

## BARAK D. RICHMAN

### CURRENT POSITION

Professor of Law  
Duke University School of Law  
Box 90360  
Durham, NC 27708-0360  
Tel: (919) 613-7244  
Fax: (919) 613-7231  
E-mail: [richman@law.duke.edu](mailto:richman@law.duke.edu)  
SSRN Website: <http://ssrn.com/author=334149>

Classes Taught: Contracts, Antitrust, Comparative Antitrust, Health Law  
Health Sector Management (as contributing lecturer, at Fuqua)  
Introduction to Health Policy (as contributing lecturer, at Sanford Inst.)  
Areas of Research: Institutional Economics, Law and Economics of Contracts, Antitrust,  
Regulation Policy, Health Law & Policy, Behavioral Economics & Health

### EDUCATION

2009 **University of California, Berkeley**  
Haas School of Business  
Ph.D. in Business Administration, Program in Business and Public Policy  
Dissertation: "Essays in Private Ordering: Mechanisms, Efficiencies, and the Law"  
Advisors: Pablo T. Spiller & Oliver E. Williamson

2002 **Harvard Law School**  
J.D., *magna cum laude*  
John M. Olin Fellow in Law & Economics

1999 **University of California, Berkeley**  
M.A. in Economics  
Fields: Industrial Organization & International Economics

1993 **Pardes Institute of Jewish Studies** (Jerusalem, Israel)  
Certificate in Biblical and Talmudic Studies

1992 **Brown University**  
A.B. in Urban Studies, *magna cum laude* and with Honors  
Honors Thesis: "Urban Fiscal Crises and the Post-Industrial City: The Cases of Philadelphia and Providence"

### PROFESSIONAL EXPERIENCE

2003-current **Professor of Law**  
**Duke University School of Law** (2003-06 as Asst. Prof., 2006-07 Assoc. Prof.)  
Provost's Common Fund Award (2006-07)  
Dean Search Committee (2006)  
Blueprint Award (2005)

2002-2003	<b>Law Clerk</b> Judge Bruce M. Selya, United States Court of Appeals for the First Circuit
Spring 2001	<b>Sophomore Tutorial Instructor</b> <b>Economics Department, Harvard University</b> Econ 970 “International Political Economy: An Examination of Globalization”
1996-1997	<b>Visiting Lecturer in Economics</b> <b>Economics Faculty, Hanoi National University</b> “Introductory International Economics” to undergraduate economics students “International Relations” to Masters students in Public Administration
1993-1996	<b>Research Assistant</b> U.S. Senate Committee on Finance, International Trade Subcommittee, Democratic Staff (Sen. Daniel P. Moynihan, Chairman/Ranking Member)

## **PUBLICATIONS & WORKING PAPERS**

### **Articles**

1. “The Antitrust of Reputation Mechanisms: Institutional Economics and Concerted Refusals to Deal” *Virginia Law Review*, vol.95 (April 2009)
2. “On Doctors and Judges” *Duke Law Journal*, vol.59 (April 2009)
3. “Lessons from India in Organizational Innovation: A Tale of Two Heart Hospitals” *Health Affairs*, vol.27 (Sept./Oct. 2008) (with Krisna Udayakumar, Will Mitchell, and Kevin A. Schulman)
4. “Transaction Cost Economics: An Assessment of Empirical Research in the Social Sciences” *Business and Politics*, vol.10: Iss.1, Article 1 (April 2008) (with Jeffrey Macher)
5. “Understanding the ‘Corporate’ in Corporate Social Responsibility” *Harvard Law & Policy Review*, vol.2 (January 2008) (with Aaron Chatterji)
6. “Rebuilding *Illinois Brick*: A Functionalist Approach to the Indirect Purchaser Rule” *Southern California Law Review*, vol.81 (November 2007) (with Christopher Murray)
7. “Antitrust and Nonprofit Hospital Mergers: A Return to Basics” *University of Pennsylvania Law Review*, vol.156 (November 2007)
8. “Insurance Expansions: Do They Hurt Those They Are Designed to Help?” *Health Affairs*, vol.26 (Sept./Oct. 2007)
9. “Distributive Injustice(s) in American Health Care” *Law and Contemporary Problems*, vol. 69 (Autumn 2006) (with Clark Havighurst)
10. “The Corrosive Combination of Nonprofit Monopolies and U.S.-Style Health Insurance: Implications for Antitrust and Merger Policy” *Law and Contemporary Problems*, vol.69 (Autumn 2006)

11. "A Bridge, a Tax Revolt, and the Struggle to Industrialize: The Story and Legacy of *Rockingham County v. Luten Bridge Co.*" *North Carolina Law Review*, vol.84 (September 2006) (with Jordi Weinstock and Jason Mehta)
12. "How Communities Create Economic Advantage: Jewish Diamond Merchants in New York" *Law and Social Inquiry*, vol.31 (Spring 2006). *Reprinted in Corporate Business Responsibility* (Ashgate Publishing, 2009) (Justin O'Brien, ed.)
13. "A Transaction Cost Economizing Approach to Regulation: Understanding the NIMBY Problem," *Yale Journal on Regulation*, vol.23 (Winter 2006) (with Christopher Boerner)
14. "Behavioral Economics and Health Policy: Understanding Medicaid's Failure," *Cornell Law Review*, vol.90 (March 2005)
15. "Firms, Courts, and Reputation Mechanisms: Towards a Positive Theory of Private Ordering," *Columbia Law Review*, vol.104 (December 2004)
16. "Organizational Responses to Discontinuous Innovation: A Case Study Approach" *International Journal of Innovation Management*, vol.VIII (March 2004) (with Jeffrey Macher)
17. "Modeling Supreme Court Strategic Decision Making: The Congressional Constraint" *Legislative Studies Quarterly*, vol.XXVIII (May 2003) (with Mario Bergara and Pablo Spiller)
18. "Mandating Negotiations to Resolve the NIMBY Problem: A Creative Regulatory Response" *UCLA Journal of Environmental Law and Policy*, vol.20 (Spring 2002)
19. "Static and Dynamic Costs and Benefits of Pharmaceutical Blockbuster Acquisitions: Reports from the Front Line" (with Will Mitchell, Aaron Chatterji, & Kevin Schulman)
20. "Mental Health Care Consumption and Outcomes: Considering Preventative Strategies Across Race and Class" (with Dan Grossman, Craig Chepke, & Frank Sloan)
21. "Examining the Effect of Health Provider Race on Adherence to Asthma Regimes" Research prospectus to the Duke Center for Comparative Biology of Vulnerable Populations, funded by the National Institute of Environmental Health Sciences, 1 P30 ES-011961-01A1. (funding granted) (with Laura Smart Richman and Judith Voynow)
22. "Do Optimal Deterrence Jury Instructions Optimally Deter? An Empirical Test of the Polinsky-Shavell Jury Instructions"
23. "The History, Economics, and Political Economics of Automobile Insurance Regulation"
24. "National Comparative Advantage and New Institutional Economics: How Political Institutions in Japan and the United States Determine the Flow of Trade"

### **Book Chapters, Op-Eds, and Shorter Works**

25. "Mechanism Choice" in *Public Choice and Public Law* (Daniel A. Farber & Anne Joseph O'Connell, eds.), in *HANDBOOK OF LAW AND ECONOMICS* (Edward Elgar, forthcoming)

26. "Searching for Industry Modernization" *Modern Physician* (February 9, 2009) (with Will Mitchell and Kevin Schulman)
27. "Ethnic Networks, Extralegal Certainty, and Globalisation: Peering into the Diamond Industry," in *LEGAL CERTAINTY BEYOND THE STATE* (Hart Publishing, 2008) (Volkmar Gessner, ed.)
28. "The First Bridge to Nowhere" *Raleigh News & Observer* (September 21, 2008)
29. "Who Pays for Health Insurance?" *Wall Street Journal* (September 6, 2007) (with Clark Havighurst)
30. "The King of Rockingham County and the Original Bridge to Nowhere," in *CONTRACTS STORIES* (Foundation Press, 2007) (Douglas Baird, ed.)
31. "Blood Diamonds' Many Facets" *Raleigh News & Observer* (January 11, 2007) (with Joost Pauwelyn)
32. "Foreword: Health Policy's Fourth Dimension" *Law and Contemporary Problems*, vol.69 (Autumn 2006) (with Clark Havighurst)
33. "Unintended Consequences: A Critical View of *U.S. v. Nektalov*" *New York Law Journal* (August 10, 2006)
34. "Fifty Years of Community Service: A Tribute to Mel Shimm" *Law and Contemporary Problems*, vol.69 (Summer 2006)
35. "The Adventures of Keeping Kosher in Vietnam" *New York Times* (April 23, 1997)

## **Volumes**

WHO PAYS? WHO BENEFITS? DISTRIBUTIONAL ISSUES IN HEALTH CARE. *Law and Contemporary Problems* (Autumn 2006) (ed. with Clark Havighurst).

## **CONFERENCE & WORKSHOP PRESENTATIONS**

### **Conferences Organized**

Triangle Law & Economics Conference: Game Theory and the Law  
Fuqua School of Business, Duke University (May 2009) (with Scott Baker & Tracy Lewis)

Applications of Economic Analysis in Law: Racial Profiling, Preferences, and Disparities  
Economic Initiatives at Duke Conference (April 2009) (with Hanming Fang, Peter Arcidiacono, & Nicola Persico)

Triangle Law & Economics Conference: A New Generation of Antitrust.  
University of North Carolina, Chapel Hill (May 2008) (with Scott Baker & Tracy Lewis)

Triangle Law & Economics Conference: The Role of Information in Supporting Legal and Economic Institutions. Duke Law School (April 2007) (with Scott Baker & Tracy Lewis)

Who Pays? Who Benefits? A Discussion of Distributional Issues in American Health Care  
Duke Law School Symposium (November 2005) (with Clark Havighurst)

## **Presentations**

International Society of New Institutional Economics Annual Meeting  
Berkeley, CA (June 2009)

“The Antitrust of Reputation Mechanisms: Institutional Economics and Concerted Refusals to Deal”

Petrie-Flom Center for Health Policy Conference: Pharmaceutical Research, Development, & Markets  
Harvard Law School, Cambridge, MA (June 2009)

“Static and Dynamic Costs and Benefits of Pharmaceutical Blockbuster Acquisitions”

Triangle Law & Economics Conference  
Durham, NC (May 2009)

“Boilerplate Contracts and the Innovation Cycle”

Economic Initiatives at Duke Conference  
Durham, NC (April 2009)

“Mental Health Care Consumption and Outcomes”

Leadership & Corporate Accountability Faculty Workshop  
Harvard Business School (March 2009)

“Private Ordering in the Diamond Industry: Origins, Efficiencies, and the Law”

Measuring Judges and Justice, Duke Law Journal Symposium  
Duke Law School (February 2009)

“On Doctors and Judges”

American Enterprise Institute  
Washington, DC (July 2008)

“Beyond More Health Insurance Coverage, Towards Better Health Outcomes”

Petrie-Flom Center for Health Policy Conference: Our Fragmented Health Care System  
Harvard Law School, Cambridge, MA (June 2008)

“Mental Health Consumption as an Investment in Future Health”

Conference on Law, Commerce, and Development  
NYU School of Law, New York (April 2008)

“The Persistence and Future of Ethnic-based Exchange”

Law and Economics Faculty Workshop, Center for Contract and Economic Organization  
Columbia Law School, New York (January 2008)

“The Antitrust of Reputation Mechanisms: Concerted Refusals to Deal Under the Rule of Reason”

Conference on Empirical Legal Studies  
New York, NY (November 2007)

“Insurance Expansions: Do They Hurt Those They Are Designed to Help?”

Law & Business Conference: International Corporate Governance  
Vanderbilt Law School, Nashville, TN (November 2007)  
Discussant for “The Role of Lawyers in Relational Contracting.”

American Enterprise Institute  
Washington, DC (May 2007)  
“Robin Hood, Robber Baron, or Rubik's Cube? How Fair Is the Distribution of Benefits in the U.S. Health-Care System?”

American Law & Economics Association Annual Meetings  
Cambridge, MA (May 2007)  
“Rebuilding *Illinois Brick*: A Functionalist Approach to the Indirect Purchaser Rule”

Triangle Law & Economics Conference  
Durham, NC (April 2007)  
“The Antitrust of Reputation Mechanisms”

John Hope Franklin Center  
Durham, NC (March 2007)  
“Patterns in Health Care Consumption: Do You Get What You Pay For?”

Braxton Craven Inn of Court  
Durham, NC (February 2007)  
“The King of Rockingham County and the Original Bridge to Nowhere”

Onati International Institute for the Sociology of Law: Legal Certainty Beyond the State: Autonomous Structures in Globalized Exchange Processes  
Onati, Spain (September 2006)  
“Ethnic Networks, Extralegal Certainty, and Globalisation: Peering into the Diamond Industry”

American Law and Economics Association Annual Meetings  
Berkeley, CA (May 2006)  
“Distributive Injustice(s) in American Health Care”

Washington University Law School Faculty Workshop  
St. Louis, MO (March 2006)  
“The Story and Legacy of *Rockingham County v. Luten Bridge Co.*”

The Law & Economics of Organizations Conference  
University of Virginia Law School, Charlottesville VA (February 2006)  
Discussant for Henry Hansmann’s “The Role of the Law in the Organization of the Firm”

University of North Carolina Law School Faculty Workshop  
Chapel Hill, NC (November 2005)  
“A Bridge, a Tax Revolt, and the Struggle to Industrialize: The Story and Legacy of *Rockingham County v. Luten Bridge Co.*”

Who Pays? Who Benefits? A Discussion of Distributional Issues in American Health Care (co-organizer)  
Duke Law School Symposium (November 2005)  
“The Interaction of Monopoly and U.S.-style Health Insurance”  
“Nonprofit Monopolies and Cross Subsidies, with Antitrust Implications”

Southeastern Association of Law Schools Annual Meeting  
Hilton Head, SC (July 2005)  
“A Bridge, a Tax Revolt, and the Struggle to Industrialize: The Story and Legacy of *Rockingham County v. Luten Bridge Co.*”

Western Economic Association Annual Meetings  
San Francisco, CA (July 2005)  
Discussant for “Markets, Norms, and Law: Transaction Costs and Institutions.”

American Law and Economics Association Annual Meetings  
New York, NY (May 2005)  
“Community Institutions”

Tulane University Law School Faculty Workshop  
New Orleans, LA (January 2005)  
“Courts and Communities: A Comparative Institutional Analysis (Plus Policy Implications)”

Association for the Study of Religion, Economics, and Culture Annual Meetings  
Kansas City, MO (October 2004)  
“How Communities Create Economic Advantage: Jewish Diamond Merchants in New York”

University of Virginia Law School Faculty Workshop  
Charlottesville, VA (October 2004)  
“Firms, Courts, and Reputation Mechanisms: Towards a Positive Theory of Private Ordering”

Yale/Stanford Junior Faculty Forum  
New Haven, CT (June 2004)  
“Behavioral Economics and Health Policy: Understanding Medicaid’s Failure”

American Law and Economics Association Annual Meetings  
Chicago, IL (May 2004)  
“A Transaction Cost Economizing Approach to Regulation: Understanding the NIMBY Problem”

Institute for Law and Economic Policy Annual Conference  
Miami, FL (April 2004)  
Commentator on “Illinois Brick: Is It Time for Remodeling?”

American Law and Economics Association Annual Meetings  
Toronto, CA (September 2003, originally scheduled for May 2003)  
“Incorporating Psychosocial Variables into Health Care Policy: A Behavioral Economic Examination of Medicaid Expansion”

American Law and Economics Association Annual Meetings  
Cambridge, MA (May 2002)  
“Modeling Supreme Court Strategic Decision Making: The Congressional Constraint”

Administrative Sciences Association of Canada  
University of Quebec at Montreal (July 2000)  
“Corporate Responses to Architectural Innovation”

## ACADEMIC HONORS, FELLOWSHIPS & GRANTS

2006-2007                    Provost Common Fund Award  
2005-2006                    Faculty Fellow, Duke University Social Science Research Institute  
2005-2006                    National Institute of Environmental Health Sciences Grant, 1 P30 ES-011961-01A1  
2000-1, 2001-2                John M. Olin Fellowship in Law and Economics, Harvard Law School  
2000                            John M. Olin Summer Research Grant  
1997-1998                    Sasakawa Fellowship, Haas School of Business  
1996-1997                    Henry R. Luce Scholarship, Luce Foundation  
1992-1993                    Dorot Fellowship, Dorot Foundation  
1992                            Phi Beta Kappa, Alpha Chapter of Rhode Island

## PROFESSIONAL AFFILIATIONS

Member of:     American Law Institute  
                    Massachusetts Bar Association  
                    American Economic Association  
                    American Law and Economics Association  
                    International Society for New Institutional Economics  
                    Western Economic Association

On Editorial Board for:

*Business and Politics*  
*International Journal of Strategic Change Management*

Referee for:

*Business and Politics*  
*Journal of Economics and Management Strategy*  
*Journal of Law, Economics, & Organization*  
*Journal of Legal Studies*  
*Law and Social Inquiry*  
*Oxford University Press*  
*Public Choice*  
*Yale Journal of Health Policy, Law, & Ethics.*  
*Health Policy*

## PERSONAL

Wife:                    Laura Smart Richman, Ph.D.  
Children:                Ariella Sofi Richman, born January 2001  
                              Eden Mae Richman, born November 2004  
                              Izak Lev Richman, born August 2008  
Hometown:              Philadelphia, PA

Last Updated: June 2009