

Lawyers' economics versus economic analysis of law: a critique of professor Posner's "economic" approach to law by reference to a case concerning damages for loss of earning capacity

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Published online: 10 April 2017
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Abstract A methodological critique of the Chicago School of legal economic analysis, in particular Posner's approach, is illustrated by an example characterizing Chicago-type 'analysis of law'. Although the discussion of the example referred to may be interesting in its own right, its purpose here is to suggest a more general framework of criticism in order to allow for generalizable conclusions. The suggestion of an alternative interpretation and solution to a particular legal problem serves to point out some limits of the methodology Posner has adopted. This applies more generally to the delineation of the limits of the rôle economics can play in actual litigation in helping judges and juries to arrive at fair as well as socially efficient solutions.

Keywords Economic analysis of law · Law and economics · Posner · Chicago School · Methodology · Social efficiency

JEL Classification K00 · K13 · K41 · B41

This paper is a slightly modified version of a paper with the same title that was published in 1978 in the Munich Social Science Review.

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Economic Analysis For Lawyers

Richard Bailey



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Table of Contents Economic Analysis For Lawyers

1. Understanding the eBook Economic Analysis For Lawyers
 - The Rise of Digital Reading Economic Analysis For Lawyers
 - Advantages of eBooks Over Traditional Books
2. Identifying Economic Analysis For Lawyers
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Economic Analysis For Lawyers
 - User-Friendly Interface
4. Exploring eBook Recommendations from Economic Analysis For Lawyers
 - Personalized Recommendations
 - Economic Analysis For Lawyers User Reviews and Ratings
 - Economic Analysis For Lawyers and Bestseller Lists
5. Accessing Economic Analysis For Lawyers Free and Paid eBooks
 - Economic Analysis For Lawyers Public Domain eBooks
 - Economic Analysis For Lawyers eBook Subscription Services
 - Economic Analysis For Lawyers Budget-Friendly Options

6. Navigating Economic Analysis For Lawyers eBook Formats
 - ePub, PDF, MOBI, and More
 - Economic Analysis For Lawyers Compatibility with Devices
 - Economic Analysis For Lawyers Enhanced eBook Features
7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Economic Analysis For Lawyers
 - Highlighting and Note-Taking Economic Analysis For Lawyers
 - Interactive Elements Economic Analysis For Lawyers
8. Staying Engaged with Economic Analysis For Lawyers
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Economic Analysis For Lawyers
9. Balancing eBooks and Physical Books Economic Analysis For Lawyers
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Economic Analysis For Lawyers
10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
11. Cultivating a Reading Routine Economic Analysis For Lawyers
 - Setting Reading Goals Economic Analysis For Lawyers
 - Carving Out Dedicated Reading Time
12. Sourcing Reliable Information of Economic Analysis For Lawyers
 - Fact-Checking eBook Content of Economic Analysis For Lawyers
 - Distinguishing Credible Sources
13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development
 - Exploring Educational eBooks
14. Embracing eBook Trends
 - Integration of Multimedia Elements

- Interactive and Gamified eBooks

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