

Updated: Sept. 2022

**B R I A N D . F E I N S T E I N**

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**P R O F E S S I O N A L E X P E R I E N C E**

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**THE WHARTON SCHOOL OF THE UNIVERSITY OF PENNSYLVANIA**, *Assistant Professor of Legal Studies & Business Ethics*, 2018-present

**UNIVERSITY OF CHICAGO LAW SCHOOL**, *Bigelow Fellow & Lecturer in Law*, 2016-2018

**HON. JOHN D. TINDER, U.S. COURT OF APPEALS FOR THE SEVENTH CIRCUIT**, *Law Clerk*, 2012-2013

**ARNOLD & PORTER LLP**, *Associate*, 2013-2016, *Summer Associate*, 2011

**E D U C A T I O N**

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**J.D.** HARVARD LAW SCHOOL, *cum laude*, 2012

**PH.D.** HARVARD UNIVERSITY, Department of Government, 2009 (M.A. received 2006)

**B.A.** BROWN UNIVERSITY, Economics & Political Science, 2004, *magna cum laude*

**P U B L I C A T I O N S**

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*In-Group Favoritism as Legal Strategy: Evidence from FCPA Settlements*, AMERICAN BUSINESS LAW JOURNAL, forthcoming (with William Heaston & Guilherme Siqueira de Carvalho)

*Submerged Independent Agencies*, UNIVERSITY OF PENNSYLVANIA LAW REVIEW, forthcoming (with Jennifer Nou)

*Divided Agencies*, 95 SOUTHERN CALIFORNIA LAW REVIEW 101 (2022) (with Abby Wood)  
Reviewed in JOTWELL: Anne Joseph O'Connell, *Disputing Conflict Avoidance*, Apr. 13, 2022

*Identity-Conscious Administrative Law: Lessons from Financial Regulators*, 90 GEORGE WASHINGTON LAW REVIEW 1 (2022)  
Reviewed in JOTWELL: Margaret Kwoka, *Elevating Marginalized Voices in Agency Decisionmaking*, Jan. 5, 2022

*The Impact of Cryptocurrency Regulation on Trading Markets*, 7 JOURNAL OF FINANCIAL REGULATION 48 (2021) (with Kevin Werbach)  
Finalist, Ralph Bunche Award for Best International Law Paper, 2020 Academy of Legal Studies in Business Conference

*The Contingent Origins of Financial Legislation*, 99 WASHINGTON UNIVERSITY LAW REVIEW 145 (2021) (with Peter Conti-Brown)

[\*Congress's Commissioners: Former Hill Staffers at the SEC and Other Independent Regulatory Commissions\*](#), 38 YALE JOURNAL ON REGULATION 175 (2021) (with Todd Henderson)

[\*Outside Advisers Inside Agencies\*](#), 108 GEORGETOWN LAW JOURNAL 1139 (2020) (with Daniel Hemel)

[\*Judging Judicial Foreclosure\*](#), 15 JOURNAL OF EMPIRICAL LEGAL STUDIES 406 (2018)

[\*Partisan Balance with Bite\*](#), 118 COLUMBIA LAW REVIEW 9 (2018) (with Daniel Hemel)

[\*Congress in the Administrative State\*](#), 95 WASHINGTON UNIVERSITY LAW REVIEW 1189 (2018)

[\*Designing Executive Agencies for Congressional Control\*](#), 69 ADMINISTRATIVE LAW REVIEW 259 (2017)

[\*Congressional Government Rebooted: Randomized Committee Assignments & Legislative Capacity\*](#), 7 HARVARD LAW & POLICY REVIEW 601 (2013)

[\*Avoiding Oversight\*](#), 8 JOURNAL OF LAW, ECONOMICS, & POLICY 23 (2011)

[\*Community Benefits Agreements with Transit Agencies: A Legal Strategy for Addressing Gentrification\*](#), 38 TRANSPORTATION LAW JOURNAL 85 (2011) (with Ashley Allen)

[\*The Dynasty Advantage: Family Ties in Congressional Elections\*](#), 35 LEGISLATIVE STUDIES QUARTERLY 571 (2010)

[\*Congressional Parties and Civil Rights Politics\*](#), 72 JOURNAL OF POLITICS 672 (2010) (with Eric Schickler and Kathryn Pearson)

[\*Platforms and Partners: The Civil Rights Realignment Reconsidered\*](#), 22 STUDIES IN AMERICAN POLITICAL DEVELOPMENT 1 (2008) (with Eric Schickler)

Best paper on political organizations and parties presented at the American Political Science Association Annual Meeting, 2007

## WORKING PAPERS

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[\*Board Diversity Matters: An Empirical Assessment of Community Lending at Federal Reserve-Regulated Banks\*](#) (with Peter Conti-Brown and Kaleb Nygaard)

[\*Congress Is An It\*](#)

[\*State Politics and Mortgage Markets\*](#) (with Chen Meng & Manisha Padi)

Holmes-Cardozo Outstanding Research Award, 2019 Academy of Legal Studies in Business Conference, Montreal, Canada

[\*Bank Supervision and Inequality\*](#) (with Peter Conti-Brown)

Finalist, Holmes-Cardozo Award for Best Conference Paper, 2022 Academy of Legal Studies in Business Conference, Louisville, Kentucky

[\*Disappearing Commissioners\*](#) (with David Zaring)

[\*Don't Fear Cryptocurrencies. Manage Them.\*](#), NEW YORK TIMES (Apr. 14, 2021) (with Kevin Werbach) (op-ed)

[\*Financial Lawmaking and the Incoherence of Antinovelty Doctrine\*](#), DUKE LAW SCHOOL GLOBAL FINANCIAL MARKETS CENTER, The FinReg Blog (Mar. 29, 2021) (with Peter Conti-Brown) (blog post)

[\*Twitter and the Federal Reserve: How the U.S. Central Bank Is \(And Is Not\) Surviving Social Media\*](#), BROOKINGS INSTITUTION, Series on Financial Markets and Regulation Report (Oct. 29, 2020) (with Peter Conti-Brown) (policy research report)

[\*The Dog that Didn't Bark: Effects of Regulation on Cryptocurrency Trading\*](#), COLUMBIA LAW SCHOOL BLUE SKY BLOG ON CORPORATIONS & CAPITAL MARKETS (Sept. 28, 2020) (with Kevin Werbach) (blog post)

[\*Does Regulation Chill Cryptocurrency Trading?\*](#), THE REGULATORY REVIEW (Aug. 2020) (with Kevin Werbach) (blog post)

[\*Time to Update Lincoln's Law for Trump's Administration\*](#), BLOOMBERG LAW (Apr. 27, 2020) (op-ed)

[\*Brief of Professors Brian D. Feinstein and Daniel J. Hemel as Amici Curiae in Support of Petitioner, Carney v. Adams\*](#), No. 19-309, U.S. Supreme Court, filed Jan. 28, 2020 (with Daniel J. Hemel) (author and co-counsel)

[\*Research Note: Outside Advisers Inside Agencies\*](#), Osservatorio AIR (EU think tank) (Oct. 2019) (blog post) (blog post)

[\*State Foreclosure Law: A Neglected Element of the Housing Finance Debate\*](#), Penn Wharton Public Policy Initiative Issue Brief (Nov. 2018) (policy research report)

[\*Can Member Characteristics Predict Committee Oversight Activity?\*](#), NEW AMERICA FOUNDATION and R STREET INSTITUTE LEGISLATIVE BRANCH CAPACITY WORKING GROUP (Apr. 25, 2018) (blog post)

[\*The Mick Mulvaney Proposal that Could Change the CFPB for the Better\*](#), FORTUNE (Apr. 17, 2018) (with Todd Henderson)

[\*Who Conducts Oversight? Bill-Writers, Lifers, and Nail-Biters\*](#), 64 WAYNE LAW REVIEW 127 (2018) (symposium piece prepared for Carl Levin Center Symposium on Congressional Oversight in the 21st Century)

[\*Partisan Balance Requirements from Carter to Obama \(and Trump\)\*](#), YALE JOURNAL ON REGULATION: NOTICE & COMMENT (Aug. 11, 2017) (blog post) (with Daniel Hemel)

[\*Agencies' Responsibilities to Inform Congress: Two Perspectives\*](#), YALE JOURNAL ON REGULATION: NOTICE & COMMENT (July 11, 2017) (blog post)

Op-Ed, [\*Hill Republicans must strengthen Congress – big league\*](#), THE HILL, Nov. 14, 2016

Op-Ed, *Mix it up in Congress*, L.A. TIMES, Jan. 5, 2015, § A, at 13 (web version: [A simple way to fix gridlock in Congress – change committees](#))

Reprinted in other newspapers via Tribune News Service distribution, e.g., Op-Ed., *Rethink the committee system*, PHILADELPHIA INQUIRER, Jan. 7, 2015, § A, at 14

[Book Review, \*The System of the Constitution\*, by Adrian Vermeule](#), 23 LAW & POLITICS BOOK REVIEW 401 (2013)

[Are Close Elections Random?](#), (unpublished working paper, with Justin Grimmer, Daniel Carpenter, and Eitan Hersh)

## TEACHING

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### THE WHARTON SCHOOL

Law & Social Values, Fall 2022, Spring 2022, Fall 2020, Spring 2020, Spring 2019  
Wharton Teaching Excellence Award, AY 2021, AY 2020

Doctoral Independent Study: Regulatory Agencies & Business, Spring 2021

### UNIVERSITY OF CHICAGO LAW SCHOOL

Legal Research & Writing, 2016-2018

### HARVARD UNIVERSITY

Head Teaching Fellow, American Government: A New Perspective, Spring 2007 & Spring 2008  
Certificate of Distinction & Excellence in Teaching, Spring 2007 & Spring 2008

Teaching Fellow, The Politics of Congress, Fall 2007  
Certificate of Distinction & Excellence in Teaching, Fall 2007

Advisor, Government and Social Studies Senior Honors Theses

## PRESENTATIONS

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*Strategic Subdelegation*: Conference on Empirical Legal Studies, University of Virginia Law School (Nov. 2022).

*In-Group Favoritism as Legal Strategy: Evidence from FCPA Settlements*: Business Scholarship Podcast (Aug. 2022); Academy of Legal Studies in Business Annual Conference (Aug. 2021)

*Grading on a Curve*: Academy of Legal Studies in Business Annual Conference, Louisville, KY (Aug. 2022)

*Board Diversity Matters*: American Law & Economics Association Annual Meeting, Columbia Law School (Aug. 2022); Conference on Empirical Legal Studies (Mar. 2022); Federal Reserve Division of Consumer & Community Affairs (Mar. 2022); Penn Program on Regulation Lecture Series on Race & Regulation, Penn Law School (Feb. 2022); Office of Comptroller of the Currency (Acting Comptroller

Hsu and senior staff) (Jan. 2022); U.S. House Financial Services Committee, Majority Staff (Jan. 2022), FDIC Center for Financial Research (Jan. 2022)

*Congress Is An It*: UC Hastings Law School Faculty Colloquium (Feb. 2022); New Voices in Administrative Law, AALS Annual Meeting (Jan. 2022)

*Agency Legitimacy*: Big Ten & Friends Business Law & Ethics Research Seminar, University of Michigan Ross School of Business (July 2022); Chicago/Michigan Psychology & Lab Studies Group (Jan. 2022)

*Divided Agencies*: Penn Program on Regulation Conversations on Law & Governance (Nov. 2021); Boyden Gray Center for the Study of the Administrative State, Antonin Scalia Law School, George Mason University (Oct. 2021)

*Submerged Independent Agencies*: University of Chicago American Politics Workshop (Nov. 2021); Boyden Gray Center for the Study of the Administrative State (Sept. 2021)

*Financial Regulation in the Biden Administration: What to Expect*, panelist, Academy of Legal Studies in Business Conference (Aug. 2021)

*Identity-Conscious Administrative Law*: Vanderbilt Law School Public Governance Seminar (Oct. 2021); Power in the Administrative State Workshop Series (July 2021); Boston University Law School Consumer Law Seminar (Apr. 2021); Financial Regulatory Scholars Workshop (Feb. 2021); New Voices in Administrative Law, AALS Annual Meeting (Jan. 2021); University of Georgia Terry College of Business Legal Studies Summer Seminar (July 2020)

*Congress's Power of the Purse in the Administrative State*, roundtable participant, Boyden Gray Center for the Study of the Administrative State, Antonin Scalia Law School, George Mason University (Feb. 2021)

*Ten Years After Dodd-Frank: Is the Financial System Safer?*, panelist, Academy of Legal Studies in Business Conference (Aug. 2020)

*The Impact of Cryptocurrency Regulation on Trading Markets*: Wharton Financial Regulation Conference (Apr. 2021); Academy of Legal Studies in Business Conference (Aug. 2020)

*The Contingent Origins of Financial Legislation*: Congress & History Conference, University of Wisconsin (June 2020); Big Ten & Friends Business Law & Ethics Research Seminar, Indiana University Kelley School of Business (Feb. 2020).

*State Politics and Mortgage Markets*: American Law & Economics Annual Meeting, University of Chicago (Nov. 2020; paper accepted, conference later cancelled due to Covid); Conference on Empirical Legal Studies, Claremont McKenna College (Nov. 2019); Academy of Legal Studies in Business Conference, Montreal, Canada (Aug. 2019) (recipient of Holmes-Cardozo Outstanding Research Award); Wharton Zicklin Center Financial Regulation Conference (Apr. 2019).

*Outside Advisers Inside Agencies*: New Voices in Administrative Law, AALS Annual Meeting, New Orleans, LA (Jan. 2019); Wharton Legal Studies & Business Ethics Seminar (Dec. 2018); Conference on Empirical Legal Studies, University of Michigan Law School (Nov. 2018); Administrative Law New Scholarship Roundtable, University of Michigan Law School (June 2018)

*Who Conducts Oversight? Bill-Writers, Lifers, and Nail-Biters: Symposium on Congressional Oversight*, Carl Levin Center at Wayne Law School (Apr. 2018)

*Congress in the Administrative State: Faculty Workshop*, Indiana University McKinney School of Law (Mar. 2018); Faculty Works-in-Progress Workshop, University of Chicago Law School (Aug. 2017); Administrative Law New Scholarship Roundtable, Ohio State University Moritz College of Law (June 2017); American Law & Economics Association Annual Meeting, Yale Law School (May 2017).

## S E R V I C E

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### Department / School

Undergraduate Advisor, Legal Studies & Business Ethics Dept., 2022-present

Member, Wharton IT Committee, 2019-present

Co-organizer, Wharton Legal Studies & Business Ethics Dept. Seminar Series, 2020-21 & 2022-23

### Discipline

Organizer, Big Ten & Friends Business Law Conference, Summer 2023 (planned)

Co-organizer, Wharton Financial Regulation Conference, Spring 2022

Organizer, Power in the Administrative State Workshop Series, Jan. 2021-May 2022 (bimonthly Zoom workshop)

Area Organizer for Administrative Law, American Law & Economics Association Annual Meeting, Summer 2021

Reviewer Service: American Journal of Political Science, Harvard Law Review, Journal of Empirical Legal Studies, Regulation & Governance, Journal of Politics, Legislative Studies Quarterly, Public Choice, Stanford Law Review, University of Chicago Law Review

## P R E S S

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For *Judging Judicial Foreclosure*: WALL STREET JOURNAL (interview), Feb. 2019; WGBH Boston Public Radio (interview), Dec. 2020

Occasional guest on SiriusXM Wharton Business Daily: interview for *Board Diversity Matters*, Feb. 2022; interview for *The Impact of Cryptocurrency Regulation on Trading Markets*, April 2021; interview on CARES Act oversight, May 2020. Knowledge@Wharton: interview for *Judging Judicial Foreclosure*, Jan. 2020; interview for *Congress in the Administrative State*, Sept. 2019.

For *The Dynasty Advantage: Family Ties in Congressional Elections*: WASHINGTON POST, NEW YORK TIMES, TIME, Associated Press (various newspapers), THE GUARDIAN (interview), DETROIT FREE PRESS (interview), National Public Radio, EL PAIS (interview), NEW YORK, GOVERNING

## P R O F E S S I O N A L   A F F I L I A T I O N S

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Member, Society for Empirical Legal Studies, 2016 – present; American Law & Economics Association, 2017 – present; Academy of Legal Studies in Business, 2018-present

Member, Bar of the State of Maryland, 2013 – present; Bar of the District of Columbia, 2014 – present