EC 338: LAW AND ECONOMICS
Fall 2010
Professor James A. Dalton

Office Hours: Mondays and Wednesdays 7:15-8:15am; 10:30am-11:30pm; or by appointment
Office: 21 Campanella Way, 480B
Email: (1) jdalton7@comcast.net (for brief communication); (2) daltonjc@bc.edu for papers only.

Prerequisites: Students are expected to be well grounded in microeconomic theory. The absolute course requirement is intermediate microeconomics, EC 201 or EC 203.

Textbook and Handouts: The assigned text is Robert Cooter and Thomas Ulen, Law and Economics (5th edition), Reading, MA, Addison Wesley, 2008. Your Course Pack contains additional reading assignments, and at times I will provide more material for study.

Method: This course requires active participation on a class-by-class basis. Although I frequently will use the traditional lecture method, I also will call on students in each class to discuss assignments and paper topics. Other experts will be introduced to the class. This course also relies on two short critical thinking papers and numerous reading assignments in lieu of a substantial research paper.

Grading: The final grade will be based on performance in the following categories:

First Exam 35%
Final Exam 35%
Research Papers 30%

There will be no scheduling of makeup exams. Only under extremely extenuating circumstances will an excused absence be considered. Late submissions of papers will be penalized.

Course Calendar, Syllabus and Assigned Reading: The syllabus lists the assigned material for each class. I reserve the option to change assignments, including the dates for exams during the semester. “C&U” designates assignments in the text book, the other assignments are in your Course Pack.

Discussion Papers: You must submit discussion papers of no more than three pages on the dates specified in the syllabus. Each paper carries a weight of 15% toward calculation of your final grade. Your topic must be linked to the economic issues that we are studying; legal analyses and synopses are not acceptable. Class discussion, handouts and the text will provide numerous examples of the type of topics for the papers, but these examples per se cannot be used in your discussion papers. YOU must develop the topics. You may submit a proposal that seeks to determine whether the topic fits the course, but such a submission is not required. In the paper you must present a careful specification of the topic that you will discuss, explain why it is relevant to the course, and then analyze the economic efficiency aspects of the issue. The papers must be submitted to me at the BC email address listed above. Late submissions will be penalized; no excuses will be accepted.

A session is scheduled with an information services expert. There you can develop skills to assist your search for a topic. You do not have to search for source material but note carefully that every source must be documented and you must attach a bibliography. The analytical portion of your paper will be three pages in length, no more, no less. Footnotes with substance, graphs, tables and the bibliography are to be on additional page(s). When citing to sources within the text, place in parentheses the author’s name and page number where I can find the information to which you referred in the text (e.g., (Smith, p.32).
Other considerations: (1) When submitting the paper, save it as EC338 [space] 1 [or 2 if it is your second paper]space [your last name]. (2) At the very top of p.1, insert the topic’s title and your name. Number the pages. (3) Use default margins. (4) Submit the work in Word, and charts and graphs should be imported into Word. (5) Have a reliable person carefully proof read each of your papers before submission. (6) Insure that your version of Word can be opened by my computer. (For example, Microsoft eliminated “backward compatibility” such that a recent Office 2007 cannot be opened by an older version of Word.)

The Academic Development Center tutors students with writing assignments and provides feedback on drafts of papers. Consider using the people-resources of the Center which is located on the second floor of O’Neill Library.

Academic integrity will be respected in my courses. The Dean of A&S has asked faculty to include the following statement to students in course syllabi.

“How Boston College values the academic integrity of its students and faculty. It is your responsibility to familiarize yourself with the university’s policy on academic integrity: http://www.bc.edu/integrity. If you have any questions, always consult your professor.

“Violations of academic integrity will be reported to your class dean and judged by the academic integrity committee in your school. If you are found responsible for violating the policy, penalties may include a failing grade as well as possible probation, suspension, or expulsion, depending on the seriousness and circumstances of the violation.”
SYLLABUS and READING ASSIGNMENTS

I. Introduction and Overview

September 8
A. Thinking as lawyers & economists
   “Excerpts: Disorder in American Courts”; C&U, Ch. 1;
   Kitch; Elliot, “Little Thanks Given in Bronx for Smelly Turkey Plant;”

September 13
B. Law, legal institutions and litigation process

September 15
C. “Rationality”, “efficiency”, “fairness” & principles of economics
   C&U, Ch. 2.

D. Capitalism, markets and market failure
   H. Petersen, “Markets Are Good”; Pope John Paul II on “The Economics of Human Freedom”.

II. Economic Theory of Property

September 20
A. What is owned? Why?
   “The Commons”; “Takings”
September 22 & 27  B.1. Externalities and the Coase Theorem  C&U, Ch. 4, pp. 89-96; handout on Fontainbleau matter.

September 29  Optional: Submission of potential topics for first critical thinking paper


October 6  Session with Expert from Information Services regarding Research Tools. Meet Barbara Mento in O’Neill Library 307 during your regularly scheduled class time. There are 28 PCs available and you may bring your laptops because wireless is available. There will be sufficient chairs available.

October 11  Holiday (Columbus Day)


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<tr>
<th>Date</th>
<th>Event</th>
<th>Description</th>
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<tr>
<td>October 25</td>
<td>First Examination</td>
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<td>III.</td>
<td>Economic Theory of Contract Law</td>
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<tr>
<td>October 27</td>
<td>A. Economic theory of contract law</td>
<td>C&amp;U, Ch. 6; Matter of Frigaliment v. Intervale Sales.</td>
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<td>November 3</td>
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<td>November 8</td>
<td>First Discussion Paper Due</td>
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<td>IV.</td>
<td>Economic Theory of Tort Law</td>
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<td>November 10</td>
<td>A. Economic theory of tort law</td>
<td>C&amp;U, Ch. 8 and appendix.</td>
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<td>November 24</td>
<td>Holiday Thanksgiving</td>
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<td>November 29</td>
<td>C. Antitrust Law (torts cont.)</td>
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<td></td>
<td>1. Economic theory: competition, market power, market failure</td>
<td>C&amp;U, Ch. 2, pp. 30-42; and “Antitrust Laws”.</td>
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<td>2. Enforcement of antitrust policy over time</td>
<td>Florida et al v. BMG et al.</td>
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<td>December 1</td>
<td>3. Injury and “standing” revisited</td>
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December 6

Second discussion paper Due

V. Economics of Damages (efficiency, remedies and compensation)

December 6 & 8

A. Concepts of damages

C & U, Ch. 2, p. 39 and 389-398; John R. Commons, Ch. II, “Property, Liberty & Value”, Legal Foundations Of Capitalism, pp. 11-25 (remainder of chapter is interesting but reading remainder is optional)

B. Liability and causation

C. Measurement:

Types (e.g., personal injury, fraud, antitrust)


B. Punitive damages


VI. Roles of Economists Promoting Efficiency in Litigation

A. Adversarial process (e.g., “sue or settle”, incentives, exchange of information, efficiencies)

Dalton, “Introduction to the Litigation Process”; C & U, Ch. 10

B. Constraints on expert testimony (e.g., reports, “gateway” requirements)


Final Exam