

## IAN AYRES

Yale Law School  
PO Box 408415  
New Haven, CT 06520-8415  
(203) 415-5587 (VOICE)  
(203) 432-4769 (FAX)

15 Killams Pt. Rd.  
Branford, CT 06405  
(203) 415-5587  
ian.ayres@yale.edu  
[www.ianayres.com](http://www.ianayres.com) (PUBLICATIONS)

### EDUCATION

- Ph.D. (Economics) Massachusetts Institute of Technology, 1988.  
Major Fields: Industrial Organization, Econometrics.  
Dissertation: Essays on Vertical Foreclosure, Cartel Stability and the Structural Determinants of Oligopolistic Behavior.
- J.D. Yale Law School, 1986.  
Articles Editor, Yale Law Journal.
- B.A. Yale University, 1981.  
Majors: Russian and East European Studies (Distinction).  
Economics (Distinction).  
Summa Cum Laude, 1981.  
Phi Beta Kappa, 1980.

### PROFESSIONAL APPOINTMENTS

- Oscar M. Ruebhausen Professor, 2021- present.
- Professor, Yale School of Public Health, 2024 – present.
- Deputy Dean, Yale Law School, 2020 – 2022.
- William K. Townsend Professor, Yale Law School, 1994 - 2021.
- Professor, Yale School of Management, 1994 - present.
- Anne Urowsky Professorial Fellow, 2009 – 2021.
- Research Associate, National Bureau of Economic Research, 2005 - present.
- Visiting Scholar, Columbia Law School, Fall 2019.
- President, American Law and Economics Association, 2016-17.

Member, Academic Research Council, Consumer Financial Protection Bureau, 2016 – present.

Editor, *JOURNAL OF LAW, ECONOMICS AND ORGANIZATION*, 2002 - 2009.

Adviser, The Center for Cost-Effective Consumerism, 2008 – 2011.

Robert B. and Candice J. Haas Visiting Professor, Harvard Law School, Winter Term 2008.

Visiting Professor, University of Illinois, School of Law, 1997-98.

Lecturer, University of Toronto, Faculty of Law, January 1995.

Professor, Stanford Law School, 1992 - 1994.

Lecturer, University of Illinois, School of Law, Summers 1994 and 1995.

Board of Editors, *SUPREME COURT ECONOMIC REVIEW*, 1993 - .

Lecturer, University of Iowa, School of Law, January Term 1993.

Lecturer, Moscow State Institute of International Relations (MGIMO) -- Cardozo Law Institute, Summer 1992.

Visiting Professor, Yale Law School, Fall 1991.

Visiting Professor, University of Virginia, School of Law, Fall 1990 - Spring 1991.

Guest Scholar, Brookings Institution, Summer 1990 - Spring 1991.

Associate Professor, Northwestern University, School of Law, 1990 - 1991; (Assistant Professor, 1987-1990).

Research Fellow, American Bar Foundation, 1987 - 1991.

Scholar in Residence, Sonnenschein Nath and Rosenthal - Summer 1990.

Associate Editor, *Law and Social Inquiry*, 1990.

Clerk to the Honorable James K. Logan, Tenth Circuit Court of Appeals, 1986-1987.

Olin Summer Research Fellow, Yale Law School Program in Law, Economics, and Public Policy, May to August 1986.

## COURSES TAUGHT

Antitrust, Civil Rights, Commercial Law, Contracts, Corporations, Corporate Finance, Intellectual Property, Law and Economics, Empirical Law and Economics, LGBT Litigation Seminar, Property, Quantitative Methods, Race and the Law, Law and Guns, Law and the Opioid Crisis, Law and COVID, Torts and Regulation. Coursera/YouTube Online Courses: [A Law Student's Toolkit](#) and [American Contract Law](#).

## PUBLIC INTEREST

Member, Board of Directors, Callisto, 2018 - 2023.

Member, Academic Research Council, Consumer Financial Protection Bureau, 2016 - 2021.

Advisor, Justice and Commerce Departments on post-Adarand review of Affirmative Action, 1998.

Member, Board of Directors, Yale Law School Early Learning Center, 1996 - 1997.

Member, Board of Directors, East Palo Alto Community Law Project, 1993 - 1994.

*In re Insurance Antitrust Litigation*, consulting expert; regarding antitrust claims of 17 state Attorneys General against major commercial insurers, 1988 - 1991.

Counsel in Illinois post-conviction petition, *People v. Titone*, 83-C-127, 1988 to 1992 (Death sentence vacated September 7, 1990; argued claims concerning underlying conviction to Illinois Supreme Court, March 14, 1992).

New Haven Battered Women's Temporary Restraining Order Project, September 1985 to April 1986.

Harvard Prison Legal Assistance Project, October 1983 to May 1984.

Legal Services of Western Missouri, June to August 1983.

Jerome Frank Legal Services Organization, January 1983 to October 1984.

## PUBLICATIONS

### *Books*

RETIREMENT GUARDRAILS: HOW PROACTIVE FIDUCIARIES CAN IMPROVE PLAN

OUTCOMES (Cambridge University Press, 2023) (with Quinn Curtis).

STUDIES IN CONTRACT LAW (10<sup>th</sup> edition, Foundation Press, 2023) (with Greg Klass & Rebecca Stone).

WEAPON OF CHOICE: FIGHTING GUN VIOLENCE WHILE RESPECTING GUN RIGHTS (Harvard University Press, 2020) (with Fredrick E. Vars).

STUDIES IN CONTRACT LAW (9<sup>th</sup> edition, Foundation Press, 2017) (with Greg Klass).

STUDIES IN CONTRACT LAW (8<sup>th</sup> edition, Foundation Press, 2012) (with Greg Klass).

THE \$500 DIET: WEIGHT LOSS FOR PEOPLE WHO ARE COMMITTED TO CHANGE (Kindle Select, 2011).

CARROTS AND STICKS: UNLOCK THE POWER OF INCENTIVES TO GET THINGS DONE (Bantam Books, 2010).

LIFECYCLE INVESTING: A NEW, SAFE, AND AUDACIOUS WAY TO IMPROVE THE PERFORMANCE OF YOUR RETIREMENT PORTFOLIO (Basic Books, 2010) (with Barry Nalebuff).

STUDIES IN CONTRACT LAW (7<sup>th</sup> edition, Foundation Press, 2008) (with Richard E. Speidel).

SUPER CRUNCHERS: WHY THINKING-BY-NUMBERS IS THE NEW WAY TO BE SMART (BANTAM BOOKS 2007).

Excerpt: How Computers Routed the Experts, Financial Times (August 31, 2007).

STRAIGHTFORWARD: HOW TO MOBILIZE HETEROSEXUAL SUPPORT FOR GAY RIGHTS (PRINCETON UNIVERSITY PRESS 2005) (with Jennifer Gerarda Brown).

INSINCERE PROMISES: THE LAW OF MISREPRESENTED INTENT (YALE UNIVERSITY PRESS, 2005) (with Gregory Klass).

OPTIONAL LAW: THE STRUCTURE OF LEGAL ENTITLEMENTS (UNIVERSITY OF CHICAGO PRESS, 2005).

WHY NOT?: HOW TO USE EVERYDAY INGENUITY TO SOLVE PROBLEMS BIG AND SMALL (Harvard Business School Press, 2003) (with Barry Nalebuff) *also published in Portugese* as “Você Pode Tudo” (Negocio Editora), *in Spanish* as “¿Y por que NO” (Empresa Activa), *in Korean* (Sejong), *in Japanese* (Hankyu), *in Chinese* (The Commercial Press), *in Bulgarian* (Klasika and Still), *in Chinese* (China Times), *in Estonian* (Tanapaev), *in Italian* (Il Sole), *in Korean* (Sejong Books), *in Russian* (Williams Publishing), and *in Thai* (AR Business Press).

*Book Excerpt: Ideas Waiting to Happen*, FORBES 127 (Oct. 27 2003) (with Barry Nalebuff).

*Book Excerpt: A Role on the Board for the 'Loyal Opposition,'* DIRECTORS & BOARDS 32 (Fall 2003).

*Book Excerpt: Problem Solving: What Would Croesus Do?*, DARWIN (Nov. 2003).

STUDIES IN CONTRACT LAW (6<sup>th</sup> edition, Foundation Press, 2003) (with Edward J. Murphy & Richard E. Speidel).

VOTING WITH DOLLARS: A NEW PARADIGM FOR CAMPAIGN FINANCE (with Bruce Ackerman) (Yale University Press) (2002).

PERVASIVE PREJUDICE?: UNCONVENTIONAL EVIDENCE OF RACE AND GENDER DISCRIMINATION (University of Chicago Press, 2002).

STUDIES IN CONTRACT LAW (5<sup>th</sup> edition, Foundation Press, 1997) (with Edward J. Murphy & Richard E. Speidel).

RESPONSIVE REGULATION: TRANSCENDING THE DEREGULATION DEBATE (OXFORD UNIVERSITY PRESS 1992) (with John Braithwaite).

### ***Scholarly Articles and Chapters***

*Dominated Contracting*, (working paper 2026) (with Florencia Marotta-Wurgler).

*Artificial Identity: How Instructor Race and Gender Influence Student Behavior and Performance in AI-Mediated Learning*, (working paper 2026) (with Jiyoung Kim).

*Legal Overfitting*, (working paper 2026) (with Yair Listokin).

*A Tale of Two Financial Collapses*, (working paper 2026) (with John Donohue).

*Law Professors Prefer AI Over Peer Answers*, (working paper 2026) (with Julian Nyarko et al).

*Market Structure and the Existential Risk of Artificial Intelligence*, (working paper 2026) (with Abraham L. Wickelgren).

*Unwarranted Discrimination: A Vignette Experiment Testing Contractual Impacts of Default and Peer Effects on 303 Creative*, (working paper 2026) (with Tamar Kricheli-Katz).

*The Law and Economics of Guilt and Shame*, 93 UNIVERSITY OF CHICAGO LAW REVIEW 247 (2026) (with Joseph Bankman and Daniel Hemel).

*Second Chances and the Second Amendment: A Smarter Way to Reboot § 925(c)*, UNIVERSITY OF CHICAGO LAW REVIEW ONLINE (2025) (with Fredrick Vars).

See also Ayres interview: Chip Brownlee, *Q & A: A Trump Administration Plan to Restore Some People's Gun Rights Could Actually Protect Gun Laws*, THE TRACE (Jul 31, 2025)

*A better way to democratize retirement investment options*, PENSIONS & INVESTMENTS, August 25, 2025 (with Quinn Curtis).

*How to Use the New Restatement of Consumer Contracts: A Guide for Judges*, 15 HARVARD BUSINESS LAW REVIEW 1 (2025) (with Gregory Klass).

*Tell Me What You Want: An Affirmative-Choice Answer to the Constitutional Concern About Concealed-Carry on Private Property*, 17 JOURNAL OF LEGAL ANALYSIS 1 (2025) (with Fredrick E. Vars).

*The Coming Assault on Categorical Gun Prohibitions*, STANFORD LAW REVIEW ONLINE (forthcoming 2025) (with Fredrick E. Vars).

*A Legislative Response to 303 Creative*, YALE LAW JOURNAL FORUM (forthcoming 2025) (with Jennifer G. Brown).

*A Bipartisan Approach to Political Prosecutions*, 16 JOURNAL OF LEGAL ANALYSIS 140 (2024) (with Saikrishna Prakash).

*Shorting Your Rival: Negative Ownership as an Antitrust Remedy*, 86 ANTITRUST LAW JOURNAL 317 (2024) (with C. Scott Hemphill and Abraham L. Wickelgren).

*The Law of AI is the Law of Risky Agents Without Intentions*, THE UNIVERSITY OF CHICAGO LAW REVIEW ONLINE (2024) (with Jack M. Balkin).

*Enforceable Ethics for the Supreme Court*, HARVARD LAW REVIEW BLOG, (August 2024) (with Richard Re).

*A Simple Way to Protect Domestic Violence Orders Against the Next Constitutional Challenge*, HARVARD LAW REVIEW BLOG, (July 2024) (with Fredrick Vars).

*Racial and Gender Bias in Child Maltreatment Reporting Decisions: Results of a Randomized Vignette Experiment*, 21 HASTINGS RACE & POVERTY LAW JOURNAL 183 (2024) (with Sonia Qin and Pranjal Drall).

*An Economic Rationale for the Different Methods of Feeding Enslaved People in the*

*Antebellum South and British West Indies*, 79 INTERNATIONAL REVIEW OF LAW AND ECONOMICS (2024) (with Eleanor Brown).

*Legacy and Accountability*, 108 IOWA LAW REVIEW ONLINE 1 (2022).

*Affirmative Action Still Hasn't Been Shown to Reduce the Number of Black Lawyers: A Response to Sander*, 69 INTERNATIONAL REVIEW OF LAW AND ECONOMICS (November 2021) (with Richard Brooks and Zach Shelley).

*Guns and Property Preference: Testing the Impact of Gilles and Cynicism Conjectures Using Survey Data*, 39 QUINNIPIAC LAW REVIEW (2021) (with Pranjali Drall, Spurthi Jonnalagadda and Fredrick Vars).

*Consumer Expropriation of Aesthetically Functional Trade Dress: Results from a Randomized Experiment*, 93 SOUTHERN CALIFORNIA LAW REVIEW (2021) (with Xiyin Tang).

*Introduction to Gun Violence in America*, 48 JOURNAL OF LAW, MEDICINE, AND ETHICS 9 (2020) (with Abbe R. Gluck, and Tracey L. Meares, and Caroline Nobo Sarnoff).

*The Walmart Effect: Testing Private Interventions to Reduce Gun Suicide*, 48 JOURNAL OF LAW, MEDICINE, AND ETHICS 74 (2020) (with Zachary Shelley and Fredrick E. Vars).

*Your Liberty or Your Gun? A Survey of Psychiatrist Understanding of Mental Health Prohibitors*, 48 JOURNAL OF LAW, MEDICINE, AND ETHICS 155 (2020) (with Cara Newlon and Brian Barnett).

*Guests with Guns: Public Support for "No Carry" Defaults on Private Land*, 48 JOURNAL OF LAW, MEDICINE, AND ETHICS 183 (2020) (with Spurthi Jonnalagadda).

*How to Make COVID-19 Contact Tracing Apps Work: Insights From Behavioral Economics (Working Paper, September 2020) (with Alessandro Romano and Chiara Sotis)*

*A Theory of Mandatory Rules: Typology, Policy, and Design*, 99 Texas Law Review 283 (2020), (with Eyal Zamir).

*Gun Trust as Private Red Flag Law*, 34 PROBATE AND PROPERTY 23 (July 2020) (with Frederick Vars).

*A Lottery Test of the Effect Of Dispensaries On Emergency Room Visits In Arizona*, 29 Health Economics 854 (June 2020) (with Gregory Conyers)

*Languages and Future-Oriented Economic Behavior—Experimental Evidence for Causal*

*Effects*, 120 PNAS (2022) (with Tamar Kricheli-Katz and Tali Regev).

*Sunsets Are for Suckers: An Experimental Test of Sunset Clauses*, 59 HARVARD JOURNAL ON LEGISLATION 1 (2022) (with Kristen Underhill).

*The Impact of Law Student Assistance on the Granting and Service of Temporary Restraining Orders*, 53 CONNECTICUT LAW REVIEW 235 (2021) (with Brendan Costello and Elizabeth Villarreal).

*Alpha Duties: The Search For Excess Returns and Appropriate Fiduciary Duties*, 97 TEXAS LAW REVIEW 445 (2019) (with Edward G. Fox).

*Libertarian Gun Control*, 167 UNIVERSITY OF PENNSYLVANIA LAW REVIEW 921 (2019) (with Fredrick E. Vars).

*Social Security Plus*, 26 ELDER LAW JOURNAL 261 (2019) (with Jacob Hacker).

*The Impact of Prescription Drug Monitoring Programs on U.S. Opioid Prescriptions*, 46 JOURNAL OF LAW, MEDICINE & ETHICS 387 (2018). (with Amen Jalal).

*Targeting Repeat Offender NDAs*, 71 STANFORD LAW REVIEW ONLINE (2018).

*Time for a Truce with Gun Makers*, MILKEN INSTITUTE REVIEW (March 22, 2018).

*Gun Control Solution Manufacturers Can Get Behind*, BROOKINGS SERIES ON MARKET AND GOVERNMENT FAILURES (March 14, 2018) (with Abraham L. Wickelgren).

*The Rise and (Potential) Fall of Disparate Impact Lending Litigation*, in EVIDENCE AND INNOVATION IN HOUSING LAW AND POLICY 231 (CAMBRIDGE UNIVERSITY PRESS, 2017) (with Gary Klein & Jeffrey West).

*How A “No Guns” Registry Could Help Prevent Firearm-Related Suicides*, BROOKINGS SERIES ON MARKET AND GOVERNMENT FAILURES (June 20, 2017) (with Frederick Vars).

*A Market Test for Bayh–Dole Patents*, 102 CORNELL L. REV. 271 (2017) (with Lisa Larrimore Ouellette).

*Using the False Claims Act to Remedy Tax Expenditure Fraud*, 66 DUKE L. J. 535 (2016) (with Robert McGuire).

*Contracting for Privacy Precaution (and a Laffer Curve for Crime)*, 45 J. LEGAL STUD. 123 (2016).

*Voluntary Taxation and Beyond: The Promise of Social-Contracting Voting Mechanisms*, 19 AM. L. & ECON. REV. 1 (2016).

*Innovation Sticks: The Limited Case for Penalizing Failures to Innovate*, 82 U. CHI. L. REV. 1781 (2015) (with Amy Kapczynski).

*Race Effects on eBay*, 46 RAND JOURNAL OF ECONOMICS 891 (2015) (with Mahzarin Banaji and Christine Jolls).

*The Rule of Probabilities*, 67 STANFORD LAW REVIEW 1447 (2015) (with Barry Nalebuff).

*Beyond Diversification: The Pervasive Problem of Excessive Fees and “Dominated Funds” in 401(k) Plans*, 124 YALE LAW JOURNAL 1346 (2015) (with Quinn Curtis).

*Protecting Consumer Investors by Facilitating “Improved Performance” Competition*, 2015 UNIVERSITY OF ILLINOIS LAW REVIEW 1 (2015) (with Quinn Curtis).

*Unhappy Meals: Sex Discrimination in Toy Choice at McDonald's*, 21 WILLIAM & MARY JOURNAL OF WOMEN AND THE LAW 237 (2015) (with Antonia Rose Ayres-Brown).

*Effect of Perineal Self-Acupressure on Constipation: The PSAC Randomized, Controlled Trial*, JOURNAL GENERAL INTERNAL MEDICINE (November 2014) (with Ryan Abbott, Ed Hui and Ka-Kit Hui)

*Anti-Herding Regulation*, 5 HARVARD BUSINESS LAW REVIEW 1 (2015) (with Joshua Mitts).

Book Review of *The Behavior of Federal Judges: A Theoretical and Empirical Study of Rational Choice*. By Lee Epstein, William M. Landes, and Richard A. Posner. Harvard University Press, 2013. 52 (LII) JOURNAL OF ECONOMIC LITERATURE 866 (September 2014).

*Evidence and Extrapolation: Mechanisms for Regulating Off-Label Uses of Drugs and Devices*, 64 DUKE LAW JOURNAL 377 (2014) (with Ryan Abbott).

*Three Proposals for Regulating the Distribution of Home Equity*, 31 YALE JOURNAL ON REGULATION 77 (2014) (with Joshua Mitts).

*A Randomized Experiment Assessing the Accuracy of Microsoft’s “Bing It On” Challenge Claims*, 26 LOYOLA LAW REVIEW 1 (2014) (with Emad Atiq, Sheng Li, Michelle Lu, Christine Tsang, & Tom Maher).

*The Chastain Effect: Using Title IX to Measure the Causal Effect of Participating in High*

*School Sports on Adult Women's Social Lives*, 48 JOURNAL OF SOCIO-ECONOMICS 62 (2014) (with Phoebe Clarke).

*Skeletons in the Database: An Early Analysis of the CFPB's Consumer Complaints* 19 FORDHAM JOURNAL OF CORPORATE & FINANCIAL LAW 343 (2014) (with Jeff Lingwall, & Sonia Steinway).

*Measuring Fiduciary and Investor Losses in 401(k) Plans* (working paper 2013) (with Quinn Curtis).

*The No Reading Problem in Consumer Contract Law*, 66 STANFORD LAW REVIEW 545 (2014) (with Alan Schwartz).

*Tops, Bottoms, and Versatiles: What Straight Views of Penetrative Preferences Could Mean for Sexuality Claims Under Price Waterhouse*, 123 YALE LAW JOURNAL 714 (2013) (with Richard Luedeman).

*Diversification Across Time*, 39 JOURNAL OF PORTFOLIO MANAGEMENT 73 (Winter 2013) (with Barry Nalebuff). Winner of Bernstein Fabozzi/Jacobs Levy Outstanding Article Award.

*Information Escrows*, 111 MICHIGAN LAW REVIEW 145 (2012) (with Cait Unkovic).

*Anti-Incentives: The Power of Resisted Temptation*, EUROPEAN FINANCIAL REVIEW 40 (February-March 2012).

*Regulating Opt Out: An Economic Theory of Altering Rules*, 121 YALE LAW JOURNAL 2032 (2012).

*Randomizing Law*, 159 UNIVERSITY OF PENNSYLVANIA LAW REVIEW 929 (2011) (with Michael Abramowicz & Yair Listokin).

*Testing for Discrimination and the Problem of "Included Variable Bias,"* working paper (2010).

*Meador Lecture: Using Commitment Contracts to Further Ex Ante Freedoms: The Twin Problems of Substitution and Ego Depletion*, 62 ALABAMA LAW REVIEW 811 (2011).

*Commitment Bonds*, 100 GEORGETOWN LAW JOURNAL 605 (2012) (with Michael Abramowicz).

*The Erasure of the Affirmative Action Debate in the Age of Obama*, in THE OBAMAS AND A (POST) RACIAL AMERICA (Gregory Parks & Matthew Hughey, eds. Oxford University Press) (2011).

*Theodicy and the Law*, 78 UMKC Law Review 1023 (2010), republished in BEYOND ONE L (Nancy Levit & Allen Rostron, eds., Carolina Academic Press) (2019).

*Optimal Voting Rules for Two-member Tenure Committees*, 36 SOCIAL CHOICE & WELFARE 323 (2011) (with Colin Rowat and Nasser Zakariya).

*Schwartz Lecture, Never Say No: The Law, Economics and Psychology of Counteroffers*, 25 OHIO STATE JOURNAL ON DISPUTE RESOLUTION 603 (2010).

*Yet Another Refutation of the More Guns, Less Crime Hypothesis – With Some Help From Moody and Marvell*, 6 ECON. J. WATCH 35 (2009) (with John Donohue).

*More Guns, Less Crime Fails Again: The Latest Evidence from 1977 – 2006*, 6 ECON. J. WATCH 218 (2009) (with John Donohue).

*Evidence from Two Large Field Experiments that Peer Comparison Feedback Can Reduce Residential Energy Usage*, 29 JOURNAL OF LAW, ECONOMICS AND ORGANIZATION 992 (2013) (with Sophie Raseman & Alice Shih).

*Yet Another Refutation of the More Guns, Less Crime Hypothesis – With Some Help From Moody and Marvell*, 6 ECON. JOURNAL WATCH 35-59 (January 2009) (with John J. Donohue, III).

*A Study of Racially Disparate Outcomes in the Los Angeles Police Department*, prepared for the ACLU of Southern California, available at [www.aclu-sc.org](http://www.aclu-sc.org) (October 2008) (with Jonathan Borowsky).

*Options and Epidemics*, DAEDALUS 118 (Spring 2008).

*Tradable Patent Rights*, 60 STANFORD LAW REVIEW 863 (2007) (with Gideon Parchomovsky).

*Privatizing Employment Protection*, 49 ARIZONA LAW REVIEW 587 (2007) (with Jennifer Gerarda Brown).

*Market Power and Inequality: A Competitive Conduct Standard for Assessing When Disparate Impacts are Justified*, 95 CALIFORNIA LAW REVIEW 669 (2007).

*Comment on Jolls's Behavioral Law and Economics*, in BEHAVIORAL ECONOMICS AND ITS APPLICATIONS (Peter Diamond & Hannu Vartiainen, eds., 2007).

*Seeing Significance: Is the 95% Probability Range Easier to Perceive?*, 20 CHANCE 11 (Winter 2007) (with Antonia Ayres-Brown & Henry Ayres-Brown).

*Written Statement, Disparity Studies as Evidence of Discrimination in Federal Contracting*, U.S. COMMISSION ON CIVIL RIGHTS (May 2006).

*The Secret Refund Booth*, 73 UNIVERSITY OF CHICAGO LAW REVIEW 1107 (2006) (with Bruce Ackerman), published in Spanish in MAS ALLA DEL ACCESO A LA INFORMACION 282 (John M. Ackerman ed. 2008).

*New Rules for Promissory Fraud*, 48 ARIZONA LAW REVIEW 957 (2006) (with Gregory Klass).

*Don't Tell, Don't Ask: Narrow Tailoring After Grutter and Gratz*, 85 TEXAS LAW REVIEW 517 (2006) (with Sydney Foster).

*Ya-HUH: There Are and Should Be Penalty Defaults*, 33 FLORIDA STATE UNIVERSITY LAW REVIEW 589 (2006).

*Promissory Fraud*, 78 NEW YORK STATE BAR ASSOCIATION JOURNAL 26 (May 2006) (with Gregory Klass).

*Menus Matter*, 73 UNIVERSITY OF CHICAGO LAW REVIEW 3 (2006).

*First Amendment Bargains*, 18 YALE J. L. & HUMANITIES 178 (2006).

*Mark(et)ing Nondiscrimination: Privatizing ENDA with a Certification Mark*, 104 MICHIGAN LAW REVIEW 1639 (2006) (with Jennifer Gerarda Brown).

*Institutional and Evolutionary Failure and Economic Development in the Middle East*, 30 YALE JOURNAL OF INTERNATIONAL LAW 397 (2005) (with Jonathan Macey).

*Does Affirmative Action Reduce the Number of Black Lawyers?*, 57 STANFORD LAW REVIEW 1807 (2005) (with Richard Brooks).

*A Separate Crime of Reckless Sex*, 72 UNIVERSITY OF CHICAGO LAW REVIEW 599 (2005) (with Katharine Baker).

*To Insure Prejudice: Racial Disparities in Taxicab Tipping*, 114 YALE LAW JOURNAL 1613 (2005) (with Fred Vars and Nasser Zakariya).

*Discrimination in Consummated Car Purchases*, in HANDBOOK ON EMPLOYMENT DISCRIMINATION RESEARCH: RIGHTS AND REALITIES 137 (Springer 2005).

*The Inclusive Command: Voluntary Integration of Sexual Minorities into the U.S. Military*, 103 MICHIGAN LAW REVIEW 150 (2004) (with Jennifer Gerarda Brown).

*Should Heterosexuals Boycott Marriage?*, ISSUES IN LEGAL SCHOLARSHIP, Single-Sex Marriage (2004): Article 2, <http://www.bepress.com/ils/iss5/art2> (with Jennifer Gerarda Brown).

*Promissory Fraud Without Breach*, 2004 WISCONSIN LAW REVIEW 507 (2004) (with Gregory Klass).

*Three Tests for Measuring Unjustified Disparate Impacts in Organ Transplantation: The Problem of "Included Variable" Bias*, 48 PERSPECTIVES IN BIOLOGY AND MEDICINE S68 (2005).

*The Brennan Center Jorde Symposium Issue on Bruce Ackerman & Ian Ayres, Voting With Dollars: A New Paradigm for Campaign Finance Reform*, 91 CALIFORNIA LAW REVIEW 641 (2003) and *The New Paradigm Revisited*, 91 CALIFORNIA LAW REVIEW 743 (2003) (with Bruce Ackerman).

*Symposium Issue on Ian Ayres, Pervasive Prejudice?: Unconventional Evidence of Race and Gender Discrimination* (2002), 55 STANFORD LAW REVIEW 2267 (2003) and *Is Discrimination Elusive?*, 55 STANFORD LAW REVIEW 2419 (2003)

*Symposium Issue Commentaries on Bruce Ackerman & Ian Ayres, Voting With Dollars: A New Paradigm for Campaign Finance Reform*, 37 UNIVERSITY OF RICHMOND LAW REVIEW 935 (2003) and *Why a New Paradigm?*, 37 UNIVERSITY OF RICHMOND LAW REVIEW 1147 (2003) (with Bruce Ackerman).

*Shooting Down the More Guns, Less Crime Hypothesis*, 55 STANFORD LAW REVIEW 1193 (2003) (with John J. Donohue III).

*The Latest Misfires in Support of the More Guns, Less Crime Hypothesis*, 55 STANFORD LAW REVIEW 1371 (2003) (with John J. Donohue III).

*Marketing Privacy*, 20 YALE JOURNAL ON REGULATION 77 (2003) (with Matthew Funk).

*Correlated Values in the Theory of Property and Liability Rules*, 32 JOURNAL OF LEGAL STUDIES 121 (2003) (with Paul Goldbart).

*Valuing Modern Contract Scholarship*, 112 YALE LAW JOURNAL 881 (2003).

*Outcome Tests of Racial Disparities in Police Practices*, 4 JOURNAL OF THE JUSTICE RESEARCH & STATISTICS ASSOCIATION 131 (2002).

*Internalizing Outsider Trading*, 101 MICHIGAN LAW REVIEW 313 (2002) (with Stephen Choi).

*Optimal Delegation and Decoupling in the Design of Liability Rules*, 100 MICHIGAN LAW REVIEW 1 (2001) (with Paul Goldbart).

*Using Public Affirmative Action to Remedy Private Discrimination* (with Frederick E. Vars) Chapter 2 in NYU WORKING PAPERS ON LABOR AND EMPLOYMENT LAW: 1998-1999 35 (2001).

*A Dilution Mechanism for Valuing Corporations in Bankruptcy*, 111 YALE LAW JOURNAL 83 (2001) (with Barry E. Adler).

*Substitutes for Insider Trading*, 54 STANFORD LAW REVIEW 235 (2001) (with Joe Bankman).

2000 MONSANTO LECTURE IN TORT REFORM AND JURISPRUDENCE: *Using Tort Settlement To Cartelize*, 34 VALPARAISO UNIVERSITY LAW REVIEW 595 (2000).

*Disclosure versus Anonymity In Campaign Finance*, in DESIGNING DEMOCRATIC INSTITUTIONS, XLII NOMOS 19 (Ian Shapiro & Stephen Macedo, eds.2000).

*Economics of Affirmative Action*, in 2 ENCYCLOPEDIA OF THE AMERICAN CONSTITUTION 848 (Leonard W. Levy & Kenneth L. Karst, eds., 2d ed. 2000)

*Empire or Residue: Competing Visions of the Contractual Canon*, in LEGAL CANONS 47 (J.M. Balkin and S. Levinson, eds.) (2000).

*Threatening Inefficient Performance*, 44 EUROPEAN ECONOMIC REVIEW 818 (2000) (with Kristin Madison).

*Determinants of Citations to Articles in Elite Law Review*, 29 JOURNAL OF LEGAL STUDIES 427 (2000) (with Fredrick E. Vars).

*Taking Issue With Issue Advocacy*, 85 VIRGINIA LAW REVIEW 1793 (1999).

*Nondiscretionary Concealed Weapons Laws: A Case Study of Statistics, Standards of Proof and Public Policy*, 1 AMERICAN LAW AND ECONOMICS REVIEW 436 (1999) (with John J. Donohue III).

*Threatening Inefficient Performance of Injunctions and Contracts*, 148 UNIVERSITY OF PENNSYLVANIA LAW REVIEW 45 (1999) (with Kristin Madison).

*The Employment Contract*, 8 KANSAS JOURNAL OF LAW AND PUBLIC POLICY 71 (1999) (with Stewart Schwab).

*Comment [on "The Tobacco Deal" by Jeremy Bulow & Paul Klemperer]*, in BROOKINGS

PAPERS ON ECONOMIC ACTIVITY: MICROECONOMICS 395 (1998).

*Eroding Entitlements as Litigation Commitment*, 66 UNIVERSITY OF CHICAGO LAW REVIEW 836 (1999).

*Majoritarian v. Minoritarian Defaults*, 51 STANFORD LAW REVIEW 1591 (1999) (with Robert Gertner).

1998 LADD LECTURE: *Empire or Residue: Competing Visions of the Contractual Canon*, 26 FLORIDA STATE LAW REVIEW 897 (1999).

*Discrediting the Free Market*, 66 UNIVERSITY OF CHICAGO LAW REVIEW 273 (1999).

*Limiting Patentees' Market Power Without Reducing Innovation Incentives: The Perverse Benefits of Uncertainty and Non-Injunctive Remedies*, 97 MICHIGAN LAW REVIEW 985 (1999) (with Paul Klemperer).

*When Does Private Discrimination Justify Public Affirmative Action?* 1998 COLUMBIA LAW REVIEW 1577 (1998) (with Fredrick E. Vars).

1998 MONSANTO LECTURE IN TORT REFORM AND JURISPRUDENCE: *Protecting Property With Puts*, 32 VALPARAISO UNIVERSITY LAW REVIEW 793 (1998).

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*The Donation Booth*, 22 BOSTON REVIEW 26 (December-January 1997-98) (with Jeremy Bulow) (available at <http://bostonreview.mit.edu/BR22.6/ayres.html>), *reprinted in* 47 YALE LAW REPORT 62 (2000) and THE NEWS-GAZETTE, B1 (Sept. 27, 1998).

*Breaking Windows: Why the Justice Department Should Go After the Microsoft Monopoly*, THE NEW REPUBLIC 18 (Nov. 17, 1997).

*Car Buying, Made Simpler*, NEW YORK TIMES F12 (April 13, 1997) (with Peter Schuck).

*Aid Diversity, and the Treasury*, NEW YORK TIMES F13 (May 21, 1995) (with Peter Cramton).

*Price and Prejudice*, THE NEW REPUBLIC 30 (July 6, 1992).

*Colleges in Collusion*, THE NEW REPUBLIC 19 (October 16, 1989).

### NAMED LECTURES

The Cooter-Rubinfeld Lecture, “The Power of Resisted Temptation,” UC Berkeley Law, October 28, 2024.

The Ann F. Baum Memorial Elder Law Lecture, “Social Security Plus,” University of Illinois, College of Law, March 6<sup>th</sup>, 2017.

The W. D. Carpenter Lecture, “Diversifying Time: Why Buying Stock With Borrowed Money Can Reduce Risk?,” Middlebury College, Department of Economics, April 26, 2010.

The Meador Lecture, “Freedom and Commitment,” University of Alabama, School of Law, April 19, 2010.

The 46<sup>th</sup> Henry J. Miller Lecture, “Barriers to Diversification,” Georgia State University, School of Law, March 18, 2010.

The Schwartz Lecture on Dispute Resolution, “Never Say No: The Law, Economics and Psychology of Counteroffers,” Ohio State University, Moritz College of Law, April 2, 2009.

The Biddle Lecture, “A New Test for Race Discrimination,” Harvard Law School, November 12, 2008.

The Hart Lecture, “The Secret Refund Booth,” Georgetown University Law Center, March 22, 2006.

The Henry Schneider Lecture, “Mark(et)ing Nondiscrimination,” Columbia Law School, March 8, 2005.

The Hazard Lecture, “Can Creativity be Taught?: Why Not!,” Pembroke Hill High School, September 17, 2004.

The John M. Olin Lecture in Law and Economics, “Why Not?: Can Legal Creativity Be Taught?,” Michigan Law School, September 11, 2003.

The Monsanto Lecture in Tort Reform and Jurisprudence, “Using Tort Settlement To Cartelize,” Valparaiso University, School of Law, March 26, 2000.

The John M. Olin Public Lecture in Law and Economics, “Coveting Thy Neighbor's Stock: Substitute Trading as Evasion and as Policy Tool,” University of Toronto, September 24, 1999.

The Ladd Lecture, "Empire or Residue: Competing Visions of the Contractual Canon," Florida State College of Law, October 22, 1998.

The Monsanto Lecture in Tort Reform and Jurisprudence, "Protecting Property with Puts," Valparaiso University, School of Law, March 26, 1998.

Inaugural Lecture for William K. Townsend Chair, "Solomonic Bargaining," Yale Law School, November 15, 1994.

The Mirikitani Lecture in Law and Economics, "Back to Basics," University of Hawaii, March 9, 1990.

### **PROFESSIONAL MEMBERSHIP**

James W. Cooper Fellow, Connecticut Bar Foundation, 2009 – present.

Fellow, American Academy of Arts & Sciences, 2006 - present.

Member, American Law Institute, 1997 - present.

Board of Directors, American Law and Economic Association, 1995-1999.

Admitted, Illinois Bar, 1987.

### **AWARDS**

Bernstein Fabozzi/Jacobs Levy Outstanding Article Award for *Diversification Across Time* (with Barry Nalebuff), 2013.

Scribes Book Award (INSINCERE PROMISES) – "for the best work of legal scholarship published during the previous year," 2006

Research in the Public Interest, The Center for Public Representation, 1991.

### **ACTIVITIES**

CrossFit Level 1 Trainer, 2021.

1st Place, Law and Society Association -- 5 kilometer fun run, 1989, 2002 and 2003.

Completed 1984 Boston marathon in 3 hours, 12 minutes.

Whiffenpoofs, 1980-81.

Yale Russian Chorus, 1977-80.

Semester in Soviet Union, Moscow's Pushkin Institute, Spring 1979.

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