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EMPLOYMENT

Harvard Law School, Finn M.W. Caspersen & Household International Professor of Law & Economics, 2004-present; Prof., 1987-2004; Assoc. Dean for Research, 1989-1991; Asst. Prof., 1982-1987. Assoc. Dir., John M. Olin Center for Law, Economics, & Business. Courses: Antitrust, Law & Economics, Taxation, Analytical Methods for Lawyers

Law Clerk to Hon. Henry J. Friendly, U.S. Court of Appeals, Second Circuit, 1981-1982

EDUCATION

Harvard University Ph.D. (Economics) 1987, M.A. 1981
National Science Foundation Fellow

Harvard Law School J.D. Magna Cum Laude, 1981
Managing Editor, Harvard Law Review

Northwestern University B.A. with distinction, 1977
Honors Thesis in Economics; Second Major in Mathematics; Phi Beta Kappa

PROFESSIONAL AFFILIATIONS

Research Associate, National Bureau of Economic Research

Fellow, American Academy of Arts & Sciences

Editorial Boards, Journal of Economic Perspectives; Antitrust Law Journal; Journal of Competition Law & Economics; Journal of Law, Economics, & Org.; Journal of Legal Analysis; (previously: American Economic Journal: Economic Policy; Journal of Public Economics; National Tax Journal; Fiscal Studies; Legal Theory; Intl. Review of Law & Economics)

Member, Am. Econ. Assn.; Natl. Tax Assn. (*Holland Medal for Lifetime Achievement*, 2019); Am. Law & Econ. Assn. (*Coase Medal for Lifetime Contributions*, 2022) (Board, 1995-1997, 2002-2005; Pres. 2011)

Admitted to the Massachusetts Bar 1983

CONSULTING

US Department of Justice, Antitrust Division; US Federal Trade Commission Legal Reform Project, Russian Federation; Israel, Controller of Restrictive Trade Practices State Antitrust Departments; Private Parties and Organizations

PUBLICATIONS: ACADEMIC BOOKS

Rethinking Merger Analysis (MIT Press, 2024)

Competition Policy and Price Fixing (Princeton University Press, 2013).

The Theory of Taxation and Public Economics (Princeton University Press, 2008; paperback, 2011).

Fairness versus Welfare (with Steven Shavell) (Harvard University Press, 2002; paperback 2006) (Chinese translation, Law Press China, 2007).

PUBLICATIONS: TEXTBOOKS

Antitrust Analysis (with Phillip Areeda, Aaron Edlin, & Scott Hemphill) (8th ed.; Aspen Publishers, 2021).

Analytical Methods for Lawyers (with Howell Jackson, Steven Shavell, W. Kip Viscusi, & David Cope) (3rd ed.; Foundation Press, 2017).

Antitrust Analysis (with Phillip Areeda & Aaron Edlin) (7th ed.; Aspen Publishers, 2013).

Analytical Methods for Lawyers (with Howell Jackson, Steven Shavell, W. Kip Viscusi, & David Cope) (2nd ed.; Foundation Press, 2011). (Japanese translation, 2013.)

Antitrust Analysis (with Phillip Areeda & Aaron Edlin) (6th ed.; Aspen Publishers, 2004).

Decision Analysis, Game Theory, and Information (with Steven Shavell) (Foundation Press, 2004) (from Analytical Methods).

Contracting (with Steven Shavell) (Foundation Press, 2004) (from Analytical Methods).

Microeconomics (with Steven Shavell) (Foundation Press, 2004) (from Analytical Methods).

Analytical Methods for Lawyers (with Howell Jackson, Steven Shavell, W. Kip Viscusi, & David Cope) (Foundation Press, 2003).

Antitrust Analysis (with Phillip Areeda) (5th ed.; Aspen Publishers, Inc. 1997).

Antitrust Analysis (with Phillip Areeda) (4th ed.; Little, Brown, 1988).

PUBLICATIONS: ARTICLES (and other)

- Improving Economic Analysis in Merger Guidelines, *Journal of Economic Perspectives*, vol. 39, no. 1, pp. 29-52 (2025).
- Optimal Income Taxation, *Journal of Economic Literature*, vol. 62, pp. 637-738 (2024).
- On the Representativeness of Voter Turnout (with Scott Kominers), *Journal of Law and Economics*, vol. 67, pp. 879-904 (2024).
- Optimal Taxation and Charitable Giving, in *Tax Policy and the Economy*, vol. 31 (Moffitt, ed., NBER and University of Chicago Press 2024), pp. 123-162.
- The 2023 Merger Guidelines and Market Definition: Doubling Down or Folding?, *Review of Industrial Organization*, vol. 65, 7-37 (2024).
- Competition Policy in a Simple General Equilibrium Model, *Journal of Political Economy Microeconomics*, vol. 1, 80-114 (2023).
- Entry and Merger Analysis, *Antitrust Law Journal*, vol. 85, pp. 103-146 (2023).
- Replacing the Structural Presumption, *Antitrust Law Journal*, vol. 84, pp. 565-627 (2022).
- Market Power and Income Taxation, *American Economic Journal: Economic Policy*, vol. 13, pp. 329-354 (2021).
- Horizontal Merger Analysis, *International Journal of Industrial Organization*, vol. 79, 102714 (2021).
- Efficiencies in Merger Analysis, *Antitrust Law Journal*, vol. 83, pp. 557-619 (2021).
- A Unified Perspective on Efficiency, Redistribution, and Public Policy, *National Tax Journal*, vol. 73, pp. 429-472 (2020).
- Optimal Regulation with Exemptions, *International Journal of Industrial Organization*, vol. 66, pp. 1-39 (2019).
- Balancing Versus Structured Decision Procedures: Antitrust, Title VII Disparate Impact, and Constitutional Law Strict Scrutiny, *University of Pennsylvania Law Review*, vol. 167, pp. 1375-1462 (2019).
- On the Design of Legal Rules: Balancing Versus Structured Decision Procedures, *Harvard Law Review*, vol. 132, pp. 992-1065 (2019).

- Recoupment and Predatory Pricing Analysis, *Journal of Legal Analysis*, vol. 10, pp. 46-112 (2018).
- Price-Fixing Policy, *International Journal of Industrial Organization*, vol. 61, pp. 749-776 (2018).
- Recoupment, Market Power, and Predatory Pricing, *Antitrust Law Journal*, vol. 82, pp. 167-219 (2018).
- Optimal Design of Private Litigation, *Journal of Public Economics*, vol. 155, pp. 64-73 (2017).
- Optimal Multistage Adjudication, *Journal of Law, Economics, & Organization*, vol. 33, pp. 613-652 (2017).
- Who Will Vote Quadratically? Voter Turnout and Votes Cast under Quadratic Voting (with Scott Kominers), *Public Choice*, vol. 172, pp. 125-149 (2017).
- A Distribution-Neutral Perspective on Tax Expenditure Limitations, in *Tax Policy and the Economy*, vol. 31 (Moffitt, ed., NBER and University of Chicago Press 2017), pp. 161-188.
- On the Relevance of Market Power, *Harvard Law Review*, vol. 130, pp. 1303-1407 (2017).
- Commentary on the Economic and Distributional Effects of Tax Expenditure Limits, in *The Economics of Tax Policy* (Auerbach & Smetters, eds., 2017), pp. 145-155.
- The Meaning of Vertical Agreement and the Structure of Competition Law, *Antitrust Law Journal*, vol. 80, pp. 563-630 (2016).
- Market Definition, Market Power, *International Journal of Industrial Organization*, vol. 43, pp. 148-161 (2015).
- Myopia and the Effects of Social Security and Capital Taxation on Labor Supply, *National Tax Journal*, vol. 68, pp. 7-32 (2015).
- Information and the Aim of Adjudication: Truth or Consequences?, *Stanford Law Review*, vol. 67, pp. 1303-1371 (2015).
- Government Policy and Labor Supply with Myopic or Targeted Savings Decisions, in *Tax Policy and the Economy*, vol. 29 (Brown, ed., NBER and University of Chicago Press 2015), pp. 159-193.
- Market Definition, in *Oxford Handbook of International Antitrust Economics* (Blair & Sokol, eds., Oxford University Press 2015), pp. 345-363.

Likelihood Ratio Tests and Legal Decision Rules, *American Law and Economics Review*, vol. 16, pp. 1-39 (2014).

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On the Choice of Welfare Standards in Competition Law, in *Goals of Competition Law* (Zimmer, ed., Edward Elgar, 2012), pp. 3-26.

Market Definition Alchemy, *Antitrust Bulletin*, vol. 57, pp. 915-952 (2012).

On the Optimal Burden of Proof, *Journal of Political Economy*, vol. 119, pp. 1104-1140 (2011).

Direct versus Communications-Based Prohibitions on Price Fixing, *Journal of Legal Analysis*, vol. 3, pp. 449-538 (2011).

An Optimal Tax System, *Fiscal Studies*, vol. 32, pp. 415-435 (2011).

Market Definition and the Merger Guidelines, *Review of Industrial Organization*, vol. 39, pp. 107-125 (2011).

An Economic Approach to Price Fixing, *Antitrust Law Journal*, vol. 77, pp. 343-449 (2011).

Market Share Thresholds: On the Conflation of Empirical Assessments and Legal Policy Judgments, *Journal of Competition Law & Economics*, vol. 7, pp. 243-276 (2011).

On the Meaning of Horizontal Agreements in Competition Law, *California Law Review*, vol. 99, pp. 683-818 (2011).

Discount Rates, Social Judgments, Individuals' Risk Preferences, and Uncertainty (with David Weisbach), *Journal of Risk and Uncertainty*, vol. 42, pp. 125-143 (2011).

Optimal Proof Burdens, Deterrence, and the Chilling of Desirable Behavior, *American Economic Review: Papers and Proceedings*, vol. 101, pp. 277-280 (2011).

Targeted Savings and Labor Supply, *International Tax and Public Finance*, vol. 18, pp. 507-518 (2011).

- Utility from Accumulation, *National Tax Association Proceedings*, 102nd Annual Conference 2009, pp. 189-194 (2011).
- Taxes, Permits, and Climate Change, in *U.S. Energy Tax Policy* (Metcalf, ed., Cambridge University Press, 2011), pp. 168-192.
- Why (Ever) Define Markets?, *Harvard Law Review*, vol. 124, pp. 437-517 (2010).
- Taxing Leisure Complements, *Economic Inquiry*, vol. 48, pp. 1065-1071 (2010).
- Concavity of Utility, Concavity of Welfare, and Redistribution of Income, *International Tax and Public Finance*, vol. 17, pp. 25-42 (2010).
- The Social Evaluation of Intergenerational Policies and Its Application to Integrated Assessment Models of Climate Change (with Elisabeth Moyer & David Weisbach), *B.E. Journal of Economic Analysis & Policy*, vol. 10, issue 2, art. 7, pp. 1-32 (2010); also in *Distributional Aspects of Energy and Climate Change* (Cohen, Fullerton & Topel, eds., Edward Elgar, 2013), pp. 41-74.
- On the Taxation of Private Transfers, *Tax Law Review*, vol. 63, pp. 159-187 (2009).
- Optimal Policy with Heterogeneous Preferences, *B.E. Journal of Economic Analysis and Policy: Advances*, vol. 8, issue 1, art. 40, pp. 1-28 (2008).
- Capital Levies and Transition to a Consumption Tax, in *Institutional Foundations of Public Finance: Economic and Legal Perspectives* (Auerbach & Shaviro, eds., Harvard University Press, 2008), pp. 112-146.
- Optimal Taxation, in *The New Palgrave Dictionary of Economics, 2nd Edition* (Durlauf & Blume, eds.; Macmillan, 2008), vol. 6, pp. 209-215.
- Income Taxation and Optimal Policies, in *The New Palgrave Dictionary of Economics, 2nd Edition* (Durlauf & Blume, eds.; Macmillan, 2008), vol. 4, pp.170-175.
- Pareto Principle and Competing Principles, in *The New Palgrave Dictionary of Economics, 2nd Edition* (Durlauf & Blume, eds.; Macmillan, 2008), vol. 6, pp. 295-300.
- Antitrust (with Carl Shapiro), in *Handbook of Law and Economics* (Polinsky & Shavell, eds.; Elsevier, 2007), vol. 2, pp. 1073-1225.
- Taxation, in *Handbook of Law and Economics* (Polinsky & Shavell, eds.; Elsevier, 2007), vol. 1, pp. 647-755.
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The Value of a Statistical Life and the Coefficient of Relative Risk Aversion, *Journal of Risk and Uncertainty*, vol. 31, pp. 23-34 (2005).

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- Economic Analysis of Law (with Steven Shavell), in *Handbook of Public Economics* (Auerbach & Feldstein, eds.; Elsevier, 2002), vol. 3, pp. 1661-1784.
- On the Superiority of Corrective Taxes to Quantity Regulation (with Steven Shavell), *American Law and Economics Review*, vol. 4, pp. 1-17 (2002).
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- Tax Policy and Gifts, *American Economic Review: Papers and Proceedings*, vol. 88, pp. 283-88 (1998).
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- Comment on Antitrust Issues in the Licensing of Intellectual Property, *Brookings Papers on Economic Activity: Microeconomics*, pp. 337-344 (1997).
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- The Optimal Supply of Public Goods and the Distortionary Cost of Taxation, *National Tax Journal*, vol. 49, pp. 513-533 (1996).
- On the Divergence Between “Ideal” and Conventional Income Tax Treatment of Human Capital, *American Economic Review: Papers and Proceedings*, vol. 86, pp. 347-352 (1996).
- Fiscal Federalism and the Deductibility of State and Local Taxes in a Federal Income Tax, *Virginia Law Review*, vol. 82, pp. 413-492 (1996).
- Accuracy in the Assessment of Damages (with Steven Shavell), *Journal of Law and Economics*, vol. 39, pp. 191-210 (1996).
- Optimal Distribution and the Family, *Scandinavian Journal of Economics*, vol. 98, pp. 75-92 (1996).
- Property Rules versus Liability Rules: An Economic Analysis (with Steven Shavell), *Harvard Law Review*, vol. 109, pp. 713-790 (1996).
- How Tax Complexity and Enforcement Affect the Equity and Efficiency of the Income Tax, *National Tax Journal*, vol. 49, pp. 135-150 (1996), reprinted in *Tax Policy in the Real World* (Slemrod, ed.; Cambridge University Press, 1999).
- A Fundamental Objection to Tax Equity Norms: A Call for Utilitarianism, *National Tax Journal*, vol. 48, pp. 497-514 (1995).
- The Income Tax versus the Consumption Tax and the Tax Treatment of Human Capital, *Tax Law Review*, vol. 51, pp. 35-46 (1995).
- Do Liability Rules Facilitate Bargaining? A Reply to Ayres and Talley (with Steven Shavell), *Yale Law Journal*, vol. 105, pp. 221-233 (1995).
- A Note on Subsidizing Gifts, *Journal of Public Economics*, vol. 58, pp. 469-477 (1995).

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Optimal Insurance Contracts When Establishing the Amount of Loss is Costly, *Geneva Papers on Risk and Insurance Theory*, vol. 19, pp. 139-152 (1994).

Taxation and Risk Taking: A General Equilibrium Perspective, *National Tax Journal*, vol. 47, pp. 789-798 (1994).

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Optimal Law Enforcement with Self-Reporting of Behavior (with Steven Shavell), *Journal of Political Economy*, vol. 102, pp. 583-606 (1994).

Accuracy in the Determination of Liability (with Steven Shavell), *Journal of Law and Economics*, vol. 37, pp. 1-15 (1994).

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- The Optimal Probability and Magnitude of Fines for Acts That Definitely Are Undesirable, *International Review of Law and Economics*, vol. 12, pp. 3-11 (1992).
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- Legal Advice about Information to Present in Litigation: Its Effects and Social Desirability (with Steven Shavell), *Harvard Law Review*, vol. 102, pp. 565-615 (1989).

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