

(April 15, 2012)

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Employment

Fall 2011	Visiting Professor of Law, NYU Law School
2001 –	Saul A. Fox Distinguished Professor of Business Law University of Pennsylvania Law School
	Professor of Business and Public Policy The Wharton School University of Pennsylvania
1993 –	Professor of Law, University of Pennsylvania Law School.
1993 –	Member, American Law Institute.
1998 – 2010	Co-Director, Institute for Law and Economics
2006 – 2008	Associate Dean for Academic Affairs.
Fall, 2005	Lady Davis Fellow and Visiting Professor of Law, Hebrew University of Jerusalem.
Spring, 2000	Visiting Professor of Law, Columbia University Law School, New York.
1995-97	Fulbright Scholar and Visiting Professor of Law, The Hebrew University of Jerusalem, Israel.
June, 1994	Visiting Professor, International Banking and Capital Markets

Law, Institut für Arbeits-, Wirtschafts- und Zivil Recht, Johann Wolfgang Goethe - Universität, Frankfurt am Main, Germany.

- 1989-93 Assistant Professor of Law, University of Pennsylvania Law School.
- 1988 Partner, Fine, Kaplan and Black, Philadelphia, Pa. (Specializing in complex antitrust, corporate and securities litigation.)
- 1983-1987 Associate, Fine, Kaplan and Black, Philadelphia, Pa.

Education

J.D., magna cum laude, University of Pennsylvania Law School, 1983.
Associate Editor (1981-82) and Editor (1982-83), University of Pennsylvania Law Review.

B.A., first class honours, University of Oxford, 1980. Philosophy and Politics. Domus Scholar, 1979-80.

B.S., cum laude, Yale University, 1977. Physics and Mathematics (minor in Philosophy).

Scholarly Interests

Research: Corporations, Corporate Governance, Securities Regulation.

Courses Taught: Corporations, Mergers & Acquisitions, Regulation of Financial Institutions, Corporate Governance, Antitrust, Securities Regulation.

Publications

1. Shareholder Eugenics in the Public Corporation, -- Cornell L. Rev. – (forthcoming 2012)
2. The Insignificance of Proxy Access (with Marcel Kahan), 97 Va. L. Rev. 1347 (2011) (selected as one of the “Top 10 Corporate and Securities Articles of 2011”)
3. When the Government is the Controlling Shareholder (with Marcel Kahan), 89 Texas L. Rev. 1293 (2011) (selected as one of the “Top 10 Corporate and Securities Articles of 2011”)

4. When the Government is the Controlling Shareholder: Implications for Delaware (with Marcel Kahan), 35 Del. J. Corp. L. 409 (2010)
5. Embattled CEOs (with Marcel Kahan), 88 Texas L. Rev. 987 (2010) (selected as one of the “Top 10 Corporate and Securities Articles of 2010” and reprinted in 52 Corporate Practice Commentator 559 (2010))
6. The Anatomy of Corporate Law (second edition) (with Kraakman, Armour, Davies, Enriques, Hansmann, Hertig, Hopt, and Kanda) (Oxford University Press: 2009)
7. How to Prevent Hard Cases from Making Bad Law: Bear Stearns, Delaware and the Strategic Use of Comity (with Marcel Kahan), 58 Emory L. J. 713 (2009) (reprinted in Corporate Practice Commentator and selected as one of the “Top 10 Corporate and Securities Articles of 2009”).
8. Hedge Fund Activism in the Enforcement of Bond Covenants, 103 Nw. U. L. Rev. 281 (2009) (with Marcel Kahan)
9. The General Counsel of a Nonprofit Enterprise: Some Questions, 46 Houston L. Rev. 17 (2009)
10. On Improving Shareholder Voting, in Rationality in Company Law: Essays in Honour of DD Prentice (John Armour & Jenny Payne, eds.) (Hart: 2009) (with Marcel Kahan).
11. The Hanging Chads of Corporate Voting, 96 Geo. L. J. 1227 (2008) (with Marcel Kahan), (reprinted in 50 Corporate Practice Commentator 531 (2008) and selected as one of the “Top 10 Corporate and Securities Articles of 2008”).
12. Corporate Taxation and International Charter Competition, 106 Mich. L. Rev. 1229 (2008) (with Mitchell Kane).
13. Hedge Funds in Corporate Governance and Corporate Control, 155 U. Pa. L. Rev. 1021 (2007) (with Marcel Kahan) (winner of the 2007 De Brauw Prize for the best 2006 paper in the ECGI Law Working Paper series and selected as one of the “Top 10 Corporate and Securities Articles of 2007”).
14. Corporate Flight, 36 Mishpatim 161 (2006) (in Hebrew)
15. The Corporate Form as a Solution to a Discursive Dilemma, Journal of Institutional and Theoretical Economics, 162(1), 57--71 (2006).
16. Symbiotic Federalism and the Structure of Corporate Law (with Marcel Kahan), 58 Vanderbilt L. Rev. 1573 (2005), (reprinted in 48 Corporate Practice Commentator 359 (2006) and selected as one of the “Top 10 Corporate and Securities Articles of 2006”).

17. A New Player in the Boardroom: The Emergence of the Independent Directors' Counsel (with Geoffrey C. Hazard), 59 *Business Lawyer* 1389 (2004).
18. The Anatomy of Corporate Law: A Comparative and Functional Approach (with Reinier Kraakman, Paul Davies, Henry Hansmann, Gerard Hertig, Klaus Hopt, Hideki Kanda) (Oxford U. Press 2004).
19. Introduction (with Michael Wachter), Symposium, *Corporate Control Transactions*, 152 U. Pa. L. Rev. 463 (2003).
20. Corporate Constitutionalism: Antitakeover Charter Provisions as Precommitment (with Marcel Kahan), 152 U. Pa. L. Rev. 473 (2003).
21. Coming to America?: Venture Capital, Corporate Identity and U.S. Securities Law, in Global Markets, Domestic Institutions (Curtis Milhaupt, ed., Columbia University Press, 2003), 476-506.
22. How I Learned to Stop Worrying and Love the Pill: Adaptive Responses to Takeover Law (with Marcel Kahan), 69 U. Chi. L. Rev. 871 (2002) (selected as one of the "Top 10 Corporate and Securities Articles of 2002" and reprinted in the *Corporate Practice Commentator*).
23. Dangerous Liaisons: Trust Law, Corporate Law and Inter-doctrinal Legal Transplants (with Michael Wachter), 96 Nw. U. L. Rev. 651 (2002).
24. Meeting by Signals, Playing by Norms: Complementary Accounts of Non-Legal Cooperation in Institutions (with Michael Wachter), 36 U. Rich. L. Rev. 423 (2002) (Symposium on Eric Posner, Law and Social Norms)).
25. Securities Regulation as Lobster Trap: A Credible Commitment Theory of Mandatory Disclosure, 23 *Cardozo L. Rev.* 675 (2002).
26. Greenhorns, Yankees and Cosmopolitans: Venture Capital, IPOs, Foreign Firms & U.S. Markets, 2 *Theoretical Inquiries in Law* 711 (2001). Reprinted in Venture Capital Contracting and the Valuation of High Technology Firms (Joseph A. McCahery and Luc Renneboog, editors)(Oxford University Press, 2004).
27. Introduction (with Michael Wachter), Symposium, *Norms & Corporate Law*, 149 U. Pa. L. Rev. 1607 (2001)
28. Islands of Conscious Power: Law, Norms and the Self-Governing Corporation (with Michael Wachter), Symposium, *Norms & Corporate Law*, 149 U. Pa. L. Rev. 1619 (2001)

29. Encountering the Scarlet Woman of Wall Street: Speculative Comments at the End of the Century, 2 *Theoretical Inquiries in Law* 237 (2000).
30. Corporate Law as a Facilitator of Self Governance (with Michael Wachter), 34 *Georgia L. Rev.* 529 (2000).
31. Waiting for the Omelet to Set: Match-Specific Assets and Minority Oppression in the Close Corporation (with Michael Wachter), in Concentrated Corporate Ownership, (NBER/University of Chicago Press, 2000, Randall Morck, editor) and 24 *J. Corp. L.* 913 (1999). Reprinted in 42 *The Corporate Practice Commentator* 1 (2000). Reprinted in The Governance of Close Corporations and Partnerships: US and European Perspectives (Joseph A. McCahery, Theo Raaijmakers and Erik P.M. Vermeulen, editors) (Oxford University Press, 2004).
32. Tailored Claims and Governance: The Fit Between Employees and Shareholders (with Michael Wachter), *Employees & Corporate Governance*, (Margaret Blair and Mark Roe, eds.) (Brookings Institution: 1999).
33. Asset Restructuring and Union Bargaining (with Michael Wachter), *New Palgrave Dictionary of Law and Economics*, pp. 98-107 (1998).
34. Collective Bargaining over Asset Restructuring (with Michael Wachter), 1 *U. Pa. J. Lab. & Emp. L.* 201 (1998).
35. Saints and Sinners: How Does Delaware Corporate Law Work?, 44 *U.C.L.A. L. Rev.* 1009 (1997)(selected as one of the “Top 10 Corporate and Securities Articles of 1998”).
36. America's Shifting Fascination with Comparative Corporate Governance, 74 *Wash. U. L. Q.* 367 (1996).
37. The Enforceability of Norms and the Employment Relationship, 144 *U. Pa. L. Rev.* 1913-1952 (1996) (with Michael Wachter).
38. Foxes and Hen Houses?: Personal Trading by Mutual Fund Managers, 73 *Wash. U. L. Q.* 1601-1642 (1995). Reprinted in 38 *Corporate Practice Commentator* 85 (1996).
39. America's Fascination with German Corporate Governance, 40 *Die Aktiengesellschaft* 7/1995, 291.
40. Controlling the Dark Side of Relational Investing, 15 *Cardozo L. Rev.* 987-1031 (1994)(selected as one of the “Top 10 Corporate and Securities Articles of 1994”).
41. Labor Law Successorship: A Corporate Law Approach (with Michael Wachter), 92 *Mich. L. Rev.* 203-260 (1993).

42. Book Review (Louis Lowenstein, Sense and Nonsense in Corporate Finance), 17 J. Corp. L. 605-614 (1992).
43. Corporate Law Through An Antitrust Lens, 92 Colum. L. Rev. 497-561 (1992).
44. The Logic and (Uncertain) Significance of Institutional Shareholder Activism, 79 Geo. L. J. 445-506 (1991). Reprinted in the 1992 Securities Law Review.
45. Antitrust and the Market for Corporate Control, 77 Calif. L. Rev. 1365-1428 (1989).

Working Papers & Works in Progress

- “Taking Politics as Markets (Too) Seriously” (with Nate Persily)
- “Tenure Voting Common: A Reassessment” (with Toni Rembe)

Invited Presentations (partial list)

- “When the Government is the Controlling Shareholder,” Yale Law School, February 3, 2011.
- “Ethics in the New Reality,” IdeasLab, Davos World Economic Forum, January 28, 2011.
- “When the Government is the Controlling Shareholder,” Hebrew University Conference in Memory of Stephen Goldstein, December 15, 2010.
- “Taking Politics as Markets (Too) Seriously,” Tel Aviv Faculty of Law, December 13, 2010.
- “When the Government is the Controlling Shareholder,” Stanford Law and Economics Workshop, November 11, 2010.
- “When the Government is the Controlling Shareholder,” Harvard Law and Economics Workshop, November 9, 2010.
- “Antitrust through a Corporate Law Lens,” Berkeley Law and Economics Workshop, March 8, 2010.
- “When the Government is the Controlling Shareholder,” 2010 Penn/NYU Law and Finance Conference, February 26, 2010.

“When the Government is the Controlling Shareholder: Implications for Delaware,”
2009 Francis G. Pileggi Distinguished Lecture in Law, Wilmington, Delaware, October 9,
2009.

“The Hanging Chads of Corporate Voting,” Seminar, U.S. Securities Exchange
Commission, September 15, 2009.

Summer School, “The Anatomy of Corporate Law,” University of Tokyo, August 2009.

“Tenured Voting Common: A Reassessment” (with Toni Rembe): presented at the Rock
Center for Corporate Governance, April 30, 2009.

“On Improving Shareholder Voting,” presented at the Leet Symposium on “Institutional
Investors in Corporate Governance: Heroes or Villians,” April 17, 2009

“The Embattled CEO,” presented at the Harvard/Sloan Foundation Corporate Governance
Research Conference, March 27, 2009.

“On Improving Shareholder Voting,” presented at Festschrift for Prof. DD Prentice,
Oxford University, February 6, 2009.

“Picking Your Shareholders,” presented at Columbia Law School “Deals” Roundtable,
November 14, 2008.

“The General Counsel of a Nonprofit Enterprise: Some Questions,” presented as
comment on Geoff Hazard’s talk at the Frankel Symposium, Univ. of Houston Law
Center, November 7, 2008.

“Hedge Fund Activism in the Enforcement of Bond Covenants,” ILE/Oxford Roundtable,
Oxford, England, June 6, 2008.

“The Hanging Chads of Corporate Voting,” University of Toronto Law Faculty, Law and
Economics Workshop, April 2, 2008.

“Hedge Fund Activism in the Enforcement of Bond Covenants,” Vanderbilt/Amsterdam
conference on hedge funds, Sardinia, Italy, March 20-21, 2008.

“The Hanging Chads of Corporate Voting,” Northwestern U. Law School Law and
Economics workshop, January 28, 2008.

“The Hanging Chads of Corporate Voting,” Amsterdam Center for Law & Economics
conference on “Activist Investors, Hedge Funds and Corporate Governance,” March 8-9,
2007.

“Hedge Funds in Corporate Governance and Corporate Control,” Tel Aviv University Law Faculty Law and Economics Workshop, March 23, 2006.

“Taxes and Charter Competition”, Joint Conference Georgetown-Sloan/Anton Philips Fund on International Markets and Corporate Governance, October 28-29, 2005.

“The Corporate Form as a Solution to a Discursive Dilemma”, presented at the Max Planck Institute for Research on Collective Goods conference on “Interacting with a Corporate Actor” at Kloster-Irsee, June 2 - 4, 2005.

“Our Corporate Federalism and the Shape of Delaware Corporate Law” USC/UCLA Roundtable, March 19, 2004.

“Corporate Constitutionalism: Antitakeover Charter Provisions as Pre-Commitment,” University of Michigan Law School Law and Economics Workshop, February 13, 2003.

“Coming to America,” Stanford Law School International Conference on “Cross-Listing of Emerging Market Companies on Foreign Exchanges,” November 22-23, 2002.

“Coming to America,” Columbia U. Law School Conference on “Global Markets, Domestic Institutions: Corporate Law and Governance in a New Era of Cross-Border Deals,” April 5-6, 2002.

“How I learned to Stop Worrying and Love the Pill”, Vanderbilt U. Law School Law & Business Conference, March 22, 2002.

“How I learned to Stop Worrying and Love the Pill”, Tel Aviv Univ. Law School, March 12, 2002.

“Coming to America,” Cambridge University Roundtable on Venture Capital, March 8, 2002.

“How I learned to Stop Worrying and Love the Pill”, Cambridge University Law Faculty Workshop, March 5, 2002.

“How I learned to Stop Worrying and Love the Pill”, University of Chicago Law Review Symposium, February 8-9, 2002

Invited Commentator, Conference on The Role of Judges in Corporate and Securities Law, University of Michigan Law School, April 20-21, 2001 (comment on Lyman Johnson, “Loyalty Discourse in Corporate Law”).

“Islands of Conscious Power,” Harvard Law School, March 20, 2001.

“Islands of Conscious Power,” Vanderbilt Law School, January 29, 2001.

“Greenhorns, Yankees and Cosmopolitans: Venture Capital, IPOs, Foreign Firms & U.S. Markets.” Conference on Protecting Investors in a Global Economy, Tel Aviv University, June 27-28, 2000.

“Islands of Conscious Power,” University of Cincinnati Law School, May 1, 2000.

“Islands of Conscious Power,” Columbia Law School, April 10, 2000.

“Islands of Conscious Power,” Boalt Hall (University of California at Berkeley), March 13, 2000.

“Teaching Corporate Law as Self Governing Norms,” University of Georgia Law School, October 15, 1999.

“Waiting for the Omelet to Set: Match-Specific Assets and Minority Oppression in the Close Corporation,” University of Colorado School of Law, March 1999.

“Securities Regulation as Lobster Trap: A Credible Commitment Theory of Mandatory Disclosure,” NYU, November 1998.

“Mandatory Disclosure as Credible Commitment,” Stanford Law School Law and Economics seminar, March, 1998.

“Tailored Claims and Governance: The Fit Between Employees and Shareholders,” presented at Columbia Law School's November 1996 conference on Employees and Corporate Governance (invited paper). Commentator: Jonathan Macey.

“Tailored Claims and Governance: The Fit Between Employees and Shareholders,” presented at the May 1997 meeting of the American Association of Law and Economics, Toronto, Ontario.

“Tailored Claims and Governance: The Fit Between Employees and Shareholders,” presented at Faculty Seminar, Hebrew University, October 1996.

“The Enforceability of Norms and the Employment Relationship,” Faculty Seminar, University of Haifa Law Faculty, March 13, 1996.

“Saints and Sinners: The Peculiar Mechanisms of Delaware Corporate Law,” Faculty Seminar, Hebrew University of Jerusalem, January 11, 1996.

“Personal Trading, Insider Trading and Mandatory Rules,” Seminar, The Securities Authority of the State of Israel, June 21, 1994.

“America's Fascination with German Corporate Governance,” Faculty Seminar, Hebrew University Faculty of Law, June 20, 1994.

“The U.S. Department of Justice's 1992 Merger Guidelines,” Seminar, The Antitrust Authority of the State of Israel, June 19, 1994.

“Personal Trading, Insider Trading and Mandatory Rules,” Faculty Seminar, University of Haifa Faculty of Law, June 15, 1994.

“America's Fascination with German Corporate Governance,” Lecture, Johann Wolfgang Goethe - Universität, Frankfurt am Main, Germany, June 7, 1994.

Lectures on U.S. Shareholder Litigation, Johann Wolfgang Goethe - Universität, Frankfurt am Main, Germany, June, 6-13, 1994.

Presentation on relational investing to the Finance, Corporate Governance, and Social Responsibility Committees of the Board of Directors, TIAA-CREF, July 9, 1993.

“Controlling the Dark Side of Relational Investing,” Invited Presenter, Conference on Relational Investing, Columbia University Center for Law and Economic Studies, May 7, 1993.

“Labor Law Successorship, A Corporate Law Approach,” Yale Law School's Law, Economics and Organization Workshop, April 15, 1993

Speaker, Wharton Senior Advanced Management Course, Antitrust Issues in Transnational Mergers, April 13, 1992

Invited Presenter, Section on Business Associations, American Association of Law Schools, Annual Meeting, January 5, 1992 (Institutional Investors and Corporate Governance).

Invited Presenter, Conflicts and Confidentiality: Trouble at Upper Black Eddy (University of Pennsylvania Law School Center on Professionalism materials), Section of Business Law, American Bar Association, August 12, 1991.

Invited Commentator, Conference on the Future of Corporate Governance, Columbia University Center for Law and Economic Studies, May 10 - 11, 1991 (comment on John Coffee, Liquidity versus Control, 91 Colum. L. Rev. 1277 (1991)).

“The Logic and (Uncertain) Significance of Institutional Shareholder Activism,” Faculty Workshop, University of Pennsylvania Law School Legal Studies Seminar, January 28, 1991.

“The Logic and (Uncertain) Significance of Institutional Shareholder Activism,” Faculty Workshop, University of Miami School of Law, December 11, 1990.

Co-chair, The Berger Program on Complex Litigation, November 16, 1990 (Issues in Parallel Civil and Criminal Litigation)

The Law and Economics of Corporate Law, a one day presentation to justices of the Delaware Supreme Court and the Chancellor and Vice-Chancellors of the Delaware Chancery Court, February 2, 1990 (w/ Michael Wachter)

Comment on Heidi Hurd, Challenging Authority (100 Yale L. J. 1611 (1991)).
University of Pennsylvania Law School Legal Studies Seminar, December 1, 1989.

Presentation on the Racketeer Influenced and Corrupt Organizations Act, Wharton Board of Overseers, April 6, 1989.

“Antitrust and the Market for Corporate Control,” University of Pennsylvania Ad Hoc seminar, March 27, 1989.

Bar Memberships

Pennsylvania (inactive); United States District Court (E.D. Pa.); United States Court of Appeals (3d Cir.).