Index

Aaker, D. 346, 347
Abraham, K. 50
accident risk reduction, and
  behavioural economics see
  behavioural economics perspective
  of regulation versus liability, and
  accident risk reduction
accident-insurance premiums, taxation
  of 36
accidents-between-strangers model,
  product-related risks 54, 55
active courts and menu contracts
  281–307
active courts equilibria 285–6, 287,
  288, 290–3, 294, 295, 296–7, 300–6
active courts model 284–5
asymmetric information 281, 282,
  283, 284, 289
bundle contracts 287, 298–9, 304,
  305
contractibility at ex-ante stage 283–7
  equilibria with no menu contracts
  285–6
ex-ante welfare 281, 285–6, 288, 289
hold-up problem 286, 296, 297–8,
  305
menu contracts 286–8
menu contracts, definition 287
menu contracts, and non-
  contractibility 287
menu contracts, simple and bundle
  contracts 287
model 282–5
passive courts equilibria 285, 287,
  288, 289–93, 294–5, 296–7, 300–6
passive courts model 282–4
pooling equilibria 281, 285, 286,
  287
separation of buyer types and
  increased welfare 285–6, 289–90
simple contracts 287, 297, 301–2,
  303–4, 305, 306
take-it-or-leave-it offers 282, 284,
  285
truth-telling constraint 295–6,
  299–300, 301, 304, 305
activity levels, and tort liability see tort
  liability and regulation, economics
  of activity levels
Adams, M. 170
adjudication, and evidence see
  evidence
administrative costs
  and average harm, strict liability
  when victims choose value of
  asset at risk 89
tort liability and regulation activity
  levels 42, 46–7
tort standards and legal expenditures
  156
adversarial versus inquisitorial
  systems 168–70, 176, 177, 178
adverse selection problem and quality
  uncertainty, trademark, multi-
  layered action of 344
affirmative action, efficiency with
  purely historical discrimination
  308–40
conditional ability distribution after
  discrimination ends 311
constitutionality in higher education
  310
convergence, schooling success and
  future productivity 311
minority preferences, importance
  of, and voluntary affirmative
  action 310–11
minority's expected ability greater
  than a non-minority's of the
  same class 310–11
parents' success, impact on children's
  success 311–12
voluntary affirmative action,
  criticism and limited use of
  309–10

357
workforce and education
discrimination and diversity
308–9
affirmative action, efficiency with
purely historical discrimination,
complementarity model
environmental factors 320–5
external effect of externally-induced
affirmative action 322–5
good job performance probability
321–5
schooling success probability 321,
326–9
steady state distribution of ability
and class 325–6
welfare increase and good job
performance probability 323–5
welfare increase and schooling
success probability 326–9
affirmative action, efficiency with
purely historical discrimination,
independence model 312–20
ability distribution given class and
race 315–16, 331–7
ability, importance of, in
generating schooling success
and expected job performance
319–20, 324
distribution of expected job
performance conditional on
ability and class 316
environmental factors 312–14
good job performance probability
312–16, 319–20, 324
overlapping generations, schooling
success and job performance
312–16
policy implications 319
post-discrimination affirmative
action 317–20
schooling success probability
312–16, 319–20, 324
steady state with discrimination
314–16, 330–1
time factor effects 317–18
university policy 319
Akerlof, G. 344, 353
Allen, R. 194
Alpern, A. 31
Altonji, J. 337
Amar, A. 208, 209, 211, 219
Anderlini, Luca 281–307
Arlen, J. 50, 87, 151
Artigot i Golobardes, M. 156
asset value, victims choosing see strict
liability when victims choose value
of asset at risk
asymmetric information
active courts and menu contracts
281, 282, 283, 284, 289
criminal jury trials, exclusionary
rules and innocent
convictions 194, 195, 199, 200,
201, 202
private knowledge mechanism, land
assemblage and public-private
projects 20, 23, 26
search, seizure and false arrest,
police planting of criminal
evidence 212–15, 232
strength of the plaintiff’s case, and
self-serving bias 113, 118, 123,
125, 149, 151–2
trademark, multi-layered action of
344, 346–7, 351, 352
Athey, S. 309
Atiyah, P. 149
Atkins, R. 196, 232
Avraham, R. 126, 149
Ayres, I. 250, 273, 337
Babcock, L. 112, 113, 114, 115, 116,
118, 123, 126, 128, 131, 148, 149,
151
Babe, R. 348
Bagwell, L. 348
Baird, D. 3
Baker, Matthew J. 1–13, 235–80
Baltagi, B. 257, 258, 261, 277
Banks, J. 119, 150
Bar-Gill, O. 151, 156
Barnard, N. 346
Baroncelli, E. 351
Baudrillard, J. 348
Baumann, Florian 87–111
Bayesian theorem
criminal jury trials, exclusion of
evidence with naive or non-
Bayesian juries 195, 196,
198–200, 201
distorted testimony, optimal amount when arbiter can and cannot commit 189
perfect Bayesian equilibrium, self-serving bias and take-it-or-leave-it game 118–19, 127–8, 133–8
perfect Bayesian pooling, search, seizure and false arrest, and conviction probability 215–17
Bebchuk, L. 113, 115
Becker, G. 2, 32, 235, 245, 271, 314
Becsi, Z. 250, 276
Beebe, B. 343, 345, 348, 349, 353
behavioural economics perspective of regulation versus liability, and accident risk reduction 69–86
intertemporal choices and hyperbolic discounting 70
model 72–4
model, general model of temptation and self-control 72–3
model, injurer care choice under temptation 73–4
self-control choices 70–8passim, 81, 82–3
social optimum 75–81, 83
strict liability and welfare implications 75–6, 78–9, 80–2, 83
time-consistent preferences 72–3
see also self-serving bias, care, litigation and tort reform incentives
behavioural economics perspective of regulation versus liability, and accident risk reduction, heterogeneous care costs 79–83
regulatory standard, and lack of temptation and self-control costs 82–3
social optimum 80, 81, 83
strict liability and welfare implications 80–2, 83
behavioural economics perspective of regulation versus liability, and accident risk reduction, heterogeneous income 74–7
regulatory standard and elimination of self-control costs 77
social optimum 75, 76, 77
strict liability and welfare implications 75–6
behavioural economics perspective of regulation versus liability, and accident risk reduction, heterogeneous temptation 77–9
choice restrictions, benefiting from 71
and preference structures 70–1
and price consciousness 71
regulatory standard and investment in efficient level of care 79
social optimum 78–9
strict liability, individual choice and welfare implications 78–9
Ben-Shahar, O. 50, 156
Benoit, J. 212
Berglöf, E. 89
Bernardo, A. 177
Bernheim, B. 348
biased beliefs see self-serving bias, care, litigation and tort reform incentives
Black, B. 132
Blackett, T. 343, 344, 354
Blumstein, A. 276
Bobo, L. 309–10
Bonney, P. 50
Bowles, R. 212, 232
branding see trademark, multi-layered action of
Brooks, R. 116, 133, 337
Brown, J. 2, 49, 151, 156
Bryan, G. 71
Buchanan, J. 27, 31
bundle contracts, active courts and menu contracts 287, 298–9, 304, 305
Burk, D. 353
Bustos, A. 126, 149
Cabral, L. 346
Calabresi, G. 2, 196
Cameron, S. 235, 236
capital punishment presence, and deterrence hypothesis 256, 257, 259–60, 262, 264
caps on non-economic damages see self-serving bias, care, litigation and tort reform incentives, caps on non-economic damages

Che, Y.-K. 89
Choi, J. 346
Chung, K.-S. 309
Cicchini, M. 196
citizens’ right to privacy, search, seizure and false arrest 209

Clifton, R. 347, 348
Cloninger, D. 276
close elections, and deterrence hypothesis 256, 258, 273, 274, 275, 276

Coase, R. 2
Coate, S. 309
Common Practice (CP) criteria, land assemblage and public-private projects 21–2, 28–9
competitive advantage and branding 345, 346
complementarity model, affirmative action see affirmative action, efficiency with purely historical discrimination, complementarity model

consumers
choice, and trademark identity 344
citizens’ right to privacy, search, seizure and false arrest 209
land assemblage and fairness for general public 15–18, 21, 24, 27–8
and product-related risks see product-related risks, liability versus regulation
trademarks, misdirecting preferences as marketing strategy 351–2
willingness to pay, and branding 346
contracts, menu see active courts and menu contracts

Converse, B. 71

convictions
innocent, and exclusionary rules see criminal jury trials, exclusionary rules and innocent convictions
and planting of criminal evidence see search, seizure and false arrest, police planting of criminal evidence
probability, and deterrence hypothesis 245–9

Cooter, R. 2, 45, 46, 49, 50, 54, 156, 177, 191
Corneo, G. 348
cost-benefit analysis, tort liability and regulation, negligence standard 41–2
costs
least-cost avoider, tort liability and regulation, economics of activity levels 33
legal expenditure and tort standards see tort standards and legal expenditures, unified model
strict liability effect, adjustment costs, tort liability and regulation, economics of activity levels 37, 47
crime and expectations, and deterrence hypothesis see deterrence hypothesis, and crime and expectations
criminal evidence, planting see search, seizure and false arrest, police planting of criminal evidence
criminal jury trials, exclusionary rules and innocent convictions 193–207
asymmetric information 194, 195, 199, 200, 201, 202
benevolent prosecutor 197, 198, 201, 202, 203, 205
defendant’s ability to inform jury of non-exclusion of evidence 206
excluded evidence detrimental to prosecution case 206
exclusion of evidence with naïve or non-Bayesian juries 195, 196, 198–200, 201
exclusion of evidence with a sophisticated jury 200–5
Fourth or Fifth Amendment rights, violation inference 193, 194
hearsay and prior crimes evidence 193, 194, 196
juries are aware of existence of exclusionary rules 194, 195, 199–205
juries are fully aware of impact of exclusionary rules 195–6
literature review 196–7
model 197–205
opportunistic prosecutor 195, 197, 198, 199, 201, 202, 203, 206
pre-trial resolution 193, 194
prosecutor’s determination of admissible evidence 194, 195–6, 197–8, 200, 201
see also distorted testimony, optimal amount when arbiter can and cannot commit; search, seizure and false arrest, police planting of criminal evidence

Crocker, K. 177
Crole, S. 50
Curran, C. 156
Currie, J. 132, 133

damages

caps on non-economic see self-serving bias, care, litigation and tort reform incentives, caps on non-economic damages
defendants filing for, search, seizure and false arrest 219–21
victims choose value of asset at risk see strict liability when victims choose value of asset at risk

Danitioso, R. 148
Danzon, P. 126
Dari-Mattiacci, G. 50, 89, 162
Darley, J. 148
Daughety, A. 67, 190, 211
De Geest, G. 50, 89, 162
De Mot, Jef 156–74
Deffains, B. 115–16
DellaVigna, S. 70
Demougin, D. 50
Demski, J. 191
Dennett, D. 353
Depoorter, Ben 156–64
deterrence, trademark infringements 344–5
deterrence hypothesis, and crime and expectations 235–80
apprehension and conviction probabilities, labor endowment constraint 245–9
apprehension and punishment effects 236, 237
capital punishment presence 256, 257, 259–60, 262, 264
close elections, effects of 256, 258, 273, 274, 275, 276
enforcement costs 256, 257, 274, 275, 276
enforcement impact 236–7, 251, 266–8
future expectations and past behavior, future criminal behavior intentions 245–9
future expectations and past behavior, impact on current crime rates 236, 239–49, 255, 258–71
goods acquired through the commission of crime, habit-forming effect 245
goods acquired through the commission of crime, redistributive effect 246
incarceration rates 251–3, 254, 259–60, 262, 264, 266, 270, 272, 274, 275
infant mortality rate 256, 257–8, 259–60, 261, 262, 264, 266, 270, 273, 274
literature review 236–8
model and theory 238–49
model and theory, synopsis 243–5
model and theory, two-period model of aggregate crime rates 238–43
per capita income levels 256, 257, 259–60, 262, 264, 266, 273
police per capita rates 155, 251–2, 253–4, 259–60, 262, 264, 266, 270
policy change effects 266, 267, 268–9
“shall issue” law for carrying concealed firearm 256, 257, 259–60, 262, 264, 273
“three strikes” criminal sentencing legislation for repeat offenders 256, 257, 259–60, 262, 264, 273
deterrence hypothesis, and crime and expectations, model estimation 250–66
data set 250–1, 272–3
dynamic panel bias 257, 258, 261
econometric specification 250
expanded model 257–66
interpretation 266–71
results 251–7
De Watrapipton, M. 178
Dharmapala, Dhammika 193–234
Diamond, P. 40, 156
discrimination, and affirmative action see affirmative action, efficiency with purely historical discrimination
dispute likelihood, self-serving bias, and caps on non-economic damages 113, 114, 115–16, 119, 123, 128, 131, 133
distorted testimony, optimal amount when arbiter can and cannot commit 175–92
adjudicated value is weighted average of true value and the mean 176
adjudication accuracy and procedural economy as objectives 177
adjudication rules 181–3
adjudication rules, inability to commit 185–8
adversarial and inquisitorial procedures of truth-finding, comparison of 176, 177, 178
Bayesian equilibrium 189
costly state falsification approach 177, 189
evidence not submitted 183
evidence submitted by both parties 181–2
evidence submitted by one party 182–3, 188
ex post adjudication and true value 176
guilty or innocent defendants, comparison of 177–8
inquisitorial procedure 175–6, 178
linear adjudication scheme 175, 180, 189
model 178–80
optimal number of parties submitting evidence, cost factors 176, 177, 183–5
perjury cases, rarity of 189–90
trial outcome as an exogenous function of litigants’ levels of effort or expenditure 177
see also criminal jury trials, exclusionary rules and innocent convictions
divergent and biased beliefs see self-serving bias, care, litigation and tort reform incentives
Donohue, J. 50, 235, 250, 272, 273
Donthu, N. 346, 347
Dubra, J. 212
Duggan, P. 232
Dunning, D. 148
Durst, S. 31
dynamic panel bias, deterrence hypothesis 257, 258, 261
Eastman, W. 172
Edlin, A. 36, 38, 39, 49
Edman, C. 195, 196, 197
education, and affirmative action see affirmative action, efficiency with purely historical discrimination
efficiency
consumer consumption decisions, product-related risks 57, 58, 59
discrimination and affirmative action see affirmative action, efficiency with purely historical discrimination
land assemblage and public-private projects see land assemblage and public-private projects, efficiency and equity
measures, and trademarks 344–5
Index

Ehrenberg, A. 346
Ehrlich, I. 236, 237, 277
Eisenberg, T. 113
Ellis, S. 84
Emons, Winand 162, 175–92
employment, and affirmative action see affirmative action, efficiency with purely historical discrimination
enforcement
costs, deterrence hypothesis 256, 257, 274, 275, 276
impact, deterrence hypothesis 236–7, 251, 266–8
entry barriers and market dominance, and trademarks 351
Eppe, D. 67
Epstein, R. 32, 50
equilibria
Bayesian see Bayesian theorem with no menu contracts 285–6
pooling equilibria see pooling equilibria
self-serving bias 119–24, 130, 135–7
Esteban, S. 71
evidence
distorted testimony see distorted testimony, optimal amount when arbiter can and cannot commit
exclusionary rules and innocent convictions see criminal jury trials, exclusionary rules and innocent convictions
police planting of see search, seizure and false arrest, police planting of criminal evidence
exclusionary rules, and innocent convictions see criminal jury trials, exclusionary rules and innocent convictions
expenditures, legal, and tort standards see tort standards and legal expenditures, unified model
false arrest see search, seizure and false arrest, police planting of criminal evidence
Fang, H. 309
Farber, H. 116
Farmer, A. 115, 149, 177
Faure, M. 50
Feddersen, T. 215
Feess, E. 162
Felli, Leonardo 281–307
Finsinger, J. 89
first-best outcome see social optimum
Fishbach, A. 70, 71
Flanigan, G. 162
Fluet, Claude 50, 175–92
Fon, G. 50
free-riding concerns, trademarks 349
Friedman, D. 3
Friehe, Tim 87–111
Froeb, L. 90, 170, 196
Fryer, R. 337
Fudenberg, D. 70, 135
Fuhrer, J. 245
Garrett, B. 197
Gilles, S. 50
Gilmore, J. 349
Gilo, D. 50
Glover, S. 232
Goldberg, V. 50
Gómez Pomar, F. 156
Gould, E. 237, 276
Gould, J. 8, 113, 197
Grady, M. 50, 162
Grogger, J. 237
Gross, J. 70
Gross, P. 148
Grossman, G. 211, 215
Grossman, Zachary 14–32
Gul, F. 70, 71, 72–3, 85
Guttel, E. 50
Haddock, D. 156
Haigh, D. 341, 347
Hand rule 2
Hanson, J. 50
Hart, O. 345
Hay, B. 67
<table>
<thead>
<tr>
<th>Author(s)</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hayden, G.</td>
<td>84</td>
</tr>
<tr>
<td>Heberden, T.</td>
<td>341, 347</td>
</tr>
<tr>
<td>Hege, U.</td>
<td>162</td>
</tr>
<tr>
<td>Heller, M.</td>
<td>31</td>
</tr>
<tr>
<td>Hellman, P.</td>
<td>31</td>
</tr>
<tr>
<td>Hirshleifer, J.</td>
<td>173</td>
</tr>
<tr>
<td>Ho, D.</td>
<td>337</td>
</tr>
<tr>
<td>Holzer, H.</td>
<td>308, 311</td>
</tr>
<tr>
<td>Hylton, K.</td>
<td>50, 212, 232</td>
</tr>
<tr>
<td>Ho, D.</td>
<td>337</td>
</tr>
<tr>
<td>Jacobs, T.</td>
<td>195, 197, 211</td>
</tr>
<tr>
<td>Jarrell, G.</td>
<td>344</td>
</tr>
<tr>
<td>Jeanne, O.</td>
<td>348</td>
</tr>
<tr>
<td>Jia, H.</td>
<td>174</td>
</tr>
<tr>
<td>Johnston, J.</td>
<td>50</td>
</tr>
<tr>
<td>Jolls, C.</td>
<td>84, 148, 151</td>
</tr>
<tr>
<td>Jolowicz, J.</td>
<td>190</td>
</tr>
<tr>
<td>Joyce, T.</td>
<td>235</td>
</tr>
<tr>
<td>Kahn, L.</td>
<td>309</td>
</tr>
<tr>
<td>Kakalik, J.</td>
<td>171–2</td>
</tr>
<tr>
<td>Kaldor-Hicks welfare criterion, land assemblage and public-private projects</td>
<td>21, 27–8</td>
</tr>
<tr>
<td>Kaplow, L.</td>
<td>28, 87, 89</td>
</tr>
<tr>
<td>Karaca-Mandic, P.</td>
<td>36, 38, 39, 49</td>
</tr>
<tr>
<td>Kartik, N.</td>
<td>177</td>
</tr>
<tr>
<td>Katz, A.</td>
<td>173, 177</td>
</tr>
<tr>
<td>Katz, L.</td>
<td>235</td>
</tr>
<tr>
<td>Katz, M.</td>
<td>211, 215</td>
</tr>
<tr>
<td>Keating, G.</td>
<td>50</td>
</tr>
<tr>
<td>Kelly, M.</td>
<td>237</td>
</tr>
<tr>
<td>Kennan, J.</td>
<td>116</td>
</tr>
<tr>
<td>Khanna, V.</td>
<td>212, 232</td>
</tr>
<tr>
<td>Kim, J.-Y.</td>
<td>50</td>
</tr>
<tr>
<td>King, J.</td>
<td>50</td>
</tr>
<tr>
<td>Klein, B.</td>
<td>113</td>
</tr>
<tr>
<td>Kobayashi, B.</td>
<td>170, 190, 196</td>
</tr>
<tr>
<td>Kolstad, C.</td>
<td>50, 84</td>
</tr>
<tr>
<td>Kominers, S.</td>
<td>25</td>
</tr>
<tr>
<td>Kong, Y.</td>
<td>351</td>
</tr>
<tr>
<td>Kötz, H.</td>
<td>50</td>
</tr>
<tr>
<td>Kunda, Z.</td>
<td>148</td>
</tr>
<tr>
<td>Lacker, J.</td>
<td>177</td>
</tr>
<tr>
<td>Laibson, D.</td>
<td>70</td>
</tr>
<tr>
<td>Lait, M.</td>
<td>232</td>
</tr>
<tr>
<td>Lancaster, K.</td>
<td>110</td>
</tr>
</tbody>
</table>

- **Hearsay and prior crimes evidence, exclusionary rules and innocent convictions:** 193, 194, 196
- **Hold-up problem, active courts and menu contracts:** 286, 296, 297–8, 305
- **Incarceration rates, and deterrence hypothesis:** 251–3, 254, 259–60, 262, 264, 266, 270, 272, 274, 275
- **Income levels, and deterrence hypothesis:** 256, 257, 259–60, 262, 264, 266, 273
- **Independence model, affirmative action:** see affirmative action, efficiency with purely historical discrimination, independence model
- **Infant mortality rate, and deterrence hypothesis:** 256, 257–8, 259–60, 261, 262, 264, 266, 270, 273, 274
- **Information asymmetric:** see asymmetric information
- **And meaning economy, trademarks:** 344, 350–2
- **Innocent convictions, and exclusionary rules:** see criminal jury trials, exclusionary rules and innocent convictions
- **Inquisitorial versus adversarial systems:** 168–70, 176, 177, 178
- **Insurance accident-insurance premiums, taxation of:** 36
- **Against product risk:** 67
- **Contracts, land assemblage and public-private projects:** 31
- **Intervention levels, tort liability and regulation:** 43
- **Liability insurance premiums, self-serving bias, and caps on non-economic damages:** 126
- **Intangible assets and branding, trademark, multi-layered action:** 347–8
- **Izmalkov, Sergei:** 112–55
- **Jacobi, T.:** 195, 197, 211
- **Jarrell, G.:** 344
- **Jeanne, O.:** 348
- **Jia, H.:** 174
- **Johnston, J.:** 50
- **Jolls, C.:** 84, 148, 151
- **Jolowicz, J.:** 190
- **Joyce, T.:** 235
- **Jury trials and exclusionary rules:** see criminal jury trials, exclusionary rules and innocent convictions
- **Kahn, L.:** 309
- **Kakalik, J.:** 171–2
- **Kaldor-Hicks welfare criterion, land assemblage and public-private projects:** 21, 27–8
- **Kaplow, L.:** 28, 87, 89
- **Karaca-Mandic, P.:** 36, 38, 39, 49
- **Kartik, N.:** 177
- **Katz, A.:** 173, 177
- **Katz, L.:** 235
- **Katz, M.:** 211, 215
- **Keating, G.:** 50
- **Kelly, M.:** 237
- **Kennan, J.:** 116
- **Khanna, V.:** 212, 232
- **Kim, J.-Y.:** 50
- **King, J.:** 50
- **Klein, B.:** 113
- **Kobayashi, B.:** 170, 190, 196
- **Kolstad, C.:** 50, 84
- **Kominers, S.:** 25
- **Kong, Y.:** 351
- **Kötz, H.:** 50
- **Kunda, Z.:** 148
- **Lacker, J.:** 177
- **Laibson, D.:** 70
- **Lait, M.:** 232
- **Lancaster, K.:** 110
land assemblage and public-private projects, efficiency and equity
14–32
assemblage process 15
balanced budget mechanism criteria
21, 23, 24, 26, 28–9
community spillover benefits 15–16
disruptive costs, assessment of 17
efficiency mechanism criteria 20, 22, 24, 25, 26
efficiency-equity metric 26–8
efficiency-equity metric, calculations 28–30
eminent domain powers 17, 21–2
fairness for general public,
importance of 15–18, 21, 24,
27–8
full respect for property mechanism
criteria 21, 23, 24
impossibility theorem 24
incentive compatible mechanism
criteria 21, 23, 24
insurance contracts 31
Kaldor-Hicks welfare criterion 21, 27–8
land parcel ownership, history of 15
local externalities 25, 36, 39
market test, lack of 17
overview 15–19
perfect mechanism criteria 20–1, 23, 26, 27
Poletown (Detroit) and Kelo
(New London) examples 15–16, 17–18
political cronyism 16
private assemblages and secrecy 17
private knowledge mechanism
criteria 20, 23, 26
private and public assemblies,
difference between 16–17
profitable use, identifying most 17, 18, 24
property rights 15, 16–18, 19–24,
25–6, 28
public assemblage of privately
held property, problems with
17–18
risk considerations 16
transaction costs 15, 16, 17, 27
Vickery auction 22–4, 25, 29–30
land assemblage and public-private projects, efficiency and equity,
Garden City example 19–20
Common Practice (CP) criteria
21–2, 28–9
Strong Pareto (SP) criteria 22–4, 25, 26–7, 29–30
Strong Pareto (SP) criteria, ‘second
best’ conclusion 24
Strong Pareto (SP) criteria, second
price at auction 22, 23
Vickery Clark Groves (VCG) criteria
25–6, 30
Landeo, Claudia M. 112–55
Landes, W. 8, 12, 49, 50, 67, 113, 156
Langlais, E. 115–16
Latin, H. 50
Lauden, L. 194
learning-by-doing effect, tort liability
and regulation 42–3
legal expenditures, and tort standards
see tort standards and legal
expenditures, unified model
Lemley, M. 349
Leo, R. 197
Lester, B. 197, 211
Levitt, S. 235, 237, 250, 276, 277
liability versus regulation
accident risk reduction see
behavioural economics
perspective of regulation versus
liability, and accident risk
reduction
product-related risks see product-
related risks, liability versus
regulation
Lichtenstein, D. 71
Lindsey, J. 31
Lipsey, R. 110
litigation success functions 165–74
adversarial versus inquisitorial
systems 168–70
derivations 170–1
empirical confirmation 171–2
expenditure determinants and
plaintiff success rate 166–8
increase in stakes, effects of 171–2
literature overview 166–70
Nash-Cournot protocol 166–8,
173
prediction that each party spends one fourth of amount at stake in litigation expenditures 172
strategic reciprocality 171
strengths 170–2
tort standards and legal expenditures, unified model 157–8, 163
weaknesses 172–3
see also self-serving bias, care, litigation and tort reform incentives
Loewenstein, G. 70, 71, 112, 113, 114, 118, 123, 148, 149
Logue, K. 50
Lott, J. 235, 237, 244
Loury, G. 309, 311–12
Lundberg, S. 309
Lunney, G. 349
McCarthy, J. 354
McConnell, S. 133
McDonnell, B. 353
Machin, S. 237
MacLeod, B. 50, 132
Magen, E. 70
Maggi, G. 177, 190
Marceau, N. 89
Marino, A. 67
market power and branding 346–7, 350–1
Marvell, T. 250, 273, 276, 277
Maskin, E. 282
mathematics, early use in modelling law 2–3
Meese, A. 50
Meghir, C. 237
menu contracts see active courts and menu contracts
Merrill, T. 31
Messick, D. 148
Mialon, H. and S. 196, 211
Miao, J. 73
Miceli, Thomas J. 1–13, 32, 50, 54–68, 89, 197, 208–34
Michaels, R. 50
Michelman, F. 31
Milgrom, P. 177, 178
Miller, G. 133
minority groups, and affirmative action see active courts and menu contracts, truth-telling constraint
Mongrain, S. 89
Moody, C. 250, 273, 276, 277
Moorhouse, J. 50
Moreschini, L. 353
Morgan, J. 177
Moro, A. 309
Muehlheusser, G. 212
Mustard, B. 235, 237
Nagin, D. 277
Nalebuff, B. 113
Nash-Cournot protocol, litigation success functions 166–8, 173
negligence standards comparison, tort standards and legal expenditures 156, 157–62
and tort liability see tort liability and regulation, economics of activity levels, negligence standard
Nell, M. 50
Neumark, D. 308, 311
Nikitin, Maxim 112–55
Norman, P. 309
O'Donoghue, T. 71
Olson, C. 116
Orbach, B. 354
Ordover, J. 50
Osborne, E. 173
Palumbo, G. 178
Parisi, F. 31, 50, 168, 177, 190
partnership dissolution processes, self-serving bias 116, 133
passive courts, and menu contracts see under active courts and menu contracts
Pecorino, P. 115, 149, 177
Peltzman, S. 344
Pepall, L. 347
Peralta, P. 353
perfect mechanism criteria, land assemblage and public-private projects 20–1, 23, 26, 27
Pesendorfer, W. 70, 71, 72–3, 85, 215
pharmaceutical market trademarks
and 'pseudo-generics' 351
Pierret, C. 337
Pincus, Jonathan 14–32
Pine, B. 349
Plassmann, F. 32
Png, I. 112, 113
Pogarsky, G. 115, 126, 128, 131, 151
police per capita rates, and deterrence hypothesis 155, 251–2, 253–4, 259–60, 262, 264, 266, 270
policy implications
affirmative action 319
and deterrence hypothesis 266, 267, 268–9
policy-relevant findings, and self-serving bias 132–3
see also regulation
political cronyism, land assemblage and public-private projects 16
pooling equilibria
active courts and menu contracts 281, 285, 286, 287
‘active’ pooling, police planting of criminal evidence, equilibrium and conviction probability 217–18, 220–1, 224–5, 226, 227, 231
‘passive’ pooling, police planting of criminal evidence, equilibrium and conviction probability 215–17, 220, 223, 225
Porat, A. 45, 46, 50
Posner, R. 2, 12, 33, 49, 50, 67, 113, 156, 208, 209, 219, 232, 233
Postlewaite, Andrew 281–307
Prather Brown, J. 33
pre-trial bargaining, self-serving bias 113, 123, 131, 133
pre-trial resolution, exclusionary rules and innocent convictions 193, 194
precautionary level, tort liability and regulation 34, 35, 39, 40, 41
Prelec, D. 70
Prentice, R. 84
Prescott, J. 148–9
Priest, G. 113
privacy, citizens’ right to, and search, seizure and false arrest 209
private knowledge mechanism
criteria, land assemblage and public-private projects 20, 23, 26
private sector, public-private projects and land assemblage see land assemblage and public-private projects, efficiency and equity
product-related risks, liability versus regulation 54–68
accidents-between-strangers model 54, 55
consumer self-selection factors 55
insurance against product risk 67
model 56
product standardization 55
product-related risks, liability versus regulation, consumers suffer the same harm 56–9
efficient consumption decision and social optimum 57, 58, 59
regulatory safety standards 58–9
strict liability rule 57–8, 59
product-related risks, liability versus regulation, consumers vary in their harm 59–66
regulatory safety standards 62–6
risk misperception 63–5, 66
social optimum and efficient purchase region 60–1, 62–3, 65–6
strict liability rule 61–2, 63, 64–5
products liability, tort liability and regulation 42
Pronin, E. 152
property rights, land assemblage and public-private projects 15, 16–18, 19–24, 25–6, 28
psychological switching costs and branding 346
public-private projects, and land assemblage see land assemblage and public-private projects, efficiency and equity
Quayle, D. 149
Rabon, Rebecca 54–68
racial preferences, and affirmative action see affirmative action, efficiency with purely historical discrimination
Ramello, Giovanni B. 341–56
Raphael, S. 237, 276
Raviv, A. 67
Rea, S. 162
regulation
regulatory standard and elimination of self-control costs, accident risk reduction 77, 79, 82–3
safety standards, product-related risks 58–9, 62–6
and tort liability see tort liability and regulation, economics of activity levels versus liability see liability versus regulation
see also policy implications
Reinganum, J. 67, 90, 113, 121, 125, 149, 151, 211
Reymond, W. 348, 352
Richards, D. 347
risk
accident risk reduction and behavioural economics see behavioural economics perspective of regulation versus liability, and accident risk reduction considerations, land assemblage and public-private projects 16 product-related see product-related risks, liability versus regulation risky activity and accident probability, link between 42–3
Rizzolli, M. 197, 206
Roberts, J. 178
Rodriguez-Clare, A. 177, 190
Rogerson, W. 56, 67
Roider, A. 212
Ross, J. 50
Ross, M. 114, 118, 148
Rothstein, J. 337
Rubin, P. 196, 232
Rubinfeld, D. 177
Ryoo, J. 309
Samuelson, P. 32
Sanchirico, C. 162, 211
Sander, R. 337
Sappington, D. 177, 191
Schlanger, M. 50
Schmitz, P. 50, 84
Schrag, J. 196, 211
Schweizer, U. 113
Scotchmer, S. 196, 211
search, seizure and false arrest, police planting of criminal evidence 208–34
perfect Bayesian pooling 215–17
perfectly separating equilibrium 227–8
pure strategy 216–17
separating equilibrium, lack of 218–19, 221, 335
search, seizure and false arrest, police
planting of criminal evidence, warrant application
failure to obtain warrant, and exclusion of evidence 222
and probable cause decision 221–2, 228
and probable cause decision, incentive to plant evidence 223–6
and reasonableness standard 231
warrant requirement, separation of 229–30
Segerson, Kathleen 32, 54–86, 89
Seidmann, D. 211, 215
Seldon, J. 351
self-control choices, behavioural economics perspective of regulation versus liability 70–8, passim, 81, 82–3
self-selection constraint, strict liability when victims choose value of asset at risk 99, 102, 105, 107–8
self-serving bias, care, litigation and tort reform incentives 112–55
asymmetric information about the strength of the plaintiff’s case 113, 118, 123, 125, 149, 151–2
benchmark model 116–21
compensatory award and realization of non-economic losses 117–18
defendant’s optimal level of care 120–1, 145–6
defendant’s unconditional expected payoff 124, 139–42
equilibrium strategies 119–24, 130, 135–7
expenditures on accident prevention, decrease in 115
future research, lawyers’ compensation schemes and agency problems 133
law as debiasing mechanism 151
legal costs 123
litigants’ payoffs 124–5
negligence rules 150
optimal level of care and probability of accidents, decisions on 116–17
partnership dissolution processes 116, 133
plaintiff’s expected payoff 124–5, 141–2
policy-relevant findings 132–3
potential injurer’s level of care and probability of accidents 122
pre-trial bargaining 113, 123, 131, 133
rejection probability 122–3, 124, 131, 135–6, 137, 145, 147–8
settlement demand 122–3, 124–5, 131, 135, 137, 146–7
social welfare effects 125–6, 133, 142–6
strategic environment with apparent opponents 118, 121
strict-liability rules 150
unconditional expected legal costs 123–4
unconditional probability of trial 123, 131, 143–4, 145–6
universal divinity refinement 119, 120, 127, 130, 134, 135, 138
see also behavioural economics perspective of regulation versus liability; litigation success functions; strict liability when victims choose value of asset at risk; tort liability and regulation
self-serving bias, care, litigation and tort reform incentives, caps on non-economic damages 115, 126–32
binding and non-binding caps, differences between 128
defendant’s expected litigation loss and incentives for care 131, 147–8
dispute likelihood 113, 114, 115–16, 119, 123, 128, 131, 133
in environment with self-serving bias 128–30
in environment with self-serving bias, equilibrium under 130
in environment without self-serving bias 127–8
liability insurance premiums 126
litigants’ beliefs on potential injurer’s level of care 131–2
motivating anchoring 131
total effects 131–2
welfare-reducing effects 132
self-serving bias, care, litigation and tort reform incentives, litigation stage, take-it-or-leave-it game 114, 117
equilibrium solution 119–21
equilibrium solution, monotonicity effects 136–7
equilibrium solution, Never a Weak Best Response (NWBR) for signaling games condition 135–6, 137
off-equilibrium beliefs 121
perfect Bayesian equilibrium (PBE) concept 118–19, 127–8, 133–8
Sentis, K. 148
settlement demand, self-serving bias 122–3, 124–5, 131, 135, 137, 146–7
“shall issue” law for carrying concealed firearm, and deterrence hypothesis 256, 257, 259–60, 262, 264, 273
Shannon, C. 353
Shapiro, Perry 14–32
Sheperd, G. 171
Shepherd, J. 50
Sher, N. 50
Shin, H. 178
Sicoly, F. 114, 118, 148
Silva, F. 341, 344, 353, 354
Simon, D. 151
simple contracts, active courts and menu contracts 287, 297, 301–2, 303–4, 305, 306
Sloane, L. 126, 148
Smith, R. 310
Sobel, J. 119, 150, 162, 178
social optimum
behavioural economics, and accident risk reduction 75–81, 83
consumer consumption decisions, product-related risks 57, 58, 59
precaution-taking and tort liability 34, 35, 39
product-related risks and efficient purchase region 60–1, 62–3, 65–6
social welfare see welfare
Spelman, W. 236, 237, 250, 272, 276
Spence, A. 56
Spier, K. 67, 113, 133
steady state with discrimination, and affirmative action 314–16, 325–6, 330–1
Stein, A. 211
strict liability
product-related risks, liability versus regulation 57–8, 59, 61–2, 63, 64–5
tort liability and regulation 35, 36, 37–8, 39, 41, 47
welfare implications, behavioural economics and accident risk reduction 75–6, 78–9, 80–2, 83
strict liability when victims choose value of asset at risk 87–111
administrative costs and average harm 89
compensation of average harm and class-action suits 89
distortion correction 107
exogenous values of the asset at risk 91–2
expected damages and expected harm equivalence 91–2
exposure suits 89
model 90–106
overcompensation and damages averaging 88–9
replacement costs, effects of 88, 93
scheme of damages, effects of 87–8
social welfare values 91, 92, 96–7
see also self-serving bias, care, litigation and tort reform incentives; tort liability and regulation, economics of activity levels
strict liability when victims choose value of asset at risk, optimal damages 92–5
Index

asset value appropriate to the respective victim type 95
first-best outcome 93, 94–5
incentive compatibility conditions 94
strict liability when victims choose value of asset at risk, optimal damages, participation decisions 96–110
damages averaging 98–9
first-best solution 98–100, 101–2, 104–5
non-participation constraint 98, 99–101, 102, 105, 107–10
numerical example 101–4
potential victim types 96–106
second-best solution 99–100, 103–4, 105–6
self-selection constraint 99, 102, 105, 107–8
strict-liability rules, self-serving bias, and tort reform incentives 150
Strong Pareto (SP) criteria, land assemblage and public-private projects 22–4, 25, 26–7, 29–30
Stuntz, W. 211, 232
substitutability reduction, trademarks 345–6, 349, 351
Sunstein, C. 3, 84, 148, 151
Sykes, A. 49
Tabbach, A. 50
Tadelis, S. 347
take-it-or-leave-it game, and self-serving bias see self-serving bias, care, litigation and tort reform incentives, litigation stage, take-it-or-leave-it game
take-it-or-leave-it offers, active courts and menu contracts 282, 284, 285
Taylor, S. 151
Teece, D. 345
temptation, behavioural economics and accident risk reduction see behavioural economics perspective of regulation versus liability, and accident risk reduction, heterogeneous temptation
Thaler, R. 151
Thompson, L. 148
“three strikes” criminal sentencing legislation for repeat offenders, and deterrence hypothesis 256, 257, 259–60, 262, 264, 273
Thrift, N. 352
Tideman, T. 32
Tirole, J. 135, 178, 282, 353
tort liability effects, search, seizure and false arrest 219–21
tort liability and regulation, economics of activity levels 33–53
accident-insurance premiums, taxation of 36
activity level assessment 45–8
activity level definition 39–41
activity level effect 34, 35–8
administrative costs 42, 46–7
causal relationship over time 38–9
courts’ incentives to create indicators 47–8
institutional differences 47
insurance and government intervention levels 43
learning-by-doing effect 42–3
least-cost avoider 33
literature review 39–42
multiple agents 44
nonconvexities 42–5
nonmarket value of certain activities 45
nonmonotonic relationship 37–8, 43
participation activities 43–4
precautionary level 34, 35, 39, 40, 41
production technology effects 43
products liability 42
risky activity and accident probability, link between 42–3
socially optimal precaution-taking 34, 35, 39
strict liability effect 35, 36, 37–8, 39, 41, 47
strict liability effect, adjustment costs 37, 47
strict liability effect, and moral hazard 41
tort law consequences 41–2
see also self-serving bias, care, litigation and tort reform incentives; strict liability when victims choose value of asset at risk
tort liability and regulation, economics of activity levels, negligence standard 34–5, 36, 39–40, 46
<table>
<thead>
<tr>
<th>Name</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tsvetanov, Tsvetan</td>
<td>54–86</td>
</tr>
<tr>
<td>Tullock, G.</td>
<td>27, 172, 177, 189</td>
</tr>
<tr>
<td>Ulen, Thomas S.</td>
<td>33–53, 54, 156</td>
</tr>
<tr>
<td>unbundling process, trademark, multi-layered action</td>
<td>347–50</td>
</tr>
<tr>
<td>universal divinity refinement, and self-serving bias</td>
<td>119, 120, 127, 130, 134, 135, 138</td>
</tr>
<tr>
<td>US Comprehensive Environmental Response Compensation, and Liability Act (CERCLA)</td>
<td>69</td>
</tr>
<tr>
<td>Fisher v. University of Texas at Austin</td>
<td>308, 310, 319</td>
</tr>
<tr>
<td>Fourth Amendment exclusionary rule (ER)</td>
<td>193, 194, 208–10, 211, 221–7, 228–31</td>
</tr>
<tr>
<td>Grutter v. Bollinger</td>
<td>310</td>
</tr>
<tr>
<td>Indiana Harbor Belt Railroad Co. v. American Cyanamid Co.</td>
<td>49</td>
</tr>
<tr>
<td>Kelo v. New London</td>
<td>32</td>
</tr>
<tr>
<td>Mapp v. Ohio</td>
<td>193, 210, 222, 232</td>
</tr>
<tr>
<td>medical malpractice tort reform, Texas</td>
<td>132</td>
</tr>
<tr>
<td>Miranda v. Arizona</td>
<td>193</td>
</tr>
<tr>
<td>Prindilus v. New York City Health Hospitals Corporation</td>
<td>149</td>
</tr>
<tr>
<td>‘Ramparts’ scandal</td>
<td>232</td>
</tr>
<tr>
<td>Resource Conservation and Recovery Act (RCRA)</td>
<td>69</td>
</tr>
<tr>
<td>‘Sheetrock’ scandal</td>
<td>232</td>
</tr>
<tr>
<td>Texas Alliance for Patient Access (TAPA)</td>
<td>126</td>
</tr>
<tr>
<td>U.S. v. Carroll Towing</td>
<td>232</td>
</tr>
<tr>
<td>Weeks v. United States</td>
<td>232</td>
</tr>
<tr>
<td>Van den Bergh, R.</td>
<td>50</td>
</tr>
<tr>
<td>Vandall, F.</td>
<td>50</td>
</tr>
<tr>
<td>Veblen, T.</td>
<td>348</td>
</tr>
<tr>
<td>Verkerke, J.</td>
<td>50</td>
</tr>
<tr>
<td>Vickery auction, land assemblage and public-private projects</td>
<td>22–4, 25, 29–30</td>
</tr>
<tr>
<td>Vickery Clark Groves (VCG) criteria, land assemblage and public-private projects</td>
<td>25–6, 30</td>
</tr>
<tr>
<td>Viscusi, W.</td>
<td>54, 68</td>
</tr>
<tr>
<td>Visscher, L.</td>
<td>50, 87, 89</td>
</tr>
<tr>
<td>Viswanath, P.</td>
<td>172</td>
</tr>
<tr>
<td>Waldfogel, J.</td>
<td>149, 244, 277</td>
</tr>
<tr>
<td>Wang, H.</td>
<td>50</td>
</tr>
<tr>
<td>Wang, R.</td>
<td>89</td>
</tr>
<tr>
<td>Watanabe, Y.</td>
<td>149</td>
</tr>
<tr>
<td>Wax, A.</td>
<td>50</td>
</tr>
<tr>
<td>Weaver, W.</td>
<td>353</td>
</tr>
<tr>
<td>Weinberg, J.</td>
<td>177</td>
</tr>
<tr>
<td>Weiss, A.</td>
<td>89</td>
</tr>
<tr>
<td>welfare accident risk reduction and strict liability</td>
<td>80–2, 83</td>
</tr>
<tr>
<td>ex-ante welfare and menu contracts</td>
<td>281, 285–6, 288, 289</td>
</tr>
<tr>
<td>increase, and affirmative action</td>
<td>see under affirmative action, efficiency with purely historical discrimination, complementarity model</td>
</tr>
<tr>
<td>Kaldor-Hicks welfare criterion, land assemblage and public-private projects</td>
<td>21, 27–8</td>
</tr>
<tr>
<td>separation of buyer types and increased welfare, active courts and menu contracts</td>
<td>285–6, 289–90</td>
</tr>
<tr>
<td>social costs and benefits of conducting a search, seizure and false arrest</td>
<td>209</td>
</tr>
<tr>
<td>values, strict liability when victims choose value of asset at risk</td>
<td>91, 92, 96–7</td>
</tr>
<tr>
<td>welfare-reducing effects, and self-serving bias</td>
<td>132</td>
</tr>
<tr>
<td>Wertenbroch, K.</td>
<td>70</td>
</tr>
<tr>
<td>Westelius, Niklas J.</td>
<td>235–80</td>
</tr>
<tr>
<td>Weyl, G.</td>
<td>25</td>
</tr>
<tr>
<td>Whinston, M.</td>
<td>351</td>
</tr>
<tr>
<td>White, M.</td>
<td>156, 162</td>
</tr>
<tr>
<td>Wickelgren, Abraham L.</td>
<td>308–40</td>
</tr>
<tr>
<td>Wilde, L.</td>
<td>113, 121, 125, 149, 151</td>
</tr>
<tr>
<td>Wilkins, M.</td>
<td>343</td>
</tr>
<tr>
<td>Willing, T.</td>
<td>172</td>
</tr>
<tr>
<td>Williamson, O.</td>
<td>345</td>
</tr>
<tr>
<td>Author</td>
<td>Page(s)</td>
</tr>
<tr>
<td>-------------</td>
<td>---------</td>
</tr>
<tr>
<td>Wilson, R.</td>
<td>116</td>
</tr>
<tr>
<td>Winter, R.</td>
<td>50</td>
</tr>
<tr>
<td>Winter-Ebmer</td>
<td>237, 276</td>
</tr>
<tr>
<td>Wolfers, J.</td>
<td>235</td>
</tr>
<tr>
<td>Yildiz, M.</td>
<td>149</td>
</tr>
<tr>
<td>Yoo, B.</td>
<td>346, 347</td>
</tr>
<tr>
<td>Yoon, A.</td>
<td>337</td>
</tr>
<tr>
<td>Yoon, Y.</td>
<td>31</td>
</tr>
<tr>
<td>Zabinski, Z.</td>
<td>132</td>
</tr>
<tr>
<td>Zhang, Y.</td>
<td>70</td>
</tr>
<tr>
<td>Zweigert, K.</td>
<td>50</td>
</tr>
</tbody>
</table>