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EMPLOYMENT

Petrie Professor of Law, Harvard University

Subjects: Antitrust, Contracts, Corporations, Health Care Law and Policy, Statutory Interpretation, Public Choice Theory and Law.

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

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

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

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

Winner, 2005 Harvard Law School Prize for Exceptional Scholarship.

Books

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

ELHAUGE, CONTRACTUAL DEFAULT RULES (forthcoming Foundation Press).

Academic Articles

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

1. "Term Limits: Voters Aren't Schizophrenic," Wall Street Journal, A-16 (March 14, 1995).
2. "Medi-Choice," The New Republic, 24 (November 13, 1995).
3. "Microsoft Gets an Undeserved Break," The New York Times, A21 (June 29, 1998).
4. "The Court Failed My Test," The Washington Times, A-19 (July 10, 1998).
5. "Foul Smoke," The Washington Post, A15 (August 4, 1998).
6. "The Real Problem with Independent Counsels," The Washington Times, A19 (Jun 30, 1999).
7. "The New "New Property," San Francisco Chronicle (Nov. 6, 2000).
8. "Florida's Vote Wasn't 'Irregular,'" Wall Street Journal (Nov. 13, 2000).
9. "Bush v. Florida," New York Times, A31 (Nov. 20, 2000).
10. "Competition Wins in Court," New York Times, (June 30, 2001).
11. "A Smart Move on Microsoft," Boston Globe (Sept. 11, 2001).
12. "States Should Seek More From Microsoft," San Francisco Chronicle (Nov. 6, 2001).
13. "State Made The Right Call On Microsoft," The Hartford Courant (Nov. 9, 2001).
14. "Florida 2000: Bush Wins Again!," Weekly Standard (November 26, 2001).
15. "Despite What the Critics Say, it Wasn't a Bag Job," Boston Globe (March 3, 2002).
16. "Soft on Microsoft," The Weekly Standard (March 25, 2002).
17. "Rewire This Circuit," The Wall Street Journal, A26 (Sept. 17, 2003).

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) and Ninth Circuits (1987), Supreme Court of the United States (1997).

EXPERT CONSULTING WORK

President, Legal Economics LLC.

Past Senior Expert at Criterion Economics LLC.

Past Special Employee to FTC on antitrust issues.

Testifying Expert on Antitrust Economics in *Amgen v. F. Hoffman La Roche*, concerning erythropoietin-simulating agents (ESAs) and white blood cell simulators (WBCs) pharmaceutical markets.

Testifying Expert on Antitrust Economics in *Applied Medical Resources v. Ethicon, Inc*, concerning sutures, trocars, and GPO markets.

Testifying Expert on Antitrust Economics in *Masimo Corp. v. Tyco Health Care Group*, concerning oximetry products and GPO markets.

Testifying Expert on Antitrust Economics in *Rochester Medical v. Bard*, concerning catheter and GPO markets.

Testifying Expert on Antitrust Economics in *Retractable Technologies, Inc. v. Becton Dickinson*, concerning syringes and GPO markets.

Testifying Expert on Antitrust Economics in *Spartanburg v. Hill-Rom*, a class action concerning hospital beds and GPO markets.

Testifying Expert on Antitrust Economics in *Louisiana Municipal Police Employees' Retirement System v. Crawford*, concerning merger in the pharmacy benefit manager market.

Testifying Expert on Antitrust Economics in *Natchitoches Parish Hospital v. Tyco*, a class action concerning sharps containers and GPO markets.

Testifying Expert on Antitrust Economics for Intel before the EC on microprocessor markets.

Testifying Expert on Antitrust Economics for AmBev before the EC and Brazilian antitrust authorities on beer market.

Testifying Expert on Antitrust Economics for 1-800-Contacts before the FTC on OSI-CooperVision merger and agreements restraining distribution by nonprescribing retailers.

Testifying Expert on Antitrust Economics in *In Re Cardizem CD Antitrust Litigation*, concerning patents and pharmaceuticals.

Testifying Expert on Antitrust Economics regarding the *B.F. Goodrich-Coltec* Merger, concerning the aerospace industry.

Testifying Expert on Antitrust Economics regarding the *Alcoa-Reynolds* Merger, concerning the aluminum industry

Expert Consultant on Antitrust Economics to National Cable Television Association on Internet Access Bills before Congress and Interactive Television Inquiry before FCC.

Expert on Antitrust Economics for Royal Caribbean for proposed mergers of Princess with Royal

Caribbean and Carnival, concerning the cruise industry.

Expert on Antitrust and Health Care Economics for the Medical Device Manufacturers Association, producing Report to U.S. Senate and Statement to FTC/DOJ regarding exclusionary agreements between medical device suppliers and Group Purchasing Organizations and their hospitals.

Expert on Antitrust and Statutory Interpretation testifying before the New Jersey legislature testifying for Yankees Entertainment & Sports Network, LLC, regarding cable access legislation.

Confidential Expert for various clients on issues of antitrust and/or corporate law and economics involving many other industries, including advertising, airlines, agriculture, cigarettes, computers, contact lenses, electronic commerce, food, express mail, financial markets, hospitals, hotels, insurance (health and auto), Internet software and technology, medical services, metals, petfood, pharmaceuticals, real estate brokerage services, retail, telecommunications, television, ticket brokering, vacation packages, and wireless telephony.

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. Live with wife and 3 children in Newton, Massachusetts.

