

ABRAHAM L. WICKELGREN

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PROFESSIONAL POSITIONS

University of Texas School of Law, Bernard J. Ward Centennial Professor, 2009-
Editor, *American Law and Economics Review*, 2012-Present

PAST PROFESSIONAL POSITIONS

Yale Law School, Florence Rogatz Visiting Professor of Law, 2012-2013
Duke University School of Law, Visiting Professor, 2008-2009
Northwestern University, School of Law, Assistant Professor, 2006-2009
University of Texas at Austin, Dept. of Economics, Visiting Asst. Professor, 2004-2006
Federal Trade Commission, Bureau of Economics, Staff Economist, 1999-2004

EDUCATION

Harvard University, Ph.D. in Economics June 1999
Harvard Law School, J.D. Magna Cum Laude June 1994. Harvard Law Review 1993-1994
Harvard College, A.B. Cum Laude in Applied Mathematics/Economics June 1991

RESEARCH INTERESTS

Law and Economics, Antitrust, Contracts, Regulation, Settlement

BOOK CHAPTERS

“The Efficiency of Affirmative Action with Purely Historical Discrimination”, *Research Handbook on Economic Models of Law*, Thomas Miceli and Matthew Baker eds., Edward Elgar Publishers, 2014.

“Law and Economics of Settlement”, *Research Handbook on the Economics of Tort Law*, Jennifer Arlen ed., Edward Elgar Publishers, 2013.

“Enforcement Issues in Antitrust”, *Research Handbook on the Economics of Antitrust Law*, Einer Elhauge ed., Edward Elgar Publishers, February 2012.

“Option Contracts,” in *Contract Law and Economics* volume of *Encyclopedia of Law and Economics*, B. Bouckaert and Gerrit De Gees eds., Edward Elgar Publishers, January 2011.

PUBLISHED AND FORTHCOMING PAPERS

Who (if anyone) Should be Liable for Injuries from Generic Drugs (with Ezra Friedman),
Forthcoming, **Journal of Law, Economics, & Organization**

Cost of completion versus diminution of value damages for deliberate breach: an economic analysis, 173 **Journal of Institutional and Theoretical Economics** 4-17 (2017) (Lead article).

An Economic Analysis of Arbitration versus Litigation for Contractual Disputes, 59 **Journal of Law and Economics** 393-410 (2016).

The Necessary Complexity of Predatory Pricing Analysis:

A comment on Richard S. Markovits's treatment of predatory pricing in ECONOMICS AND THE INTERPRETATION AND APPLICATION OF U.S. AND E.U. ANTITRUST LAW, 61 **Antitrust Bulletin** 186-197 (2016).

Robust Exclusion Anti-Competitive Market Division Through Loyalty Discounts (with Einer Elhauge) 43 **International Journal of Industrial Organization** 111-121 (2015), awarded **2015 Best Antitrust Academic Article: Concerted Practices Category**, by Concurrences Journal and the American Bar Association Antitrust Section.

Predation, Financial Constraints, and Entry-deterrence Markov Perfect Equilibrium (joint with Jae Nahm), 22 **Korean Journal of Industrial Organization** 97-111 (2014).

A New Angle on Rules versus Standards (with Ezra Friedman), 2 **American Law and Economics Review** 499-549 (2014).

Third Party Litigation Funding—A Signaling Model (with Ronen Avraham), 63 **DePaul L. Rev.** 223-264 (2014).

Detailed Analysis, not Catechism: A Comment on Crane's "Bargaining over Loyalty", 92 **Texas L. Rev. See Also** 101 (2014).

Economic epidemiology of avian influenza on smallholder poultry farms (with Maciej Boni, Alison Galvani, and Anup Malani), 90 **Theoretical Population Biology** 135-144 (2013).

The Effect of Settlement in Kaplow's Multistage Adjudication, 126 **Harv. L. Rev. F.** 145 (2013)

Determining the Optimal Antitrust Standard: How to Think about Per Se versus Rule of Reason, 85 **USC Law Review** PS52 (2012)

Optimal Antitrust Enforcement: Competitor Suits, Entry, and Post-entry Competition (with Warren Schwartz) , 95 **Journal of Public Economics** 967-972 (2011)

Ex Ante or Ex Post Competition Policy? A Progress Report (with Marco Ottaviani), 29 **International Journal of Industrial Organization** 356-359 (2011)

Standardization as a Solution to the Reading Costs of Form Contracts, 167 **Journal of Institutional and Theoretical Economics** 30-44 (2011)

Chilling, Settlement, and the Accuracy of the Legal Process (with Ezra Friedman), 26 **Journal of Law, Economics, & Organization** 144-157 (2010)

A Right to Silence for Civil Defendants, 26 **Journal of Law, Economics, & Organization** 91-114 (2010)

Credible Discovery, Settlement, and Negative Expected Value Suits (with Warren Schwartz), 40 **RAND Journal of Economics** 636-657 (2009)

The Perverse Effect of Outside Options on Strategic Delay in Bargaining, 165 **Journal of Institutional and Theoretical Economics** 210-229 (2009)

Why Divorce Laws Matter: Incentives for Non-Contractible Marital Investments under Unilateral and Consent Divorce, 25 **Journal of Law, Economics, & Organization** 80-106 (2009)

Advantage Defendant: Why Sinking Litigation Costs Makes Negative Expected Value Defenses, but not Negative Expected Value Suits Credible (With Warren Schwartz), 38 **Journal of Legal Studies** 235-253 (2009)

No Free Lunch: How Settlement Can Reduce the Legal System's Ability to Induce Efficient Behavior (with Ezra Friedman), 61 **SMU Law Review** 1355 (2008)

Naked Exclusion, Efficient Breach, and Downstream Competition (with John Simpson), 97 **American Economic Review** 1305 (2007)

Bundled Discounts, Leverage Theory, and Downstream Competition (with John Simpson), 9 **American Law and Economics Review** 370 (2007).

Government and the Reverse-Holdup Problem, 9 **Journal of Public Economic Theory** 221 (2007)

The Limitations of Buyer-Option Contracts in Solving the Hold-up Problem, 23 **Journal of Law, Economics, & Organization** 127 (2007)

Bayesian Jurors and the Limits to Deterrence (with Ezra Friedman), 22 **Journal of Law, Economics, & Organization** 70 (2006)

The Inefficiency of Contractually-Based Liability with Rational Consumers, 22 **Journal of Law, Economics, & Organization** 168 (2006)

The Effect of Exit on Entry Deterrence Strategies, 54 **Games and Economic Behavior** 226 (2006)

Managerial Incentives and the Price Effects of Mergers, 53 **Journal of Industrial Economics** 327 (2005)

Affirmative Action: More Efficient than Color Blindness, 10 **Texas Journal on Civil Liberties and Civil Rights** 183 (2005)

Comment on 'Aligning the Interests of Lawyers and Clients', 6 **American Law and Economics Review** 434 (2004)

A Model of Welfare-Reducing Settlement, 3 **Contributions to Economic and Policy Analysis** Article 4 (2004)

Innovation, Market Structure, and the Holdup Problem: Investment Incentives and Coordination, 22 **International Journal of Industrial Organization** 693 (2004)

The State of Critical Loss Analysis: A Reply to Scheffman and Simons (with Daniel O'Brien), 3 **Antitrust Source** (March 2004)

A Critical Analysis of Critical Loss Analysis (with Daniel O'Brien), 71 **Antitrust Law Journal** 161 (2003)

Justifying Imprisonment: On the Optimality of Excessively Costly Punishment, 5 **American Law and Economics Review** 377 (2003)

Damages for Breach of Contract: Should the Government Get Special Treatment?, 17 **Journal of Law, Economics, & Organization** 121 (2001)

WORKING PAPERS

Learning and Settlement with Endogenous Sequential Litigation, Revise and resubmit at **Journal of Law, Economics, & Organization**

Admissible Third Party Litigation Funding Contracts as a way to Constrain the Exploitation of Plaintiffs (with Ronen Avraham), revise and resubmit at **Journal of Law and Economics**

An Economic Analysis of Internet Privacy Regulation, revise and resubmit at the **International Journal of Industrial Organization**

A Novel Justification for Legal Restrictions on Non-Compete Clauses, revise and resubmit at the **International Review of Law and Economics**

When Should Tacit Collusion be Regulated? An Economic Model

Approval Regulation with Learning (with Marco Ottaviani), awarded **Robert F. Lanzillotti Prize for best paper in antitrust economics at the 2009 International Industrial Organization Conference**

A Simple Mechanism for Improving "Up or Down" Regulation

Settlement and the Strict Liability-Negligence Comparison

Outside Options and the Misuse of the Nash Bargaining Solution in Law and Economics

Ideological Persuasion in the Media (with David Balan and Patrick DeGraba)

Exclusive Dealing and Entry, when Buyers Compete: Comment (with John Simpson)

The Economics of Constitutional Rights and Voting Rules

Unobservable Preparation and the Inevitable Risk of Conflict

CONSULTING

E-books litigation, consulting expert for State of Texas, April 2010-February 2013

E-books settlement, expert in support of the settlement with all five publishers for Liaison Counsel for the States, June 2012-July 2013.

PRESENTATIONS

Conference on Theoretical Law and Economics, NYU, December 2016
Conference in Honor of Warren Schwartz, Georgetown, November 2016
NYU Law School, Law and Economics Seminar, October 2016
JITE-New Institutional Economics conference, Sibiu, Romania, June 2016
American Law and Economics association annual meeting, May 2016
State Center Conference on *North Carolina Dental*, American University, April 2016
Tel Aviv University Law School, Law and Economics Seminar, January 2016
Hebrew University Jerusalem Law School, Law and Economics Seminar, December 2015
Columbia University Law School, Law and Economics Seminar, December 2015
Boston University Law School, Law and Economics Seminar, October 2015
Berkeley Law School, Law and Economics Seminar, October 2015
George Mason University, Privacy and Data Security Conference, June 2015
American Law and Economics Association, Annual Meeting, May 2015
University of Bonn, Economics Dept. Seminar, March 2015
University of Paris, Nanterre, Economics Dept. Seminar, March 2015
George Mason University, Consumer Protection Conference, January 2015
Universitat Pompeu Fabra (Barcelona), Law and Economics Seminar, December 2014
Conference on Theoretical Law and Economics, Univ. of Ca. at Berkeley, November 2014
Georgetown University, Law School Seminar, October 2014
DOJ-FTC Workshop on Conditional Pricing Practices, June 2014
American Law and Economics Association annual meeting, May 2014
Emory University, Economics Dept. Seminar, March 2014
Florida State University, Law School Seminar, March 2014
Tel Aviv University, Law and Economics Seminar, March 2014
Vanderbilt University, Conference on Theoretical Law and Economics, December 2013
Stanford University, Law and Economics Seminar, November 2013
Association of Public Economic Theory annual meeting, July 2013
American Law and Economics Association annual meeting, May 2013
DePaul University, Clifford Symposium, April 2013
University of Virginia Law School, Law and Economics Seminar, March 2013
Arbitration Conference, George Mason Law School, January 2013
University of Amsterdam, Center for Law and Economics, December 2012
University of Paris 2, Economics Dept. seminar, December 2012
Yale Law School, faculty seminar, November 2012
Vanderbilt Law School, Law and Economics Seminar, October 2012
Berkeley Law School, Law and Economics Seminar, February 2012
University of Florida, Antitrust Law and Economics Workshop, February 2012
USC Law School, Law and Economics Seminar, January 2012
Washington University, Conference on Theoretical Law and Economics, November 2011
UCLA Law School, Law and Economics Seminar, October 2011
Northwestern Law School, Law and Economics Seminar, October 2011
Stanford Law School, Law and Economics Lunch Seminar, July 2011
American Law and Economics Annual Meeting, May 2011
International Industrial Organization Conference, April 2011
Center for Competition Policy Annual Conference, Norwich, UK, June 2010

28th Seminar on the New Institutional Economics, Budapest, Hungary, June 2010
American Law and Economics Association Annual Meeting, May 2010
Swiss Federal Institute of Technology, Lecture Series in Law and Economics, March 2010
University of Texas, Law and Economics Seminar, October 2009
American Law and Economics Association Annual Meeting, May 2009
Duke University Game Theory and the Law Conference, May 2009
NBER Mid-Year Meeting, Law and Economics, March 2009
USC, Law School Seminar, October 2008
UCLA, Law and Economics Seminar, October 2008
Duke University, Law School Seminar, October 2008
University of Texas, Law School Seminar, September 2008
Symposium on Antitrust Economics and Competition Policy, Northwestern Univ, Sept 2008
American Law and Economics Association Annual Meeting, May 2008
New York University, Law and Economics Seminar, April 2008
Symposium on Insurance Markets and Regulation, Northwestern University, April 2008
Stanford University, Law and Economics Seminar, March 2008
Yale University, Law, Economics, and Organization Seminar, December 2007
Georgetown University, Law and Economics Seminar, November 2007
University of Virginia, Law and Economics Seminar, October 2007
NBER Summer Institute, Law and Economics, July 2007
Chicago-Kent, Law School Seminar, March 2007
NBER Mid-Year Meeting, Law and Economics, March 2007
University of Chicago, Law and Economics Seminar, January 2007
NBER Summer Institute (Discussant), Law and Economics, July 2006
American Law and Economics Association Annual Meeting, May 2006
University of Texas, Law, Economics and Business Seminar, January 2006
University of Maryland, IO/Theory workshop, October 2005
Northwestern University, Law School Seminar, August 2005
NBER Summer Institute, Law and Economics, July 2005
UBC Summer Conference on Industrial Organization, July 2005
American Law and Economics Association Annual Meeting, May 2005
University of Texas at Austin-ITAM Joint Conference, October 2004
IDEI/ZEI Conference on Regulation of Media Markets, October 2004
University of Texas, Department of Economics Seminar, September 2004
American Law and Economics Association Annual Meeting, May 2004
Stanford Conference on Media and Economic Performance, March 2004
Georgetown University, Department of Economics Seminar, February 2004
University of Southern California, Law School Seminar, January 2004
North American Winter Meeting of the Econometric Society, January 2004
University of Texas, Law School Seminar, November 2003
NBER Summer Institute, Law and Economics, August 2003
North American Summer Meeting of the Econometric Society, June 2003
International Industrial Organization Conference, April 2003.
University of Michigan Law & Economics Seminar, March 2003.
North American Summer Meeting of the Econometric Society, June 2002
American Law and Economics Association Annual Meeting, May 2002
Department of Justice, Economic Analysis Group Seminar, March 2002
ITAM, Business School Seminar, February 2002
Rutgers University, Department of Economics Seminar, November 2001

European Economic Association Annual Meeting, September 2001
North American Summer Meeting of the Econometric Society, June 2001
American Law and Economics Association Annual Meeting, May 2001
Federal Trade Commission, Bureau of Economics Seminar, May 2001
International Atlantic Economic Society Spring Meeting, March 2001
Georgetown University, Department of Economics Seminar, October 2000
Federal Trade Commission, Bureau of Economics Seminar, October 2000
Department of Justice, Economic Analysis Group Seminar, July 2000
Federal Trade Commission, Bureau of Economics Seminar, May 2000
Harvard University, Department of Economics Seminar, October 1998
Harvard University, Department of Economics Seminar, October 1997

PROFESSIONAL SERVICE

Editor, *American Law and Economics Review*, 2012-Present

Board of Directors, American Law and Economics Association, 2010-2013

Program Committee, American Law and Economics Association 2012 Annual Meeting

Associate Editor *Journal of Industrial Economics*, September 2008 – June 2013

Associate Editor *International Review of Law and Economics*, February 2012 – Present

Referee for: *American Economic Journal Micro*, *American Economic Journal Public Policy*, *American Economic Review*, *American Law and Economics Review*, *American Political Science Review*, *Antitrust Law Journal*, *BE Journals in Economic Analysis and Policy*, *BE Journals in Theoretical Economics*, *Canadian Journal of Economics*, *Economic Journal*, *Economica*, *Economics*, *Games and Economic Behavior*, *International Journal of Economic Theory*, *International Journal of Industrial Organization*, *International Review of Law and Economics*, *Journal of Economic Behavior and Organization*, *Journal of Economics*, *Journal of Economics and Management Strategy*, *Journal of the European Economic Association*, *Journal of Industrial Economics*, *Journal of Institutional and Theoretical Economics*, *Journal of Labor Economics*, *Journal of Law and Economics*, *Journal of Law, Economics, and Organization*, *Journal of Legal Analysis*, *Journal of Legal Studies*, *Journal of Policy Analysis and Management*, *Journal of Political Economy*, *National Science Foundation*, *Oxford University Press*, *Quarterly Journal of Economics*, *Quarterly Review of Economics and Finance*, *RAND Journal of Economics*, *Review of Economics Studies*, *Review of Industrial Organization*

“Excellence in Refereeing Award”—*American Economic Review*, 2007-2008.

TEACHING EXPERIENCE

UNIVERSITY OF TEXAS SCHOOL OF LAW

Contracts (1L), Spring 2010, Fall 2010, Fall 2011, Spring 2015

Antitrust, Spring 2011, Spring 2012, Fall 2013, Fall 2014, Fall 2015

Law and Economics Workshop, Fall 2010, Fall 2011, Fall 2013, Fall 2014, Fall 2015

Law and Economics, Spring 2016

TEL AVIV UNIVERSITY LAW SCHOOL

Issues in Competition Law, Economics, and Policy, Dec-Jan 2015-16

YALE LAW SCHOOL

Antitrust, Fall 2012

Law and Economics, Spring 2013

Economic Issues in Legal Procedure, Spring 2013

DUKE UNIVERSITY SCHOOL OF LAW

Contracts (1L), Fall 2008

Antitrust, Spring 2009

NORTHWESTERN UNIVERSITY SCHOOL OF LAW

Contracts (1L), Fall 2006 and Fall 2007

Antitrust, Spring 2008

Law and Economics Workshop, Spring 2007 and Spring 2008

UNIVERSITY OF TEXAS AT AUSTIN

Law and Economics (advanced undergraduate), Fall 2004, Spring 2005, Fall 2005

Introduction to Microeconomics (undergraduate), Fall 2005

HARVARD UNIVERSITY—GRADUATE TEACHING FELLOW

Contract Theory (second year Ph.D. course), Fall 1997

Law and Economics (Sophomore Tutorial), Spring 1998