****Handout** – *Intro to Thinking Like an Economist*Guiding Questions<sup>1</sup>

1. Please spend about 10-15 minutes carefully considering Questions 2-4 on page 14.<sup>2</sup>
2. Why do many bars charge their customers for water but give them pretzels (or peanuts) for free?
3. Why do cell phone companies, like Verizon, offer cell phones for free (or for a very low price) when you sign up for a cell phone service contract but charge upwards of \$40 for a spare battery for the same phone?

**8/26** *What Makes a Competitive Market (Supply, Equilibrium, and Elasticity) and What Does it Mean to Think at the Margins***Textbook 14 - 34**Guiding Questions

1. Please spend approximately 20 minutes carefully considering the questions on page 34.
2. Why do new cars costing \$20,000 (or more) rent for \$30 or \$40 a day while tuxedos costing only \$500 or \$600 rent for around \$90 a day?

**8/28** *Efficiency, Externalities, and Social Justice***Textbook 34 – 62****Handout** – *Intro to the Prisoner's Dilemma and Nash Equilibriums***Handout** – *What's so Great About Public Goods?*Guiding Questions

1. Please spend approximately 10 minutes developing thoughtful responses to questions 1 and 2 on page 50.

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<sup>1</sup>Not every assignment will have guiding questions. When I give you guiding questions, however, you should spend whatever time I recommend in the questions before class articulating, either in writing or in your head, cogent responses to the questions. Sometimes the questions will be hypothetical problems or puzzles. With these sorts of guiding questions, you should try to articulate a response using one or more of the economic tools that you have learned up to that point in the class.

<sup>2</sup> If I specifically mention questions from the Textbook, you should be prepared to discuss those questions in some detail. Of course, if I do not mention the questions in the syllabus, you should not take this to mean that you can skip over the questions or ignore them. In fact, part of the reason that I picked this text is because I think that most of the questions in it are thoughtful and worthy of consideration. We will, however, likely address at some length the questions that I mention in the syllabus.

2. Please spend another 15 minutes or so developing thoughtful responses to questions 2 and 4 on page 58.

**9/2** *Homo Economicus: Rational Maximizers of Self-Interest?*

**Textbook 63 – 91**

Guiding Questions

1. Please consider questions 2 and 4 on page 78 in some depth. Be prepared to give a thoughtful response to each.
2. Please spend 10 minutes or so developing responses to questions 1, 2, and 6 on pages 82 and 83.
3. Please consider question 4 on page 87 in some depth. Be prepared to give a thoughtful response to this question.

**9/4** *Homo Economicus, continued*

**Textbook 91 – 118**

**Handout -- Ernst Fehr and Reciprocal Fairness**

Guiding Questions

1. Please spend a few minutes considering a response to question 1 on page 93.
2. Please spend a few minutes considering a response to questions 2, 4 and 6 on page 100.
3. Please consider questions 5 and 6 on page 100. Be prepared to give thoughtful responses to these questions.

**9/9** *Homo Economicus, continued*

**Textbook 118 – 141**

Guiding Questions

1. Please consider questions 1 and 4 on page 133. Be prepared to give thoughtful responses to these questions.
2. Please consider question 2 on page 139. Be prepared to give a thoughtful response to this question.

**9/11** Introduction and Overview of Behavioral Economics

**Handout – Introduction to Behavioral Economics**

**9/16** The Problem of Social Cost: Intro to Transaction Costs and the Coase Theorem

**Textbook 142 – 166**Guiding Questions

1. Please consider the questions on page 155 carefully.
2. Please give at least 15 – 20 minutes of thought to the questions on pages 159-161. We will spend some time working through these questions. Be prepared to give cogent responses to them.
3. Similarly, please consider question 2 on page 166 carefully. Be prepared to give a cogent response to this question.

**9/18** The Problem of Social Cost, Cont'd: Should Courts Mimic the Market?**Textbook 166 – 191**Guiding Questions

1. Please consider questions 1, 3, 6 and 7 on pages 171-74 carefully. Please be prepared to give cogent responses to these questions.
2. Please consider questions 2 and 4 on pages 179-80 carefully. Please be prepared to give cogent responses to these questions.
3. Please spend about 10 minutes considering questions 1-3 and 4-7 on pages 184-85. We will be working through these questions in class. (Please print a copy of § 90 of the *Restatement (Second) of Contracts* to use in thinking about these questions (you don't need the notes to the section – just the text of the section itself). Bring the copy with you to class.)