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# THE MANNE PROGRAMS IN ECONOMICS FOR FEDERAL JUDGES

Henry N. Butler<sup>†</sup>

*“Dean Henry G. Manne has made a greater contribution to the continuing professional education of America’s federal judges than any individual, foundation, institute or agency in the nation.”<sup>1</sup>*

For over twenty years, Henry G. Manne developed and directed educational programs in economics for federal judges. After starting the programs at the University of Miami Law & Economics Center (LEC) in 1976, Manne moved the LEC and its programs to Emory University in 1980 and then to George Mason University School of Law (GMUSL) when he became Dean in 1986. Over the years, the

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† Fred and Mary Koch Distinguished Professor of Law and Economics, and Director, Law and Organizational Economics Center, University of Kansas. The author gratefully acknowledges the assistance of several individuals who have been involved in the Manne Programs over the years and who responded to requests for information about the programs: Orley Ashenfelter, George Benston, Frank Buckley, Clifford Smith, Charles Goetz, George Priest, Kip Viscusi, and Patricia Danzon. The assistance of John P. Giacomini, Director of Special Programs for the Law & Economics Center at George Mason University School of Law was particularly helpful. Trey Meyer and Eric Hatchet provided research assistance. [Author’s note: I have known Henry Manne for twenty years. He has had a profound positive influence on my life and my career. He has been my benefactor: as Director of the Law & Economics Center at the University of Miami, Manne administered the John M. Olin Fellowship in Law and Economics that paid for my law school education. He has been my Dean: Manne arranged for me to be hired to my first law school teaching position at GMUSL. He has been my boss: I served as Associate Dean of the Law School and Director of the LEC during a portion of Manne’s tenure as Dean at George Mason. He is my mentor: throughout my career he has encouraged and cajoled me. Recently, he has been a source of great advice as I endeavored to develop a program in economics for state judges at the University of Kansas. He is a close friend and a golfing buddy. Although it will be difficult, I will make every reasonable effort to be objective. In that spirit, I must state that working for Henry Manne was the most exasperating experience of my career—I eventually gave up and resigned in anger. I have not regretted that decision for one second. Finally, some of my sources for this article are a bit unusual. Much of what is reported here is based on numerous conversations with Henry Manne as well as my personal experiences as Director of the GMUSL Law & Economics Center from January 1989 to June 1991. Also, as part of The Legacy of Henry G. Manne conference, I have attempted to memorialize Manne’s economics programs by soliciting tributes and anecdotes from federal judges who participated in the programs. The original letters were presented to Dean Manne at the Williamsburg Conference. Copies of the letters are on file with the *Case Western Reserve Law Review*.]

<sup>1</sup> Letter from Judge James L. Ryan, U.S. Court of Appeals for the Sixth Circuit, to Henry N. Butler, Director, Law and Organizational Economics Center, University of Kansas (Mar. 9, 1999) (on file with the *Case Western Reserve Law Review*).

Manne Programs earned a reputation as demanding, intellectually stimulating, practical, and enjoyable experiences. Because of Manne's personal commitment, attention to detail, and warm hospitality, the programs have always enjoyed a strong following among federal judges.<sup>2</sup> By 1990, approximately forty percent of the sitting federal judges had completed Manne's flagship program—the *Economics Institute for Federal Judges*.

The Manne Programs have influenced the thinking of a generation of federal judges. Manne, ever mindful of the potential for politically motivated attacks on his programs, was always careful to stress that the Institute focused on positive economics.<sup>3</sup> He argued that there was little disagreement among economists about the theory and the logic of microeconomics, and he encouraged the judges to view economics as a practical set of tools for understanding cases. In general, the programs focused on price theory and applications to everything except legal issues.<sup>4</sup> Initially, the only exception to this was the session on "Monopoly," which necessarily included a discussion of antitrust law. Later, a session on "Law and Economics" was added in response to the judges' desire to see how the materials were being taught in law schools. Manne intentionally left it to the judges to figure out the legal implications of the analysis.<sup>5</sup> Nevertheless, it is no

<sup>2</sup> U.S. District Court Judge Peter Beer wrote:

Hank is a wonderful person. He combines so many strengths and great kindness and consideration. . . .

Judges across the country share these feelings. Our store of knowledge and our ability to use that store of knowledge are the direct result of his untiring efforts in our behalf. He has made us better at our work and has, thereby, improved the administration of justice.

Letter from Judge Peter Beer, U.S. District Court for the Eastern District of Louisiana, to Henry N. Butler, Director, Law and Organizational Economics Center, University of Kansas 2-3 (Dec. 15, 1998) (on file with the *Case Western Reserve Law Review*). Judge Ralph B. Guy reflected the view of many judges when he wrote: "On a more personal note, over the years I came to think of Henry as a friend. He was always a genial host who possessed a great sense of humor and did not take himself too seriously. Being in his company was a pleasure." Letter from Judge Ralph B. Guy, U.S. Court of Appeals for the Sixth Circuit, to Henry N. Butler, Director, Law and Organizational Economics Center, University of Kansas (Mar. 25, 1999) (on file with the *Case Western Reserve Law Review*).

<sup>3</sup> For a discussion of the differences between positive and normative economics, see MARK BLAUG, *THE METHODOLOGY OF ECONOMICS, OR HOW ECONOMISTS EXPLAIN* 112-134 (2d ed. 1998). For the classic statement of economic methodology, see MILTON FRIEDMAN, *The Methodology of Positive Economics*, in *ESSAYS IN POSITIVE ECONOMICS* 3-43 (1953).

<sup>4</sup> For applications of economics to every legal issue, Manne usually referred the judges to the most recent version of Richard Posner's treatise on Law & Economics. See RICHARD POSNER, *ECONOMIC ANALYSIS OF LAW* (5th ed. Aspen Law & Bus. 1998).

<sup>5</sup> During a political controversy about the funding of the Manne Programs, the *Washington Post* reported on the subject, and afforded Manne the opportunity to defend his programs: Manne vigorously defended his course and how it is financed.

"If I wasn't doing my job well, the judges wouldn't come in droves. I'm waiting for someone to come up with a better program," he said.

secret that a natural repercussion of the application of economic reasoning to legal problems is a greater appreciation of the roles of private property rights, freedom of contract, entrepreneurship, and the rule of law in a free society.<sup>6</sup> Many of the judges attending the Manne Programs arrived skeptical of the alleged conservative bias of the programs,<sup>7</sup> and left impressed with the analytical rigor and consistency of the economic approach to human behavior.<sup>8</sup>

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Manne says the center teaches economics as a science, with no intention of influencing how judges decide cases.

"Economics is very peculiar. Somehow it gets emotionally tied up with politics, and people can't think of it as a science which I do. [sic]" he said.

"The judges come to me. 'This is exciting stuff,' they say, 'How do we use it?' I have a stock answer – 'that's your problem'," Manne said.

Celia W. Dugger, *Paid Course May Pass Judges' Group*, WASH. POST, Aug. 23, 1980, at C1.

<sup>6</sup> Of course, Manne's efforts at positive economics did not insulate him from all political attacks. For example, Nan Aron recently wrote:

Manne categorically rejects the notion that either he or the Center promotes anything but a neutral approach to the economic analysis of the law. This disclaimer, however, is belied by the Center's own program descriptions. In an early annual report, the Center proudly touted its programs as avoiding "the monotonous political liberalism that has biased academic economics," and claimed that they focused instead on "considerations of individual choice, private property, freedom of contract, and the market allocation of resources." Manne's more recent pronouncements regarding what constitutes "good" economics also have a distinct ideological edge. In an issues paper he prepared for the Washington Legal Foundation in 1985, Manne lamented that "few lawyers know how to develop effective economic arguments." This inability, he continued, "cut[s] two ways, since there is plenty of 'bad' economics available too. As it happens, however," he said, "the very best arguments in modern economic scholarship support the side of private property protection and open markets. Thus, a failure to develop the skills and techniques for integrating *good economic theory* into law in effect discriminates most against those who are opposed to government control of the economy."

Nan Aron et al., *Judicial Seminars: Economics, Academia, and Corporate Money in America*, 25 ANTITRUST L. & ECON. REV. 33, 40-41 (1994) (citations omitted).

<sup>7</sup> Judge Thomas P. Griesa addressed this issue:

There has been a feeling in some quarters that Henry and his LEC colleagues were of a conservative persuasion. I am not inclined to deny that. However, what has been taught has been professional economics of the highest and most sophisticated caliber. In any event, people of all stripes have attended and greatly benefited. I recall my first course when the class wanted to express our gratitude on the final day. The person who rose to speak was Judge Hall from West Virginia, who was from the Fourth Circuit. Without doubt he was a Democrat going back to New Deal days. He was fervent in his appreciation of the LEC course.

Letter from Judge Thomas P. Griesa, U.S. District Court for the Southern District of New York, to Henry N. Butler, Director, Law and Organizational Economics Center, University of Kansas 2 (Mar. 30, 1999) (on file with the *Case Western Reserve Law Review*). Judge Ralph B. Guy, Jr. offered a similar appraisal:

Every program that I attended was structured to present useful material in an understandable form. I was always in awe of the faculty he was able to attract and felt privileged that such prominent people would take time to share their knowledge. Equally important was the fact that the material was always presented in a balanced fashion. I never felt that I was there to be "steered" in any given direction, other than to realize that understanding basic economic concept [sic] can be a very useful tool when working with the law.

In terms of its popularity among judges, the success of the Manne Programs must be attributed to the high standards—both in academic substance and programmatic style—set by Henry Manne. The Manne Programs continue to be operated by the LEC at GMUSL. The real challenge for GMUSL will be to provide the energy, enthusiasm, commitment, and knowledge that are necessary to engender the same loyal following of the judges that Henry Manne enjoyed.

### I. THE GENESIS OF THE FEDERAL JUDGES PROGRAMS

Prior to launching the Economics Institute for Federal Judges in 1976, Henry Manne offered courses in Economics for Law Professors and Law for Economics Professors for several years.<sup>9</sup> The initial programs were offered at the University of Rochester, where they were referred to as “Pareto in the Pines.” The professors programs moved to the University of Miami in 1974 when Manne and Roger LeRoy Miller created the Law & Economics Center (“LEC”). The LEC professors’ programs, which then became known as “Pareto in the Palms,” were very popular in those early years. Eventually, over one thousand professors would complete those two-week programs.<sup>10</sup>

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Guy, *supra* note 2.

<sup>8</sup> Judge Thomas R. Brett of Oklahoma wrote:

I had the privilege of attending a half dozen courses offered by the Manne-led Emory and George Mason Law and Economics Courses for Judges. At first, I thought there would be a strong element of conservative propaganda. However, in the Basic Economics course, two Nobel Prize winning giants, Drs. Paul Samuelson and Milton Friedman, appeared on the faculty. Your approach has always been balanced and focused on issues of government regulation, preservation of competition, and free and fair markets. All judges, state and federal, should have the privilege of being exposed to the Law and Economics curriculum you have developed.

Letter from Judge Thomas R. Brett, U.S. District Court for the Northern District of Oklahoma, to Henry G. Manné (Dec. 16, 1998) (on file with the *Case Western Reserve Law Review*). Judge Warren G. Eginton of Connecticut wrote about the ideological content of the programs:

In addition to organizing and executing in flawless fashion his very high powered and useful seminars for the federal judiciary, among others, he has spread his gospel (what I call the Chicago school of economics) among many of us, believers and skeptics alike. Although I am in the latter category, I never left a seminar without an impression that it had all been well worth the time. His scholars were uniformly brilliant and superb presenters.

Letter from Judge Warren G. Eginton, U.S. District Court for the District of Connecticut, to Henry N. Butler, Director, Law and Organizational Economics Center, University of Kansas (Mar. 1, 1999) (on file with *Case Western Reserve Law Review*); see also *infra* text accompanying note 16 (excerpt from letter to Henry N. Butler from Judge Robert L. Carter of the U.S. District Court in New York).

<sup>9</sup> For information on these programs, see HENRY G. MANNE, *THE INTELLECTUAL HISTORY OF GEORGE MASON UNIVERSITY SCHOOL OF LAW* 11-13 (1993).

<sup>10</sup> The programs had a tremendous influence on the development of Law & Economics as academic discipline. See generally Symposium, *The Legacy of Henry G. Manne – Pioneer in Law & Economics and Innovator in Legal Education*, 50 CASE W. RES. L. REV. 203 (1999).

The excitement and enthusiasm generated by the LEC programs for professors triggered numerous suggestions that the LEC should offer similar programs to other audiences.<sup>11</sup> In particular, Manne recalls that suggestions were made that journalists and clergy would benefit from exposure to the insights of economics. Of course, Manne believed that just about everyone would benefit from more exposure to economics. Indeed, in 1975 the LEC offered an "Economics Institute for Congressional Staff Aides," as well as an "Economics Institute for Law Review Editors."<sup>12</sup>

Manne was intrigued by the idea of teaching economics to federal judges, who were just beginning to experience a rising tide of litigation associated with the enactment of federal regulatory statutes in the early 1970s.<sup>13</sup> Moreover, teaching economics to judges had an

<sup>11</sup> Henry Manne earned a reputation as a prolific fundraiser, and there was never any shortage of ideas and suggestions about how he should spend the money that he raised.

<sup>12</sup> The LEC also sponsored several "Economics Institutes for Health Care Policy Officials" during the late 1970s.

<sup>13</sup> Judge Anthony A. Alaimo thought that the significance of the Manne Programs was magnified by the emergence of federal regulations:

During the last quarter-century, we have witnessed and participated in a tremendous social revolution which has been marked by the reach of the tentacles of the law into the most minute of relationships. Indeed, the United States has become overwhelmed by a litigation explosion in which the courts are deciding every potential dispute devised by the ingenuity of the human intellect. There have been startling, enormous shifts in the creation of legal remedies increasingly attuned and responsive to a consumer-oriented society, one in which the courts have stretched the ambit of liability to the extreme outer limits. Most judges, unfamiliar with the disciplines of economics, have been making decisions with enormous economic impact but without having the slightest idea of the economic mechanisms and forces brought into play by their decisions.

Great social-economic changes have been brought about by legislation and court decisions on racial integration, Title VII rights, comparable worth concepts, pension benefits, securities and money markets, corporate raiders and hostile takeovers, insider trading, the application of RICO concepts to what formerly had been considered as merely sloppy or just careless business practices, court intrusion into corporate management, mass tort litigation involving ruinous punitive damages, as well as the increased use of the class action device. Court decisions in all of these areas, principally in the federal courts, have had tremendous, well-nigh incalculable economic consequences. It has become, therefore, increasingly important that federal judges be conversant and familiar with sound economic principles and dogma, so that they can understand the impact of their decisions on the economic health of the country.

Turning more specifically to my thesis, if one were looking for an area where the greatest favorable economic impact could be generated at the lowest cost, it would be in the teaching of the marriage of law and economics to federal judges. While we are circumscribed by the parameters of existing statutes, regulations and case law, there is a wide area of decision entrusted to us where the result can go either way, depending on how we view the evidence. That area is called "judicial discretion." This is the area that is most affected by these seminars on economics conducted under Dr. Manne's direction.

I have attended his seminars during the past ten years and am eager to testify to their value. Indeed, I feel that, as a result of what I have learned at these seminars, I

obvious nexus with the mission of the Law & Economics Center. Finally, Manne was able to attract substantial funding from private foundations for his economics programs for federal judges.

## II. THE FIRST ECONOMICS INSTITUTE FOR FEDERAL JUDGES

Prior to starting the federal judges program, Henry Manne did not know a single federal judge. The inaugural Economics Institute for Federal Judges was offered in November of 1976, at the Ocean Reef Club on Key Largo. All Article III federal judges were invited to apply, and the opportunity was made more attractive by the LEC covering all expenses associated with attending the program. An optimistic Manne had announced an acceptance policy of first-come, first-served for admission into the program. This admission process was important for two reasons. First, Manne was sensitive to the possibility of attacks that he was recruiting judges targeted by specific contributors. Second, he wanted to avoid any charges of favoritism of appellate over trial judges. Manne hoped to attract twenty-five judges, but only nineteen attended.

The inaugural Economics Institute for Federal Judges lasted two and one-half weeks. The length of the program reflected Manne's belief that economics could not be learned in a short two or three day seminar. Indeed, he was concerned that such a minimal exposure to the "Dismal Science" would do more harm than good.<sup>14</sup> Manne was confident that judges would have greater appreciation for his programs if they felt like they really learned something. He wanted to immerse the judges in economics for a substantial period, and much of the program was designed to make them think about economics. For example, during the weekdays when all meals were group meals, instructors were told to spread out to different tables so that they could guide conversations toward economics concepts.

Manne also recognized that teaching federal judges would take more than time—it would require great instructors.<sup>15</sup> Manne assem-

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have become a much better judge, hopefully rendering more valuable and salutary decisions to this society.

Letter from Judge Anthony A. Alaimo, U.S. District Court for the Southern District of Georgia, to William E. Simon, President, The John M. Olin Foundation, Inc., 2-3 (June 20, 1989) (on file with the *Case Western Reserve Law Review*).

<sup>14</sup> Over the years, experience taught Manne and the other instructors to avoid asking "how's the program going" during the first week of the Economics Institute for Federal Judges. It often took several days for the judges to get used to the classroom and the very different perspective of economics, and it took even longer for them to recognize the practical relevance of the material to their jobs.

<sup>15</sup> The judges appreciated Manne's efforts. For example, Judge Thomas Griesa of New York wrote, "To create such enormously valuable programs required a truly lofty vision. To

bled what must be the most talented team of instructors to ever teach a single economics course: Nobel Laureates Milton Friedman and Paul Samuelson, along with prominent scholars Armen Alchian and Harold Demsetz of UCLA, Paul McAvoy of M.I.T., Martin Feldstein of Harvard, and, of course, Henry Manne himself.

At the start of the inaugural Economics Institute for Federal Judges, everyone, teachers and students alike, was entering uncharted waters. The judges were skeptical, perhaps even suspicious.<sup>16</sup> Manne credits Judge Gerald Tjoflat of Jacksonville, Florida with suggesting a major improvement in the learning environment. At the opening dinner, Judge Tjoflat broke the initial tension by suggesting that formal titles—Judge, Professor, Dr. and so forth—be dispensed with in favor of first names. That friendly, informal tradition continues to this day.

Another tradition that developed spontaneously at the first Institute was the practice of holding one or two evening roundtable discussions during each Institute. The idea was to get everyone together to deal with lingering questions about a whole host of issues, such as the limits of the economic model of human behavior, why they were attending the Institute, the instructors' views on various issues, brainwashing, and so forth. These sessions were typically very candid and served to dispel a great deal of the judges' concerns about the value of economics and the purpose of the program.

The first group of judges was very satisfied with their eye-opening experience. Manne reports that Judge Floyd Gibson of Missouri asked "What I want to know is why the hell didn't somebody tell me about this before now?"

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assemble the stars who have been our teachers required uncompromising selectivity. Henry Manne did it." Griesa, *supra* note 7, at 1.

<sup>16</sup> Judge Robert L. Carter of the U.S. District Court in New York wrote:

I attended the first of the law and economics programs Henry organized for federal judges and what was learned was so worthwhile that I attended two additional programs—this despite the fact that I regard myself as a social progressive and all the economists in attendance, from my perspective, had Neanderthal views on race and social policy.

....

The basic lesson I learned, however, would have been forthcoming whatever the social outlook of the economist and that is that social good comes at a price, a social and economic cost. I had never thought that through before being exposed to Henry's teachings. While my views have not changed, the exposure to the thinking and teaching of the economists in these programs has led me to measure the cost of the social good being furthered against the gain to be achieved. I suppose what was learned amounts to social responsibility and required me to choose my priorities with greater care than before.

Letter from Judge Robert L. Carter, U.S. District Court for the Southern District of New York, to Henry N. Butler, Director, Law and Organizational Economics Center, University of Kansas 1-2 (Feb. 17, 1999) (on file with the *Case Western Reserve Law Review*).



### III. FINE TUNING, EVOLUTION, AND THE FUTURE OF THE ECONOMICS INSTITUTE FOR FEDERAL JUDGES

In January 1977, Manne made several adjustments to the Economics Institute agenda—most notably, it was reduced from two and one-half weeks to two weeks—and then solicited applications for a second class of judges. There was a huge response, and Manne's first-come, first-served policy kicked in for the first time. Because of the strong demand in 1977 and 1978, the LEC offered two Economics Institutes for Federal Judges in both 1979 and 1980.

The Economics Institutes continued to develop a reputation as a serious learning experience. Supreme Court Justice Ruth Bader Ginsburg complimented Manne's programs:

Cheers to Henry, innovator and dean nonpareil. As a student in two of his seminars, I can affirm that the instruction was far more intense than the Florida sun. For lifting the veil on such mysteries as regression analyses, and for advancing both learning and collegial relationships among federal judges across the country, my enduring appreciation.<sup>17</sup>

The Economics Institutes were almost always held at premium locations during the most popular season, and Manne was a zealous proponent of over-consumption of fine food.<sup>18</sup> Yet, the judges did not view the Economics Institutes as junkets.<sup>19</sup> Indeed, federal judges

<sup>17</sup> Letter from Justice Ruth Bader Ginsburg, Supreme Court of the United States (Mar. 1, 1999) (on file with the *Case Western Reserve Law Review*).

<sup>18</sup> Letter from Judge Alfred T. Goodwin, U.S. Court of Appeals for the Ninth Circuit, to Henry G. Manne (Dec. 23, 1998) ("Naturally, one remembers stone crab, pecan pie, and great snorkeling more vividly than macro economics, but the amenities definitely improved the absorption rate of the substantive matter.").

<sup>19</sup> Judge Thomas P. Griesa of the Southern District of New York noted:

I believe that I attended the second LEC session for federal judges in Key Biscayne. That was in 1975, if I am correct. Never having taken a course in economics, I was traveling into a strange land. But what was most remarkable to me was the intensity and the seriousness of the course. Generally, the lectures were in the morning and the rest of the day was "free." But I spent most of the free time sitting on the balcony of my room struggling to cover the reading assignment which was both tough and lengthy. This was no lark!

Griesa, *supra* note 7, at 1. Several judges noted the pedagogical value of the locations. For example, Judge Robert G. Doumar of the Eastern District of Virginia noted how Manne insisted that the Judges do their work:

Henry always chose places for classes that embodied the principles of economic success. One need only to look out the window to see it all around. One's eyes never wandered far as the teachers were always the epitome of expertise. However, Henry, as truly economic, made it clear that he expected one not to participate in the abundance that surrounded them until all the classes were over and done with.

Letter from Judge Robert G. Doumar, U.S. District Court for the Eastern District of Virginia, to Henry N. Butler, Director, Law and Organizational Economics Center, University of Kansas (Feb. 26, 1999) (on file with the *Case Western Reserve Law Review*). Evidently, it took awhile for the Institute's reputation to spread. Judge Thomas J. Curran wrote:

had (and continue to have) numerous opportunities to attend less-demanding conferences at equally desirable locations.

As with any long running program, the Economics Institute experienced gradual turnover in instructors. After a few years, Milton Friedman and Harold Demsetz dropped out. Their topics were covered by an expanded role for Armen Alchian and by the addition of Benjamin Klein, another UCLA economist. Later, Charles J. Goetz, an economist from the University of Virginia School of Law, and Orley Ashenfelter, a labor economist and econometrician from Princeton, were added to the team. Goetz presented materials on competition and monopoly, pricing strategies, contracting, property rights, and Law & Economics in general. Ashenfelter introduced statistical inference and econometrics—usually by talking about his econometric models for predicting the price (a proxy for quality) of Bordeaux. Appendix A contains the Agenda for the 1991 Economics Institute for Federal Judges, including the expanded program offerings.

Recently, Armen Alchian, the mainstay of the Economics Institutes for Federal Judges (he even outlasted Henry Manne), has stopped teaching in the Institute. The materials that Alchian used to cover have been taken over by two very capable economists—William A. Fischel of Dartmouth and Robert Cooter of University of California at Berkeley. Fischel and Cooter are outstanding economists and teachers, but Alchian cannot be replaced. He connected with the judges in a way that words cannot explain.

During one of the earliest Economics Institutes, Paul Samuelson developed a tradition of starting his first session with the judges by emphasizing that the reason he participated in the program was to provide “ideological balance” to a program that was otherwise dominated by *laissez faire* economists. Samuelson then proceeded to discuss his views on several non-ideological areas, including finance theory and personal financial investments. He also launched a strong defense of free international trade. Not surprisingly, many judges thought his views were fairly conservative. Indeed, the evening roundtable discussions attended by Samuelson invariably included a judge’s request that he identify the concepts taught by Alchian and

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Frankly, I did not expect such a concentrated agenda. I don’t believe I have ever attended a seminar that involved such intensive study and discussion. My wife, who accompanied me, commented, “I don’t see any more of you here than I do at home.” Another compliment came from one of my fellow judges who said, “I can’t believe how much I have learned, but I’m glad I didn’t have to take this course in college.”

Letter from Judge Thomas J. Curran, U.S. District Court for the Eastern District of Wisconsin, to Henry N. Butler, Director, Law and Organizational Economics Center, University of Kansas (Mar. 2, 1999) (on file with the *Case Western Reserve Law Review*).

other scholars that Samuelson found objectionable. Samuelson was not about to challenge the legitimacy of the neoclassical price theory taught by the rest of the team, so his response was usually some vague reference to their differences about the proper role of government in a market economy. When confronted, he admitted that their differences were on the normative implications, not on the positive analysis of how markets actually work.

The Economics Institute for Federal Judges remained oversubscribed into the late 1980s, when applications began to decline. The shortage of applications was due in part to the fact that the LEC had already absorbed many potential applicants. By 1990, approximately forty percent of the sitting federal judges had completed at least the two-week Economics Institute.

The LEC's "market share" has since declined to approximately thirty percent as a result of changes in both the numerator and denominator of the percentage calculation. The annual number of judges completing the Economics Institutes has declined,<sup>20</sup> while many of the early graduates have left the bench. Also, the total number of authorized federal judges—district and circuit courts—has increased from 491 in 1976 to 739 in 1984 to 824 in 1990.<sup>21</sup> Appendix B contains a cumulative list of judges who have participated in the LEC programs for federal judges.

It is not clear why the expansion of the pool of available applicants failed to result in increased applications for the Economics Institutes. One explanation is that the newly appointed judges are more likely than the older judges to have a working spouse; a situation which makes it more difficult for the judge to be away from home for two weeks. Yet another possible explanation is that President Clinton's appointees are not interested in attending the Economics Institute because of an ideological bias against Law & Economics. Another possible explanation is that federal judges have been swamped with criminal cases and, thus, they do not see the relevance of economics to their courtrooms. Finally, the Manne Programs for federal judges might be victims of the Manne Programs for Law Pro-

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<sup>20</sup> Manne's goal was to have 25 judges attend each Economics Institute for Federal Judges. In general, this goal was met until late 1980s. The numbers of judges for recent years are 1988: 19; 1989:23; 1990: 15; 1991: 19; 1992: 20; 1993: 14; 1994: N/A. Obviously, the number would fluctuate from year to year due to last minute cancellations.

<sup>21</sup> See The Administrative Office of the U.S. Courts, *Table K: Authorized Judgeships* (last modified Mar. 3, 1999) <<http://www.uscourts.gov/history/tablek.pdf>>. Note that the data presented is for authorized judges, but the market share data presented in the paper uses sitting judges as the denominator. The Bush Administration was very slow in filling the authorized judgeships during 1990 and 1991.

fessors. Some of the younger judges might have had Law & Economics courses while in law school and thus do not feel the need to attend the judicial programs. There is probably a little truth in all of these explanations, although the pervasive influence of economics on legal education may have the largest impact.

In 1990, the LEC experimented with the inclusion of bankruptcy judges in the Economics Institutes for Federal Judges. This was the first time that non-Article III judges were allowed to attend. Manne was very concerned that the change would harm the prestige and attractiveness of the program in the eyes of his primary audience: the Article III judges. Four bankruptcy judges attended in 1990 and 1991 at the expense of the National Conference of Bankruptcy Judges. When the NCBJ did not renew funding, Manne stopped inviting the bankruptcy judges.

In 1997, the new Chairman of the LEC, GMUSL Dean Mark Grady, admitted federal magistrate judges as well as bankruptcy judges into the Economics Institute for Federal Judges. This move was thought to be necessary to offset the downward trend in applications from Article III judges. A possible consequence of this broadening of the participants, and certainly something that was a major concern of Manne, is that the Article III judges will find the program less attractive.<sup>22</sup>

Another significant change implemented by Dean Mark Grady should be noted. In 1998, he decreased the length of the Economics Institute for Federal Judges from 14 days to 10 days, while continuing to cover the same amount of material. Appendix C contains the new agenda, reflecting the new team assembled by Grady. Apparently, the concentrated schedule was designed both to combat the decreased demand for the program, and to reduce the costs of running the Institutes. Grady felt that two weeks was too long for judges with dual career families to be away from their homes. However, this must be balanced against several trade-offs in terms of quality of the learning environment. The more concentrated schedule reduces the out-of-class opportunities for reflection, reading, and discussion of the materials. Manne's experiences had taught him that judges valued that time, and that they believed it was a very attractive part of the program. The organization and structure of the Basic Institute continues to evolve.<sup>23</sup>

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<sup>22</sup> It is difficult to deny the temptation to refer to Gresham's Law.

<sup>23</sup> Recently, Frank Buckley, the latest Director of the GMU LEC, wrote [W]e have split the basic Institute from one two-week session to two one-week sessions. One week is on the economics of private law; the other on the economics of public law. The change was demand-driven. In its early days, the LEC's

## IV. PUBLICITY, CONTROVERSY, AND VINDICATION

The amazing popularity of the Economics Institute for Federal Judges in the late 1970s resulted in publication of several very favorable news articles and editorials about the Institutes. Most notable were a column by George Malloan in the *Wall Street Journal* and a cover article in *Fortune* magazine. These articles sowed the seeds for a controversy that threatened the ability of the LEC to offer the Economics Institutes. However, after a thorough review, the LEC came out smelling like a rose.

The George Malloan column reported on the development of the LEC and focused on the first Economics Institute for Federal Judges.<sup>24</sup> While very favorable toward the LEC and its activities, the article highlighted the ideological aspect of the program:

KEY LARGO, Fla. It is a classic intellectual confrontation. Milton Friedman, the Nobel economist, is lecturing a group of 19 federal judges. They spend much of their lives resolving cases where individuals and corporations have become entangled with federal laws and regulations, antitrust, SEC rules, natural gas rate cases. Mr. Friedman is telling them, in essence, that in economic terms, through no fault of theirs, much of what they do is a waste. The economy would work better, from the point of view of consumers, without most of those laws and regulations.

The judges are obviously fascinated, and not just because Professor Friedman is an entertaining and provocative lecturer. His free market litany is foreign to their own world of law and doctrine. Most express resistance to his ideas. But there can be little doubt that the dichotomy he draws between economic freedom and state power yields insights into the

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Insitutes were taken by judges with very little knowledge of microeconomics and no knowledge of law-and-economics. Since then, law-and-economics has become more accepted, and all top-rate law schools (from which federal judges are disproportionately selected) have some teachers who lecture in that tradition. This has meant that a significant block of our judges have some familiarity with law-and-economics. For them, a one-week course offers more efficient results both for them and for us. However, quite a few of our judges whose familiarity with law-and-economics was weaker in law school take both of the basic sessions.

Letter from Frank Buckley to Henry N. Butler, Director, Law and Organizational Economics Center, University of Kansas (July 2, 1999) (on file with the *Case Western Reserve Law Review*).

<sup>24</sup> George Malloan, *A Meeting Ground for Debating Law and Economics*, WALL ST. J., Dec. 30, 1976, at 4.

limitations of legal process, a problem that has become worrisome to many lawyers and judges. "I had always heard that Milton Friedman was a conservative," says one judge afterwards. "Actually, he's a radical, isn't he?"<sup>25</sup>

Although most likely thrilled with the favorable publicity, Manne must have bristled with the focus on the ideological perspective of the instructors. It may have helped fundraising, but it spelled trouble for the future.

The cover page of the May 21, 1979, issue of *Fortune* depicted a judge reading an economics textbook, with several books—including Samuelson's best selling textbook *Economics* and Friedman's *Capitalism and Freedom*—on the floor beside him. The caption read: "Judges Get a Crash Course in Economics." The inside title of the *Fortune* article was "Judges Discover the World of Economics."<sup>26</sup> The favorable tone of the article is reflected in the closing paragraphs:

With understandable sensitivity, Manne strongly denies that the course has an ideological cast. He insists that the theory and the logic of economics are fundamentals that all schools agree on. Ultimately, Manne says that what he offers judges is an intellectual adventure.

There, virtually all the judges agree with him. In the words of District Court Judge Murray Schwartz of Delaware: "Exposure to a new discipline is good for us. This is an entry into a broader world, and it's going to help me in all kinds of ways." And District Court Judge D. Dortch Warriner of Virginia concurred: "I've learned how to press just a bit harder. The judgments I give may be just a little bit better — there may be a little bit more justice in the world."<sup>27</sup>

Thus, the *Fortune* article depicted the program as a serious educational effort, instead of free market indoctrination. It also gave the judges credit for their ability to comprehend and intellectually challenge the instructors.<sup>28</sup> This approach, of course, was much more in line with Manne's efforts to focus on positive economics.

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<sup>25</sup> *Id.*

<sup>26</sup> Walter Guzzardi Jr., *Judges Discover the World of Economics*, *FORTUNE*, May 21, 1979, at 58.

<sup>27</sup> *Id.* at 66.

<sup>28</sup> One example of the discerning role of judges in the program: "These teachers are against regulation, and think that the free market would usually do better. That's what I think

These favorable articles preceded (and may have triggered) a controversy that ultimately was a tremendous benefit to the LEC. A front page article in the January 20, 1980 *Washington Post* announced "Big Corporations Bankroll Seminars for U.S. Judges."<sup>29</sup> Despite the muckraking headline, the article was reasonably balanced. It started with charges by anonymous critics—"government regulators and liberal law professors"—expressing concern about corporations using the Economics Institutes to lobby and brainwash the federal judges. But the article included numerous quotes from judges in which the judges praised the programs and refused to apologize for attending. California U.S. District Judge Samuel Conti provided a representative quote: "If I thought I was being brainwashed, I'd say forget it. I go to a lot of other judges' meetings and don't go back because they're boring. Not this one."<sup>30</sup>

At about the same time, the Advisory Committee on Codes of Judicial Conduct—a committee of the Judicial Conference of the United States—considered the general issue of privately-funded educational seminars. The committee's actions were triggered by several requests from judges who wanted to have the status of the LEC seminars clarified.<sup>31</sup> In August of 1980, the committee produced Advisory Opinion No. 67, "Attendance at Educational Seminars." The committee determined that payment of expenses to attend "non-government sponsored seminars" constitutes a gift under the Code of Judicial Conduct. Yet, it said that judges may accept the gift so long

myself. But in my courtroom I put all that aside. I think of these teachers as expert witnesses. I am as skeptical of what they say as I am of any other experts." *Id.* at 66.

<sup>29</sup> Fred Barbash, *Big Corporations Bankroll Seminar for U.S. Judges*, WASH. POST, Jan. 20, 1980, at A1.

<sup>30</sup> *Id.* at A3.

<sup>31</sup> Judge William C. O'Kelley of the Northern District of Georgia wrote:

I was a strong supporter of Henry's law and economics program. I first became interested in it when Henry and the Law and Economics Center was operating under the auspices of the University of Miami. Having received an invitation to attend the program, I then read some criticism that developed in the *Wall Street Journal* and other media about its sponsorship. I very much wanted to attend and discussed the matter with Henry Manne. I saw no problem but did not want to be accused of impropriety at a later time. I believe I was, therefore, the first to request an opinion letter from the Judicial Conference committee on judicial ethics. The committee's letter approved the propriety of the attendance at such program. I furnished Henry with a copy of the opinion and believe that he was able to use it very successfully thereafter.

I did, in fact, attend one of the early programs at Key Biscayne. They were intensive, insightful, and interesting. The stack of textbooks provided for the two-week program was overwhelming. We worked hard but had a good time.

Letter from Judge William C. O'Kelley, U.S. District Court for the Northern District of Georgia, to Henry N. Butler, Director, Law and Organizational Economics Center, University of Kansas 1 (Jan. 25, 1999) (on file with the *Case Western Reserve Law Review*).

as it is "awarded on the same terms applied to other applicants."<sup>32</sup> The opinion states that:

The education of judges in various academic disciplines serves the public interest. That a lecture or seminar may emphasize a particular viewpoint or school of thought does not in itself preclude a judge from attending. Judges are continually exposed to competing views and arguments and are trained to weigh them.

It would be improper to participate in such a seminar if the sponsor, or source of funding, is involved in litigation, or likely to be so involved, and the topics covered in the seminar are likely to be in some manner related to the subject matter of such litigation. . . .

Judges who accept invitations to participate in such seminars, having been satisfied that no impropriety or appearance thereof is present, must report the reimbursement of expenses and the value of the gift on their financial disclosure reports.<sup>33</sup>

Application of the Advisory Opinion clarified that it was permissible for judges to attend the LEC Economics Institutes for Federal Judges,<sup>34</sup> provided that the judges disclosed the value of the program.<sup>35</sup> In order to facilitate compliance with the committee's opin-

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<sup>32</sup> Advisory Comm. on Codes of Judicial Conduct, Advisory Op. No. 67 (revised July 10, 1998), *reprinted in* GUIDE TO JUDICIAL POLICIES AND PROCEDURE IV-151 (1999).

<sup>33</sup> *Id.*

<sup>34</sup> The *Washington Post* coverage of the Judicial Conference's actions is confused. An initial article reported that the court approves corporate funding of the law and economics seminars. See Dugger, *supra* note 5, at C1. A later article's headline states "Judges' Seminars in Fla. Faulted." Fred Barbash, *Judges' Seminars in Fla. Faulted*, WASH. POST, Oct. 4, 1980, at A7.

<sup>35</sup> After Advisory Opinion No. 67 was issued, the Institute for Public Representation (IPR), a public interest clinical program at Georgetown University Law Center, filed a petition with the Judicial Conference of the United States attacking the LEC's Economics Institute for Federal Judges. The specific issue raised by the IPR Petition related to the funding of the program and the appropriateness of federal judges attending such a program. However, it is clear from the IPR Petition that they were primarily concerned about what was being taught to the judges. The IPR Petition claims that Henry Manne and the majority of the LEC's lecturers are "committed to the view that the 'free market' should be left unregulated and that government intervention in the economy is rarely, if ever, justified." Aron et al., *supra* note 6, at 38. In case that indictment were not sufficient to support some type of sanction against the LEC, they also added that if judges adopted the views exposed in the course, then it would greatly benefit the LEC's corporate sponsors. Judge Howard Markey investigated the LEC. He wrote that "[t]he requested investigation of a private educational institution would be unauthorized, inappropriate, and productive of serious questions concerning academic freedom and First Amendment rights." *Id.* at 39. (citing Letter from Judge Howard Markey, Chairman of the Advisory Com-



ion, the LEC provides judges with statements of the individual cost of providing the programs to each participant.

The text of Advisory Opinion No. 67 does not reveal the behind-the-scenes discussions between Manne and Judge Howard Markey, Chairman of the Advisory Committee. In the process of discussing the LEC's finances, Manne committed to the Judicial Conference that the LEC would not use corporate contributions to pay the direct expenses of the judicial education programs sponsored by the LEC.<sup>36</sup> All direct expenses for the judges programs would be paid for with contributions from private foundations not affiliated with corporations. Corporate contributions would be used to cover LEC overhead and other activities, such as the Economics Institute for Law Professors and Law for Economics Professors.

An August 23, 1990 article in the *Washington Post* indicated the importance of the accounting change adopted by the LEC:

Chief Judge Howard Markey, chairman of the ethics committee, has approved the change and "encouraged others to provide similar programs," Manne says.

....

A spokesman for Chief Justice Burger dismissed the conflict-of-interest charge, saying, "The information received by the committee indicates that no corporate funds support the seminars in question.

"Judges also attend seminars at Harvard, the Aspen Institute, New York University, the University of Virginia and a number of other places. The Judicial Conference has no control over what books judges read or seminars they choose to attend," the spokesman said.<sup>37</sup>

Advisory Opinion No. 67 was adopted two days after publication of the *Washington Post* article.

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mittee on Codes of Conduct of the Judicial Conference of the United States, to Charles Halpern, Institute for Public Representation (Mar. 13, 1991).

<sup>36</sup> See Dugger, *supra* note 5, at C1 ("This year, the director of the Miami Center, Henry G. Manne, says he has eliminated the appearance of a conflict of interest by segregating the center's corporate and foundation contributions. The judge's course now is financed solely from foundation money."); see also *Institute's Analysis of Privately Funded Judicial Seminars*, LEGAL TIMES OF WASH., Sept. 15, 1980, at 19.

<sup>37</sup> Dugger, *supra* note 5, at C1.

From Manne's perspective, the end result of the Judicial Conference's consideration of the "non-government sponsored seminars" was outstanding. He was able to report to judges that the Judicial Conference had: (1) investigated the LEC, (2) stated that the LEC's activities were proper, and (3) encouraged judges to attend the Economics Institute for Federal Judges. Manne believes that many judges, who had been reluctant to attend the Economics Institute because of funding and ethical concerns, decided to take advantage of the educational opportunities offered by the LEC as a result of the Judicial Conference's actions. The judges' demand for the LEC's programs continued to grow.

#### V. THE ADVANCED COURSES

As mentioned above, following the inaugural Economics Institute for Federal Judges, Manne shortened the Economics Institutes to two weeks. This change provided the impetus for the development of an Advanced Course for Federal Judges in Economics and Statistics, which was first offered in 1978. This Advanced Course was given several different names over the years, including the "Advanced Course for Federal Judges in Statistics, Econometrics and Financial Data," and the "Advanced Course for Federal Judges on Quantitative Methods." For convenience, and in order to avoid confusion, this course will be referred to here as the Advanced Course on Quantitative Methods.<sup>38</sup>

In designing the Advanced Course on Quantitative Methods, Manne intended to use the material that had been removed from the longer initial Institute, primarily econometrics, to focus on the kinds of evidence used in cases. During the inaugural Economics Institute, Manne was surprised when he learned that the judges typically did not understand the uses and potential abuses of accounting data. In order to remedy this deficiency, Professor George Benston of Rochester, who had written several important articles detailing the differences between accounting data and economic values,<sup>39</sup> became a regular instructor in Quantitative Methods. Further, Armen Alchian and Martin Feldstein taught statistics and econometrics, respectively.

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<sup>38</sup> Manne liked the Quantitative Methods name because it was consistent with GMUSL's Quantitative Methods for Lawyers course, a six-hour course required of all GMUSL students during their first year. There is no doubt that the LEC's judges programs—the Manne Programs—paid a great role in GMUSL's rise to prominence in the late 1980s. Unfortunately, as evidenced by the renaming and reducing of the length of the first year Quantitative Methods course, GMUSL seems to be moving away from its intellectual roots.

<sup>39</sup> For a very readable summary of Benston's perspective, see George J. Benston, *Accounting Numbers and Economic Values*, 27 ANTITRUST BULL. 161 (1982).

When Martin Feldstein became Chairman of the President's Council of Economic Advisors in 1981, Orley Ashenfelter of Princeton took over the econometrics materials. Appendix D contains an Agenda from the LEC Advanced Course on Quantitative Methods.

The Advanced Course in Quantitative Methods was popular with judges who completed the Economics Institute. The LEC's August 1998 Cumulative List of Participating Federal Judges shows that 220 of the 364 federal judges (listed as active and senior) who had completed the Economics Institute had also attended the Advanced Course on Quantitative Methods.

The LEC offered the first of several refresher courses in March, 1979. The program only lasted four days. Another refresher course, lasting ten days, was offered in August, 1989.

In response to demand from judges who had completed the Economics Institute and Quantitative Methods, Manne started adding additional Advanced Courses on specialized topics. Both the Economics Institute and Quantitative Methods were prerequisites for the other Advanced Courses. The Advanced Courses usually lasted six days, and enrollment was typically limited to 15 to 18 judges. As always, Manne attracted excellent instructors to the Advanced Courses. Also, whenever possible, Alchian would lead off the Advanced Courses with a review of concepts from the prerequisite courses that were important to the specific topic of the Advanced Course.

An Advanced Course on Antitrust Economics was added in 1980, before the Reagan Administration temporarily took the wind out of the sails of antitrust enforcement. Instructors in the early Antitrust courses included Armen Alchian, Harold Demsetz, Kenneth Elzinga of the University of Virginia, and Phillip Areeda of Harvard. After going several years without offering the Advanced Course in Antitrust Economics, the LEC resumed offering it on a regular basis when antitrust enforcement activity started to increase under the Clinton Administration. An Agenda from a recent Advanced Course in Antitrust Economics is included in Appendix E.

The Advanced Course on Corporate Governance and Financial Markets was added in April 1982. Instructors included Armen Alchian and Richard Roll of UCLA; and Michael Jensen, William Meckling, and Clifford Smith of Rochester. An Agenda from a recent course is included in Appendix F.

An Advanced Course on the Economics of Risk, Injury, and Liability was added in 1990. Instructors included Orley Ashenfelter, Patricia Danzon of the Wharton Graduate School of Business at the University of Pennsylvania, George Priest of Yale Law School, and

W. Kip Viscusi of Duke. An agenda from a recent Risk Course is included in Appendix G.

An Advanced Course for Federal Judges on Science and Public Health was offered in May, 1991, initially presented in conjunction with the Federal Judicial Center. Unlike other LEC Advanced Courses, the FJC would not allow enrollment to be limited to judges who had met the LEC prerequisites. The Science Course had an incredible team of instructors, including Leon Lederman of the University of Chicago, Bruce Ames of the University of California at Berkeley, Robert Trefil of George Mason University, and Kip Viscusi. The Agenda for the June 1999 "Science and Public Health Institute for Federal Judges" is included in Appendix H.

In April 1998, the LEC added a new course: the Advanced Economics Course for Federal Judges. The impressive faculty included Nobel Laureates James M. Buchanan of George Mason, Douglas C. North of Washington University, and Gary S. Becker of the University of Chicago. The Agenda is included in Appendix I.

The series of Advanced Courses was an important means for keeping graduates of the Economics Institute in touch with economics. It served to refresh and reinforce the basic concepts. Moreover, Manne's practice of scheduling two advanced courses simultaneously at the same facility meant that the judges were exposed not just to the judges and instructors in their course, but to those in others as well. This offered the judges additional opportunities to network with other judges, and also helped create a stronger bond between judges and instructors.

#### VI. THE MANNE METHOD: THE SECRET TO THE SUCCESS OF THE LEC FEDERAL JUDGES PROGRAMS

The Manne Programs for federal judges are a reflection of Henry Manne—entrepreneur, innovator, intellectual, educator, and hedonist. All of these traits combined to have an incredibly powerful and influential impact on the federal judiciary.

Henry Manne is an entrepreneur and an innovator. In the academic world (which is characterized by poorly defined property rights and thus not conducive to entrepreneurial actions), Manne has built successful programs at several universities. As Director of the LEC and Dean of GMUSL, Manne was always alert to opportunities to expand and improve his programs. Many of his actions involved substantial financial and reputational risk. He had the courage of his convictions to stay the course.

Henry Manne is an intellectual and an educator. He thrives on ideas, insightful analysis, and the search for truth. He wants to share what he has learned with others. He believes in the power of ideas. He was completely comfortable with the notion of providing only positive economics to the judges. Moreover, in true liberal arts fashion, Manne had faith that the intellectual experience provided the judges would improve the functioning of our legal system. Hundreds of judges share that assessment.

Henry Manne is a hedonist. He knows what he likes and he wants a lot of what he likes. By necessity, Manne was a consumer as well as a producer of the judges programs. In order to generate the energy and enthusiasm to spend six to eight weeks per year running programs for judges and professors, the programs needed to be held at nice locations with good food and better golf courses. The judges appreciated his concern for the working environment, as illustrated by the following statement by Judge Paul R. Michel:

Further reflecting his genius for the true meaning of education, which begins with the recognition that the classroom experience is the lesser part of it, Dean Manne arranged that we judges would dine together three times a day, together not only with one another but with the visiting leaders in their fields and the rest of our course faculty. Thus, the educational dialogue occurred as much over meals as during classroom sessions.

Dean Manne also had the wit to recognize that a federal judge anywhere near a courthouse or even a telephone was a danger to his own education, because of the easy intrusion of matters from chambers. Therefore, he assembled us in beautiful and somewhat secluded locations heavily insulated from telephone interferences and other false emergencies. This too was a critical part of the formula of success.

That none of these basic features of the courses given in law and economics under the auspices most recently of the George Mason University Law School seem revolutionary only belies the reality that they were revolutionary. No one else did it before. No one has done it since in any compara-

ble way, and generations of judges can attest that the "Manne method" has no equal.<sup>40</sup>

Henry Manne has no equal.

The legacy of Henry G. Manne, judicial educator, is secure. By opening the eyes of hundreds of federal judges to the counter-intuitive insights of economics, Manne encouraged critical thinking and skepticism.<sup>41</sup> Many judges, who previously were susceptible to arguments that implicitly denied the existence of opportunity costs, or who tended to ignore the consequences of their decisions on future parties, were provided the tools to do their jobs.<sup>42</sup> The foundation set by Manne will influence many future generations of judges.

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<sup>40</sup> Letter from Judge Paul R. Michel, U.S. Court of Appeals for the Federal Circuit, to Henry N. Butler, Director, Law and Organizational Economics Center, University of Kansas 1-2 (Feb. 25, 1999) (on file with the *Case Western Reserve Law Review*).

<sup>41</sup> Judge John S. Rhodes of the Southern District of California recognized an important role for the dinners, stating, "[a]nd best of all were the many provocative and sometimes irreverent conversations at meals with no holds barred. I met some great people, learned a lot, and while no economist, I learned enough to be skeptical and to ask questions." Letter from Judge John S. Rhoades, U.S. District Court for the Southern District of California, to Henry N. Butler, Director, Law and Organizational Economics Center, University of Kansas (Jan. 7, 1999) (on file with the *Case Western Reserve Law Review*).

<sup>42</sup> Judge E. Grady Jolly offered some thought comments on the importance of the Manne Programs on his judicial philosophy:

As a new judge, a principle concern for me was that I develop reasoned criteria for deciding cases. While each judge must wrestle with what that criteria should be, I found Henry's courses helped to provide me with a sound theoretical and rational structure for my decisions. . . .

[I]n many cases, one need look no further than the letter of the law. However, in those cases where the law is not clear, there is, consciously or unconsciously, a proclivity to resolve the case in favor of the party with whom you most identify or sympathize. To avoid succumbing to this pattern, it is essential to understand the economic and social impact of one's decision. . . .

[T]he courses gave to me a greater understanding of the potential effects and foreseeable impact of imposing a duty or liability on a particular party in a case. And with that understanding came an appreciation of the broader impact that my decisions could have on other similarly situated parties. In sum, the courses I attended helped to provide a principled basis for deciding close cases.

Letter from Judge E. Grady Jolly, U.S. Court of Appeals for the Fifth Circuit, to Henry N. Butler, Director, Law and Organizational Economics Center, University of Kansas 1-2 (Feb. 17, 1999) (on file with the *Case Western Reserve Law Review*).

## APPENDIX A

**LEC ECONOMICS INSTITUTE FOR FEDERAL JUDGES**

Westward Look Resort, Tucson, AZ

Sunday, March 3 to Saturday, March 16, 1991

**PROGRAM AGENDA****SUNDAY, MARCH 3**

7:00 p.m. Reception – LEG Hospitality Suite  
 7:45 p.m. Dinner – Board Room

**MONDAY, MARCH 4**

8:30 - 12:00 Noon CLASS # 1 - Alchian  
 Topic: Competition, Demand, Exchange  
 Assignment: A&A., Chapters 1, 2 and 3  
 Recommend: Alchian, additional materials  
 Alchian, "Uncertainty, Evolution, and  
 Economic Theory"

**TUESDAY, MARCH 5**

8:30 - 12:00 Noon CLASS # 2 - Alchian  
 Topic: Prices and Markets, Information Costs  
 Assignment: A&A., Chapters 4 and 5

**WEDNESDAY, MARCH 6**

8:30 - 12:00 Noon CLASS # 3 – Alchian  
 Topic: Capital Values, Future Yields,  
 Interest  
 Assignment: A&A., Chapter 6  
 Recommended: Alchian, "Words: Musical or  
 Meaningful?"

**THURSDAY, MARCH 7**

8:30 - 12:00 Noon CLASS # 4 - Alchian  
 Topic: Production  
 Assignment: A&A., Chapters 7 and 8  
 Recommended: Alchian and Demsetz, "Production,  
 Information Costs, and Economic  
 Organization"





**WEDNESDAY, MARCH 13**

8:30 - 12:00 Noon

Topic:

Assignment:

CLASS # 10 - Ashenfelter

Econometrics

Paulos, Innumeracy, Chapter 5

1:00 - 4:30 Noon

Topic:

Assignment:

CLASS # 11 - GoetzEvolving Property Rights and  
CompetitionDemsetz, "Toward a Theory of  
Property Rights"Caves, "Vertical Restraints as  
Integration by Contract: Evidence and  
Policy Implications**THURSDAY, MARCH 14**

8:30 - 12:00 Noon

Topic:

Assignments:

CLASS # 12 - Samuelson

Stochastic Processes

Brealey, pp. 1-87

Samuelson, additional materials

Samuelson, "Challenge to  
Judgement"Sharpe and Murphy, "Second  
Thoughts About the Efficient  
Market"

Samuelson, Chapter 24 (appendix)

Recommended:

Black, "Yes, Virginia, There is Hope"

7:45 - 9:15 p.m.

Topic:

PANEL: Alchian, Ashenfelter,  
Butler, Manne, Goetz, Samuelson  
Intractable Questions in  
Economics: Wealth Distribution;  
Original Entitlements; Valuation  
Theory; Normative Implications of  
Positive Theory

**FRIDAY, MARCH 15**

8:30 - 12:00 Noon

Topic:

Assignment:

Recommended:

CLASS #13 - Samuelson

Economics and Comparative  
Advantage

Samuelson, "International Trade for a  
Rich Country"

Samuelson & Nordhaus, Chapters 38,  
39, 40, *especially Chapter 38*

Samuelson, "To Protect  
Manufacturing?"

**SATURDAY, MARCH 16**

8:30 - 12:00 Noon

Topic:

Assignment:

CLASS #14 - Goetz

Law and Economics

Goetz, pp.

- 49-68 (Nuisance)
- 166-176 Prejudgment Interest)
- 375-391 (Costs and Damages)

## APPENDIX B

**Cumulative List of Participating Federal Judges**

First through Twenty-Fourth Basic Economics Institutes  
and Other Institutes for Federal Judges 1976-1998

**United States Appellate Courts**

Ruth Bader Ginsburg	U.S. Supreme Court	Washington, D.C.
Clarence Thomas	U.S. Supreme Court	Washington, D.C.
Douglas H. Ginsburg	D.C. Circuit	Washington, D.C.
Stephen F. Williams	D.C. Circuit	Washington, D.C.
Michael B. Goudin	1 <sup>st</sup> Circuit	Boston, MA
Bruce M. Selya	1 <sup>st</sup> Circuit	Providence, RI
Juan R. Torruella	1 <sup>st</sup> Circuit	San Juan, PR
Thomas J. Meskill	2 <sup>d</sup> Circuit	New Britain, CT
Roger J. Miner	2 <sup>nd</sup> Circuit	Albany, NY
James L. Oakes	2 <sup>nd</sup> Circuit	Brattleboro, VT
John M. Walker, Jr.	2 <sup>nd</sup> Circuit	New York, NY
Ralph K. Winter, Jr.	2 <sup>nd</sup> Circuit	New Haven, CT
Edward R. Becker	3 <sup>rd</sup> Circuit	Philadelphia, PA
Leonard I. Garth	3 <sup>rd</sup> Circuit	Newark, NJ
Max Rosenn	3 <sup>rd</sup> Circuit	Wilkes-Barre, PA
Walter K. Stapelton	3 <sup>rd</sup> Circuit	Wilmington, DE
John D. Butzner, Jr.	4 <sup>th</sup> Circuit	Richmond, VA
Robert F. Chapman	4 <sup>th</sup> Circuit	Columbia, SC
Kenneth K. Hall	4 <sup>th</sup> Circuit	Charleston, WV
James M. Sprouse	4 <sup>th</sup> Circuit	Lewisburg, WV
W. Eugene Davis	5 <sup>th</sup> Circuit	Lafayette, LA
John M. Duhe, Jr.	5 <sup>th</sup> Circuit	Lafayette, LA
E. Grady Jolly	5 <sup>th</sup> Circuit	Jackson, MS
Thomas M. Reavley	5 <sup>th</sup> Circuit	Austin, TX
Jerry E. Smith	5 <sup>th</sup> Circuit	Houston, TX
Alice M. Batchelder	6 <sup>th</sup> Circuit	Medina, OH
Danny J. Boggs	6 <sup>th</sup> Circuit	Louisville, KY
Ralph B. Guy, Jr.	6 <sup>th</sup> Circuit	Ann Arbor, MI
Damon J. Keith	6 <sup>th</sup> Circuit	Detroit, MI
Cornelia G. Kennedy	6 <sup>th</sup> Circuit	Detroit, MI
Boyce F. Martin, Jr.	6 <sup>th</sup> Circuit	Louisville, KY
Gilbert S. Merritt	6 <sup>th</sup> Circuit	Nashville, TN

James L. Ryan	6 <sup>th</sup> Circuit	Farmington, MI
Eugene E. Siler, Jr.	6 <sup>th</sup> Circuit	London, KY
Richard F. Suhrheinrich	6 <sup>th</sup> Circuit	Lansing, MI
Harry W. Wellford	6 <sup>th</sup> Circuit	Memphis, TN
John L. Coffey	7 <sup>th</sup> Circuit	Milwaukee, WI
Harlington Wood, Jr.	7 <sup>th</sup> Circuit	Springfield, IL
Morris S. Arnold	8 <sup>th</sup> Circuit	Fort Smith, AR
C. Arlen Beam	8 <sup>th</sup> Circuit	Lincoln, NE
Myron H. Bright	8 <sup>th</sup> Circuit	Fargo, ND
Floyd R. Gibson	8 <sup>th</sup> Circuit	Kansas City, MO
Frank J. Magill	8 <sup>th</sup> Circuit	Fargo, ND
William C. Canby, Jr.	9 <sup>th</sup> Circuit	Phoenix, AZ
Jerome Farris	9 <sup>th</sup> Circuit	Seattle, WA
Betty B. Fletcher	9 <sup>th</sup> Circuit	Seattle, WA
Alfred T. Goodwin	9 <sup>th</sup> Circuit	Pasadena, CA
Cynthia H. Hall	9 <sup>th</sup> Circuit	Pasadena, CA
Diarmuid F. O'Scannlain	9 <sup>th</sup> Circuit	Portland, OR
Pamela Ann Rymer	9 <sup>th</sup> Circuit	Los Angeles, CA
Joseph T. Sneed	9 <sup>th</sup> Circuit	San Francisco, CA
Thomas Tang	9 <sup>th</sup> Circuit	Phoenix, AZ
Eugene A. Wright	9 <sup>th</sup> Circuit	Seattle, WA
Bobby R. Baldock	10 <sup>th</sup> Circuit	Roswell, NM
Monroe G. McKay	10 <sup>th</sup> Circuit	Salt Lake City, UT
Stanley F. Birch, Jr.	11 <sup>th</sup> Circuit	Atlanta, GA
Albert J. Henderson	11 <sup>th</sup> Circuit	Atlanta, GA
Gerard Bard Tjoflat	11 <sup>th</sup> Circuit	Jacksonville, FL
Glenn L. Archer, Jr.	Federal Circuit	Washington, D.C.
Alan D. Lourie	Federal Circuit	Washington, D.C.
Paul R. Michel	Federal Circuit	Washington, D.C.
Pauline Newman	Federal Circuit	Washington, D.C.
S. Jay Plager	Federal Circuit	Washington, D.C.
Randall R. Rader	Federal Circuit	Washington, D.C.
Reginald W. Gibson	Ct. of Fed. Claims	Washington, D.C.
Christine O.C. Miller	Ct. of Fed. Claims	Washington, D.C.
Wilkes C. Robinson	Ct. of Fed. Claims	Washington, D.C.
James T. Turner	Ct. of Fed. Claims	Washington, D.C.
Diane G. Weinstein	Ct. of Fed. Claims	Washington, D.C.

**United States District Courts**

James H. Hancock	ALABAMA – Northern District
Edwin L. Nelson	ALABAMA – Northern District
Sam C. Pointer, Jr.	ALABAMA – Northern District
Robert B. Propst	ALABAMA – Northern District
Charles R. Butler, Jr.	ALABAMA – Southern District
James M. Fitzgerald	ALASKA
H. Russell Holland	ALASKA
James K. Singleton	ALASKA
James A. von der Heydt	ALASKA
Charles L. Hardy	ARIZONA
Paul G. Rosenblatt	ARIZONA
G. Thomas Eisele	ARKANSAS – Eastern District
Susan Webber Wright	ARKANSAS – Eastern District
H. Franklin Waters	ARKANSAS – Western District
Terry J. Hatter	CALIFORNIA – Central District
A. Andrew Hauk	CALIFORNIA – Central District
Robert J. Kelleher	CALIFORNIA – Central District
Ronald S.W. Lew	CALIFORNIA – Central District
Edward Rafeedie	CALIFORNIA – Central District
Manuel L. Real	CALIFORNIA – Central District
Alicemarie H. Stotler	CALIFORNIA – Central District
Dickran M. Tevrizian, Jr.	CALIFORNIA – Central District
Laughlin E. Waters	CALIFORNIA – Central District
Robert E. Coyle	CALIFORNIA – Eastern District
Samuel Conti	CALIFORNIA – Northern District
Thelton E. Henderson	CALIFORNIA – Northern District
Charles A. Legge	CALIFORNIA – Northern District
Eugene F. Lynch	CALIFORNIA – Northern District
William H. Orrick, Jr.	CALIFORNIA – Northern District
Marilyn Hall Patel	CALIFORNIA – Northern District
Fern M. Smith	CALIFORNIA – Northern District
Vaughn R. Walker	CALIFORNIA – Northern District
Spencer M. Williams	CALIFORNIA – Northern District
Rudi M. Brewster	CALIFORNIA – Southern District
William B. Enright	CALIFORNIA – Southern District
Earl B. Gilliam	CALIFORNIA – Southern District
Judith N. Keep	CALIFORNIA – Southern District
Leland C. Nielsen	CALIFORNIA – Southern District

John S. Rhoades, Sr.	CALIFORNIA – Southern District
Edward J. Schwartz	CALIFORNIA – Southern District
Gordon Thompson, Jr.	CALIFORNIA – Southern District
Howard B. Turrentine	CALIFORNIA – Southern District
Zita L. Weinshienk	COLORADO
Warren W. Eginton	CONNECTICUT
James L. Latchum	DELAWARE
Roderick R. McKelvie	DELAWARE
Murray M. Schwartz	DELAWARE
June L. Green	DISTRICT OF COLUMBIA
Norma H. Johnson	DISTRICT OF COLUMBIA
William Terrell Hodges	FLORIDA – Middle District
John H. Moore II	FLORIDA – Middle District
G. Kendall Sharp	FLORIDA – Middle District
Lacey A. Collier	FLORIDA – Northern District
William H. Stafford, Jr.	FLORIDA – Northern District
C. Roger Vinson	FLORIDA – Northern District
C. Clyde Atkins	FLORIDA – Southern District
Edward B. Davis	FLORIDA – Southern District
Jose A. Gonzalez, Jr.	FLORIDA – Southern District
Stanley Marcus	FLORIDA – Southern District
K. Michael Moore	FLORIDA – Southern District
James C. Paine	FLORIDA – Southern District
Norman C. Roettger, Jr.	FLORIDA – Southern District
Kenneth L. Ryskamp	FLORIDA – Southern District
William J. Zloch	FLORIDA – Southern District
Orinda D. Evans	GEORGIA – Northern District
Richard C. Freeman	GEORGIA – Northern District
Willis B. Hunt, Jr.	GEORGIA – Northern District
William C. O’Kelley	GEORGIA – Northern District
Marvin H. Shoob	GEORGIA – Northern District
G. Ernest Tidwell	GEORGIA – Northern District
Anthony A. Alaimo	GEORGIA – Southern District
B. Avant Edenfield	GEORGIA – Southern District
William T. Moore, Jr.	GEORGIA – Southern District
W. Louis Sands	GEORGIA – Middle District
Helen W. Gillmor	HAWAII
Harold A. Baker	ILLINOIS – Central District
Joe Billy McDade	ILLINOIS – Central District

Michael M. Mihm	ILLINOIS – Central District
Richard H. Mills	ILLINOIS – Central District
Robert D. Morgan	ILLINOIS – Central District
James H. Alesia	ILLINOIS – Northern District
Wayne R. Andersen	ILLINOIS – Northern District
Suzanne B. Conlon	ILLINOIS – Northern District
John F. Grady	ILLINOIS – Northern District
William T. Hart	ILLINOIS – Northern District
Charles P. Korcoras	ILLINOIS – Northern District
Harry D. Leinenweber	ILLINOIS – Northern District
George W. Lindberg	ILLINOIS – Northern District
Blanche M. Manning	ILLINOIS – Northern District
George M. Marovich	ILLINOIS – Northern District
James B. Moran	ILLINOIS – Northern District
John A. Nordberg	ILLINOIS – Northern District
Charles R. Norgle, Sr.	ILLINOIS – Northern District
Paul E. Plunkett	ILLINOIS – Northern District
Milton I. Shadur	ILLINOIS – Northern District
James L. Foreman	ILLINOIS – Southern District
William C. Lee	INDIANA – Northern District
Rudy Lozano	INDIANA – Northern District
Robert L. Miller, Jr.	INDIANA – Northern District
James T. Moody	INDIANA – Northern District
Allen Sharp	INDIANA – Northern District
S. Hugh Dillin	INDIANA – Southern District
John D. Tinder	INDIANA – Southern District
Edward J. McManus	IOWA – Northern District
William C. Stuart	IOWA – Southern District
Harold D. Vietor	IOWA – Southern District
Charles R. Woole	IOWA – Southern District
Earl E. O'Connor	KANSAS
Richard D. Rogers	KANSAS
Katheryn H. Vratil	KANSAS
William O. Bertelsman	KENTUCKY – Eastern District
Joseph M. Hood	KENTUCKY – Eastern District
G. Wix Unthank	KENTUCKY – Eastern District
Edward H. Johnstone	KENTUCKY – Western District
Charles R. Simpson, III	KENTUCKY – Western District
Peter H. Beer	LOUISIANA – Eastern District

Patrick E. Carr	LOUISIANA – Eastern District
Edith B. Clement	LOUISIANA – Eastern District
Adrian G. Duplantier	LOUISIANA – Eastern District
Martin L.C. Feldman	LOUISIANA – Eastern District
Fredrick J.R. Heebe	LOUISIANA – Eastern District
A.J. McNamara	LOUISIANA – Eastern District
Lansing L. Mitchell	LOUISIANA – Eastern District
Charles Schwartz, Jr.	LOUISIANA – Eastern District
John V. Parker	LOUISIANA – Middle District
Nauman S. Scott	LOUISIANA – Western District
Tom Stagg	LOUISIANA – Western District
Earl E. Veron	LOUISIANA – Western District
Gene M. Carter	MAINE
Frank A. Kaufman	MARYLAND
W. Arthur Garrity, Jr.	MASSACHUSETTS
A. David Mazzone	MASSACHUSETTS
Walter Jay Skinner	MASSACHUSETTS
Joseph L. Tauro	MASSACHUSETTS
Douglas P. Woodlock	MASSACHUSETTS
Julian Abele Cook, Jr.	MIGHIGAN – Eastern District
Robert H. Cleland	MIGHIGAN – Eastern District
Robert E. DeMascio	MIGHIGAN – Eastern District
John Feikens	MIGHIGAN – Eastern District
Paul V. Gadola	MIGHIGAN – Eastern District
Horace W. Gilmore	MIGHIGAN – Eastern District
Charles W. Joiner	MIGHIGAN – Eastern District
Stewart A. Newblatt	MIGHIGAN – Eastern District
Anna Diggs Taylor	MIGHIGAN – Eastern District
Richard A. Enslin	MIGHIGAN – Western District
Benjamin F. Gibson	MIGHIGAN – Western District
Douglas W. Hillman	MIGHIGAN – Western District
David W. McKeague	MIGHIGAN – Western District
Wendell A. Miles	MIGHIGAN – Western District
Donald D. Alsop	MINNESOTA
Michael J. Davis	MINNESOTA
David A. Doty	MINNESOTA
Paul A. Magnuson	MINNESOTA
Diana E. Murphy	MINNESOTA
James M. Rosenbaum	MINNESOTA



Charles C. Lovell	MONTANA
Lyle E. Strom	NEBRASKA
Philip M. Pro	NEVADA
Harold A. Ackerman	NEW JERSEY
John W. Bissell	NEW JERSEY
Stanley S. Brotman	NEW JERSEY
Garrett E. Brown, Jr.	NEW JERSEY
Alfred J. Lechner	NEW JERSEY
John C. Lifland	NEW JERSEY
William H. Walls	NEW JERSEY
Santiago E. Campos	NEW MEXICO
John E. Conway	NEW MEXICO
James A. Parker	NEW MEXICO
Raymond J. Dearie	NEW YORK – Eastern District
Eugene H. Nickerson	NEW YORK – Eastern District
Thomas C. Platt, Jr.	NEW YORK – Eastern District
Jack B. Weinstein	NEW YORK – Eastern District
Thomas J. McAvoy	NEW YORK – Northern District
Neal P. McCurn	NEW YORK – Northern District
Howard G. Munson	NEW YORK – Northern District
Rosemary S. Pooler	NEW YORK – Northern District
Frederick J. Scullin, Jr.	NEW YORK – Northern District
Harold Baer, Jr.	NEW YORK – Southern District
Deborah A. Batts	NEW YORK – Southern District
Charles L. Brieant	NEW YORK – Southern District
Robert L. Carter	NEW YORK – Southern District
William C. Conner	NEW YORK – Southern District
Kevin Thomas Duffy	NEW YORK – Southern District
David N. Edelstein	NEW YORK – Southern District
Lee P. Gagliardi	NEW YORK – Southern District
Gerard L. Goettel	NEW YORK – Southern District
Thomas P. Griesa	NEW YORK – Southern District
Whitman Knapp	NEW YORK – Southern District
Shirley Kram	NEW YORK – Southern District
Pierre N. Leval	NEW YORK – Southern District
Mary Johnson Lowe	NEW YORK – Southern District
Michael B. Mukasey	NEW YORK – Southern District
Milton Pollack	NEW YORK – Southern District
Leonard B. Sand	NEW YORK – Southern District

Lohn E. Sprizzo	NEW YORK – Southern District
Louis L. Stanton	NEW YORK – Southern District
Robert W. Sweet	NEW YORK – Southern District
John T. Curtin	NEW YORK – Western District
Michael A. Telesca	NEW YORK – Western District
W. Earl Britt	NORTH CAROLINA – Eastern District
Malcolm J. Howard	NORTH CAROLINA – Eastern District
Frank W. Bullock, Jr.	NORTH CAROLINA – Middle District
Richard C. Erwin	NORTH CAROLINA – Middle District
William L. Osteen	NORTH CAROLINA – Middle District
Graham C. Mullen	NORTH CAROLINA – Western District
Richard L. Voorhees	NORTH CAROLINA – Western District
Bruce M. Van Sickle	NORTH DAKOTA
Ann Aldrich	OHIO – Northern District
David D. Dowd, Jr.	OHIO – Northern District
David A. Katz	OHIO – Northern District
Thomas D. Lambros	OHIO – Northern District
John M. Manos	OHIO – Northern District
George W. White	OHIO – Northern District
John D. Holschuh	OHIO – Southern District
Joseph P. Kinneary	OHIO – Southern District
S. Arthur Spiegel	OHIO – Southern District
H. Dale Cook	OKLAHOMA – Eastern District
Thomas R. Brett	OKLAHOMA – Northern District
H. Dale Cook	OKLAHOMA – Northern District
Terry C. Kern	OKLAHOMA – Northern District
David L. Russell	OKLAHOMA – Western District
Lee R. West	OKLAHOMA – Western District
Robert C. Belloni	OREGON
Louis C. Bechtle	PENNSYLVANIA – Eastern District
Raymond J. Broderick	PENNSYLVANIA – Eastern District
Edward N. Cahn	PENNSYLVANIA – Eastern District
John P. Fullam	PENNSYLVANIA – Eastern District
James T. Giles	PENNSYLVANIA – Eastern District
Clifford S. Green	PENNSYLVANIA – Eastern District
Daniel H. Huyett, III	PENNSYLVANIA – Eastern District
Marvin Katz	PENNSYLVANIA – Eastern District
James McGirr Kelly	PENNSYLVANIA – Eastern District
Joseph L. McGlynn, Jr.	PENNSYLVANIA – Eastern District

Clarence C. Newcomer	PENNSYLVANIA – Eastern District
Norma L. Shapiro	PENNSYLVANIA – Eastern District
Charles R. Weiner	PENNSYLVANIA – Eastern District
Richard P. Conaboy	PENNSYLVANIA – Middle District
Donetta W. Ambrose	PENNSYLVANIA – Western District
Alan N. Bloch	PENNSYLVANIA – Western District
Maurice B. Cohill, Jr.	PENNSYLVANIA – Western District
Gustave Diamond	PENNSYLVANIA – Western District
Donald J. Lee	PENNSYLVANIA – Western District
D. Brooks Smith	PENNSYLVANIA – Western District
Francis J. Boyle	RHODE ISLAND
Ronald R. Lagueux	RHODE ISLAND
Ernest C. Torres	RHODE ISLAND
G. Ross Anderson, Jr.	SOUTH CAROLINA
Falcon B. Hawkins	SOUTH CAROLINA
Henry Herlong	SOUTH CAROLINA
David C. Norton	SOUTH CAROLINA
Charles E. Simons, Jr.	SOUTH CAROLINA
R. Allan Edgar	TENNESSEE – Eastern District
James H. Jarvis, II	TENNESSEE – Eastern District
R. Leon Jordan	TENNESSEE – Eastern District
Robert L. Echols	TENNESSEE – Middle District
Thomas A. Wiseman, Jr.	TENNESSEE – Middle District
Bernice B. Donald	TENNESSEE – Western District
Odell Horton	TENNESSEE – Western District
James D. Todd	TENNESSEE – Western District
Jerome Turner	TENNESSEE – Western District
Howell Cobb	TEXAS – Eastern District
Melinda Harmon	TEXAS – Southern District
Lynn N. Hughes	TEXAS – Southern District
J. Thomas Greene	UTAH
Bruce S. Jenkins	UTAH
Robert G. Doumar	VIRGINIA – Eastern District
T.S. Ellis, III	VIRGINIA – Eastern District
Robert R. Merhige, Jr.	VIRGINIA – Eastern District
Henry C. Morgan, Jr.	VIRGINIA – Eastern District
James R. Spencer	VIRGINIA – Eastern District
Richard L. Williams	VIRGINIA – Eastern District
Jackson K. Kiser	VIRGINIA – Western District

James H. Michael, Jr.	VIRGINIA – Western District
James C. Turk	VIRGINIA – Western District
Glen M. Williams	VIRGINIA – Western District
Robert J. Bryan	WASHINGTON – Western District
William L. Dwyer	WASHINGTON – Western District
Jack E. Tanner	WASHINGTON – Western District
Thomas S. Zilly	WASHINGTON – Western District
David A. Faber	WEST VIRGINIA – Southern District
Charles H. Haden, II	WEST VIRGINIA – Southern District
Thomas J. Curran	WISCONSIN – Eastern District
Rudolph T. Randa	WISCONSIN – Eastern District
John W. Reynolds	WISCONSIN – Eastern District
Clarence A. Brimmer	WYOMING
Alan B. Johnson	WYOMING
Thomas K. Moore	VIRGIN ISLANDS

#### **United States Court of International Trade**

Gregory W. Carman	New York, NY
Dominick L. DiCarlo	New York, NY
Richard W. Goldberg	New York, NY
Herbert N. Maletz	New York, NY
R. Kenton Musgrave	New York, NY
Bernard Newman	New York, NY
Jane A. Restani	New York, NY
Nicholas Tsoucalas	New York, NY
James L. Watson	New York, NY

#### **United States Bankruptcy Courts**

Jack Caddell	ALABAMA – Northern District
James S. Sledge	ALABAMA – Northern District
Samuel L. Bufford	CALIFORNIA – Central District
John J. Wilson	CALIFORNIA – Central District
Christopher M. Klein	CALIFORNIA – Eastern District
Michael S. McManus	CALIFORNIA – Eastern District
Lloyd King	HAWAII
Alfred C. Hagan	IDAHO
Ronald Barliant	ILLINOIS – Northern District
Thomas W. James	ILLINOIS – Northern District
John H. Squires	ILLINOIS – Northern District

William Edmonds	IOWA
J. Wendell Roberts	KENTUCKY – Western District
Karen M. See	MISSOURI – Western District
Paul B. Lindsey	OKLAHOMA – Western District
Larry E. Kelly	TEXAS – Western District
Francis G. Conrad	VERMONT
H. Clyde Pearson	VIRGINIA – Western District
John A. Rossmeissl	WASHINGTON – Eastern District

#### United States Magistrate Judges

John F. Moulds	CALIFORNIA – Eastern District
Robin Pierce	INDIANA – Northern District
Roy S. Payne	LOUISIANA – Western District
Marianne Bowler	MASSACHUSETTS
Marc Goldman	MICHIGAN – Eastern District
David N. Hurd	NEW YORK – Northern District
Carol E. Heckman	NEW YORK – Western District
John Jelderks	OREGON

#### Other/Private Practice

Robert Aguilar – ND California  
 Robert H. Bork – D.C. Circuit  
 Patricia J. Boyle – ED Michigan  
 Henry Bramwell – ED New York – Retired  
 Gene B. Brooks – SD Indiana – Retired  
 Jim R. Carrigan – Colorado  
 Almeric L. Christian – Virgin Islands  
 R. Guy Cole, Jr. – Bankruptcy – SD Ohio – Resigned  
 James DeAnda – SD Texas – Retired  
 Brian B. Duff – ND Illinois – Retired  
 Robert M. Duncan – SD Ohio  
 Sherman G. Finesilver – Colorado  
 Frederick B. Lacey – New Jersey  
 George N. Leighton – ND Illinois  
 Malcolm M. Lucas – CD California  
 Thomas R. McMillen – ND Illinois  
 Richard B. McQuade, Jr. – ND Ohio  
 Layn R. Phillips – WD Oklahoma  
 Lawrence W. Pierce – Court of Appeals, 2<sup>nd</sup> Circuit

George C. Pratt – Court of Appeals, 2<sup>nd</sup> Circuit  
 Charles B. Renfrew – ND California  
 William W. Schwartz – ND California  
 William S. Sessions – WD Texas – Retired  
 Paul A. Simmons – WD Pennsylvania – Retired  
 John V. Singleton, Jr. – SD Texas  
 Abraham D. Sofaer – SD New York  
 Harbert J. Stern – New Jersey  
 Stanley A. Weigel – ND California – Retired  
 Malcolm Richard Wilkey – D.C. Circuit

DECEASED

J. Waldo Ackerman	Helen W. Nies
Aldon J. Anderson	Herman G. Pesquera
W. Donald Boe, Jr.	Harry Phillips
Vincent L. Broderick	Philip Pratt
Juan G. Burciaga	Edward Dean Price
Andrew A. Caffrey	George H. Revercomb
Albert W. Coffrin	Mary Anne Richey
Mark A. Costantino	Carl B. Rubin
Noel P. Fox	Robert H. Schnacke
Henry J. Friendly	Robert A. Sprecher
Thomas G. Gee	Charles E. Stewart, Jr.
Jack M. Gordon	Thomas Tang
William P. Gray	Albert Tate, Jr.
Robert H. Hall	Herbert I. Tietelbaum
John R. Hargrove	Jose V. Toledo
Clement F. Haynsworth, Jr.	Nicholas J. Walinshi
Irving Hill	D. Dortch Warriner
William D. Hutchinson	Gerald J. Weber
Harold Leventhal	Henry F. Werker
David T. Lewis	Francis C. Whelan
Lawrence Lydick	Veronica D. Wicker
Phil M. McNagny, Jr.	Harrison L. Winter
Ronald E. Meredith	Dick Yin Wong
Jack R. Miller	Warren H. Young
Edward R. Neaher	

## APPENDIX C

**THE BASIC ECONOMICS INSTITUTE FOR FEDERAL JUDGES**

Omni Tucson National Golf Resort &amp; Spa, Tucson, Arizona

Saturday, October 17 - Tuesday, October 27, 1998

**AGENDA****SATURDAY, PM, OCTOBER 17**

7:00 p.m. Reception

7:45 p.m. Dinner

**SUNDAY, AM & PM, OCTOBER 18**

8:30 a.m. - 9:30 a.m. Continental Breakfast

12:00 noon Lunch

1:00 p.m. - 5:00 p.m. **Class 1: Dr. Robert Cooter**

Topic: Bargaining and Demand

Assignments:

*Bargaining:*Cooter and Ulen, Law andEconomics (2<sup>nd</sup> ed., 1996):

"Bargaining Theory," pp. 72-74;

"Coase Theorem," pp. 79-84.

*Scarcity, Demand, and Exchange:*Alchian & Allen, Exchange andProduction (3<sup>rd</sup> ed., 1983):

Chapter 2 Consumer Demand, pp. 13-

28. (Do not labor over the

explanation of the elasticity of demand

on pp. 25-28).

Recommended:

Alchian & Allen, Exchange andProduction (3<sup>rd</sup> ed., 1983):

Chapter 1: "Scarcity, Competition, and Social Control," pp. 1-7, the idea of tradeoffs and scarcity for a society developed by describing the production possibility frontier.

Cooter and Ulen, Law and Economics (2<sup>nd</sup> ed., 1996):  
Chapter 1, pp. 1-8, introducing the subject of law and economics.  
Chapter 2, pp. 12-16, explaining functions and graphs.  
Chapter 4, pp. 74-78, a thought experiment on bargaining and the origins of property.  
Chapter 4, pp. 94-97 (including Table 4.5), Coase and bargaining over an externality.  
Chapter 5, pp. 149-153, takings and the consumer's surplus.  
Chapter 9, pp. 306-308, compensating for the loss of life by the risk-equivalence method.

6:30 p.m - 6:50 p.m.

Reception

7:00 p.m. - 8:00 p.m.

Dinner

**MONDAY, AM & PM, OCTOBER 19**

7:30 a.m. - 8:25 a.m.

Continental Breakfast

8:30 a.m. - 12:00 noon

**Class 2: Dr. Robert Cooter**

Topic:

Exchange

Assignments:

Alchian & Allen, Exchange and Production (3<sup>rd</sup> ed., 1983):  
Chapter 2, pp. 28-44.  
Chapter 3, "Exchange," pp. 45-56.  
Chapter 4, "Market Prices as Social Coordinators," pp. 57-64.



- Recommended: Cooter and Ulen, Law and Economics (2<sup>nd</sup> ed., 1996):  
Chapter 7, pp. 207-210, compensation and the value of a hand (Hawkins v. McGee); expectation v. reliance.  
Chapter 7, pp. 218-221, contrasting the distribution of the surplus and transaction costs of two remedies for breach of contract, expectation damages and specific performance.  
Chapter 8, pp. 281-283, explaining the "Hand Rule" for negligence.
- Cooter, Robert D. 1983, "Justice and Mathematics: Two Simple Ideas." In New Directions in Economics Justice, edited by R. Skurski. Notre Dame and London: University of Notre Dame Press, pp. 200-202, explaining the idea of "utility" as used in economics.
- Cooter, Robert D., 1999, The Strategic Constitution (Princeton University Press, forthcoming), excerpts on rent seeking from Chapter 3.

12:00 noon	Lunch
6:30 p.m. - 6:50 p.m.	Reception
7:00 p.m. - 8:00 p.m.	Dinner

**TUESDAY, AM & PM, OCTOBER 20**

7:30 a.m. - 8:25 a.m.	Continental Breakfast
8:30 a.m. - 12:00 noon	<b><u>Class 3: Dr. William Fischel</u></b>
Topic:	Public Economics

Assignments: Fischel, "Of Coase and Coal"  
 (extract from Fischel, Regulatory Takings).  
  
 Alchian & Allen, Exchange and Production (3<sup>rd</sup> ed., 1983):  
 Chapter 4 (tax incidence pp. 64-68,  
 Chapter 5 (property rights &  
 public goods) pp. 91-95 and 99-101.  
  
 Ellickson, Order without Law, pp. 156-166.

Recommended: Remainder of Alchian & Allen's  
 Chapters 4 & 5 and remainder  
 of Ellickson's Chapter 9.

12:00 p.m. - 12:45 p.m. Lunch  
 1:00 p.m. - 2:30 p.m. *Discussion Period with Available  
 Instructors*  
 6:30 p.m. - 6:50 p.m. Reception  
 7:00 p.m. - 8:00 p.m. Dinner

**WEDNESDAY, AM & PM, OCTOBER 21**

7:30 a.m. - 8:25 a.m. Continental Breakfast  
 8:30 a.m. - 12:00 noon **Class 4: Dr. William Fischel**  
 Topic: Discounting and the Organization of  
 Firms

Assignments: Alchian & Allen, Exchange and  
 Production (3<sup>rd</sup> ed., 1983):  
 Chapter 6 (capital values and  
 interest) pp. 107-112 and 129-131.  
  
 Fischel, "Discounting in One  
 Lesson," pp. 27-36.

Alchian & Allen, Exchange and Production (3<sup>rd</sup> ed., 1983):  
Chapter 8 (property rights in the firm)  
pp. 163-171.

Recommended: Remainder of Alchian & Allen,  
Chapters 8 & 9.

12:00 noon	Lunch
6:30 p.m. - 6:50 p.m.	Reception
7:00 p.m. - 8:00 p.m.	Dinner

**FRIDAY, AM & PM, OCTOBER 23**

7:30 a.m. - 8:25 a.m.	Continental Breakfast
8:30 a.m. - 12:00 noon	<b><u>Class 5: Dr. Charles Goetz</u></b>
Topic:	Price Takers, Price Searchers

Assignment: Alchian & Allen, Exchange & Production, Chapter 10 & 11.

12:00 noon	Lunch
6:30 p.m. - 6:50 p.m.	Reception
7:00 p.m. - 8:00 p.m.	Dinner

**SATURDAY, AM & PM, OCTOBER 24**

7:30 a.m. - 8:25 a.m.	Continental Breakfast
8:30 a.m. - 12:00 noon	<b><u>Class 6: Dr. Charles Goetz</u></b>
Topic:	Competitive and Monopoly Markets

Assignment: Alchian & Allen, Exchange & Production, Chapter 11, 12, and 13

Recommended: Goetz, Law and Economics, pp.  
441-447 (Second-Best Theory).

12:00 noon	Lunch
6:30 p.m. - 6:50 p.m.	Reception
7:00 p.m. - 8:00 p.m.	Dinner

**SUNDAY, AM & PM, OCTOBER 25**

8:30 a.m. 9:30 a.m. Continental Breakfast  
 12:00 noon Lunch  
 1:00 p.m. - 4:30 p.m. **Class 7: Dr. Darrell Williams**  
 Topic: Economics Regulation

Assignment: Demsetz, Why Regulate Utilities?,  
*Journal of Law & Economics*, 11 April  
 1968, pp. 55-65.

Demsetz, Barriers to Entry,  
*American Economic Review*, March  
 1982, pp. 47-57.

6:30 p.m. - 6:50 p.m. Reception  
 7:00 p.m. - 8:00 p.m. Dinner

**MONDAY, AM & PM, OCTOBER 26**

7:30 a.m. - 8:25 a.m. Continental Breakfast  
 8:30 a.m. - 12:00 noon **Class 8: Dr. Orley Ashenfelter**  
 Topic: Econometrics

Assignment: Paulos, Innumeracy, Chapters 1 and 2.

12:00 p.m. - 12:45 p.m. Lunch  
 1:00 p.m. - 2:30 p.m. *Discussion Period with Available  
 Instructors*

6:30 p.m. - 7:15 p.m. Reception  
 7:20 p.m. - 8:30 p.m. Dinner

**TUESDAY, AM, OCTOBER 27**

7:20 a.m. - 8:10 a.m. Breakfast (Note earlier start)  
 8:15 a.m. - 11:30 a.m. **Class 9: Orley Ashenfelter**  
 Topic: Statistical Inference

Assignment: Paulos, Innumeracy, Chapter 5.

11:30 a.m. Lunch

## APPENDIX D

**QUANTITATIVE METHODS INSTITUTE FOR FEDERAL JUDGES**

Amelia Island Plantation, Amelia Island, Florida  
 Saturday, March 11, 1995 to Friday, March 17, 1995

**PROGRAM AGENDA****SATURDAY PM, MARCH 11**

6:30 p.m. Reception, Hospitality Room  
 7:30 p.m. Dinner, Amelia Inn, upper level

**SUNDAY AM & PM, MARCH 12**

8:30 a.m. - 9:30 a.m. Continental Breakfast  
 Ibis Room, Racquet Park

12:00 noon Lunch, Verandah Restaurant,  
 Conference Center

1:00 p.m. - 4:30 p.m. CLASS #1 - Alchian  
 Topic: Modern Elementary Statistics, Basic  
 Concepts

Assignment: Freund & Simon, chapters 1, 2, 3, 4,  
 and 5.4  
 (skip starred sections)

6:30 p.m. - 6:55 p.m. Reception - Hospitality Room  
 7:05 p.m. - 8:15 p.m. Dinner - Osprey Room  
 Conference Center

**MONDAY AM, MARCH 13**

7:30 a.m. - 8:25 a.m. Continental Breakfast

8:30 a.m. - 12:00 noon CLASS #2 - Alchian  
 Topic: Modern Elementary Statistics,  
 Basic Concepts, continued

Assignment: Freund & Simon, sections 7.1, 8.1, 8.2, 9.1, 9.2, 10.2, 10.6, 10.7, and 10.8

12:00 noon Lunch, Verandah Restaurant, Conference Center  
 6:30 p.m. - 6:55 p.m. Reception, Hospitality Room  
 7:05 p.m. - 8:15 p.m. Dinner, Parkside Pavilion

**TUESDAY AM, MARCH 14**

7:30 a.m. - 8:25 a.m. Continental Breakfast

8:30 a.m. - 12:00 noon CLASS #3 - Ashenfelter  
 Topic: Freund & Simon, chapter 11 and 13 (skip starred sections)  
 Ashenfelter, "Definitions"

12:00 noon Lunch, Verandah Restaurant  
 6:30 p.m. - 6:55 p.m. Reception, Hospitality Room  
 7:05 p.m. - 8:15 p.m. Egret Room, Conference Center

**WEDNESDAY AM, MARCH 15**

7:30 a.m. - 8:25 a.m. Continental Breakfast

8:30 a.m. - 12:00 noon CLASS #4 - Ashenfelter  
 Topic: Modern Elementary Statistics, Regression Analysis

Assignment: Freund & Simon, chapters 15 and 16 (skip starred sections)  
 Ashenfelter, "Learning to Read a New Language"

Recommended: Note, "Beyond the Prima Facie Case in Employment Discrimination Law"  
 Finkelstein, "The Judicial Reception of Multiple Regression Studies in Race and Sex Discrimination Cases"

12:00 noon Lunch, Verandah Restaurant  
 6:30 p.m. - 6:55 p.m. Reception, Hospitality Room  
 7:15 p.m. - 8:45 p.m. Dinner, Walker's Landing.  
 Transportation will be provided.

**THURSDAY AM & PM, MARCH 16**

7:30 a.m. - 8:25 a.m. Continental Breakfast

8:30 a.m. - 12:00 noon CLASS #5 - Benston  
 Topic: Sources and Limitations of Data

Assignment: Bock, "The Limits of Words and Numbers"  
 Benston, "Accounting Numbers and Economic Values"

12:00 noon Lunch, Verandah Restaurant

1:00 p.m. - 4:30 p.m. CLASS #6 - Benston  
 Topic: Continuation of Class #5  
 Accounting numbers as sources of information.

6:30 p.m. - 7:15 p.m. Reception, off-site, Ritz-Carlton.  
 Transportation will be at 6 p.m.

7:20 p.m. - 8:45 p.m. Dinner, Ritz-Carlton

**FRIDAY AM, MARCH 17**

7:30 a.m. - 8:15 a.m. Continental Breakfast

8:15 a.m. - 11:30 a.m. CLASS #7 - Benston  
 Topic: Continuation of Classes 5 & 6  
 Finance Models and application to economic analysis.

APPENDIX E

**THE ANTITRUST ECONOMICS INSTITUTE  
FOR FEDERAL JUDGES**

June 12 - June 18, 1999

**AGENDA**

**SATURDAY, PM, JUNE 12**

7:00 p.m. Opening Reception  
Atrium

7:45 p.m. Dinner  
Atrium

**SUNDAY, AM & PM, JUNE 13**

9:00 a.m - 11:30 a.m. Brunch  
North Ballroom

1:00 p.m - 4:30 p.m. **Class 1: Dr. Charles J. Goetz**  
South Ballroom *Joseph M. Hartfield Professor of Law*  
*Harrison Foundation Research*  
*Professor*  
*University of Virginia Law School*

Topic: Review of Basic Economic Concepts  
and Introduction to the  
Economic Theory of Antitrust

Assignment: Goetz & McChesney, *Antitrust Law:*  
*Interpretation and*  
*Implementation*, 1998:

The Cournotia Model and Its  
Implications: pp. 1-12.  
Monopoly and the Dominant Firm  
Model: pp. 321-327.  
Illustrative Case, *Alcoa*, pp. 311-321.



The Principal - Agent Problem: pp. 460-466 and 435-438.

Illustrative Case: *Graphics Products v. Itek*, pp. 24-38.

Background Case: *Continental T.V. v. GTE Sylvania*, pp. 491-501.

Types of Errors in Antitrust Law: pp. 67-69.

2:00 p.m. & 3:15 p.m.

Breaks

4:45 p.m. - 6:00 p.m.

Complimentary Tea

Asahel Curtis Library

7:00 p.m. - 8:00 p.m.

Dinner

Falls Terrace

**MONDAY, AM, JUNE 14**

7:30 a.m. - 8:25 a.m.

Continental Breakfast

North Ballroom

8:30 a.m. - 12:00 noon

**CLASS 2: Dr. Charles J. Goetz**

South Ballroom

Topic:

Horizontal Agreements (Section 1 of the U.S. Sherman Act)

Assignment:

Goetz & McChesney, *Antitrust Law: Interpretation and Implementation*, 1998.

The Nature and Content of Anticompetitive Agreements, pp. 89-96. Also, scan *Uranium Cartel* material, pp. 77-89.

Adequately Proving Agreements: *Matsushita v. Zenith Radio*, pp. 209-226.

Per Se vs. Rule of Reason: A comparison of the economic premises of *Topco*, pp. 116-125 with *Chicago Board of Trade*, pp. 125-130.

Market Definition: *Note on Market Definition* on pp. 130-131 and scan *Merger Guidelines*, pp. 859-883.

Information Exchanges: Illustrative Case: *In Re Petroleum Products Antitrust Litigation*, pp. 275-284.

Facilitating Devices: pp. 302-309. Illustrative Case: *Dupont "Ethyl"* pp. 438-450.

Civil Damages and Settlement Incentives: pp. 238-242.

Civil Damages and The Economics of Antitrust Standing: *Todorov v. DCH Healthcare*, pp. 759-771. Illustrative Case: *Illinois Brick*, pp. 733-742.

9:30 a.m. & 10:45 a.m.  
12:00 noon

Breaks  
Class Photo  
(location to be announced)  
Lunch  
North Ballroom

4:00 p.m. - 6:00 p.m.

Complimentary Tea  
Asahel Curtis Library

7:00 p.m. - 8:00 p.m.

Dinner  
Falls Terrace

**TUESDAY, AM, JUNE 15**

7:30 a.m. - 8:25 a.m.

Continental Breakfast  
North Ballroom

8:30 a.m. - 12:00 noon  
South Ballroom

**CLASS 3: Dr. Benjamin Klein**  
*President - Economic Analysis LLC*  
*Professor of Economics - UCLA*

Topic: Monopolization and Unilateral  
Conduct (Section 2 of the U.S. Sherman  
Act)

Assignment: Klein, "Microsoft's Use of Zero Price  
Bundling To Fight The 'Browser  
Wars'," in Eisenach and Lenard, *Com-  
petition, Innovation and the  
Microsoft Monopoly: Antitrust in the  
Digital Marketplace, The Progress &  
Freedom Foundation*, February 5, 1998.

Klein, "Tying," in Newman, *The New  
Palgrave Dictionary of  
Economics and the Law*, 3, P-Z.

9:30 a.m. & 10:45 a.m.  
12:00 noon

Breaks  
Lunch  
North Ballroom

4:00 p.m. - 6:00 p.m.

Complimentary Tea  
Asahel Curtis Library

7:00 - 8:00 p.m.

Dinner  
Atrium

**WEDNESDAY, AM, JUNE 16**

7:30 a.m. - 8:25 a.m.

Breakfast  
North Ballroom

8:30 a.m. - 12:00 noon  
South Ballroom

**Class 4: Dr. Benjamin Klein**

Topic: Antitrust, Vertical Restraints, and Trans-  
action Cost Economics

Assignment: Klein, "The Hold-Up Problem," in Newman, *The New Palgrave Dictionary of Economics and the Law*, E-O.

Klein, "Distribution Restrictions Operate By Creating Dealer Profits: Explaining The Use of Maximum Resale Price Maintenance In *State Oil v. Khan*," Forthcoming, 9 Supreme Court Economic Review 1 (1999).

Klein, "Market Power In Franchise Cases In The Wake of *Kodak*: Applying Post-Contract Hold-Up Analysis To Vertical Relationships," Forthcoming, *67 Antitrust Law Journal*, 1999

9:30 a.m. & 10:45 a.m.	Breaks
12:00 noon	Lunch
	North Ballroom
4:00 p.m. - 6:00 p.m.	Complimentary Tea
	Asahel Curtis Library
7:00 p.m. - 8:15 p.m.	Dinner
	Atrium

**THURSDAY, AM, JUNE 17**

7:30 a.m. - 8:25 a.m.	Continental Breakfast
	North Ballroom

8:30 a.m. - 12:00 noon	<b>CLASS 6: Dr. William E. Kovacic</b>
South Ballroom	<i>Professor of Law</i>
	<i>George Washington University Law</i>

*School*

Topic:	U.S. Merger Enforcement (Section 7 of the Clayton Act and U.S. Department of Justice (DOJ) and Federal Trade Commission (FTC)) Merger Guidelines
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- Assignment: U.S. Merger Enforcement and U.S. Merger Guidelines: 1992 Horizontal Major Guidelines with April 8, 1997 Revisions. Available at <http://www.ftc.gov/bc/docs/horizmer.htm>
- Gellhorn & Kovacic, *Antitrust Law and Economics*, pp. 30-41, 94-120, 348-408, 4<sup>th</sup> Edition, 1994.
- FTC v. Staples, Inc.*, 970 F. Supp. 1066 (D.D.C. 1997)
- United States v. Baker Hughes, Inc.*, 908 F.2d 981 (D.C. Cir. 1990)
- 9:30 a.m. & 10:45 a.m. Breaks  
12:00 noon Lunch  
North Ballroom
- 4:30 p.m. - 6:00 p.m. Complimentary Tea  
Asahel Curtis Library
- 7:00 p.m. - 7:45 p.m. Closing Reception  
Falls Terrace
- 7:45 p.m. - 9:00 p.m. Dinner  
Falls Terrace
- FRIDAY, AM, JUNE 18**
- 7:00 a.m. - 7:45 a.m. Country Breakfast  
North Ballroom
- 8:00 a.m. - 11:30 a.m. **CLASS 7: Dr. William E. Kovacic**  
South Ballroom
- 9:30 a.m. - 9:45 a.m. Break  
Topic: Recent Legal Developments
- Assignments: *United States v. Microsoft Corp.*, 147 F.3d 935 (D.C. Cir. 1998)

*Image Technical Services, Inc. v. Eastman Kodak Co.*, 125 F.3d 1195 (9<sup>th</sup> Cir. 1997)

*Intergraphy Corp. v. Intel Corp.*, 3 F. Supp. 2d 1255 (N.D. Ala. 1998)

*State Oil Co. v. Khan*, 118 S. Ct. 275 (1997)

*Discon, Inc. v. NYNEX Corp.*, 119 S. Ct. 493 (1998)

*City of Tuscaloosa v. Harcross Chemicals, Inc.*, 158 F.3d 548 (11<sup>th</sup> Cir. 1998)

*Omega Environmental, Inc. v. Gilbarco, Inc.*, 127 F. 3d 1157 (9<sup>th</sup> Circ. 1997)

11:30 a.m.

Boxed Lunches

## APPENDIX F

CORPORATE GOVERNANCE AND FINANCIAL  
MARKETS INSTITUTE

Amelia Island Plantation, Amelia Island, Florida  
Saturday, March 18, 1995 to Friday, March 24, 1995

## Program Agenda

**SATURDAY PM, MARCH 18**

6:30 p.m. Reception: Hospitality Room (villa).  
7:30 p.m. Dinner: *Amelia Inn*, upper level.

**SUNDAY AM & PM, MARCH 19**

8:30 a.m. - 9:30 a.m. Continental Breakfast: *Ibis Room*,  
Conference Center  
12:00 noon Lunch: *Verandah Restaurant*, Conference Center  
1:00 p.m. - 4:30 p.m. **CLASS #1 - Smith**  
Topic: Review of Quantitative Methods: statistical  
foundation, introduction to capital markets,  
historical rates of return on portfolios, etc.  
Assignment: Ibbotson & Sinquefeld, *Stocks, Bonds, Bills, and  
Inflation: The past and the Future*, pages 1-20  
(from *The Financial Analysis Research  
Foundation Monograph 15*, 1982 Edition).  
6:30 p.m. - 6:55 p.m. Reception: Hospitality Room  
7:05 p.m. - 8:15 p.m. Dinner: *Osprey Room*, Conference Center

**MONDAY AM, MARCH 20**

7:30 a.m. - 8:25 a.m. Continental Breakfast: *Ibis Room*,  
Conference Center  
8:30 a.m. - 12:00 noon **CLASS #2 - Smith**  
Topic: Financial Markets: Introduction to risk and return,  
market efficiency, the Capital Asset Pricing  
Model (CAPM).

Assignment: Donald H. Chew, Jr., *The New Corporate Finance: Where Theory Meets Practice*, Part I, Chapters 1 and 7; Part II, Chapter 5.

Recommended: Chew, Part III, Chapter 1.

12:00 noon Lunch: *Verandah Restaurant*, Conference Center

6:30 p.m. - 6:55 p.m. Reception: Hospitality Room

7:05 p.m. - 8:15 p.m. Dinner: *Parkside Pavilion*

**TUESDAY AM & PM, MARCH 21**

7:30 a.m. - 8:25 a.m. Continental Breakfast: *Ibis Room*,  
Conference Room

8:30 a.m. - 12 noon CLASS #3 - Smith

Topic: Corporate Finance: the Irrelevance Hypothesis, equity and debt, wealth maximization, agency costs of debt and outside equity.

Assignment: Chew, Part III, Chapter 1;  
Barclay, Smith and Watts, *Determinates of Corporate Leverage and Dividend Policies* (working paper).

12:00 noon Lunch: *Verandah Restaurant*.

1:00 p.m. - 4:40 p.m. CLASS #4 - Demsetz

Topic: The Structure of the Firm and the Corporation.

Assignment: Harold Demsetz, *Ownership, Control, and the Firm*, Chapters 11 & 12.

6:30 p.m. - 6:55 p.m. Reception: Hospitality Room

7:05 p.m. - 8:15 p.m. Dinner: *Osprey Room*, Conference Center



**WEDNESDAY AM, MARCH 22**

7:30 a.m. - 8:25 a.m. Continental Breakfast: *Ibis Room*,  
Conference Center

8:30 a.m. - 12 noon CLASS #5 - Demsetz  
Topic: Attributes of Corporate Control.

Assignment: Demsetz, *Ownership, Control, and the Firm*,  
Chapters 13 & 14.

Recommended: Mark J. Roe, *Strong Owners, Weak  
Managers: The Political Roots of American  
Corporate Finance*, pages 3 - 49 (reprint).  
Wall Street Journal articles on Marriott.

12:00 noon Lunch: *Verandah Restaurant*  
6:30 p.m. - 6:55 p.m. Reception: Hospitality Room  
7:15 p.m. - 8:45 p.m. Dinner: *Walker's Landing*.  
Transportation will be provided.

**THURSDAY AM, MARCH 23**

7:30 a.m. - 8:25 a.m. Continental Breakfast: *Ibis Room*,  
Conference Center

8:30 a.m. - 12 noon CLASS #6 - Jensen  
Topic: Corporate Restructuring.

Assignment: Chew, Part VI, Chapter 1;  
Jensen, *Eclipse of the Public Corporation*, 89  
HARVARD BUSINESS REVIEW 61 (1989),  
pages 61-74 (reprint);  
Chew, Part VI, Chapter 5.

Recommended: Letters to the Editor of the HARVARD BUSINESS  
REVIEW;  
Chew, Part VI, Chapters 9 & 10.

12:00 noon Lunch: *Verandah Restaurant*  
6:30 p.m. - 7:15 p.m. Reception: off-site, *Beech Street Grill*,

Fernandina. Transport will be provided at approximately 6:00 p.m.

7:20 p.m. - 8:20 p.m. Dinner: *Beech Street Grill* (note: *Beech Street* reservations are 6:30 p.m.- 8:20 p.m.)

**FRIDAY AM, MARCH 24**

7:30 a.m. - 8:10 a.m. Continental Breakfast, Conference Center

8:15 a.m. - 11:30 a.m. CLASS #7 - Jensen

Topic: Restructuring Corporate Governance.

Assignment: Chew, Part VII, Chapter 2;  
Dial & Murphy, *Executive Compensation and Corporate Strategy at General Dynamics* (working paper, April 1994);  
Jensen, *The Modern Industrial Revolution, Exit, and the Failure of Internal Control Systems*, 48 JOURNAL OF FINANCE 831 (1993), read pages 831 - 870 with concentration on pages 862 -870.

Recommended: Karen H. Wruck, *Financial Distress, Reorganization, and Organizational Efficiency*, 27 JOURNAL OF FINANCIAL ECONOMICS 419 (1990).

11:30 a.m. - 12:30 p.m. Lunch: *Verandah Restaurant*

## APPENDIX G

**ECONOMICS INSTITUTE ON  
RISK, INJURY, AND LIABILITY**

Doubletree Resort, Palm Springs, California  
Saturday, March 9, 1996 to Friday, March 15, 1996

**FINAL PROGRAM AGENDA****SATURDAY, MARCH 9**

7:00 p.m. Reception  
7:45 p.m. Dinner

**SUNDAY, MARCH 10**

8:30 a.m. - 9:30 a.m. Continental Breakfast  
12:00 noon Lunch

1:00 p.m. - 4:30 p.m. **CLASS #1 - Ashenfelter**  
Topic: Review of Statistics and  
Probability,  
Introduction to Uncertainty and  
Measurement of Risk

Assignment: Kohler & Heinz, "Coping with  
Uncertainty: Insurance and  
Gambling, Search and Futures  
Markets."  
Chapter 10 in Intermediate  
Microeconomics and Applications

6:30 p.m. Reception  
7:00 p.m. - 8:15 p.m. Dinner

**MONDAY, MARCH 11**

7:30 a.m. - 8:25 a.m. Continental Breakfast

8:30 a.m. - 12:00 noon **CLASS #2 - Priest**  
Topic: The Economics of Liability Rules

Assignment: Cooter & Ulen, Law and Economics (1988), pages 347-369 Priest, "The Invention of Enterprise Liability: A Critical History of the Intellectual Foundations of Modern Tort Law," 14 J. LEGAL STUDIES 461 (1985) (Will also be discussed in third class).

12:00 noon Lunch  
6:30 p.m. Reception  
7:00 p.m. - 8:15 p.m. Dinner

**TUESDAY, MARCH 12**

7:30 a.m. - 8:25 a.m. Continental Breakfast

8:30 a.m. - 12:00 noon  
Topic: **CLASS #3 - Priest**  
The Relationship Between Tort Law and Insurance

Assignment: Priest, "How Insurance Reduces Risks" (mimeo, 1996)  
Devlin, R. A., "Some Welfare Implications of No-Fault Automobile Insurance," 10 INTN'L. REV. L & ECON. 193 (1990)

12:00 noon Lunch

1:00 p.m. - 4:30 p.m.  
Topic: **CLASS #4 - Smith**  
Insurance Markets

Assignment: Smith, "Insurance Markets"  
Smith, "Toward a Positive Theory of Insurance"  
Additional materials will be distributed on-site.

6:30 p.m. Reception  
7:00 p.m. - 8:15 p.m. Dinner

**WEDNESDAY, MARCH 13**

7:30 a.m. - 8:25 a.m. Continental Breakfast

8:30 a.m. - 12:00 noon **CLASS #5 - Smith**  
Topic: The Structure of Insurance Contracts

Assignment: Same materials as Class #4

12:00 noon Lunch

6:30 p.m. Reception

7:00 p.m. - 8:15 p.m. Dinner

**THURSDAY, MARCH 14**

7:30 a.m. - 8:25 a.m. Continental Breakfast

8:30 a.m. - 12:00 noon **CLASS #6 - Viscusi**

Topic: Risk Perception, Hazard Warnings, and Regulation

Assignment: W. Kip Viscusi, John Vernon and Joseph Harrington, Economics of Business Regulation and Antitrust, 2<sup>nd</sup> edition (Cambridge: MIT Press, 1995) pages 655-664.  
W. Kip Viscusi, Reforming Products Liability (Cambridge: Harvard University Press, 1992), pages 132-156  
W. Kip Viscusi, Fatal Tradeoffs: Public and Private Responsibilities for Risks (New York: Oxford University Press, 1992), pages 3-14 and 149-160Recommended: National Oceanic and Atmospheric Administration, National Resources Damage Assessments Under the Oil Pollution Act of 1990, Federal Register, Vol. 58, No. 10, January 15, 1993, pages 4601-4614

12:00 noon Lunch with video presentation

6:30 p.m. (40-50 minutes) on Exxon oil spill  
Reception  
7:15 p.m. - 8:30 p.m. Dinner

**FRIDAY, MARCH 15**

7:20 a.m. - 8:10 a.m. Continental Breakfast.

8:15 a.m. - 11:30 a.m. **CLASS #7 - Viscusi**  
Topic: Value of Life-Damages  
Benefit Cost and Risk-Utility  
Analysis  
Economic Basis for Liability Reform

Assignment: W. Kip Viscusi, Fatal Tradeoffs, pages  
17-33 and 248-265  
W. Kip Viscusi, Reforming Products  
Liability  
pages 70-86 and 107-116

11:30 a.m. Lunch, boxed or seated.



“Constructing and Deconstructing Consensus”

Traweek, Beamtimes and Lifetimes (1988), Chapter 3: “Male Tales Told During a Life in Physics”

2:00 p.m. & 3:15 p.m.

Breaks

4:30 p.m. - 6:00 p.m.

Complimentary Tea

Asahel Curtis Library

7:00 p.m. - 8:00 p.m.

Dinner

Falls Terrace

**MONDAY, AM, JUNE 7**

7:30 a.m. - 8:25 a.m.

Continental Breakfast

North Ballroom

8:30 a.m. - 12:00 noon

**CLASS 2: Dr. Thomas F. Gieryn**

South Ballroom

Topic:

Science Outside

(Pursuing Credibility)

Assignment:

Gieryn, Cultural Boundaries of Science (1999), Chapter 3: “May the Best Science Win: Competition for the Chair of Logic and Metaphysics at the University of Edinburgh, 1836”

Latour, “Give Me a Laboratory and I Will Raise the World” in Knorr-Cetina and Mulkay (eds.), Science Observed (1983)

Porter, “Objectivity as Standardization: The Rhetoric of Impersonality,” Annals of Scholarship, Vol. 9s, 1992

Jasanoff, “The Eye of Everyman: Witnessing DNA in the Simpson trial,” Social Studies of Sciences, Vol. 28, 1998



9:30 a.m. & 10:45 a.m.	Breaks
12:00 noon	Class Photo
	Lunch
	North Ballroom
4:00 p.m. - 6:00 p.m.	Complimentary Tea
	Asahel Curtis Library
7:00 p.m. - 8:00 p.m.	Dinner
	Falls Terrace

**TUESDAY, AM, JUNE 8**

7:30 A.M. - 8:25 A.M.	Continental Breakfast North Ballroom
8:30 a.m. - 12:00 noon	<b>CLASS 3: Dr. James Trefil</b> <i>Clarence J. Robinson Professor of Physics</i> <i>George Mason University</i>
Topic:	Scientific Concepts and Biotechnology; Junk vs. Real Science
Assignment:	Pederson, "Embryonic Stem Cells for Medicine," <i>Scientific American</i> , April 1999, Vol. 280 Issue 4

9:30 a.m. & 10:45 a.m.	Breaks
12:00 noon	Lunch
	North Ballroom
4:00 p.m. - 6:00 p.m.	Complimentary Tea
	Asahel Curtis Library
7:00 p.m. - 8:00 p.m.	Dinner
	Falls Terrace

**WEDNESDAY, AM & PM, JUNE 9**

7:30 a.m. - 8:25 a.m.	Breakfast
8:30 a.m. - 12:00 noon	<b>Class 4: Dr. James Trefil</b>

	South Ballroom
Topic:	Daubert; How Scientists and Lawyers Approach Legal Situations
Assignment:	Black, Ayala, Saffran-Brinks, Science and Law in the Wake of Daubert: A New Search for Scientific Knowledge, Texas Law Review, Vol. 72, Issue 4, March 1994 Hazen & Trefil, Science Matters, Chapter 1
9:30 a.m. & 10:45 a.m.	Breaks
12:00 noon	Lunch
1:00 p.m. - 3:00 p.m. South Ballroom	<b>Class 5: Panel Discussion –</b> Dr. Bruce Ames, Dr. James Trefil, Dr. Mark Grady
2:00 p.m. - 2:15 p.m.	Break
Topic:	Ethical Issues in Biotech, Cloning, Genetically Altered Foods.
4:00 p.m. - 6:00 p.m.	Complimentary Tea Asahel Curtis Library
7:00 p.m. - 8:15 p.m.	Dinner Falls Terrace

**THURSDAY, AM & PM, JUNE 10**

7:30 a.m. - 8:25 a.m.	Continental Breakfast
8:30 a.m. - 12:00 noon South Ballroom	<b>CLASS 6: Dr. Bruce Ames</b> <i>Professor of Biochemistry and Molecular Biology, University of California at Berkeley</i>

Topic: Understanding the Causes of Aging and Cancer; Synthetic Chemicals and Cancer-Misconceptions.

Assignment: Ames and Gold, "Environmental Pollution, Pesticides, and the Prevention of Cancer: Misconceptions," *FASEB J.*, 11 (1997), pages 1041-1052

Ames, "Micronutrients Prevent Cancer and Delay Aging," *Toxicology Letters* 102-103 (1998) 5-18

9:30 a.m. & 10:45 a.m. Breaks  
12:00 noon Lunch

1:00 p.m. - 4:30 p.m. Continuation of same topic

South Ballroom

4:30 p.m. - 6:00 p.m. Complimentary Tea  
Asahel Curtis Library

7:00 p.m. - 7:45 p.m. Closing Reception  
Falls Terrace

7:45 p.m. - 9:00 p.m. Dinner  
Falls Terrace

### **FRIDAY, AM, JUNE 11**

7:00 a.m. - 7:45 a.m. Country Breakfast

8:00 a.m. - 11:30 a.m. **CLASS 7: Dr. Kip Viscusi**  
John F. Cogan, Jr. Professor of Law and Economics, Harvard Law School  
Break

9:30 a.m. - 9:45 a.m. Topic: Reasonable Risk Policy, Cost Benefit Analysis

Assignment: Viscusi, Fatal Tradeoffs: Public & Private Responsibilities for Risk, chapters 2, 14.

APPENDIX I

**THE ADVANCED ECONOMICS INSTITUTE  
FOR FEDERAL JUDGES**

Omni Tucson National Golf Resort & Spa  
April 25 - May 1, 1998

**AGENDA**

**SATURDAY, PM, APRIL 25**

7:00 p.m. Reception  
7:45 p.m. Dinner

**SUNDAY, AM & PM APRIL 26**

8:30 a.m. - 9:30 a.m. Continental Breakfast  
12:00 noon - 12:45 p.m. Lunch

1:00 p.m. - 4:30 p.m. **Class #1 - Dr. James M. Buchanan**  
Topic: Public Choice and Constitutional  
Structure

Assignment: Buchanan, J.M., "The Domain of  
Constitutional Economics,"  
Constitutional Political Economy, Vol.  
1, No. 1, 1990

Buchanan, J.M., "Politics without  
Romance: A Sketch of Positive Choice  
Theory and its Normative Implications,"  
IHS-Journal, Vol. 3, 1979, page B1-B11

Buchanan, J.M., "The Constitution of  
Economic Policy," *Science* Vol. 236,  
June 12, 1987

2:00 p.m. & 3:15 p.m. Breaks  
6:30 p.m. - 6:55 p.m. Reception  
7:00 p.m. - 8:00 p.m. Dinner

**MONDAY, AM & PM, APRIL 27**

7:30 a.m. - 8:25 a.m.	Breakfast
8:30 a.m. - 12:00 noon	<b>CLASS #2 - Dr. Douglass C. North</b>
Topic:	Economic History and Neo-institutionalism
Assignment:	North, Douglass C., "The Rise of the Western World"
	North, Douglass C., "The New Institutional Economics and Economic Development"
9:30 a.m. & 10:45 a.m.	Breaks
12:00 noon	Lunch
6:30 p.m. - 6:50 p.m.	Reception
7:00 p.m. - 8:00 p.m.	Dinner

**TUESDAY, AM & PM, APRIL 28**

7:30 a.m. - 8:25 a.m.	Continental Breakfast
8:30 a.m. - 12:00 noon	<b>CLASS #3 - Dr. Michael Block</b>
Topic:	Experimental Economics
Assignment:	Block, Michael and Vernon Gerety, "Some Experimental Evidence on Differences between Student and Prisoner Reaction to Monetary Penalties and Risk," <i>The Journal of Legal Studies</i> , January 1995.
	Hoffman, Elizabeth, Kevin McCabe, and Vernon Smith, 1997.s, "Experimental Law and Economics," <i>The New Palgrave: A Dictionary of Economics</i> .

Smith, Vernon L., "The Law of Unintended Consequences in the Experimental Laboratory," Papers and Proceedings of the National Conference in Innovative Application of the Laffer Curve, the Association of Private Enterprise Education, Trinity College, Hartford, Connecticut.

9:30 a.m. & 10:45 a.m.	Breaks
12:00 noon	Lunch
6:30 p.m. - 6:50 p.m.	Reception
7:00 p.m. - 8:00 p.m.	Dinner

**WEDNESDAY, AM & PM, APRIL 29**

7:30 a.m. - 8:25 a.m.	Continental Breakfast
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8:30 a.m. - 12:00 noon	<b>CLASS #4, Dr. Armen A. Alchian</b>
Topic:	Industrial Organization

Assignment:	Alchian, "Uncertainty, Evolution, and Economic Theory"
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Alchian and Woodward, "Reflections on the Theory of the Firm," *Journal of Institutional and Theoretical Economics*

Alchian and Woodward, "The Firm is Dead: Long Live the Firm," *Journal of Economic Literature*, Vol. XXXVI, March 1988

Alchian and Demsetz, "Production, Information Costs, and Economic Organization"

9:30 a.m. & 10:45 a.m.	Breaks
12:00 noon	Lunch
6:00 p.m. - 6:50 p.m.	Reception
7:00 p.m. - 8:00 p.m.	Dinner

**THURSDAY, AM & PM, APRIL 30**

7:20 a.m. - 8:10 a.m. Continental Breakfast

8:15 a.m. - 11:30 a.m. **CLASS #5 - Dr. Robert H. Frank**  
Topic: Cooperation and Competition

Assignment: Frank and Cook, "The Winner-Take-All Society," The Free Press, 1995

Frank, "Choosing the Right Pond,"  
Oxford University Press, 1985  
Frank, "Passions Within Reason," W. W.  
Norton & Co., 19889:30 a.m. & 10:45 a.m. Breaks  
12:00 noon Lunch  
6:30 p.m. - 6:50 p.m. Reception  
7:00 p.m. - 8:00 p.m. Dinner**FRIDAY, AM, MAY 1**

7:20 a.m. - 8:10 a.m. Breakfast

8:15 a.m. - 11:30 a.m. **CLASS #6 - Dr. Gary Becker**  
Topic: Social Institutions and NormsAssignment: Becker, "Accounting for Tastes,"  
Chapter 1, Harvard U. Press

11:30 a.m. Lunch (boxed or seated)