

September 2020

KATHRYN E. SPIER

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ACADEMIC APPOINTMENTS

Current Positions: Domenico De Sole Professor of Law, Harvard Law School (2008 – present).

NBER Research Associate, Law and Economics Group (2002 – present).

Previous Positions: Professor of Law, Harvard Law School (2007 – 2008).

Richard M. Paget Distinguished Professor (2005 – 2007); Professor of Management and Strategy (2003 - 2005); Associate Professor (1994 - 2003); Kellogg Graduate School of Management, Northwestern University.

Professor of Law, Northwestern University (2005 – 2007).

Northwestern Department of Economics, Courtesy Appointment.

Robert B. and Candace J. Haas Visiting Professor, Harvard Law School (Fall 2005).

NBER Faculty Research Fellow, Law and Economics Group. (1990-2002).

Associate Professor (1993-1994); Assistant Professor (1989 – 1993); Department of Economics, Harvard University.

Olin Fellow, University of Chicago Law School (1993 – 1994).

Visiting Assistant Professor, University of Chicago GSB (1993).

Visiting Scholar, Harvard Law School (1993).

EDUCATION

Graduate: M.I.T., Department of Economics, Ph.D. 1989.

Undergraduate: Yale, B.A. *summa cum laude* with distinction in Mathematics & Economics, 1985.

PROFESSIONAL LEADERSHIP

President, *The American Law and Economics Association*. 2015-2016. (Vice President, 2014-2015; Secretary-Treasurer, 2013-2014; Board of Directors, 1997-2000, 2004-2007.)

Co-Editor, *The RAND Journal of Economics*. 2011 to present. (Associate Editor, 1998 to 2010)

Editorial Board, *The American Economic Review*, 2017 to present.

Editorial Board, *The Journal of Law, Economics, and Organization*. 1997 to present.

Editorial Board, *B.E. Journals of Economic Analysis & Policy*. 2001 to present.

Advisory Board, *Journal of Institutional and Theoretical Economics*. 2013 to present.

Editorial Board, *The International Review of Law and Economics*. 1999 to 2012.

PUBLICATIONS

“Class Action Waivers and Private Antitrust Litigation” (with Albert Choi). Forthcoming in *American Economic Journal: Microeconomics*. Available at SSRN: <https://ssrn.com/abstract=3329316>

“The Economics of Class Action Waivers” (with Albert Choi). Forthcoming in *Yale Journal on Regulation*. Available at SSRN: <https://ssrn.com/abstract=3665283>

“Optimal Law Enforcement with Ordered Leniency” (with Claudia Landeo). *The Journal of Law and Economics*. Vol. 63(1) (2020) pp. 71-111. Available at SSRN: <https://ssrn.com/abstract=3155503>

“Product Safety, Contracts, and Liability” (with Xinyu Hua). *The RAND Journal of Economics*. Vol. 51(1) (2020) pp. 233-259. Available at SSRN: <https://ssrn.com/abstract=3192594>

“Contracting on Litigation” (with J.J. Prescott). *The RAND Journal of Economics* Vol. 50(2) (2019) pp. 391-417. Available at SSRN: <https://ssrn.com/abstract=2765033>

“Taking a Financial Position in Your Opponents in Litigation” (With Albert Choi). *The American Economic Review*. Vol. 108 (2018) pp. 3626-3650.

“Bundling and Quality Assurance” (with James D. Dana). *The RAND Journal of Economics*. Vol. 49 (2018) pp. 128-154.

“A Comprehensive Theory of Civil Settlement” (with J.J. Prescott). *NYU Law Review*. Vol. 91 (2016) pp. 59-142.

“Stipulated Damages as a Rent-Extraction Mechanism: Experimental Evidence” (with Claudia Landeo). *Journal of Institutional and Theoretical Economics*. Vol. 172 (2016) pp. 235-273.

“Do Tying, Bundling, and Other Purchase Restraints Increase Product Quality?” (with James D. Dana). *International Journal of Industrial Organization*, Vol. 43 (2015), pp. 142-147.

“Incentive Contracts for Teams: Experimental Evidence” (with Claudia Landeo). *Journal of Economic Behavior and Organization*, Vol. 119 (2015), pp. 496-511.

“What Courses Should Law Students Take? Lessons from Harvard’s BigLaw Survey” (with John C. Coates, IV and Jesse M. Fried). *Journal of Legal Education*, Vol. 64(3) (2015), pp. 443-454.

“Incentives to Invest in Litigation and the Superiority of the Class Action” (with David Rosenberg). *Journal of Legal Analysis*, Vol. 6(2) (2014), pp. 305-365.

“Trial and Settlement: A Study of High-Low Agreements” (with JJ Prescott and Albert Yoon). *Journal of Law and Economics*, Vol. 57 (2014), pp. 699-746.

“审判与和解：高低协议研究” [Trial and Settlement: A Study of High-Low Agreements].

Translated by Yajie Xin. 比较: *Comparative Studies*, no. 80 (2015): 154-189.

“Shotguns and Deadlocks” (with Claudia Landeo). *Yale Journal on Regulation*, Vol. 31(1) (2014), pp. 143-187.

“Irreconcilable Differences: Judicial Resolution of Business Deadlock” (with Claudia Landeo). *The University of Chicago Law Review*, Vol. 81(1) (2014), pp. 203-227.

“Should Consumers be Permitted to Waive Products Liability? Product Safety, Private Contracts, and Adverse Selection” (with Albert Choi). *The Journal of Law, Economics, & Organization*, Vol. 30 (4) (2014), pp. 734-766.

“Shotgun Mechanisms for Common-Value Partnerships: The Unassigned-Offeror Problem” (with Claudia Landeo), *Economics Letters*, Vol. 121 (2013), pp. 390-394.

“Exclusive Dealing and Market Foreclosure: Further Experimental Results” (with Claudia Landeo). *The Journal of Institutional and Theoretical Economics*, Vol. 168(1) (2012), pp. 150-170.

“Incentives and Contract Frames: Comment” (with Claudia Landeo). *The Journal of Institutional and Theoretical Economics*, Vol. 168(1) (2012), pp. 83-88.

“Product Safety, Buybacks and the Post-Sale Duty to Warn,” *The Journal of Law, Economics, & Organization*, Vol. 27(3) (2011), pp. 515-539.

Reprinted in *Economic Models of Law*, Thomas J. Miceli and Mathew J. Baker, eds., Edward Elgar Publishing, forthcoming.

“Trigger Happy or Gun Shy? Dissolving Common-Value Partnerships with Texas Shootouts” (with Richard Brooks and Claudia Landeo), *RAND Journal of Economics* Vol. 41(4) (2010), pp. 649-673.

“Divide and Conquer” (with Eric A. Posner and Adrian Vermeule), *The Journal of Legal Analysis*, Vol. 2(2) (2010) pp. 417-471.

“Naked Exclusion: An Experimental Study of Contracts with Externalities,” (with Claudia Landeo), *The American Economic Review*, Vol. 99(5) (2009), pp. 1850-77.

“Strategic Judgment Proofing,” (with Yeon-Koo Che), *The RAND Journal of Economics*, Vol. 39(4) (2008), pp. 926-948.

“Exploiting Plaintiffs Through Settlement: Divide and Conquer,” (with Yeon-Koo Che), *The Journal of Institutional and Theoretical Economics*, Vol. 164(1) (2008), pp. 4-23.

“Economics of Litigation,” in Blume and Durlauf, eds., *The New Palgrave Dictionary of Economics*, 2nd ed., Palgrave MacMillan, 2008.

“Litigation,” in A. Mitchell Polinsky and Steven Shavell, eds., *The Handbook of Law and Economics*, North Holland, 2007.

“Entry Deterrence in a Duopoly Market,” (with James D. Dana, Jr.), *The B.E. Journal of Economic Analysis & Policy*: Vol. 7(1) (Advances), Article 19 (2007).

“Manufacturer Liability for Harm Caused by Consumers to Others,” (with Bruce Hay), *The American Economic Review*, Vol. 95(5) (2005), pp. 1700-1711.

“Information and Externalities in Sequential Litigation,” (with Xinyu Hua), *Journal of Institutional and Theoretical Economics*. Vol. 161(2) (2005), pp. 215-232.

“A Theory of Utilization Review,” (with David Dranove), *Contributions to Economic Analysis & Policy*, Vol. 2(1) (2003).

“The Use of Most-Favored-Nation Clauses in Settlement of Litigation,” *The RAND Journal of Economics*, Vol. 34 (1) (2003).

“‘Tied to the Mast’: Most-Favored-Nation Clauses in Settlement Contracts,” *The Journal of Legal Studies*, Vol. 32 (1) (2003).

“Settlement with Multiple Plaintiffs: The Role of Insolvency,” *Journal of Law, Economics, and Organization*, Vol. 18 (2) (2002), pp. 293-323.

“Threats Without Binding Commitment,” (with Steven Shavell), *Topics in Economic Analysis & Policy*: Vol. 2 (1) (2002).

“Revenue Sharing and Vertical Control in the Video Rental Industry,” (with James D. Dana, Jr.), *The Journal of Industrial Economics*, Vol. 49 (3) (2001), pp. 223-45.

“‘Competition’ Among Employers Offering Health Insurance,” (with David Dranove and Laurence Baker), *The Journal of Health Economics*, Vol. 19 (2000), pp. 121-140.

“Settlement of Litigation,” (with Bruce Hay), in Peter Newman, ed., *The New Palgrave Dictionary of Economics and the Law*, Macmillan Reference Limited, 1998. pp. 442-451.

“Capital Structure, Priority Rules, and the Settlement of Civil Claims,” (with Alan Sykes), *The*

International Review of Law and Economics, Vol. 18 (2) (1998), pp. 187-200.

“Burdens of Proof in Civil Litigation: An Economic Perspective,” (with Bruce L. Hay), *The Journal of Legal Studies*, Vol. 26(2) (1997), pp. 413 - 431.

Reprinted in *The Economics of Evidence, Procedure, and Litigation*, Chris W. Sanchirico, ed., Edward Elgar Publishing, Volume 2, (2007).

“A Note on the Divergence Between the Private and the Social Motive to Settle Under a Negligence Rule.” *The Journal of Legal Studies*, Vol. 26(2) (1997), pp. 613 - 621.

“On the Efficiency of Privately Stipulated Damages for Breach of Contract: Entry Barriers, Reliance, and Renegotiation,” (with Michael Whinston), *The RAND Journal of Economics*, Vol. 26 (2) (1995), pp. 180-202.

“Settlement Bargaining and the Design of Damage Awards,” *The Journal of Law, Economics, & Organization*, Vol. 10 (2) (1994), pp. 84-95.

Reprinted in *The Economics of Evidence, Procedure, and Litigation*, Chris W. Sanchirico, ed., Edward Elgar Publishing, Volume 2, (2007).

“Pretrial Bargaining and the Design of Fee-Shifting Rules,” *The RAND Journal of Economics*, Vol. 25 (2) (1994), pp. 197-214.

“Retaliatory Mechanisms for Eliminating Trade Barriers: Aggressive Unilateralism vs. GATT Cooperation,” (with David E. Weinstein), Chapter 14 in *Imperfect Competition in International Trade*, Winston W. Chang and Seiichi Katayama, eds., Kluwer Academic Publishers (1995).

“Designing a Private Industry: Government Auctions with Endogenous Market Structure,” (with James D. Dana, Jr.), *The Journal of Public Economics*, Vol. 53 (1994), pp. 127-147.

“A Note on Joint and Several Liability: Insolvency, Settlement, and Incentives,” *The Journal of Legal Studies*, Vol. 23 (1, part 2) (1994), pp.559-568.

“Capital Structure as a Bargaining Tool: The Role of Leverage in Contract Renegotiation,” (with Enrico Perotti), *The American Economic Review*, Vol. 83 (5) (1993), pp. 1131-1141.

“Expertise and Contingent Fees: The Role of Asymmetric Information in Attorney Compensation,” (with James D. Dana, Jr.), *The Journal of Law, Economics, & Organization*, Vol. 9 (2) (1993), pp. 349-367.

“Defense Procurement: Politics, Management, and Incentives: Discussion,” in James Leitzel and Jean Tirole, eds. *Incentives in procurement contracting*. Pew Studies in Economics and Security. Boulder and Oxford: Westview Press, 1993, pages 22-23.

“The Dynamics of Pretrial Negotiation,” *The Review of Economic Studies*, Vol. 59 (1) (1992), pp. 93-108.

Reprinted in *The Economics of Evidence, Procedure, and Litigation*, Chris W. Sanchirico, ed., Edward Elgar Publishing, Volume 1, (2007).

“Incomplete Contracts and Signaling,” *The RAND Journal of Economics*, Vol. 23 (3) (1992), pp. 432-443.

UNPUBLISHED MANUSCRIPTS

“Settling Lawsuits with Pirates” (with Xinyu Hua). July 2020. Available at SSRN: <https://ssrn.com/abstract=3647244>

“Ordered Leniency: An Experimental Study of Law Enforcement with Self-Reporting” (with Claudia Landeo). September 2018. Available at SSRN: <https://ssrn.com/abstract=3250945>

“What Courses Should Law Students Take? Harvard’s Largest Employers Weigh In” (with John C. Coates, IV and Jesse M. Fried). February 2014. HLS Program on the Legal Profession Research Paper No. 2014-12; Harvard Public Law Working Paper No. 14-20. Available at SSRN: <https://ssrn.com/abstract=2397317>

HONORS, GRANTS, & FELLOWSHIPS

National Science Foundation Award No. SES-1155761, “Contractual Arrangements and Bargaining Institutions in Inter-Firm and Intra-Firm Strategic Environments.” 2012-15.

Searle Fund Grant, “Litigation Policy and Tort Reform.” 2004-05.

Garvin Prize in Law & Economics, School of Law, Boalt Hall, Berkeley. 2001-2002.

Sidney J. Levy Teaching Award, Kellogg. 2002 and 2006.

Olin Fellowship, University of Chicago. 1993-94.

Olin Fellowship for Junior Faculty. 1992-93.

National Science Foundation Grant, No. SES-9109009, “The Strategic Role of Debt: Can Leverage Influence Bargaining Outcomes?” 1991-92.

Olin Foundation Graduate Fellowship in Law and Economics, MIT. 1988-89.

National Science Foundation Graduate Fellowship, MIT. 1985-88.

Deforest Prize, Yale University, for excellence in pure and applied mathematics).1985.

Bickerman Memorial Prize, Yale University; for best departmental essay in economics. 1985.

Laun Honor Award, Yale University; for overall excellence in economics. 1985.

Ellsworth Senior Prize, Yale University, Jonathan Edwards College; best senior essay in the social sciences. 1985.

Stanley Prize, Yale University; for excellence in pure and applied mathematics. 1984.

Phi Beta Kappa. Yale University. 1984.

REFEREE ACTIVITY

American Economic Review; American Law and Economics Review; Econometrica; Games and Economic Behavior; International Economic Review; International Review of Law and Economics; Journal of Economics & Management Strategy; Journal of Economic Theory; Journal of Institutional and Theoretical Economics; Journal of Labor Economics; Journal of Law and Economics; Journal of Law, Economics, & Organization; Journal of Legal Analysis; Journal of Legal Studies; Journal of Political Economy; Journal of Public Economics; National Science Foundation; Quarterly Journal of Economics; RAND Journal of Economics; Review of Economics and Statistics; Review of Economic Studies; etc.

SELECT ADMINISTRATIVE

Law and Business Program of Study Coordinator, Harvard Law School, 2013 – .
Library Committee, Harvard Law School, 2009 – .
Information Technology Committee, 2017 – .
Executive Education and Online Learning Committee, Harvard Law School, 2017 – .
Managerial Economics and Strategy Ph.D. Coordinator, Kellogg GSM, 2002 – 2004.
Personnel Committee, Kellogg Graduate School of Management, 2004 – 2007.
Recruiting Committee, Kellogg Graduate School of Management, 2005 – 2007.

TEACHING

Harvard Law School:

Business Strategy for Lawyers. Fall 2005, Spring 2008 – .
Analytical Methods for Lawyers. Fall 2008 – .
Law, Economics and Organizations Research Seminar. 2009 – .
Business Strategy in the Entertainment Industry Reading Group. Spring 2010.
Competitive Strategy and Antitrust Reading Group. Spring 2011.
Olin Spanish Law and Economics Seminar. Fall 2008, 2009, 2010
The Federal Judicial Center Law and Society Program, Spring 2012, 2013

Northwestern University, Kellogg Graduate School of Management:

MGMT 452 Strategy and Organization. MBA. 1994 – 2007.
MECS 517 Ph.D. Research Seminar. Spring 2000.

Northwestern University, Law School:

BUSCOM 603K Business Strategy for Lawyers. Fall 2004.

Northwestern University, College of Arts and Sciences

(Mathematical Methods in Social Sciences Program)

MMSS 456 Business Strategy and Organization, undergraduate, Spring 2003.

Harvard University, Department of Economics:

EC 2030. Mathematics for Economists. Ph.D., 1989 – 1992.
EC 2051. Economics of Uncertainty and Information, Ph. D., 1990 & 1991.
EC 985a. Research in Microeconomics, undergraduate, 1990 – 1992.
EC 2612. Bargaining and Contracts with Applications: Industrial Organization and the Economics Analysis of the Law, Ph.D., 1992.

EC 2011. Critical Seminar in Economic Theory. 1989-1993.
EC 2086. Advanced Theory Workshop. 1989-1993. With other faculty.
EC 2660. Law and Economics: Research Seminar. 1992-93.
University of Chicago, Graduate School of Business:
BUS 300. Microeconomics, MBA, Fall 1993.