

OMRI BEN-SHAHAR

Leo and Eileen Herzel Professor of Law
University of Chicago Law School ☎ Chicago, IL 60637
Phone (773) ☎ Email omri@uchicago.edu

PROFESSIONAL EXPERIENCE

2008 - Leo and Eileen Herzel Professor of Law, University of Chicago
2001- 2008 Kirkland and Ellis Professor of Law and Economics, University of Michigan
1999-2001 Assistant Professor of Law and Economics, University of Michigan
1995-1998 Assistant Professor of Law and Economics, Tel-Aviv University

EDUCATION

1995 Harvard University, PhD, Economics
1999 Harvard University, S.J.D, Law
1991 Harvard University, LL.M, Law
1989 Hebrew University, B.A, Economics
1989 Hebrew University, LL.B, Law

ACTIVITIES

2012 – Reporter, Restatement of the Law, Consumer Contract, American Law Institute
2011 – Kearny Director, Coase-Sandor Institute for Law and Economics, University of Chicago
2016 – 2018 Columnist, Forbes.com
2008-2016 Editor, Journal of Legal Studies
2007-2008 Chair, Section on Contracts, Association of American Law Schools
2006-2009 Board Member, American Association of Law and Economics
2002-2003 Chair, Section on Law and Economics, Association of American Law Schools
2001-2002 Founding President, Israeli Law and Economics Association
1999-2008 Founding Director, Olin Center for Law and Economics, University of Michigan
1997-1999 Judicial Panel Member, Israel Antitrust Court
1995-1998 Faculty Fellow, Israel Democracy Institute
1989-1990 Law Clerk, Supreme Court of Israel, Justice Yaakov Maltz

BOOKS

Omri Ben-Shahar and Ariel Porat, **PERSONALIZED LAW: DIFFERENT RULES FOR DIFFERENT PEOPLE** (Oxford University Press, 2021)

RESTATEMENT OF THE LAW, CONSUMER CONTRACTS (Tentative Draft, American Law Institute, 2019) (Reporter, with Oren Bar-Gill and Florencia Marrota-Wurgler)

Omri Ben-Shahar and Carl E. Schneider, **MORE THAN YOU WANTED TO KNOW: THE FAILURE OF MANDATED DISCLOSURE** (Princeton University Press 2014; Paperback Edition 2016)
Chinese Translation: “Too Far: The Failure of Mandated Disclosure” (China Law Press, 2015)

Omri Ben-Shahar and Ariel Porat, eds., **FAULT IN AMERICAN CONTRACT LAW** (Cambridge University Press 2010)

Omri Ben-Shahar, ed., **BOILERPLATE: FOUNDATIONS OF MARKET CONTRACTS** (Cambridge University Press 2007)

RESEARCH ARTICLES

An Information Cost Theory of Default Rules (with Oren Bar-Gill) 88 University of Chicago Law Review 581 (2021)

Personalized Elder Law (Annual Baum Lecture, University of Illinois), 28 Elder Law Journal 281, 2021.

Data Pollution, 11 Journal of Legal Analysis 104 (2019).

The American Law Institute's Restatement of Consumer Contracts: Reporters' Introduction, 15 European Review of Contract Law 91 (2019) (with Oren Bar-Gill and Florencia Marotta-Wurgler)

Personalizing Mandatory Rules in Contract Law, 86 University of Chicago Law Review 255 (2019) (with Ariel Porat)

The Restoration Remedy in Private Law, 118 Columbia Law Review 1901 (2018) (with Ariel Porat)

The Unfulfilled Promise of Mortgage Disclosures, in THE LAW AND ECONOMICS OF THE SPANISH MORTGAGE MARKET (Gomez & Ganuza, eds., 2018) (in Spanish)

Interpreting Contracts Via Surveys and Experiments, 92 New York University Law Review 1753 (2017) (with Lior Strahilevitz)

Searching for the Common Law: The Quantitative Approach to the Restatement of Consumer Contracts, 84 University of Chicago Law Review 7 (2017) (with Oren Bar-Gill and Florencia Marotta-Wurgler)

Simplification of Privacy Disclosures: An Experimental Study, 45 Journal of Legal Studies, S41 (2016) (with Adam Chilton)

The Paradox of Access Justice, And Its Application to Mandatory Arbitration, 83 University of Chicago Law Review 1755 (2016)

Optimal Default for Consumer Contracts, 45 Journal of Legal Studies S137 (2016) (with Oren Bar-Gill)

Contracting Over Privacy: Introduction, 45 Journal of Legal Studies S1 (2016) (with Lior Strahilevitz)

The Perverse Effects of Subsidized Weather Insurance, 68 Stanford Law Review 571 (2016) (with Kyle Logue) (abridged version reprinted in *Regulation*, Fall 2015).

Personalizing Negligence Law, 91 NYU Law Review 627 (2016) (with Ariel Porat)

Regulation of Food Safety By Insurance, 14(2) Law and Social Sciences 48 (2015) (in Chinese)

Coping with the Failure of Mandated Disclosure, Jerusalem Review of Legal Studies (2015) (with Carl Schneider)

The Futility of Cost Benefit Analysis in Financial Regulation, 43 Journal of Legal Studies s253 (2014) (with Carl Schneider)

Exit From Contract, 6(1) Journal of Legal Analysis 152 (2014) (with Oren Bar-Gill)

Regulation Through Boilerplate: An Apologia, 112 Michigan Law Review 883 (2014)

Reversible Rewards, 15 American Law and Economics Review 156 (2013) (with Anu Bradford)

Regulatory Techniques in the Consumer Protection: A Critique of European Consumer Contract Law, 50 Common Market L. Rev. Special Issue 109 (2013) (with Oren Bar-Gill), translated to Spanish as *La Regulación de Los Contratos de Consumo*. In NUEVAS TENDENCIAS DEL MODERNO DERECHO ECONÓMICO (Valdés Prieto and Vásquez Duque, Eds., Santiago: Thomson Reuters, 2014) 209–236.

Introduction: A law and economics approach to European contract law, 50 Common Market L. Rev. Special Issue 3 (2013)

Contract versus Property Damages, 12, Academia Sinica Law Journal 1 (2013)

Outsourcing Regulation: How Insurance Reduces Moral Hazard, 111 Michigan L. Rev. 197 (2012) (with Kyle Logue)

Efficient Enforcement in International Law, 12 Chicago J. Int'l Law 375 (2012) (with Anu Bradford)

Fixing Unfair Contracts, 63 Stanford Law Review 869 (2011) (voted Best Contracts Paper published in 2011 by AALS Section on Contracts Official Blog).

The Failure of Mandated Disclosure, 159 U. of Penn. L. Rev. 647 (2011) (with Carl Schneider)
Spanish translation: El Fracaso de la Obligación de Proporcionar Información, in ANALISIS ECONOMICO DEL DERECHO, Ramirez and Granado, Eds. (Editorial Porrúa, Mexico 2012)
Russian translation: НЕЭФФЕКТИВНОСТЬ ТРЕБОВАНИЯ РАСКРЫТИЯ ИНФОРМАЦИИ, Актуальные проблемы экономики и права. (Actual Problems of Economics and Law) 2017. Vol. 11, No. 2, pp. 150-178 and Vol. 11, No. 4, pp. 87-110.

The Right to Withdraw in Contract Law, 40 J. Legal Stud 115 (2011) (with Eric Posner)

Damages for Unlicensed Use, 78 U. of Chicago L. Rev. 7 (2011)

One-Way Contracts: Consumer Protection Without Law, 6 European Rev. Contract Law 221 (2010)

Consumer Protection Without Law, 33(2) Regulation 26 (Summer, 2010)

Pre-Closing Liability, 77 U. of Chicago L. Rev. 977 (2010)

An Information Theory of Willful Breach, 107 Michigan L. Rev. (2009) (with Oren Bar-Gill)

The Myth of Opportunity to Read in Contract Law, 5 *European Review of Contract Law* 1 (2009)

A Bargaining Power Theory of Gap-Filling, 109 *Columbia L. Rev.* (2009)

The Prisoners' (Plea Bargain) Dilemma, 1 *Journal of Legal Analysis* (2009), Reprinted in 33(1) *Regulation* 42 (Spring, 2010) (with Oren Bar-Gill)

How Bad Are Mandatory Arbitration Terms?, 41 *Michigan Journal of Law Reform* 777 (2008)

Partially Odious Debt? A Framework for Optimal Liability, 70 *Journal of Law and Contemporary Problems* 101 (2007) (with Mitu Gulati)

Against Irreparable Benefits, 116 *Yale L.J. Pocket Part* 381 (2007)

The (Legal) Pains of Vioxx, *The Economist's Voice*, Vol. 3, Issue 6, Berkeley Economics Press (2006)

On the Stickiness of Default Rules, 33 *Florida State Law Review* 651 (2006) (with John Pottow)

More Options, Less Freedom: Review of Ian Ayres' "Optional Law", *Journal of Economic Literature*, Vol. XLIV, pp. 444-449. (2006)

Boilerplate and Economics Power in Auto Production Contracts, in Symposium on "Boilerplate: Foundations of Market Contracts," 104 *Michigan Law Review* 953 (2006) (with James J. White)

Forward: Symposium on Boilerplate, 104 *Michigan Law Review* 821 (2006)

An Ex-Ante View of the Battle of the Forms: Inducing Parties to Draft Reasonable Terms, 25 *International Rev. L. & Econ.* 350 (2005)

The (Legal) Value of Chance: Distorted Measures for Recovery in Private Law, 7 *American Law and Economics Review* 484 (2005) (with Robert Mikos)

Legal Durability, 1 *Review of Law and Economics*, www.bepress.com/rle/vol1/iss1/art2 (2005)

Credible Coercion, 83 *Texas Law Review* 717 (2005) (with Oren Bar-Gill)

The Law of Duress and the Economics of Credible Threats, 33 *Journal of Legal Studies* 391 (2004) (with Oren Bar-Gill)

Contracts without Consent: Exploring a New Basis for Contractual Liability, 152 *U. of Pennsylvania Law Review* 1829 (2004) (A symposium on this article appeared in the same issue.)

Ascent of Contract versus Contract upon Assent: Addendum, 152 *U. of Pennsylvania Law Review* 1947 (2004)

Agreeing to Disagree: Filling Gaps in Deliberately Incomplete Contracts, in Symposium on Freedom from Contract, 2004 *Wisconsin Law Review* 389 (2004)

- Freedom From Contract: Forward***, 2004 Wisconsin Law Review 261 (2004)
- Threatening an Irrational Breach of Contract***, 11 Supreme Court Economic Review 143-170 (2004), reprinted in *The Law and Economics of Irrational Behavior* (F. Parisi, V. Smith, Eds., Stanford Press)
- The Uneasy Case for Comparative Negligence***, American Law and Economics Review, Vol. 5, 433-469 (2003) (with Oren Bar-Gill)
- Precontractual Reliance***, The Journal of Legal Studies, Vol 30, 423-457 (2001) (with Lucian Bebchuk)
- The Secrecy Interest in Contract Law***, Yale Law Journal, Vol. 109, 1885-1925 (2000) (with Lisa Bernstein)
- Causation and Foreseeability***, in *Encyclopedia of Law and Economics* (Bouckaert and DeGeest, Eds., Elgar Pub., 2000)
- The Tentative Case against Flexibility in Commercial Law***, University of Chicago Law Review, Vol. 66, pp. 781-820 (1999) (reviewed by Ian Ayres, *Eroding Entitlements as Litigation Commitment*, 66 University of Chicago Law Review 836)
- The Erosion of Rights By Past Breach***, American Law and Economics Review, Vol. 1, 190-238 (1999)
- Criminal Attempts***, in *The New Palgrave Dictionary of Economics and the Law* (P. Newman, Ed., 1998)
- Should Products Liability Be Based on Hindsight?***, The Journal of Law, Economics, and Organization, Vol. 14, pp. 325-357 (1998)
- The Regulation of the Licensing of Professional Occupations***, The Economic Quarterly, Vol. 1998(1), pp. 18-27 (in Hebrew, 1998)
- Playing Without a Rulebook: Optimal Sanctions When Individual Learn the Penalty Only By Committing the Crime***, International Review of Law and Economics, Vol. 17, pp. 409-421 (1997)
- The Economics of the Law of Criminal Attempts: a Victim-Centered Perspective***, U. of Pennsylvania Law Review, Vol. 145, pp., 299-351 (1996) (with Alon Harel) (excerpted in KAPLAN, WEISBERG & BINDER, CRIMINAL LAW: CASES AND MATERIALS, 5th ed. 2004)
- "Blaming the Victim": Optimal Incentives for Private Precautions Against Crime***, Journal of Law, Economics and Organization, Vol. 11, pp. 434- 455 (1995) (with Alon Harel)
- Informed Courts, Uninformed Individual and the Economics of Judicial Hindsight***, Journal of Institutional and Theoretical Economics, Vol. 151, pp. 613-630 (1995)

OTHER PUBLICATIONS

- [Who Should Be Liable When Uber Cars Crash?](#)** JOTWELL (June 1, 2020) (Reviewing Omer Y. Pelled, *The Proportional Internalization Principle in Private Law*, 11 J. Legal Analysis 161)
- [The Elusive Pursuit of Comprehensibility](#)**, The Regulatory Review (April 6, 2020) (Reviewing Wendy Wagner, *Incomprehensible!* (Cambridge 2019))

[**Fine Print Subservience**](#), JOTWELL (July 30, 2019) (Reviewing Meirav Furth-Matzkin & Roseanna Sommers, *Consumer Psychology and the Problem of Fine Print Fraud*, 72 Stan. L. Rev)

[**Reporters' Statement Concerning Research Methods**](#), Yale Journal on Regulation Online (March 28, 2019) (with Oren Bar-Gill and Florencia Marotta-Wurgler)

[**Data Driven Contract Interpretation: Discovering "Plain Meaning" Through Quantitative Methods**](#), JOTWELL (June 13, 2018) (Reviewing Stephen C. Mouritsen, *Contract Interpretation with Corpus Linguistics*)

[**How To Interpret A Contract? Ask Those Who'd Sign It**](#), Law360 (March 21, 2018) (with Lior Strahilevitz, Duo Jiang, Kristina Shampanier and Rebecca Kirk Fair)

[**The Environmentalist Case In Favor Of GMO Food**](#), Forbes (February 26, 2018)

[**Equifax, Strava, And Russian Facebook Ads: How To Hold Websites Accountable For Data Breach**](#), Forbes (February 1, 2018)

[**Consumers Are Suing Apple For Slowing Down Their iPhones. Did Apple Break The Law?**](#), Forbes (December 29, 2017)

[**The Great "Non-GMO" Deception: How To Sell Politically Correct Chocolate Chip Cookies**](#), Forbes (December 8, 2017)

[**Are Uber Drivers Employees? The Answer Will Shape The Sharing Economy**](#), Forbes (November 15, 2017)

[**The Repeal Of Obama's Legacy: A Different Perspective**](#), Forbes (October 28, 2017)

[**Restaurant Hygiene Grading Law Gets A "Fail"**](#), Forbes (October 6, 2017)

[**Don't Rebuild The Florida Keys**](#), Forbes (September 13, 2017)

[**How Chicago Can Lure Amazon: Ban Employment Noncompete Agreements**](#), Chicago Tribune (September 12, 2017)

[**Lessons from Hurricane Harvey: Federal Flood Insurance is the Problem, Not the Solution**](#), Forbes (August 30, 2017, with Kyle Logue)

[**More Failed Nudges: Evidence of Ineffective "Behaviorally Informed" Disclosures**](#), JOTWELL (August 10, 2017) (Reviewing Enrique Seira et al., *Are Information Disclosures Effective? Evidence From the Credit Card Market*, 9 Am. Econ. J.: Econ. Pol'y 277)

[**Let Them Shrink: FAA Should Not Regulate Airline Seat Space**](#), Forbes (August 1, 2017)

[**Teacher Certification Makes Public School Education Worse, Not Better**](#), Forbes (July 21, 2017, with Carl Schneider)

[**How Illinois Courts Are Bankrupting The State**](#), Forbes (July 8, 2017)

[**How Amazon Will Democratize Whole Foods**](#), Forbes (June 16, 2017)

[**The Curious Battle Over The Nutrition Label**](#), Forbes (June 15, 2017)

[**The False Hope Of Graduate Student Unions**](#), Forbes (May 28, 2017)

[**David Dao Versus United: What Does The Airline Contract Say?**](#), Forbes (April 14, 2017, with Lior Strahilevitz)

[**Overbooked? What United Airlines Should Have Done**](#), Forbes (April 11, 2017)

[**The Illinois Invention of Useless Privacy Protection**](#), Forbes (March 23, 2017)

[**The Many Wrong Reasons To Fear Uber \(And The One Unnoticed Über-Threat\)**](#), **Forbes (March 13, 2017)**

[**The Republicans Who Will Stop Trump**](#), Forbes (February 24, 2017)

[**Trump's 2-For-1 Folly**](#), Forbes (February 17, 2017)

[**Privacy Protection Without Law: How Data Privacy Is Shaped By Market Forces**](#), Forbes (January 30, 2017)

[**Let's End Trademark Piety. Racial Slurs Should Be Trademarked -- It Will Only Reduce Their Use**](#), Forbes (January 17, 2017)

[**A New year's Wish: End Flight Safety Instructions \(... And Other Useless Warnings\)**](#), Forbes (December 26, 2016)

[*The Non-Voters Who Decided The Election: Trump Won Because Of Lower Democratic Turnout*](#), Forbes (November 17, 2016)

[*California Got It Right: Ban The Non-Compete Agreements*](#), Forbes (October 27, 2016)

[*The Decline Of 'Shakedown' Class Actions*](#), Forbes (October 21, 2016)

[*The New Regulation Of Prepaid Cards: A Solution In Search Of A Problem*](#), Forbes (October 5, 2016)

[*Should Carmakers Be Liable When A Self-Driving Car Crashes?*](#), Forbes (September 22, 2016)

[*The Better Way To Regulate "Natural" Food*](#), Forbes (September 9, 2016, with Carl Schneider)

[*Insurance Big Data Saves Money And Lives, Except In California*](#), Forbes (August 24, 2016)

[*Your Internet Privacy Should Be Up For Sale*](#), Forbes (August 8, 2016)

[*How To Whisper GMO*](#), Forbes (July 8, 2016)

[*Privacy Paranoia: Is Your Smartphone Spying On You?*](#), Forbes (May 3, 2016)

[*The FCC's Elitist Priorities In The Regulation Of Net Neutrality And Privacy*](#), Forbes (May 3, 2016)

[*Vermont's GMO Labeling Law Violates The First Amendment*](#), Forbes (May 3, 2016)

[*Add-On Airline Fees Actually Make Flying Cheaper*](#), Forbes (May 3, 2016)

[*The Surprising Failure of Food Labeling*](#), Forbes (April 18, 2016)

[*CFPB Prohibits Arbitration Agreements--And It Wouldn't Help Consumers*](#), Forbes (May 5, 2016)

[*Privacy Is the New Money, Thanks to Big Data*](#), Forbes (April 1, 2016)

[*The GMO Labeling Fight Has Nothing To Do with Information—On Either Side*](#), Forbes (March 21, 2016)

[*Apple's Crocodile Tears*](#), The Huffington Post (February 26, 2016)

[*The Unintended Effects of Government-Subsidized Weather Insurance*](#), Regulation (Fall 2015) (with Kyle Logue)

[*Veto the Privacy Bill*](#), Chicago Tribune (August 8, 2015) ([Download PDF](#))

[*The Failed Reign of Mandated Disclosure*](#), The Regulatory Review (June 15, 2015)

[*Introducing the Virtual Symposium on "More Than You Wanted to Know"*](#), Contracts Prof Blog (September 12, 2014) (with Carl Schneider)

[*Ben-Shahar & Schneider Symposium, Finale: The Authors Respond*](#), Contracts Prof Blog (September 29, 2014) (with Carl Schneider)

[*Love Your Frequent-Flier Program? Let It Go*](#), Bloomberg View (June 13, 2014) (with Oren Bar-Gill)

[*The Futility of Cost Benefit Analysis in Financial Disclosure Regulation*](#), The CLS Blue Sky Blog (April 28, 2014) (with Carl Schneider)

[*Washington Is Encouraging the Next Hurricane Sandy, By Creating New Subsidies for Flood Insurance*](#), Forbes (March 25, 2014)

[*How Insurance Substitutes For Regulation*](#), Regulation (Spring 2013) (with Kyle Logue)

[*The Prisoners' \(Plea Bargain\) Dilemma*](#), Regulation (Spring 2010) (with Oren Bar-Gill)

[*Consumer Protection Without Law*](#), Regulation (Summer, 2010)

SYMPOSIA AND CONFERENCES

2018	Organizer, <i>Personalized Law</i> , University of Chicago Law Review (with Tony Casey, Ariel Porat, and Lior Strahilevitz)
2015	Organizer, <i>Contracting Over Privacy</i> , Journal of Legal Studies (with Lior Strahilevitz)
2014	Organizer, <i>Consumer Protection in China: A Law and Economics Approach</i> , Law and Social Science Review (in Chinese)
2012-2019	Organizer, <i>Summer Schools in Law and Economics</i> , Coase-Sandor Institute
2012	Organizer, <i>European Contract Law: a Law-and-Economics Perspective</i> , Common Market Law Review
2012	Co-Organizer, <i>Regulatory Techniques in Consumer Protection Law</i> , American Law

	Institute (with Oren Bar-Gill)
2010	Co-Organizer, <i>Licensing of Intellectual Property</i> , University of Chicago Law Review (with Richard Epstein and Jonathan Masur)
2008	Co-organizer, <i>Fault in Contract Law</i> , Michigan Law Review and Cambridge University Press (with Ariel Porat)
2007	Organizer, <i>How Bad Are Mandatory Arbitration Terms in Contracts?</i> , AALS Annual Meeting, Michigan Journal of Law Reform
2005	Organizer, <i>Boilerplate: Foundations of Market Contracts</i> , Michigan Law Review and Cambridge University Press
2004	Organizer, <i>Freedom From Contract</i> , Wisconsin Law Review (with Stuart Macaulay and William Whitford)
1998	Organizer, <i>The Economics of Contract Law</i> (Tel-Aviv, 1998)

TEACHING EXPERIENCE

- Contract Law
- Trademarks and Unfair Competition Law
- Consumer Law
- Insurance Law
- Electronic Commerce
- Commercial Transactions
- Law and Economics (Law School and Economics Department)
- Game Theory and The Law
- Food Law and Policy
- Private Regulation