**EC 338: LAW AND ECONOMICS**  
**Fall 2011**  
Professor James A. Dalton

**Office Hours:** Mondays and Wednesdays  
7:15-8:15am; 10:00am-11:45am;  
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. And your performance is at risk if you have not fulfilled all five requirements specified for this course. I will be using the tools developed in those courses but will not be devoting class time to teach them again.

**Textbook and Handouts:** The assigned text is Robert Cooter and Thomas Ulen, *Law and Economics* (5th edition), Reading, MA, Addison Wesley, 2008. (Use the 5th edition, not the new 6th edition. There should be used copies around campus.) The Course Pack contains additional reading assignments and I will provide more material for study. (And a used course pack from last semester is acceptable.)

**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 30%
- Second Exam 40%
- Research Papers 30%

There will be no makeup exams. Only under extremely extenuating circumstances will an *excused* absence be considered for another substitute assignment. Late submissions of papers will be penalized.

**Course Calendar, Syllabus, Assigned Readings and Forbidden Items:** The syllabus lists the assigned material each class. I reserve the option to change some assignment, dates for exams during the semester. “C & U” designates assignments in the text book. You will be given a table of contents for the course pack. *Laptops and recording devices are forbidden and media devices must be kept in your bags.*

**Discussion Papers:** You must submit discussion papers of 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. Team projects are not acceptable. Class discussion, handouts and the text will provide numerous examples of the type of topics for the papers, but these examples of topics cannot be used in your discussion papers. **YOU** must develop the topics. Then you may meet with me to discuss a proposal to determine whether the topic fits the course, but such a meeting is not required. In the paper you must present a careful specification of the topic (the what) 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 if you need input for the papers. Every source must be documented and you must attach a bibliography. **ALWAYS cite to a source if you use its contents.** The analytical portion of your
paper will be two-to-three pages in length, no more, no less. Footnotes with substance, graphs, tables and the bibliography are to be on an 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 when the full cite for Smith’s work is listed in the bibliography).

When submitting the paper, save it as EC338 [space] [your last name [space] then 1 if it is your first paper and 2 if it is your second paper. At the very top of p.1, insert the topic’s title and your name. Number the pages. And have a reliable proof reader examine your writing before submission. I can open a document if it is compatible with Word format.

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.

“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.”

The rest of this page is left blank to allow you to note suggestions for topics, analyses in the paper and warnings regarding submissions.
SYLLABUS and READING ASSIGNMENTS

I. Introduction and Overview

September 7
A. Thinking as lawyers & economists

September 12
B. Law & legal institutions

September 14
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 19
A. What is owned? Why? “The Commons”; “Takings”
September 21  B.1. Externalities and the Coase Theorem  C & U, Ch. 4, pp. 89-96; handout on Fontainbleau matter.


**October 3**  Optional: Submission of potential topics for first critical thinking paper


**October 10**  Holiday, Columbus Day

**October 12**  Session with Expert from Information Services on Research Tools. Meet Barbara Mento in O’Neill 307 in the library during regular class time. There may not be a sufficient number of PCs available so it would be appreciated if some students brought their laptops with them.

October 19  First Examination

III. Economic Theory of Contract Law

October 24 & 26  A. Economic theory of contract law  C & U, Ch. 6; Matter of Frigaliment v. Intervale Sales.


November 7  First Discussion Paper Due

IV. Economic Theory of Tort Law

November 7 & 9  A. Economic theory of tort law  C & U, Ch. 8 and appendix.


C. Antitrust Law (torts cont.)

November 21  1. Economic theory: competition, market power, market failure  C & U, Ch. 2, pp. 30-42; and Dalton, “Antitrust Laws”.

2. Enforcement of antitrust policy over time  Florida et al v. BMG et al.

November 23  Thanksgiving Holiday

November 28  3. Injury and “standing” revisited

V. Economics of Damages (efficiency, remedies)

November 30

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; reading remainder is optional).

December 2

Second discussion paper Due

December 5

B. Liability and causation

C. Measurement

1. 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), efficiencies


December 7

Second Exam