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### **EMPLOYMENT**

#### **Petrie Professor of Law, Harvard University**

Subjects: Antitrust, Contracts, Health Law Policy, Statutory Interpretation.

Director, Petrie-Flom Center for Health Law Policy, Biotechnology and Bioethics.

Chair, Obama Campaign's Antitrust Advisory Committee

Co-Chair, Obama Campaign's Blogs and Op-eds Committee

Member, Obama Campaign's Health Policy Advisory Committees.

Member, Advisory Board for the Journal of Competition Law & Economics.

Member, Advisory Board for the Social Sciences Research Network on Antitrust Law & Policy.

Member, Advisory Board for the Social Sciences Research Network on Telecommunications & Regulated Industries.

### Books

ELHAUGE, U.S. ANTITRUST LAW & ECONOMICS (Foundation Press 2008).

ELHAUGE, STATUTORY DEFAULT RULES (Harvard University Press 2008).

ELHAUGE & GERADIN, GLOBAL ANTITRUST LAW & ECONOMICS (Foundation Press 2007).

ELHAUGE & GERADIN, GLOBAL ANTITRUST LAW & ECONOMICS (Supplement Foundation Press 2007).

ELHAUGE & GERADIN, GLOBAL COMPETITION LAW & ECONOMICS (Hart Publishing 2007).

AREEDA, ELHAUGE & HOVENKAMP, VOL X, ANTITRUST LAW (Little, Brown 1996).

ELHAUGE, CONTRACTUAL DEFAULT RULES (forthcoming Foundation Press).

ELHAUGE, ED., OUR FRAGMENTED HEALTH CARE SYSTEM: CAUSES AND SOLUTIONS (forthcoming Oxford University Press).

ELHAUGE, ED., RESEARCH HANDBOOK ON THE ECONOMICS OF ANTITRUST LAW (forthcoming Edward Elgar Publishing Ltd.).

ELHAUGE, ED., RESEARCH HANDBOOK ON HEALTH LAW AND POLICY (forthcoming Edward Elgar Publishing Ltd.).

#### Academic Articles

Elhauge, *Tying, Bundled Discounts, and the Death of the Single Monopoly Profit Theory*, 123 HARVARD LAW REVIEW (forthcoming Dec. 2009), Harvard Olin Center Working Paper 629 (April 10, 2009), available at <http://ssrn.com/abstract=1345239>

Elhauge, *How Loyalty Discounts Can Perversely Discourage Discounting*, 5 JOURNAL OF COMPETITION LAW & ECONOMICS (forthcoming issue 1, March 2009)

Elhauge, *Disgorgement as an Antitrust Remedy*, 76 ANTITRUST LAW JOURNAL (forthcoming issue 1, 2009).

Elhauge, *Do Patent Holdup and Royalty Stacking Lead to Systematically Excessive Royalties?*, 4 JOURNAL OF COMPETITION LAW & ECONOMICS 535 (2008)

Elhauge, *How Should Competition Law Be Taught?*, 4 COMPETITION POLICY INTERNATIONAL 267 (Spring 2008)

Elhauge, *Harvard, Not Chicago: Which Antitrust School Drives Recent Supreme Court Decisions?*, 3 COMPETITION POLICY INTERNATIONAL 59 (Autumn 2007)

Elhauge, *Can Health Law Become a Coherent Field of Law?*, 41 WAKE FOREST L. REV. 365 (2006).

Elhauge, *Sacrificing Corporate Profits in the Public Interest*, 80 N.Y.U. LAW REVIEW 733 (2005)

Elhauge, *Corporate Manager's Operational Discretion to Sacrifice Corporate Profits in the Public Interest*, in ENVIRONMENTAL PROTECTION AND THE SOCIAL RESPONSIBILITY OF FIRMS 13-76 (Bruce Hay, Robert Stavins, & Richard Vietor eds., 2005)

Elhauge, *Defining Better Monopolization Standards*, 56 STANFORD LAW REVIEW 253 (2003)

Elhauge, *Why Above-Cost Price Cuts to Drive out Entrants Do Not Signal Predation or Even Market Power – and the Implications for Defining Costs*, 112 YALE LAW JOURNAL 681 (2003)

Elhauge, *Preference-Estimating Statutory Default Rules*, 102 COLUMBIA LAW REVIEW 2027 (2002)

Elhauge, *Preference-Eliciting Statutory Default Rules*, 102 COLUMBIA LAW REVIEW 2162 (2002)

Elhauge, *The Lessons of Florida 2000*, 110 POLICY REVIEW 15 (Dec 2001 -Jan 2002).

Elhauge, *What Term Limits Do That Ordinary Voting Cannot*, CATO POLICY ANALYSIS, No. 328 (Dec. 16, 1998), <http://www.cato.org/pubs/pas/pa-328es.html>.

Elhauge, *Are Term Limits Undemocratic?*, 64 U. CHIC. L. REV. 83 (1997).

Elhauge, Lott & Manning, *How Term Limits Enhance the Expression Of Democratic Preferences*, 5 SUPREME COURT ECON. REV. 59 (1997)

Elhauge, *The Limited Regulatory Potential of Medical Technology Assessment*, 82 VA. L. REV. 1525 (1996).

Elhauge, *Allocating Health Care Morally*, 82 CALIF. L. REV. 1449 (1994)

Elhauge, *Toward a European Sale of Control Doctrine*, 41 AM. J. COMP. LAW 627 (1993)

Bundy & Elhauge, *Knowledge About Legal Sanctions*, 92 MICH. L. REV. 261 (1993)

Elhauge, *The Triggering Function of Sale of Control Doctrine*, 59 U. CHIC. L. REV. 1465 (1992)

Elhauge, *Making Sense of Antitrust Petitioning Immunity*, 80 CALIF. L. REV. 1177 (1992)

Bundy & Elhauge, *Do Lawyers Improve the Adversary System? A General Theory of Litigation Advice and Its Regulation*, 79 CALIF. L. REV. 313 (1991)

Elhauge, *Does Interest Group Theory Justify More Intrusive Judicial Review?*, 101 YALE L.J. 31 (1991)

Elhauge, *The Scope of Antitrust Process*, 104 HARV. L. REV. 667 (1991)

#### Media Publications

"Coverage vs Coercion," The Huffington Post (March 3, 2008)

"Rewire This Circuit," The Wall Street Journal, A26 (Sept. 17, 2003)

"Soft on Microsoft," The Weekly Standard (March 25, 2002)

"Despite What the Critics Say, it Wasn't a Bag Job," Boston Globe (March 3, 2002)

"Florida 2000: Bush Wins Again!," Weekly Standard (November 26, 2001 )

"State Made The Right Call On Microsoft," The Hartford Courant (Nov. 9, 2001)  
"States Should Seek More From Microsoft," San Francisco Chronicle (Nov. 6, 2001)  
"A Smart Move on Microsoft," Boston Globe (Sept. 11, 2001)  
"Competition Wins in Court," New York Times, (June 30, 2001)  
"Bush v. Florida," New York Times, A31 (Nov. 20, 2000)  
"Florida's Vote Wasn't Irregular," Wall Street Journal (Nov. 13, 2000)  
"The New 'New Property'," San Francisco Chronicle (Nov. 6, 2000)  
"The Real Problem with Independent Counsels," The Washington Times, A19 (Jun 30, 1999)  
"Foul Smoke," The Washington Post, A15 (August 4, 1998)  
"The Court Failed My Test," The Washington Times, A-19 (July 10, 1998)  
"Microsoft Gets an Undeserved Break," The New York Times, A21 (June 29, 1998)  
"Medi-Choice," The New Republic, 24 (November 13, 1995)  
"Term Limits: Voters Aren't Schizophrenic," Wall Street Journal, A-16 (March 14, 1995)

#### Harvard Committees

Chair, Harvard Law School Lateral Appointments Committee (1998-99), Member (2003-05).  
Member, Harvard University Standing Committee on the Degree of Doctor of Philosophy in Health Policy  
(1996-99, 2006-07).  
Member, Harvard University Internal Advisory Board for the Interfaculty Initiative in Health Policy (1996-  
99).  
Member, Harvard Law School Lecturers and Visitors Committee (1996-98).

#### **Past Academic Positions**

1988-95	Professor of Law, Boalt Hall, University of California at Berkeley
1995	Visiting Professor of Law, Univ. of Chicago Law School
1994	Visiting Professor of Law, Harvard Law School

- 1993 Visiting Olin Faculty Fellow, Yale Law School
- 1991-92 Visiting Scholar in Europe at the Karolinska Institute, the Centre for Health Economics, the Rockefeller Foundation Study Center, Cambridge University, the European University Institute and the University of Florence

### **Clerkships**

- 1987-88 Clerk for Justice William J. Brennan, Jr., United States Supreme Court
- 1986-87 Clerk for Judge William A. Norris, U.S. Court of Appeals for the Ninth Circuit
- 1986 Clerk for U.S. Solicitor General's Office, Washington, D.C.

**Bar Admissions:** Massachusetts (2000); Pennsylvania (1986); United States Courts of Appeals for the Fourth (1997), Sixth (2008), and Ninth Circuits (1987); Supreme Court of the United States (1997).

## **EDUCATION**

**Harvard Law School** J.D., June 1986

### *Awards*

- Fay Diploma -- for graduating first in class
- Sears Prize -- Second Year -- to top two students in class
- Sears Prize -- First Year -- to top two students in class

### *Activities*

- Harvard Law Review, Articles Office Co-Chair
- Class Marshal
- Author: *Modes of Analysis: The Theories and Justifications of Privileged Communications*, 98 HARV. L. REV. 1471-1500 (1985).

**Harvard College** B.A., June 1982

Graduated in three years, majoring in Biochemical Sciences. GPA 3.9

## **PERSONAL**

Born of Argentinian immigrants in New York City. First language was Spanish. Live with wife and 3 children in Newton, Massachusetts.