

GEORGE MASON UNIVERSITY ANTONIN SCALIA LAW SCHOOL

**LAW &
ECONOMICS
CENTER**

JUDICIAL EDUCATION PROGRAM

Public Law: Economic Concepts and Cases

Sunday, October 17 - Saturday, October 23, 2021
White Sulphur Springs, West Virginia



AGENDA

SUNDAY, OCTOBER 17

4:30 - 6:30 pm

Registration, Tea Garden

6:30 pm

Welcome Reception & Dinner, Spring Room/ Chesapeake Bay
(Guests Welcome)

Opening Remarks

Donald J. Kochan, Professor of Law and Deputy Executive Director, Law & Economics Center, George Mason University Antonin Scalia Law School

MONDAY, OCTOBER 18

All classes held in McKinley Room

7:00 - 7:50 am

Breakfast, Fillmore Room
(Guests welcome)

8:00 - 9:15 am

Class 1: Get Your Motor Running! Economic Thinking

Nuno Garoupa, Professor of Law, Associate Dean for Research and Faculty Development & Faculty Director of Graduate Studies, George Mason University Antonin Scalia Law School

Reading Assignment:

Butler, Henry N., Christopher R. Drahozal, and Joanna Shepherd. *Economic Analysis for Lawyers*, 3rd ed. Durham, North Carolina: Carolina Academic Press, 2014: Chapter I and Chapter III §§A and B.

9:30 - 10:45 am

Class 2: Market Imperfections and the Economic Efficiency Case for Government Intervention | Garoupa

Reading Assignment:

Butler, Drahozal, Shepherd Chapter I and Chapter III §§A and B.

11:00 am - 12:15 pm

Class 3: Economics of Crime and Punishment | Garoupa

Reading Assignment:

Butler, Drahozal, Shepherd, Chapter VII.

12:15 pm

Adjourn for Day: Afternoon Study Session

TUESDAY, OCTOBER 19

All classes held in McKinley Room

7:00 - 7:50am

Breakfast, Fillmore Room
(Guests welcome)

8:00 - 9:15 am

Case Session 1: Fines v. Imprisonment | Garoupa

Reading Assignment:

Tate v. Short, Butler, Drahozal, Shepherd, 402-04.

Case Session 2: Repeat Offenders | Garoupa

Reading Assignment:

Ewing v. California, Butler, Drahozal, Shepherd, 409-12.

9:30 - 10:45 am

Class 4: Statutory Interpretation of Interest Group Legislation

Todd J. Zywicki, George Mason University Foundation Professor of Law
George Mason University Antonin Scalia Law School; Senior Fellow, Center for
Monetary and Financial Alternatives, Cato Institute

Reading Assignment:

Miceli, Thomas J., Maxwell L. Stearns, and Todd J. Zywicki. *Law and Economics: Private and Public*. Saint Paul, Minnesota: West Academic Publishing, 2018: 687-716, 781-806.

11:00 am - 12:15 pm

Case Session 3: What's a Judge to Do?

Douglas H. Ginsburg, Senior Judge, US Court of Appeals for the District
of Columbia; Professor of Law, George Mason University Antonin Scalia Law School

Reading Assignment:

Mississippi Poultry Ass'n, Inc. v. Madigan, Stearns, Zywicki, & Micelli, 717-730.

Case Session 4: Agency Behavior I Ginsburg

Reading Assignment:

FDA v. Brown & Williamson Tobacco Corp., Stearns, Zywicki, & Micelli, 806-810.
Utility Air Regulatory Group (UARG) v. EPA, Stearns, Zywicki, & Micelli, 817-826.

12:15 pm

Adjourn for Day: Afternoon Study Session

WEDNESDAY, OCTOBER 20

All classes held in McKinley Room

7:00 - 7:50 am

Breakfast, Fillmore Room
(Guests welcome)

8:00 - 9:15 am

Class 5: Economic Liberties | Ginsburg

Reading Assignment:

Stearns, Zywicki, & Micelli, *Law and Economics: Private and Public*, West Academic Publishing: 417-449.

Case Session 5: Economic Liberties | Ginsburg

Reading Assignment:

Sensational Smiles v. Mullen, (edited).
St. Joseph Abbey v. Castille, (edited).

9:30 - 10:45 am

Case Session 6: Political Speech | Zywicki

Reading Assignment:

Citizens United v. Federal Communications Commission, (edited).

10:10 - 10:45 am

Case Session 7: Labor Unions and Political Speech | Ginsburg

Reading Assignment:

United States v. Janus, 585 U.S. (edited).

11:00 am - 12:15 pm

Case Session 8: Wage and Hour Regulation | Zywicki

Reading Assignment:

Lochner v. New York, Stearns, Zywicki, & Micelli, 452-458.
West Coast Hotel v. Parrish, (edited).

12:15 pm

Adjourn for Day: Afternoon Study Session

THURSDAY, OCTOBER 21

All classes held in McKinley Room

7:00 - 7:50 am

Breakfast, Fillmore Room
(Guests welcome)

8:00 - 9:15 am

Case Session 9: Occupational Regulation | Zywicki

Reading Assignment:

Butler, Drahozal, Shepherd, 466-470.

Goldfarb v. Virginia State Bar, (edited).

Bates v. State Bar of Arizona, (edited).

9:30 - 10:45 am

Class 6: Labor Economics (as applied to Employment Law and Collective Bargaining)

Caroline Cecot, Assistant Professor of Law, George Mason University
Antonin Scalia Law School

Reading Assignment:

Butler, Drahozal, Shepherd, Chapter VIII, 421-25, 450-53, 464-66.

Case Session 10: Employment-at-Will | Cecot

Reading Assignment:

Garcia v. Kankakee County Housing Authority, (edited).

11:00 am - 12:15 pm

Class 7: Risk, Risk Regulation, and Cost-Benefit Analysis | Cecot

Reading Assignment:

Butler, Drahozal, & Shepherd, Chapter VI, §§C and E.

12:15 pm

Adjourn for Day: Afternoon Study Session

FRIDAY, OCTOBER 22

All classes held in McKinley Room

7:00 - 7:50 am

Breakfast, Fillmore Room
(Guests welcome)

8:00 - 9:15 am

Case Session 11: Risk Regulation | Cecot

Reading Assignment:

Corrosion Proof Fittings v. EPA, Butler, Drahozal, & Shepherd, 372-380.

Case Session 12: Adequate Cost-Benefit Analysis | Ginsburg

Reading Assignment:

Business Roundtable v. Securities Exchange Commission, (edited)

9:30 - 10:45 am

Class 8: Environmental Economics | Cecot

Reading Assignment:

Richard L. Revesz, Michael A. Livermore, Caroline Cecot, & Jayni Foley Hein, *Environmental Law and Policy, 4th Ed.* (West Academic Publishing, 2019): 1-23; 476-77; 492-98.

Butler, Drahozal, & Shepherd, Chapter I, §B and Chapter IV.

Environmental Protection Agency v. EME Homer City Generation, (edited).

11:00 am - 12:15 pm

Case Session 13: Environmental Policy | Cecot

Reading Assignment:

Environmental Protection Agency v. EME Homer City Generation, (edited).

Case Session 14: Climate Change and Public Nuisance Litigation | Cecot

Reading Assignment:

Dana, D. A. (2010). *The Mismatch Between Public Nuisance and Global Warming*. *Supreme Court Economic Review*, 18.

American Electric Power Co, Inc. v. Connecticut, (edited).

Alliance for Clean Coal v. Miller, (edited).

Clean Air Markets Group v. Pataki, (edited).

12:15 - 5:30 pm

Afternoon Study Session

6:00 - 7:30 pm

Reception & Fireside Chat, *Chesapeake Bay Terrace*
(*Guests Welcome*)

On Judging | Ginsburg

7:30 pm

Dinner, *Crystal Room*
(*Guests welcome*)

SATURDAY, OCTOBER 23

Travel Day, Participants Depart at Their Leisure