

**ABRAHAM L. WICKELGREN**

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512-232-1904

**PROFESSIONAL POSITIONS**

University of Texas School of Law, Fred and Emily Marshall Wulff Centennial Chair, 2020-  
Editor, *Journal of Law, Economics & Organization*, 2019-2024

**PAST PROFESSIONAL POSITIONS**

University of Texas School of Law, Bernard J. Ward Centennial Professor, 2009-2020  
Editor, *American Law and Economics Review*, 2012-2017  
Yale Law School, Florence Rogatz Visiting Professor of Law, 2012-2013  
Duke University School of Law, Visiting Professor, 2008-2009  
Northwestern University, School of Law, Assistant Professor, 2006-2009  
University of Texas at Austin, Dept. of Economics, Visiting Asst. Professor, 2004-2006  
Federal Trade Commission, Bureau of Economics, Staff Economist, 1999-2004

**EDUCATION**

Harvard University, Ph.D. in Economics June 1999  
Harvard Law School, J.D. Magna Cum Laude June 1994. Harvard Law Review 1993-1994  
Harvard College, A.B. Cum Laude in Applied Mathematics/Economics June 1991

**RESEARCH INTERESTS**

Antitrust, Law and Economics, Contracts, Regulation, Settlement

**BOOK CHAPTERS**

“The Efficiency of Affirmative Action with Purely Historical Discrimination”, *Research Handbook on Economic Models of Law*, Thomas Miceli and Matthew Baker eds., Edward Elgar Publishers, 2014.

“Law and Economics of Settlement”, *Research Handbook on the Economics of Tort Law*, Jennifer Arlen ed., Edward Elgar Publishers, 2013.

“Enforcement Issues in Antitrust”, *Research Handbook on the Economics of Antitrust Law*, Einer Elhauge ed., Edward Elgar Publishers, February 2012.

“Option Contracts,” in *Contract Law and Economics* volume of *Encyclopedia of Law and Economics*, B. Bouckaert and Gerrit De Gees eds., Edward Elgar Publishers, January 2011.

**PUBLISHED AND FORTHCOMING PAPERS**

*Shorting your Rival: Negative Ownership as an Antitrust Remedy* (with Ian Ayres and C. Scott Hemphill), forthcoming, **Antitrust Law Journal**

*Approval regulation and learning, with application to timing of merger control* (with Marco Ottaviani), forthcoming, **Journal of Law, Economics, & Organization**

*A Framework for Understanding When Simple Rules Make Sense and When They Don't*, 49 **Journal of Corporation Law** 101-109 (2024).

*Ex Post Review: An Under-used Tool in the Antitrust Enforcement Toolkit* (with D. Daniel Sokol), 1 **CPI Antitrust Chronicle** 1-6 (2023).

*Agency Objectives, Organizational Change, and Optimizing Enforcement* (with D. Daniel Sokol), forthcoming, 11 **Journal of Antitrust Enforcement** 272-277 (2023).

*Deterrence of Orchestrated Cheating: Group versus Individual Punishment* (with Shmuel Leshem), 39 **Journal of Law, Economics, & Organization** 586-614 (2023).

*How Should We Enforce Patents: A Simulation Analysis* (with Ezra Friedman), 98 **Texas Law Review** 1283-1306 (2020).

*The Impact of Access to Consumer Data on the Competitive Effects of Horizontal Mergers and Exclusive Dealing* (with Jin-Hyuk Kim and Liad Wagman), 28 **Journal of Economics and Management Strategy** 373-391 (2019).

*Third Party Litigation Funding with Informative Signals: Equilibrium Characterization and the Effects of Admissibility* (with Ronen Avraham), 61 **Journal of Law and Economics** 637-675 (2018).

*Against Simplicity in Antitrust*, 14 **I/S A Journal of Law and Policy for the Information Society** 353-366 (2018).

*A Novel Justification for Legal Restrictions on Non-Compete Clauses*, 54 **International Review of Law and Economics** 49-57 (2018).

*"Comment on: "Explaining the Standard of Proof in Criminal Law: A New Insight""*, 25 **Supreme Court Economic Review** 123-127 (2017).

*Who (if anyone) Should be Liable for Injuries from Generic Drugs* (with Ezra Friedman), 33 **Journal of Law, Economics, & Organization** 541-77 (2017).

*Cost of completion versus diminution of value damages for deliberate breach: an economic analysis*, 173 **Journal of Institutional and Theoretical Economics** 4-17 (2017) (Lead article).

*An Economic Analysis of Arbitration versus Litigation for Contractual Disputes*, 59 **Journal of Law and Economics** 393-410 (2016).

*The Necessary Complexity of Predatory Pricing Analysis: A comment on Richard S. Markovits's treatment of predatory pricing in ECONOMICS AND THE INTERPRETATION AND APPLICATION OF U.S. AND E.U. ANTITRUST LAW*, 61 **Antitrust Bulletin** 186-197 (2016).

*Robust Exclusion Anti-Competitive Market Division Through Loyalty Discounts* (with Einer Elhauge) 43 **International Journal of Industrial Organization** 111-121 (2015), awarded **2015 Best Antitrust Academic Article: Concerted Practices Category**, by Concurrences Journal and the American Bar Association Antitrust Section.

*Predation, Financial Constraints, and Entry-deterrence Markov Perfect Equilibrium* (joint with Jae Nahm), 22 **Korean Journal of Industrial Organization** 97-111 (2014).

*A New Angle on Rules versus Standards* (with Ezra Friedman), 2 **American Law and Economics Review** 499-549 (2014).

*Third Party Litigation Funding—A Signaling Model* (with Ronen Avraham), 63 **DePaul L. Rev.** 223-264 (2014).

*Detailed Analysis, not Catechism: A Comment on Crane's "Bargaining over Loyalty"*, 92 **Texas L. Rev. See Also** 101 (2014).

*Economic epidemiology of avian influenza on smallholder poultry farms* (with Maciej Boni, Alison Galvani, and Anup Malani), 90 **Theoretical Population Biology** 135-144 (2013).

*The Effect of Settlement in Kaplow's Multistage Adjudication*, 126 **Harv. L. Rev. F.** 145 (2013)

*Determining the Optimal Antitrust Standard: How to Think about Per Se versus Rule of Reason*, 85 **USC Law Review** PS52 (2012)

*Optimal Antitrust Enforcement: Competitor Suits, Entry, and Post-entry Competition* (with Warren Schwartz), 95 **Journal of Public Economics** 967-972 (2011)

*Ex Ante or Ex Post Competition Policy? A Progress Report* (with Marco Ottaviani), 29 **International Journal of Industrial Organization** 356-359 (2011)

*Standardization as a Solution to the Reading Costs of Form Contracts*, 167 **Journal of Institutional and Theoretical Economics** 30-44 (2011)

*Chilling, Settlement, and the Accuracy of the Legal Process* (with Ezra Friedman), 26 **Journal of Law, Economics, & Organization** 144-157 (2010)

*A Right to Silence for Civil Defendants*, 26 **Journal of Law, Economics, & Organization** 91-114 (2010)

*Credible Discovery, Settlement, and Negative Expected Value Suits* (with Warren Schwartz), 40 **RAND Journal of Economics** 636-657 (2009)

*The Perverse Effect of Outside Options on Strategic Delay in Bargaining*, 165 **Journal of Institutional and Theoretical Economics** 210-229 (2009)

*Why Divorce Laws Matter: Incentives for Non-Contractible Marital Investments under Unilateral and Consent Divorce*, 25 **Journal of Law, Economics, & Organization** 80-106 (2009)

*Advantage Defendant: Why Sinking Litigation Costs Makes Negative Expected Value Defenses, but not Negative Expected Value Suits Credible* (With Warren Schwartz), 38 **Journal of Legal Studies** 235-253 (2009)

*No Free Lunch: How Settlement Can Reduce the Legal System's Ability to Induce Efficient Behavior* (with Ezra Friedman), 61 **SMU Law Review** 1355 (2008)

*Naked Exclusion, Efficient Breach, and Downstream Competition* (with John Simpson), 97 **American Economic Review** 1305 (2007)

*Bundled Discounts, Leverage Theory, and Downstream Competition* (with John Simpson), 9 **American Law and Economics Review** 370 (2007).

*Government and the Reverse-Holdup Problem*, 9 **Journal of Public Economic Theory** 221 (2007)

*The Limitations of Buyer-Option Contracts in Solving the Hold-up Problem*, 23 **Journal of Law, Economics, & Organization** 127 (2007)

*Bayesian Jurors and the Limits to Deterrence* (with Ezra Friedman), 22 **Journal of Law, Economics, & Organization** 70 (2006)

*The Inefficiency of Contractually-Based Liability with Rational Consumers*, 22 **Journal of Law, Economics, & Organization** 168 (2006)

*The Effect of Exit on Entry Deterrence Strategies*, 54 **Games and Economic Behavior** 226 (2006)

*Managerial Incentives and the Price Effects of Mergers*, 53 **Journal of Industrial Economics** 327 (2005)

*Affirmative Action: More Efficient than Color Blindness*, 10 **Texas Journal on Civil Liberties and Civil Rights** 183 (2005)

*Comment on 'Aligning the Interests of Lawyers and Clients'*, 6 **American Law and Economics Review** 434 (2004)

*A Model of Welfare-Reducing Settlement*, 3 **Contributions to Economic and Policy Analysis** Article 4 (2004)

*Innovation, Market Structure, and the Holdup Problem: Investment Incentives and Coordination*, 22 **International Journal of Industrial Organization** 693 (2004)

*The State of Critical Loss Analysis: A Reply to Scheffman and Simons* (with Daniel O'Brien), 3 **Antitrust Source** (March 2004)

*A Critical Analysis of Critical Loss Analysis* (with Daniel O'Brien), 71 **Antitrust Law Journal** 161 (2003)

*Justifying Imprisonment: On the Optimality of Excessively Costly Punishment*, 5 **American Law and Economics Review** 377 (2003)

*Damages for Breach of Contract: Should the Government Get Special Treatment?*, 17 **Journal of Law, Economics, & Organization** 121 (2001)

## REPORTS

*Responding to the North Carolina Dental Decision: A Primer for State Regulatory Board Counsel and Board Supervisors*, Primer for the State Center to advise state regulatory boards, their counsel and board supervisors,  
[http://www.statecenterinc.org/docs/Primer\\_January\\_2017.pdf](http://www.statecenterinc.org/docs/Primer_January_2017.pdf), January 2017

## WORKING PAPERS

*The Effect of Consumer Inferences on Privacy Regulation when Information is Costly*, revise and resubmit, **American Law and Economics Review**

*Optimal Standards of Proof for Non-Obviousness and Infringement* (with Ezra Friedman), revise and resubmit, **American Law and Economics Review**

*Reverse Break-up Fees and Antitrust Approval* (with Albert Choi)

*Optimal Enforcement with Evidence Suppression*

*The exclusionary effects of addictive platforms* (with David Gilo)

*Learning and Settlement with Endogenous Sequential Litigation*, Revise and resubmit at **Journal of Law, Economics, & Organization**

*An Economic Analysis of Internet Privacy Regulation*, revise and resubmit at the **International Journal of Industrial Organization**

*When Should Tacit Collusion be Regulated? An Economic Model*

*A Simple Mechanism for Improving “Up or Down” Regulation*

*Exclusive Dealing and Entry, when Buyers Compete: Comment* (with John Simpson)

*The Economics of Constitutional Rights and Voting Rules*

## OP-EDs

*Bright-Line Standards Are Bad News For Antitrust Reform* (with D. Daniel Sokol), **Law360**, June 15, 2021.  
<https://www.law360.com/articles/1393777>

*The Supreme Court on Ohio v. American Express*, **Milken Institute Review**, July 16, 2018.  
<https://www.milkenreview.org/articles/the-supreme-court-on-ohio-v-american-express>

*A gun control solution manufacturers can get behind* (with Ian Ayres), **Brookings Institution**, March 14, 2018.  
<https://www.brookings.edu/research/a-gun-control-solution-manufacturers-can-get-behind/>

## PRESENTATIONS

Universitat Pompeu Fabra, June 2024  
American Law and Economics Association annual meeting, May 2024  
George Mason Univ., Law and Economics seminar, January 2024  
Academia Sinica (Taiwan), Humanities and Social Sciences seminar, January 2024  
Law and Economics Theory Conference, Washington Univ. St. Louis, December 2023  
Latin American Workshop in Law and Economics, University of Brasilia, November 2023  
Virtual Antitrust Workshop, September 2023  
University of Amsterdam, Center for Law and Economics workshop, June 2023  
American Law and Economics Association annual meeting, June 2023  
Washington Univ. St. Louis, Law and Economics Seminar, April 2023  
University of Western Ontario, Law and Economics Workshop, January 2023  
Law and Economics of Privacy Conference, George Mason Univ., December 2022  
Law and Economics Theory Conference, Georgetown Univ., December 2022  
Latin American Workshop in Law and Economics, Universidad de Los Andes, November 2022  
American Law and Economics Association annual meeting, August 2022  
University of Texas at Austin, March 2022  
Asian Pacific Industrial Organization Conference, December 2021  
Law and Economics Theory Conference, Northwestern Univ., December 2021  
American Law and Economics Association annual meeting, October 2021  
University of Michigan Law and Economics Workshop, October 2021  
Tel Aviv Law and Economics workshop, May 2021  
International Industrial Organization conference, May 2021  
Center for Competition Policy workshop, December 2020  
Univ. of Michigan/Virginia/Florida Virtual Law and Economics workshop, October 2020  
Cambridge University/Univ. of Florida Virtual Antitrust workshop, June 2020  
Emory University, Economics Department Seminar, February 2020  
Duke University, Law and Economics Seminar, January 2020  
Law and Economics Theory Conference, Univ. of Texas, December 2019  
Latin American Workshop in Law and Economics, ITAM, November 2019  
University of New South Wales, July 2019  
Antitrust New Frontiers Conference, Tel Aviv University, June 2019  
First Intl Conference on Antitrust Law and Economics, Shandong University, May 2019  
Conference in Honor of Ian Ayres' 60<sup>th</sup> Birthday, Yale University, February 2019  
Law and Economics Theory Conference, George Mason Univ., December 2018  
Latin American Workshop in Law and Economics, Keynote Address, November 2018  
University of Michigan, Law and Economics Seminar, October 2018  
American Law and Economics Association annual meeting, May 2018  
Texas A&M Law School, Law and Social Science Conference, April 2018  
University of Pennsylvania Law School, Law and Economics Seminar, February 2018  
Hong Kong UST Workshop in Law and Economics, December 2017  
Conference on Theoretical Law and Economics, Rice, December 2017  
American Law and Economics Association annual meeting, May 2017  
Conference on Theoretical Law and Economics, NYU, December 2016  
Conference in Honor of Warren Schwartz, Georgetown, November 2016  
NYU Law School, Law and Economics Seminar, October 2016  
JITE-New Institutional Economics conference, Sibiu, Romania, June 2016

American Law and Economics association annual meeting, May 2016  
State Center Conference on *North Carolina Dental*, American University, April 2016  
Tel Aviv University Law School, Law and Economics Seminar, January 2016  
Hebrew University Jerusalem Law School, Law and Economics Seminar, December 2015  
Columbia University Law School, Law and Economics Seminar, December 2015  
Boston University Law School, Law and Economics Seminar, October 2015  
Berkeley Law School, Law and Economics Seminar, October 2015  
George Mason University, Privacy and Data Security Conference, June 2015  
American Law and Economics Association, Annual Meeting, May 2015  
University of Bonn, Economics Dept. Seminar, March 2015  
University of Paris, Nanterre, Economics Dept. Seminar, March 2015  
George Mason University, Consumer Protection Conference, January 2015  
Universitat Pompeu Fabra (Barcelona), Law and Economics Seminar, December 2014  
Conference on Theoretical Law and Economics, Univ. of Ca. at Berkeley, November 2014  
Georgetown University, Law School Seminar, October 2014  
DOJ-FTC Workshop on Conditional Pricing Practices, June 2014  
American Law and Economics Association annual meeting, May 2014  
Emory University, Economics Dept. Seminar, March 2014  
Florida State University, Law School Seminar, March 2014  
Tel Aviv University, Law and Economics Seminar, March 2014  
Vanderbilt University, Conference on Theoretical Law and Economics, December 2013  
Stanford University, Law and Economics Seminar, November 2013  
Association of Public Economic Theory annual meeting, July 2013  
American Law and Economics Association annual meeting, May 2013  
DePaul University, Clifford Symposium, April 2013  
University of Virginia Law School, Law and Economics Seminar, March 2013  
Arbitration Conference, George Mason Law School, January 2013  
University of Amsterdam, Center for Law and Economics, December 2012  
University of Paris 2, Economics Dept. seminar, December 2012  
Yale Law School, faculty seminar, November 2012  
Vanderbilt Law School, Law and Economics Seminar, October 2012  
Berkeley Law School, Law and Economics Seminar, February 2012  
University of Florida, Antitrust Law and Economics Workshop, February 2012  
USC Law School, Law and Economics Seminar, January 2012  
Washington University, Conference on Theoretical Law and Economics, November 2011  
UCLA Law School, Law and Economics Seminar, October 2011  
Northwestern Law School, Law and Economics Seminar, October 2011  
Stanford Law School, Law and Economics Lunch Seminar, July 2011  
American Law and Economics Annual Meeting, May 2011  
International Industrial Organization Conference, April 2011  
Center for Competition Policy Annual Conference, Norwich, UK, June 2010  
28th Seminar on the New Institutional Economics, Budapest, Hungary, June 2010  
American Law and Economics Association Annual Meeting, May 2010  
Swiss Federal Institute of Technology, Lecture Series in Law and Economics, March 2010  
University of Texas, Law and Economics Seminar, October 2009  
American Law and Economics Association Annual Meeting, May 2009  
Duke University Game Theory and the Law Conference, May 2009  
NBER Mid-Year Meeting, Law and Economics, March 2009  
USC, Law School Seminar, October 2008

UCLA, Law and Economics Seminar, October 2008  
Duke University, Law School Seminar, October 2008  
University of Texas, Law School Seminar, September 2008  
Symposium on Antitrust Economics and Competition Policy, Northwestern Univ, Sept 2008  
American Law and Economics Association Annual Meeting, May 2008  
New York University, Law and Economics Seminar, April 2008  
Symposium on Insurance Markets and Regulation, Northwestern University, April 2008  
Stanford University, Law and Economics Seminar, March 2008  
Yale University, Law, Economics, and Organization Seminar, December 2007  
Georgetown University, Law and Economics Seminar, November 2007  
University of Virginia, Law and Economics Seminar, October 2007  
NBER Summer Institute, Law and Economics, July 2007  
Chicago-Kent, Law School Seminar, March 2007  
NBER Mid-Year Meeting, Law and Economics, March 2007  
University of Chicago, Law and Economics Seminar, January 2007  
NBER Summer Institute (Discussant), Law and Economics, July 2006  
American Law and Economics Association Annual Meeting, May 2006  
University of Texas, Law, Economics and Business Seminar, January 2006  
University of Maryland, IO/Theory workshop, October 2005  
Northwestern University, Law School Seminar, August 2005  
NBER Summer Institute, Law and Economics, July 2005  
UBC Summer Conference on Industrial Organization, July 2005  
American Law and Economics Association Annual Meeting, May 2005  
University of Texas at Austin-ITAM Joint Conference, October 2004  
IDEI/ZEI Conference on Regulation of Media Markets, October 2004  
University of Texas, Department of Economics Seminar, September 2004  
American Law and Economics Association Annual Meeting, May 2004  
Stanford Conference on Media and Economic Performance, March 2004  
Georgetown University, Department of Economics Seminar, February 2004  
University of Southern California, Law School Seminar, January 2004  
North American Winter Meeting of the Econometric Society, January 2004  
University of Texas, Law School Seminar, November 2003  
NBER Summer Institute, Law and Economics, August 2003  
North American Summer Meeting of the Econometric Society, June 2003  
International Industrial Organization Conference, April 2003.  
University of Michigan Law & Economics Seminar, March 2003.  
North American Summer Meeting of the Econometric Society, June 2002  
American Law and Economics Association Annual Meeting, May 2002  
Department of Justice, Economic Analysis Group Seminar, March 2002  
ITAM, Business School Seminar, February 2002  
Rutgers University, Department of Economics Seminar, November 2001  
European Economic Association Annual Meeting, September 2001  
North American Summer Meeting of the Econometric Society, June 2001  
American Law and Economics Association Annual Meeting, May 2001  
Federal Trade Commission, Bureau of Economics Seminar, May 2001  
International Atlantic Economic Society Spring Meeting, March 2001  
Georgetown University, Department of Economics Seminar, October 2000  
Federal Trade Commission, Bureau of Economics Seminar, October 2000  
Department of Justice, Economic Analysis Group Seminar, July 2000



Federal Trade Commission, Bureau of Economics Seminar, May 2000  
Harvard University, Department of Economics Seminar, October 1998  
Harvard University, Department of Economics Seminar, October 1997

## **PROFESSIONAL SERVICE**

Editor, *Journal of Law, Economics & Organization*, 2019-

Editor, *American Law and Economics Review*, 2012-2017

Board of Directors, American Law and Economics Association, 2010-2013

Program Committee, American Law and Economics Association 2012 Annual Meeting

Associate Editor *Journal of Industrial Economics*, September 2008 – June 2013

Associate Editor *International Review of Law and Economics*, February 2012 – Present

Referee for: *American Economic Journal Micro*, *American Economic Journal Public Policy*, *American Economic Review*, *American Law and Economics Review*, *American Political Science Review*, *Antitrust Law Journal*, *BE Journals in Economic Analysis and Policy*, *BE Journals in Theoretical Economics*, *Canadian Journal of Economics*, *Economic Journal*, *Economica*, *Economics*, *Games and Economic Behavior*, *International Journal of Economic Theory*, *International Journal of Industrial Organization*, *International Review of Law and Economics*, *Journal of Economic Behavior and Organization*, *Journal of Economics*, *Journal of Economics and Management Strategy*, *Journal of the European Economic Association*, *Journal of Industrial Economics*, *Journal of Institutional and Theoretical Economics*, *Journal of Labor Economics*, *Journal of Law and Economics*, *Journal of Law, Economics, and Organization*, *Journal of Legal Analysis*, *Journal of Legal Studies*, *Journal of Policy Analysis and Management*, *Journal of Political Economy*, *National Science Foundation*, *Oxford University Press*, *Quarterly Journal of Economics*, *Quarterly Review of Economics and Finance*, *RAND Journal of Economics*, *Review of Economics Studies*, *Review of Industrial Organization*

“Excellence in Refereeing Award”—*American Economic Review*, 2007-2008.

## **TEACHING EXPERIENCE**

### **UNIVERSITY OF TEXAS SCHOOL OF LAW**

*Contracts (1L)*, *Antitrust*, *Law and Economics Workshop*, *Law and Economics*, *Data Mistakes in Law*

### **TEL AVIV UNIVERSITY LAW SCHOOL**

*Issues in Competition Law, Economics, and Policy*, Dec-Jan 2015-16

### **YALE LAW SCHOOL**

*Antitrust*, Fall 2012

*Law and Economics*, Spring 2013

*Economic Issues in Legal Procedure*, Spring 2013

DUKE UNIVERSITY SCHOOL OF LAW

*Contracts* (1L), Fall 2008

*Antitrust*, Spring 2009

NORTHWESTERN UNIVERSITY SCHOOL OF LAW

*Contracts* (1L), Fall 2006 and Fall 2007

*Antitrust*, Spring 2008

*Law and Economics Workshop*, Spring 2007 and Spring 2008

UNIVERSITY OF TEXAS AT AUSTIN

*Law and Economics* (advanced undergraduate), Fall 2004, Spring 2005, Fall 2005

*Introduction to Microeconomics* (undergraduate), Fall 2005

HARVARD UNIVERSITY—GRADUATE TEACHING FELLOW

*Contract Theory* (second year Ph.D. course), Fall 1997

*Law and Economics* (Sophomore Tutorial), Spring 1998

**CONSULTING**

E-books litigation, consulting expert for State of Texas, April 2010-February 2013

E-books settlement, expert in support of the settlement with all five publishers for Liaison Counsel for the States, June 2012-July 2013.

Wickfire v. TriMax, consulting expert for plaintiff Wickfire for antitrust counterclaims, 2015-2017.

In re: Malinckrodt PLC, et al., expert for the unsecured creditor's committee on antitrust claims. 2021-2022. Deposed and testified.

Anita C. Deselms, et al. v. Occidental Petroleum Corp, expert for class plaintiffs. 2021-. Deposed

NG Purvis bankruptcy, expert for the unsecured creditor's committee on antitrust claims. 2022.

Endo bankruptcy, , expert for the unsecured creditor's committee on antitrust claims. 2022-.

In Re Amazon.com, Inc. Ebook Antitrust Litigation, expert for the plaintiffs, 2024-