

# **American Law and Economics Association**

## **Twenty-First Annual Meeting**

**May 20-21, 2011**

### **Columbia Law School**

**Jerome Greene Hall  
435 West 116<sup>th</sup> Street  
(Corner of Amsterdam & 116<sup>th</sup> Street)**

## **American Law and Economics Association 2010-2011**

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**Friday, May 20**

**(All sessions to be held in Jerome Green Hall at Columbia Law School)**

*(Author's name in bold indicates person presenting paper)*

8:00 – 8:45: **Registration and Continental Breakfast**

9:00 – 10:30: **Session I:**

**Panel IA: Procedure I: Lawyers (Room 102)**

*Panel Chair:* Geoffrey Miller

**Andrew F. Daughety** and Jennifer F. Reinganum, "Search, Bargaining, and Agency in the Market for Legal Services"

Siddhartha Bandyopadhyay and **Bryan C. McCannon**, "The Effect of the Election of Prosecutors on Criminal Trials"

Yuk-fai Fong and **Frances Xu**, "Defense Attorney's Fee Structure: a Signaling Explanation"

**Panel IB: Antitrust I: Theory (Room 101)**

*Panel Chair:* Jonathan Baker

**Eray Cumbul**, "Welfare Effects of Horizontal Mergers in Differentiated Product Markets under Cournot and Bertrand Game Settings"

**Anne Duchene**, Debapriya Sen, and Konstantinos Serfes, "Patent Licensing Contracts and Entry Deterrence"

**Carmine Guerriero**, "The Political Economy of (De)Regulation: Theory and Evidence from the U.S. Electricity Market"

**Panel IC: Contract Law I: Formal Models (Room 103)**

*Panel Chair:* Florencia Marotta-Wurgler

**Francesco Parisi**, Giuseppe Dari Mattiacci, and Sander Onderstal, "Inverse Adverse Selection: The Market for Gems"

Tracy R. Lewis and **Alan Schwartz**, "Long Term Contracting with Private Information"

**Zhiyong Liu** and Ronen Avraham, "Investment Incentives and Efficiency under Optional Remedies"

*Friday (cont.)*

**Panel ID:**        **Tort Law I: Theory** (*Room 107*)

*Panel Chair:* Ronen Avraham

**Ariel Porat**, "Misalignments in Tort Law"

**Alexander Stremitzer**, "Restoring Causation through Proportional Liability: How More Lenient Sanctions Lead to Higher Compliance"

**Ehud Guttel** and Shmuel Leshem, "Buying the Right to Harm: The Economics of Buyouts"

**Panel IE:**        **Corporate and Securities I: Takeovers** (*Room 106*)

*Panel Chair:* Marcel Kahan

Thomas W. Bates and **David A. Becher**, "Bid Resistance by Takeover Targets: Managerial Bargaining or Bad Faith?"

**Jordan Michael Barry** and John William Hatfield, "Takeover Defenses and Adverse Selection"

**Mark Humphery-Jenner**, "On the Harmonization of Takeover Laws: Lessons from the EU Takeover Directive"

**Panel IF:**        **Administrative Law I: Administrative Agencies** (*Room 105*)

*Panel Chair:* Bert Huang

**Griffin Edwards**, "A Selection-Corrected Estimate of Chevron's Impact on Agency Deference"

**William West** and **Connor Raso**, "Agenda Setting in the Federal Rulemaking Process: An Exercise in Political Control?"

**W. Kip Viscusi**, "Policy Challenges of the Heterogeneity of the Value of Statistical Life"

*10:30 – 11:00: Coffee Break*

*Friday (cont.)*

11:00 – 12:30: *Session II:*

**Panel IIA:**     Functions of Law (Room 101)

*Panel Chair:* Barak Richman

**Gillian K. Hadfield** and Barry R. Weingast, "What is Law? A Coordination Model of the Characteristics of Legal Order"

**Robert Cooter** and **Aaron Edlin**, "Law and Growth Economics: A Framework for Research"

**Steven Shavell**, "When is Compliance with the Law Socially Desirable?"

**Panel IIB:**     Property Law I: Property Theory (Room 102)

*Panel Chair:* Michael Heller

**Abraham Bell** and Gideon Parchomovsky, "Governing Property By Auction"

**Lee Fennell**, "Property and Precaution"

**Yun-chien Chang** and **Henry E. Smith**, "An Economic Analysis of Civil versus Common Law Property"

**Panel IIC:**     History, Law Schools (Room 103)

*Panel Chair:* Daniel Klerman

Henry Hansmann and **Mariana Pargendler**, "Voting Restrictions in 19th Century Corporations: Investor Protection or Consumer Protection?"

**Giuseppe Dari-Mattiacci**, "Slavery and Freedom: Reasons and Consequences of the Use of Rewards"

**James C. Phillips**, "Has the Marketplace become a Monopoly? Ideological Diversity and Entry-level Law School Hiring, 2005-2009"

**Panel IID:**     Corporate and Securities II: Executive Compensation (Room 104)

*Panel Chair:* Reinier Kraakman

**Jeffrey N. Gordon**, "Corporate Governance and Executive Compensation in Financial Firms: The Case for Convertible Equity-Based Pay"

**Mark Carey** and **Bo Sun**, "Stock or Option: Compensation Design and Risk Choices"

Yonca Ertimur, **Fabrizio Ferri**, and David Maber, "Reputation Penalties for Poor Monitoring of Executive Pay: Evidence from Option Backdating"

*Friday (cont.)*

**Panel IIE:**     **Employment Law and Family** (*Room 105*)

*Panel Chair:* Amy Wax

**Marcello Basili, Alessandro Innocenti,** and Antonio Nicita, "Workers' Right to Virtual Strike. An Experiment"

On Amir and **Orly Lobel**, "Innovation Motivation: Behavioral Effects of Post-Employment Restrictions"

**Yehonatan Givati** and Ugo Troiano, "Law, Economics and Culture: Theory and Evidence from Maternity Leave Laws"

**Panel IIF:**     **Criminal Law I: Punishment and Race** (*Room 106*)

*Panel Chair:* Nuno Garoupa

**Jean N. Lee**, "The Process is the Punishment: Juror Demographics and Case Administration in State Courts"

Joshua Fischman and **Max Schanzenbach**, "Racial Disparities, Judicial Discretion, and the United States Sentencing Guidelines"

**Murat C. Mungan**, "Optimal Warning Strategies in Law Enforcement"

**Panel IIG:**     **Taxation I** (*Room 107*)

*Panel Chair:* Nancy Staudt

Mihir Desai and **Dhammika Dharmapala**, "An Alternative Transfer Pricing Norm"

**Thomas J. Brennan** and Robert L. McDonald, "Deconstructing the Taxation of Packaged Financial Strategies"

**Yair Listokin**, "Taxation and Liquidity"

12:30 - 2:00:    ***Lunch – Faculty House (adjacent to the Law School)***  
                          ***Sponsored by Cornerstone Research***

*Friday (cont.)*

2:00– 3:30: *Session III:*

**Panel IIIA: Tort Law II: Empirical (Room 101)**

*Panel Chair:* W. Kip Viscusi

**Anup Malani** and Julian Reif, "Accounting for Anticipation Effects: An Application to Medical Malpractice Tort Reform"

**Jun Zhou**, "The Predictability of Noneconomic Damages in Medical Malpractice Settlements and Litigations: Evidence from Texas since 1988"

**Myungho Paik**, Bernard S. Black, David A. Hyman, and Charles M. Silver, "Will Tort Reform Bend the Cost Curve? Evidence from Texas"

**Panel IIIB: Intellectual Property I: Patents (Room 103)**

*Panel Chair:* Michael Meurer

**C. Scott Hemphill** and Mark A. Lemley, "Earning Exclusivity: Generic Drug Incentives and the Hatch-Waxman Act"

**Jonathan Masur**, "Patent Inflation"

**Thomas F. Cotter**, "An Economic Analysis of Patent Law's Inequitable Conduct Doctrine"

**Panel IIIC: Procedure II: Litigation (Room 102)**

*Panel Chair:* Anthony Niblett

Amy Farmer and **Paul Pecorino**, "Pretrial Bargaining with Asymmetric Information and Endogenous Expenditure at Trial"

Francesco Parisi, **Barbara Luppi**, and Davide Ferrari, "Jury Size and the Hung-Jury Paradox"

**Scott Baker** and Anup Malani, "Does Accuracy Improve the Informational Value of Trials"

*Friday (cont.)*

**Panel IIID: Corporate and Securities III: Financial Markets (Room 105)**

*Panel Chair:* Edward Iacobucci

**Ryan Bubb** and Alex Kaufman, "Securitization and Moral Hazard: Evidence from a Lender Cutoff Rule"

Edward G. Fox, **Merritt B. Fox**, and Ronald J. Gilson, "Economic Crisis and Share Price Unpredictability: Reasons and Implications"

**John Armour**, Colin Mayer, and Andrea Polo, "Regulatory Sanctions and Reputational Damage in Financial Markets"

**Panel IIIE: Antitrust II: Regulation (Room 107)**

*Panel Chair:* William Bishop

James C. Cooper and **Joshua D. Wright**, "State Regulation of Alcohol Distribution: The Effects of Post & Hold Laws on Consumption and Social Harms"

**Koki Arai**, "Ex-post Examination of Business Combination: Impacts on Retail Prices"

**Yuliya V. Bolotova** and Andrew M. Novakovic, "The Effect of the New York State Milk Price Gouging Law on the Performance of Fluid Whole Milk Market: An Empirical Analysis"

**Panel IIIF: Bankruptcy I: Empirical (Room 106)**

*Panel Chair:* Richard Hynes

Daniel Sullivan and **Frank McIntyre**, "Long-Term Income Stagnation among the Bankrupt"

Deniz Anginer and A. **Joseph Warburton**, "The Chrysler Effect: The Impact of the Chrysler Bailout on Borrowing Costs"

**Yilan Xu**, "Does Mortgage Deregulation Increase Foreclosure? Evidence from Cleveland"

3:30 – 4:00: *Coffee Break*



*Friday (cont.)*

4:00 – 5:30: *Session IV:*

**Panel IVA:**     **Contract Law II: Law and Economics of Contracts** (*Room 101*)

*Panel Chair:* Avery Katz

**Adam B. Badawi**, "Self-Help and the Rules of Engagement"

**Bernhard Ganglmair**, "Material Breach of Contract and Rejection with Imperfect Expectation Damages"

**Florencia Marotta-Wurgler**, "Does Disclosure Matter?"

**Panel IVB:**     **Tort Law III: Empirical** (*Room 102*)

*Panel Chair:* Joanna Shepherd

Andrea Leiter, **Magdalena Thöni**, and Hannes Winner, "Evaluating Human Life Using Court Decisions on Damages for Pain and Suffering"

**Antonio Nicita** and Simona Benedettini, "Measuring the 'Peltzman Effect' under a Penalty Point System"

Levon Barseghyan, Francesca Molinari, Ted O'Donoghue, and **Joshua C. Teitelbaum**, "The Nature of Risk Preferences: Evidence from Insurance Choices"

**Panel IVC:**     **International Law** (*Room 103*)

*Panel Chair:* John Allison

**Cheryl Long**, "Chinese Courts in Transition: Evolution, Causes, and Effects"

Eric A. Posner and **Alan O. Sykes**, "Noncompliance and Remedies in International Law"

**Kate Litvak**, "The Effect of Immigration Laws on Firms' Financial Decisions"

*Friday (cont.)*

**Panel IVD: Administrative Law II: Government Structure and Policy (Room 107)**

*Panel Chair:* Jacob Gersen

Bernd Hayo and **Stefan Voigt**, "Endogenous Constitutions: Politics and Politicians Matter, Economic Outcomes Don't"

**Brian Galle**, "The Politics of Federalism: Self-Interest or Safeguards? Evidence from Congressional Control of State Taxation"

**Nuno Garoupa** and Tom Ginsburg, "Hybrid Judicial Career Structures: Reputation v Legal Tradition"

**Panel IVE: Corporate and Securities IV: Empirical (Room 106)**

*Panel Chair:* Alicia Davis

**Henry Hansmann** and Steen Thomsen, "Virtual Ownership and Managerial Distance: The Governance of Industrial Foundations"

**Anup Agrawal** and Tareque Nasser, "Corporate Financial and Investment Policies in the Presence of a Blockholder on the Board"

**Michal Barzuza**, "Self Selection and Market Segmentation in the Market for Corporate Law"

**Panel IVF: Employment Law and Discrimination (Room 105)**

*Panel Chair:* Orley Ashenfelter

**Amy L. Wax**, "Disparate Impact Realism"

**Joni Hersch**, "Sexual Harassment Risks and Pay Premiums"

**Shamena Anwar**, Patrick Bayer, and Randi Hjalmarsson, "Jury Discrimination in Criminal Trials"

5:30 – 6:30: *Cocktails - Low Memorial Library Rotunda  
(Located on Campus Walk (116<sup>th</sup> Street))*

*Sponsored by The Analysis Group*

6:30: *ALEA Annual Dinner – Low Memorial Library Rotunda*

*Presiding: Louis Kaplow, President, President, ALEA*

*Speaker: John Donohue, Vice President, ALEA*

*Saturday, May 21*

8:00 – 9:00: *Continental Breakfast*

9:00 – 10:30: *Session V:*

**Panel VA: Administrative Law III: Institutions and Transitions (Room 101)**

*Panel Chair:* Cathy Hafer

**Allison L. Westfahl Kong** and Richard L. Revesz, "Regulatory Change and Optimal Transition Relief"

**Barak Y. Orbach** and Frances R. Sjoberg, "The Clucking Theorem: Legal Transitions, Civility Norms, and Social Costs"

**Filippo Belloc**, Antonio Nicita, and Simone M. Sepe, "Liberalization-Privatization Paths: Does Government Ideology Matter?"

**Panel VB: Taxation II (Room 102)**

*Panel Chair:* Mihir Desai

**Michelle J. White**, Daria Burnes, and David Neumark, "Fiscal Zoning and Sales Taxes: Do Higher Sales Taxes Lead to More Retailing and Less Manufacturing?"

**Victor Fleischer**, "Taxing Founders' Stock"

**David I. Walker**, "The Taxation of Punitive Damages Liabilities"

**Panel VC: Corporate and Securities V: Venture Capital and LBOs (Room 103)**

*Panel Chair:* Stephen J. Choi

**Ola Bengtsson** and Dan Bernhardt, "The Role of Lawyers in Venture Capital Contracting: Theory and Evidence"

Ola Bengtsson and **S. Abraham Ravid**, "Geography and Style in Private Equity Contracting: Evidence from the U.S. Venture Capital Market"

**Jerry Cao**, Douglas Cumming, and Meijun Qian, "Law, Investor Protection and LBOs"

*Saturday (cont.)*

**Panel VD: Criminal Law II: Law Enforcement (Room 107)**

Panel Chair: Anne Morrison Piehl

Badi Hasasi, **Yoram Margalioth**, and Liav Orgad, "Ethnic Profiling in Airport Screening: Lessons from Israel, 1968-2010"

**David S. Abrams**, "Building Criminal Capital vs Specific Deterrence: The Effect of Incarceration Length on Recidivism"

Dharmika Dharmapala, Nuno Garoupa, and **Richard H. McAdams**, "Agency Costs, Criminal Law Enforcement, and Criminal Procedure"

**Panel VE: Procedure III: Judges (Room 106)**

Panel Chair: Ezra Friedman

**Benjamin Alarie**, Andrew J. Green, and Edward Iacobucci, "Is Bigger Always Better? On Optimal Panel Size, with Evidence from the Supreme Court of Canada"

**Carlos Berdejo**, "It's the Journey, not the Destination: Judicial Preferences and Decision-making in the Ninth Circuit"

**Stephen J. Choi**, Eric A. Posner, and Mitu Gulati, "How Well do Measures of Judicial Ability Translate into Performance?"

**Panel VF: Bankruptcy II: Theory (Room 105)**

Panel Chair: Douglas Baird

**Anthony J. Casey**, "The Creditors' Bargain and Option-Preservation Priority in Chapter 11"

**Richard Hynes**, "Redeeming Reorganization"

**Patrick Bolton** and Martin Oehmke, "Should Derivatives be Senior?"

10:30 – 11:00: *Coffee Break*

*Saturday (cont.)*

11:00 – 12:30: *Session VI:*

**Panel VIA: Tort Law IV: Theory (Room 101)**

*Panel Chair:* Kathy Zeiler

**David Gilo**, Ehud Guttel, and Erez Yuval, "Negligence, Strict Liability and Collective Action"

**Abraham L. Wickelgren**, "Settlement and the Strict Liability-Negligence Comparison"

Giuseppe Dari-Mattiacci and **Luigi Alberto Franzoni**, "Innovation and Liability Law"

**Panel VIB: Intellectual Property II (Room 103)**

*Panel Chair:* Ben Roin

**Alejandro Zentner**, "Ten Years of File Sharing and its Effect on International Sales of Copyrighted Music: An Empirical Analysis Using a Panel of Countries"

**Dotan Oliar**, "Copyright Law and Technological Change"

**John Hagedoorn**, Bart Dormans, and Geerte Hesen, "The Allocation of Intellectual Property Control Rights in R&D Alliances"

**Panel VIC: Procedure IV: Politics and Judges (Room 102)**

*Panel Chair:* John de Figueiredo

Carlos Berdejo and **Daniel L. Chen**, "Priming Ideology? Electoral Cycles without Electoral Incentives among US Judges"

**Joanna M. Shepherd** and Michael Kang, "The Partisan Price of Justice: An Empirical Analysis of Campaign Contributions and Judicial Decisions"

**John R. Lott, Jr.**, "What Does the American Bar Association Judicial Rating Really Measure?"

*Saturday (cont.)*

**Panel VID: Environmental Law (Room 107)**

*Panel Chair:* Henry Smith

**Howard F. Chang** and Hilary Sigman, "The Effect of Allowing Pollution Offsets with Imperfect Enforcement"

Jonathan Masur and **Eric Posner**, "Climate Regulation and the Limits of Cost-Benefit Analysis"

**Richard L. Revesz** and **Matthew R. Shahabian**, "Climate Change and Future Generations"

**Panel VIE: Corporate and Securities VI: Governance (Room 106)**

*Panel Chair:* Jill Fisch

Bo Becker, **Dan Bergstresser**, and Guhan Subramanian, "Does Shareholder Proxy Access Improve Firm Value? Evidence from the Business Roundtable Challenge"

**Douglas Cumming**, Mark L. Humphery-Jenner, Eliza Wu, "Home-Country Governance and Cross-Listing in the US"

Lucian A. Bebchuk, **Alma Cohen** and Charles C.Y. Wang, "Learning and the Disappearing Association between Governance and Returns"

**Panel VIF: Antitrust III: Exclusion (Room 105)**

*Panel Chair:* Aaron Edlin

**Edward M. Iacobucci** and Ralph A. Winter, "Collusion on Exclusion"

Kathryn E. Spier and **Claudia M. Landeo**, "Vertical Contracts and Market Foreclosure: An Experimental Study of Exclusive Dealing under Social Preferences"

**Sue H. Mialon**, "Exclusionary Bundling: The Motive for Merger"

12:30 – 1:45: **Lunch – Faculty House (adjacent to the Law School)**  
**Sponsored by The Federalist Society**

*Saturday (cont.)*

1:45 – 3:15      *Session VII:*

**Panel VIIA:      Administrative Law IV: Judiciary (Room 101)**

*Panel Chair:* Joshua Fischman

**Matthew C. Stephenson** and Justin Fox, "Judicial Review, Political Competition, and Minority Interests"

**Michael D. Gilbert**, "Judicial Independence and Social Welfare"

**Raphael Franck**, "Judicial Impartiality in Politically-Charged Cases"

**Panel VIIB:      Criminal Law III (Room 102)**

*Panel Chair:* Richard McAdams

**Stéphane Mechoulan** and Nicolas Sahuguet, "Assessing Racial Discrimination in Parole Release"

**Richard T. Boylan**, "The Effect of Punishment Severity on Plea Bargaining"

**Tonja Jacobi**, "The Perverse Effect of the Exclusionary Rule on Guilt and Innocence"

**Panel VIIC:      Property Law II (Room 107)**

*Panel Chair:* Richard Brooks

**Cherie Metcalf** and Ian Keay, "Property Rights, Resource Access and Long Run Growth"

**Keren Mertens Horn** and Katherine O'Regan, "The Low Income Housing Tax Credit and Racial Segregation"

**Oren Bar-Gill** and Nicola Persico, "Possessory Interests and Property Rules"

**Panel VIID:      Corporate and Securities VII (Room 103)**

*Panel Chair:* Jeffrey N. Gordon

John Armour, Brian Cheffins, and **Bernie Black**, "Delaware's Balancing Act"

**Brian Broughman**, "Entrepreneur Wealth and the Value of Limited Liability"

**Gerard Hertig**, "Governments as Vulture Investors: Credit Crisis Case Studies"

*Saturday (cont.)*

**Panel VIII:**     **Contract Law III: Experimental Studies of Contracting** (*Room 105*)

*Panel Chair:* Eric Posner

**Claudine Desrieux** and Jean Beuve, "Relational Contracts and Endogenous Contractual Incompleteness: Experimental Evidence "

**Doron Teichman** and Yuval Feldman, "Are all Contractual Obligations Created Equal?"

**Zev J. Eigen**, "When and Why Individuals Obey Form-Adhesive Contracts: Experimental Evidence of Consent, Compliance, Promise and Performance"

**Panel VIIF:**     **Tort Law V: Theory** (*Room 106*)

*Panel Chair:* Robert Cooter

**Albert Choi** and **Kathryn E. Spier**, "Should Consumers be Permitted to Waive Products Liability? Product Safety, Private Contracts, and Adverse Selection"

**Gerrit De Geest**, "Who Should be Immune from Tort Liability?"

Ariel Porat and **Avraham D. Tabbach**, "Willingness to Pay, Death, Wealth and Damages"

3:15     *Wine and Cheese Reception*  
          *Located on the first floor of Jerome Green Hall*