

**BOSTON COLLEGE**

**Department of Economics**  
EC 338: Law and Economics  
Spring 2003  
Professor James A. Dalton

**Office Hours:** Tuesdays and Thursdays 8:00am-8:45am; Office: Lower Campus Admin. Bldg. 480B  
10:30am-1:15pm; or by appointment Email: [jdalton7@attbi.com](mailto:jdalton7@attbi.com)

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

**Textbook and “Coursepak”:** The assigned text is Robert Cooter and Thomas Ulen, Law and Economics (3<sup>rd</sup> edition), Reading, MA, Addison Wesley, 2000. The “Coursepak” is required.

**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.

**Grading:** The preparation relies on relatively more substantial reading assignments in lieu of a research paper.

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

First Exam	30%
Second Exam	30%
Final Exam	30%
Class Participation	10%

There will be no scheduling of makeup exams. Only under extremely extenuating circumstances will an *excused* absence be considered.

**Course Calendar, Syllabus and Assigned Reading:** Your textbook and the “Coursepak” contain most of the assigned readings. Additional material will be handed out in class. I reserve the option to change some of the assignments during the semester. “C & U” designates assignments in the textbook. At times, I will delineate subsets of assigned readings in advance of the date of an assignment.

**SYLLABUS and**  
**READING ASSIGNMENTS**

**I. Introduction and Overview**

January 14	A. Thinking like lawyers & economists	C & U, Ch. 1; Mankiw, pp. 19-45; and Kitch.
January 16	B. Law & legal institutions	C & U, Ch. 3; “Editorial”; Mikva; Levi.
January 21 & 23	C. Efficiency, “fairness” & other principles of economics	C & U, Ch. 2; Mankiw, pp. 141-157; Ziff; AP-1.

**II. Economic Theory of Property**

January 28, 30 and February 4

	A. Externalities and the Coase Theorem	C & U, Ch. 4, pp. 74-98; Mankiw, pp. 205-222; Coase, pp. 1-19, 42-44; Van Buren; McClaughry; Calabresi; Demsety I (168-183); <b><u>Optional:</u></b> Goodstein I; & Cheung.
February 6	B. What is owned? Why? “The Commons”	C & U, Ch. 4, pp. 98-113.
February 11	<b>First Exam</b>	
February 13 & 18	C. Topics in the economics of property law	C & U, Ch. 5, pp. TBA; Coase 19-28; Demsetz II (23-36); Tierney; Hardin; Fredlund. <b><u>Optional:</u></b> Coase II (357-376); Goodstein II.

**III. Contract Law**

February 20 & 25	A. Economic theory of contract	C & U, Ch. 6.
February 27 & March 11	B. Topics in the economics of contract	C & U, Ch. 7, pp. TBA

#### IV. Tort Law

March 13 & 18	A. Economic theory of tort law	C & U, Ch. 8.
March 20	B. Topics in the economics of tort liability	C & U, Ch. 9, except pp. 345-355.
March 25	<b>Second Exam</b>	

#### V. Antitrust Law

March 27	A. Economic theory: Competition, market power	C & U, Ch. 2, pp. 29-43; and “Antitrust Laws”.
	B. Enforcement of antitrust policy	
	C. Injury and “standing”	Blair & Page, “The Role of Economics in Defining Antitrust Injury and Standing”, pp. 69-84.
April 1	D. <i>Per se</i> vs. Rule of Reason: The Matter of public good and price fixing in financial aid to students	Mankiw, pp. 226, 240; Ayres, “Colleges in Collusion: A Lesson in Price Fixing”, <u>The New Republic</u> , Oct. 16, 1989, pp. 19-20; “Are Colleges Fixing Prices”, <u>The Nation</u> , Mar. 19, 1990; and <i>U.S. v. Brown University, et al</i> ; 772, F. Supp. 241, Aug. 7, 1991; Sept. 19, 1991; Jan. 3, 1992; Sept. 2, 1992; June 22, 1993.

#### VI. Economics of Damages

April 3	A. Compensatory damages	C & U, Ch. 9, pp. 345-351.
	1. Evolution of concepts of damages	John R. Commons, Ch. II, “Property, Liberty & Value”, <u>Legal Foundations Of Capitalism</u> , pp. TBA.
	2. Liability and causation	Blair & Romano, “Distinguishing Participants from Non-participants in a Price-fixing Conspiracy: Liability and Damages”, pp. 25-38.

April 8 & 10

3. Measurement

- Types (e.g., personal injury, fraud, antitrust)
- Possible measures (e.g., comparables, pro forma)

Posner, Economic Analysis of Law, pp. 342-347; O'Brien & Meyer, "A Guide to Calculating Lost Profits", National Law Journal; and C & U, Ch. 2, p. 39.

April 15

B. Punitive damages

C & U, Ch. 9, pp. 351-355.

**VII. Roles of Economists in Litigation**

April 22

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

Dalton, "Introduction to the Litigation Process"; C & U, Ch. 10; Mankiw, pp. 28-33; 42-44; Posner, Ch. 19, pp. 497-523.

April 24

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

Dalton, "Impact of Revised Rules of Civil Procedure on the Use of Experts", PHB Insights; *Trigon Insurance Company v. U.S.A.*, decided Nov. 9, 2001.

**VIII. Summary and Review**

April 29

May 2, 12:30 **Final Exam**