

GEORGE MASON UNIVERSITY ANTONIN SCALIA LAW SCHOOL

**LAW &
ECONOMICS
CENTER**

TRIBAL LAW & ECONOMICS PROGRAM

Introduction to Law & Economics for Tribal Judges

Sunday, October 31 - Friday, November 5, 2021

Washington, DC



SUNDAY, OCTOBER 31

5:00 – 6:30 pm

Registration, *The Library*

6:30 – 8:30 pm

Welcome Reception and Dinner, *Moretti Terrace and Elmore Room*
(*Guests Welcome*)

Opening Remarks

Adam Crepelle, Director, Tribal Law & Economics Program, Law & Economics Center
and

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

Kenneth C. Randall, Allison and Dorothy Rouse Dean and George Mason University
Foundation Professor, George Mason University Antonin Scalia Law School

History of the Law & Economics Center

Henry N. Butler, Henry G. Manne Professor of Law and Economics and Executive
Director, Law & Economics Center,

George Mason University Antonin Scalia Law School

MONDAY, NOVEMBER 1

All classes held at George Mason University, Manne Room

6:45 & 7:15 am

Bus Departs, The Watergate to Antonin Scalia Law School

7:00 – 7:50 am

Breakfast, *Manne Room*
(*Guests Welcome*)

8:00 – 9:15 am

Class 1: Introduction to Law & Economics

Henry N. Butler, Henry G. Manne Professor of Law and Economics and Executive
Director, Law & Economics Center,

George Mason University Antonin Scalia Law School

Terry L. Anderson, John & Jean DeNault Senior Fellow, Hoover Institution,
Stanford University and Director,

Hoover Project on Renewing Indigenous Economies

Reading Assignment:

Butler, Henry N., Christopher R. Drahozal, and Joanna Shepherd, *Economic
Analysis for Lawyers, 3rd ed*, (Durham, NC: Carolina Academic Press, 2014),
Chapter I.

9:30 – 10:45 am

Class 2: Back to the Future for Tribal Economies: Pre-Contact Indians had the Rule of Law

Reading Assignment:

Anderson, Terry and Ratté, Kathryn, *Renewing Indigenous Economies* (Stanford, CA,
Stanford University Press, forthcoming): Prologue and Epilogue.

11:00 am– 12:15 pm Class 3: The History of Indian Property Rights and Institutions
D. Bruce Johnsen, Professor Emeritus, George Mason University Antonin Scalia Law School

Reading Assignment:

Johnsen, Bruce, "The Formation and Protection of Property Rights Among the Southern Kwakiutl Indians," *XV Journal of Legal Studies* 41 (January 1986).

12:30 – 2:00 pm Working Lunch and Class 4: Interview of Professor Stacy L. Leeds by Adam Crepelle

Stacy L. Leeds, Foundation Professor Law and Leadership. Sandra Day O'Connor College of Law, Arizona State University

Adam Crepelle

2:00 pm *Adjourn for Day*
Bus Departs, Antonin Scalia Law School for Hotel

TUESDAY, NOVEMBER 2

All classes will be held at George Mason University, Manne Room

6:45 & 7:15 am Bus Departs, The Watergate to Antonin Scalia Law School

7:00 – 7:50 am Breakfast, *Manne Room*
(*Guests Welcome*)

8:00 – 9:15 am Class 5: Raid or Trade? An Economic Theory of Indian-White Relations | Anderson

Reading Assignment:

Anderson, Terry, "Raid or Trade? An Economic Model of Indian-White Relations," 37 *The Journal of Law & Economics* 39 (No. 1, Apr. 1994).

9:30 – 10:45 am Class 6: Reservation Capitalism
Robert J. Miller, Professor of Law, Sandra Day O'Connor College of Law, Arizona State University

Reading Assignment:

Miller, Robert, "Creating Economics on Indian Reservations," in *Reservation "Capitalism: Economic Development in Indian Country* (2012).

10:45 – 11:15 am Break and Group Photo

11:15 am – 12:30 pm Class 7: Economic Regulation, Federalism, and the Benefits of Jurisdictional Competition | Butler

Reading Assignment:

Reading Assignment:

Butler, Henry N. and Ribstein, Larry E., "The Single-License Solution," 31 *Regulation* 36 (No. 4, Winter 2008-2009).

Butler and Ribstein, "Legal Process and the Discovery of Better Policies for Fostering Innovation and Growth," *George Mason Law & Economics Research Paper* No. 12-47.

Butler, Henry and Harris, Nathaniel, "Sue, Settle, and Shut Out the States: Destroying the Environmental Benefits of Cooperative Federalism," 37 *Harvard Journal of Law and Public Policy* 579 (No. 2, 2014).

Butler, "Smith v. van Gorkom, Jurisdictional Competition, and the Role of Random Mutations in the Evolution of Corporate Law," 45 *Washburn Law Journal* 267 (2006).

Butler, Drahozal & Shepherd, Chapter V, pp 286-87.

12:30 – 2:00 pm

Working Lunch and Class 8: Economic Regulation and Tribal Autonomy

Discussants:

Robert J. Miller

Janie Simms Hipp, General Counsel, U.S. Department of Agriculture

Kevin K. Washburn, N. William Hines Dean and Professor of Law,
University of Iowa College of Law

Moderator: Adam Crepelle

2:00 pm

Adjourn for the Day

WEDNESDAY, NOVEMBER 3

All classes will be held at The Watergate, Cecchi A

7:00 – 7:50 am

Breakfast, *Timchenko*
(Guests Welcome)

8:00 – 9:15 am

Class 9: Usury Laws & Online Lending

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

Reading Assignment:

Taskforce on Federal Consumer Financial Law Report, Volume I, Bureau of Consumer Financial Protection (January 2021), Ch. 5, pp 175-94, 207-13, 218-25.

9:30 – 10:45 am Class 10: Trade, Economic Development, and the Rule of Law
 Donald J. Boudreaux, Senior Fellow, F.A. Hayek Program for Advanced Study in Philosophy, Politics, and Economics and Martha and Nelson Getchell Chair for the Study of Free Market Capitalism, Mercatus Center; Professor of Economics, George Mason University

Reading Assignment:

Bastiat, Frederic, *The Candlemakers' Petition* (February 28, 1958), located on the Foundation for Economic Education Website (<https://fee.org/articles/the-candlemakers-petition/>).

Boudreaux, Donald, "Deirdre McCloskey and Economists' Ideas about Ideas" (July 2014), located on the Online Library of Liberty Website (<https://oll.libertyfund.org/page/liberty-matters-donald-boudreaux-deirdre-mccloskey-economists-ideas-bourgeois-era#leadessay>) (Lead Essay Only).

Video: Tom G. Palmer on the Rule of Law (December 7, 2009), located on the Cato Institute Website (<https://www.cato.org/multimedia/cato-video/tom-g-palmer-rule-law>).

11:00 am – 12:15 pm Class 11: Indian Gaming | Washburn

Reading Assignment:

Washburn, Kevin, *Essay on "Economics 101 Principles for Indian Gaming"*.

12:15 – 1:45 pm Working Lunch and Class 12: Law & Economics: A View from the Bench
 The Honorable Douglas H. Ginsburg, Senior Judge, US Court of Appeals for the District of Columbia Circuit, and Professor of Law, Antonin Scalia Law School

2:00– 3:30 pm Class 13: Panel Discussion on *McGirt v. Oklahoma*

Discussants:

Robert J. Miller

Stacy L. Leeds

Kevin K. Washburn

Moderator: Adam Crepelle

THURSDAY, NOVEMBER 4

All classes will be held at The Watergate

7:00 – 7:50 am Breakfast, *Timchenko*
(Guests Welcome)

8:00 – 9:15 am Class 14: Risk, Injury, and Liability | Johnsen

Reading Assignment:

Butler, Drahozal, & Shepherd, Chapter VI, §§A, B, C, and D.

Case Discussion:

United States v. Carroll Towing Co., 328-335.

9:30 – 10:45 am

Class 15: Economics of Crime and Punishment

Murat Mungan, Professor of Law, George Mason University Antonin Scalia Law School

Reading Assignment:

Butler, Drahozal & Shepherd, Chapter VII

11:00 am – 12:15 pm

Class 16: Law and Economics of Indian Country Crime | Crepelle

Reading Assignment:

Crepelle, Adam, Tribal Courts, "The Violence Against Women Act, and Supplemental Jurisdiction: Expanding Tribal Court Jurisdiction to Improve Public Safety in Indian Country," *81 Mont. L. Rev.* 59 (2020).

12:15 pm

Adjourn for Afternoon

6:30 pm

Reception and Dinner, Elmore Room

Closing Session for Introduction to Law & Economics for Tribal Judges and

Opening Session for Tribal Law & Economic Program, Book signing by Ernest Sickey

8:00 pm

Keynote Address

Ernest Sickey, former Chairman of the Coushatta Tribe of Louisiana

TRIBAL LAW & ECONOMICS PROGRAM LAUNCH & BRIEFING

FRIDAY, NOVEMBER 5

All sessions held at The Watergate, Moretti E & F

7:00 – 7:50 am

Breakfast, Moretti ABCD

(Guests Welcome)

8:00 – 9:45 am

Session 1: Introduction to the Law & Economics Center and the Tribal Law & Economics Program | Butler and Crepelle

10:15 am – 12:00 pm

Session 2: How Can the Tribal Law & Economics Project Best Serve Indian Country? | Butler and Crepelle

12:00 pm

Program Adjourns