

**LAW &
ECONOMICS
CENTER**

JUDICIAL EDUCATION PROGRAM

Public Law: Economic Concepts and Cases

Sunday, July 10 - Saturday, July 16, 2022
Beaver Creek, Colorado



AGENDA

SUNDAY, JULY 10

5:30 - 6:30 pm

Registration, Library

6:30 pm

Welcome Reception & Dinner, McCoy's Peak and Patio
(Guests Welcome)

Welcome Remarks

Henry N. Butler, Henry G. Manne Professor of Law and Economics
Executive Director, Law & Economics Center, George Mason University
Antonin Scalia Law School

MONDAY, JULY 11

All classes will be held in Gore Range Hall (Keller/State Mountain Rooms)

7:00 - 7:50 am

Breakfast, Gore Range Hall (Crystal Peak Room)

8:00 - 9:15 am

Class 1: Get Your Motor Running! Economic Thinking

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

Reading Assignment:

Chapter I: The Economics Perspective: Incentives Matter and Chapter III: The Legislative Process and the Courts, in HENRY N. BUTLER ET AL., ECONOMIC ANALYSIS FOR LAWYERS 3, 3-53 and 125-147 (3d ed. 2014).

9:15 - 9:30 am

Break

9:30 - 10:45 am

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

Reading Assignment:

Chapter I: The Economics Perspective: Incentives Matter and Chapter III: The Legislative Process and the Courts, in HENRY N. BUTLER ET AL., ECONOMIC ANALYSIS FOR LAWYERS 3, 3-53 and 125-147 (3d ed. 2014).

10:45 - 11:00 am

Break

11:00 am - 12:15 pm

Class 3: Risk, Risk Regulation, and Cost-Benefit Analysis

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

Reading Assignment:

Chapter VI: Risk, in HENRY N. BUTLER ET AL., ECONOMIC ANALYSIS FOR LAWYERS 314, 314-327 and 362-382 (3d ed. 2014).

12:15 pm

Adjourn for Day: Afternoon Study Session

TUESDAY, JULY 12

All classes will be held in Gore Range Hall (Keller/State Mountain Rooms)

7:00 - 7:50 am

Breakfast, Gore Range Hall (Crystal Peak Room)

8:00 - 8:40 am

Class 4: Labor Economics (as applied to Employment Law and Collective Bargaining) | Cecot

Reading Assignment:

Chapter VIII: Labor Markets, in HENRY N. BUTLER ET AL., ECONOMIC ANALYSIS FOR LAWYERS 421, 421-25, 450-53, and 464-66 (3d ed. 2014).

8:40 - 9:15 am

Case Session 1: Employment-at-Will | Cecot

Reading Assignment:

Garcia v. Kankakee Cty. Hous. Auth., 279 F.3d 532 (7th Cir. 2002).

9:15 - 9:30 am

Break

9:30 - 10:45 am

Case Session 2: Wage and Hour Regulation

Todd J. Zywicki, George Mason University Foundation Professor of Law,
George Mason University Antonin Scalia Law School

Reading Assignment:

Lochner v. New York, 198 U.S. 45 (1905).

West Coast Hotel v. Parrish, 300 U.S. 379 (1937).

10:45 - 11:00 am

Break

AGENDA

11:00 am - 12:15 pm

Case Session 3: Occupational Regulation

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

Reading Assignment:

Chapter VIII: Labor Markets, in HENRY N. BUTLER ET AL., ECONOMIC ANALYSIS FOR LAWYERS 466, 466-470 (3d ed. 2014).

Goldfarb v. Va. State Bar, 421 U.S. 773 (2004).

Bates v. State Bar of Ariz., 433 U.S. 350 (1977).

12:15 pm

Adjourn for Day: Afternoon Study Session

WEDNESDAY, JULY 13

All classes will be held in Gore Range Hall (Keller/State Mountain Rooms)

7:00 - 7:50 am

Breakfast, Gore Range Hall (Crystal Peak Room)

8:00 - 9:15 am

Class 5: Economics of Crime and Punishment | Mungan

Reading Assignment:

Chapter VII: The Economics of Crime and Punishment, in HENRY N. BUTLER ET AL., ECONOMIC ANALYSIS FOR LAWYERS 383 (3d ed. 2014).

9:15 - 9:30 am

Break

9:30 - 10:45 am

Case Session 4: Fines v. Imprisonment | Mungan

Reading Assignment:

Tate v. Short, 401 U.S. 395 (1971).

Case Session 5: Repeat Offenders | Mungan

Reading Assignment:

Ewing v. California, 538 U.S. 11 (2003).

10:45 - 11:00 am

Break

11:00 am - 12:15 pm

Class 6: Environmental Economics | Cecot

Reading Assignment:

Chapter I: Perspectives on Environmental Law, in RICHARD L. REVESZ, MICHAEL A. LIVERMORE, CAROLINE CECOT, & JAYNI FOLEY HEIN, ENVIRONMENTAL LAW AND POLICY 1, 1-23 (4th ed. 2019).

Chapter I: The Economics Perspective: Incentives Matter and *Chapter IV: Externalities*, in HENRY N. BUTLER ET AL., ECONOMIC ANALYSIS FOR LAWYERS 17, 17-32 and 185-229 (3d ed. 2014).

Environmental Protection Agency v. EME Homer City Generation, 572 U.S. 489 (2014).

12:15 - 6:30 pm

Afternoon Study Session

6:30 pm

Reception and Fireside Chat: On Judging, McCoy's Peak & Patio

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

THURSDAY, JULY 14

All classes will be held in Gore Range Hall (Keller/State Mountain Rooms)

7:00 - 7:50 am

Breakfast, Gore Range Hall (Crystal Peak Room)

8:00 - 9:15 am

Case Session 6: Risk Regulation | Cecot

Reading Assignment:

Corrosion Proof Fittings v. Environmental Protection Agency, 947 F.2d 1201 (5th Cir. 1991).

Case Session 7: Adequate Cost-Benefit Analysis | Ginsburg

Reading Assignment:

Bus. Roundtable v. SEC, 647 F.3d 1144 (DC Cir. 2011).

9:15 - 9:30 am

Break

9:30 - 10:45 am

Class 7: Statutory Interpretation of Interest Group Legislation | Zywicki

Reading Assignment:

Chapter 18: The Legislature (Part 2), in THOMAS J. MICELI, MAXWELL L. STEARNS, & TODD J. ZYWICKI, LAW AND ECONOMICS: PRIVATE AND PUBLIC 687, 687-716 and 781-806 (2018).

10:45 - 11:00 am

Break

AGENDA

11:00 am - 12:15 pm **Case Session 8: What's a Judge to Do? | Ginsburg**

Reading Assignment:

Miss. Poultry Ass'n v. Madigan, 31 F.3d 293 (5th Cir. 1994).

Case Session 9: Agency Behavior | Ginsburg

Reading Assignment:

FDA v. Brown & Williamson, 529 U.S. 120 (2000).

UARG v. Environmental Protection Agency, 573 U.S. 302 (2014).

12:15 pm **Adjourn for Day: Afternoon Study Session**

FRIDAY, JULY 15

All classes will be held in Gore Range Hall (Keller/State Mountain Rooms)

7:00 - 7:50 am **Breakfast**, Gore Range Hall (Crystal Peak Room)

8:00 - 8:40 am **Class 8: Economic Liberties | Ginsburg**

Reading Assignment:

Chapter 11: Interest Group Theory (Part 1), in THOMAS J. MICELI, MAXWELL L. STEARNS, & TODD J. ZYWICKI, LAW AND ECONOMICS: PRIVATE AND PUBLIC 417, 417-449 (2018).

8:40 - 9:15 am **Case Session 10: Economic Liberties | Ginsburg**

Reading Assignment:

Sensational Smiles, LLC v. Mullen, 793 F.3d 281 (2d Cir. 2015).

St. Joseph Abbey v. Castille, 712 F.3d 215 (5th Cir. 2013).

9:15 - 9:30 am **Break**

9:30 - 10:45 am **Case Session 11: Political Speech | Zywicki**

Reading Assignment:

Citizens United v. FCC, 558 U.S. 310 (2010).

Case Session 12: Labor Unions and Political Speech | Zywicki

Reading Assignment:

Janus v. AFSCME, Council 31, 138 S. Ct. 2448 (2018).

Aaron Withe, *A Different Kind of Labor Boss: Richard Brown wants to get California's SEIU out of politics and negotiate more aggressively*, WALL ST. J. (2021).

10:45 - 11:00 am **Break**

11:00 am - 12:15 pm

Case Session 13: Environmental Policy | Cecot

Reading Assignment:

Environmental Protection Agency v. EME Homer City Generation L.P., 572 U.S. 489 (2014).

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

Reading Assignment:

David A. Dana, *The Mismatch Between Public Nuisance and Global Warming*, 18 SUP. CT. ECON. REV. 9, 9-42 (2010).

N. Y. C. v. Chevron Corporation, 993 F.3d 81 (2d Cir. 2021).

12:15 - 6:30 pm

Afternoon Study Session

6:30 pm

Reception and Dinner, Gore Range Hall
(Guests Welcome)

SATURDAY, JULY 16

Participants depart at their own leisure