

ELISABETH DE FONTENAY

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ACADEMIC/TEACHING APPOINTMENTS

DUKE UNIVERSITY SCHOOL OF LAW <i>Professor, 2019-Present</i> <i>Associate Professor, 2013-2019</i> Distinguished Teaching Award, 2014	2013-Present
UNIVERSITY OF CHICAGO LAW SCHOOL <i>Class of 1969 Visiting Associate Professor of Law</i>	Fall 2018
HARVARD LAW SCHOOL <i>Climenko Fellow and Lecturer on Law</i>	2011-2013
HARVARD UNIVERSITY <i>Teaching Fellow, Economics Department (Social Analysis 10)</i> Harvard University Certificate of Distinction in Teaching Allyn Young Teaching Prize	2004-2005

PROFESSIONAL EXPERIENCE

ROPES & GRAY LLP , Boston, MA <i>Associate, Corporate Group (2005-2011) & Tax Group (2005-2008)</i> <i>Summer Associate (2004)</i>	2005-2011
SWIDLER BERLIN SHEREFF FRIEDMAN, LLP , Washington, DC <i>Summer Associate</i>	Summer 2003
HARVARD BUSINESS SCHOOL , Boston, MA <i>Research Associate to Professor Michael E. Porter</i>	2000-2002

EDUCATION

HARVARD LAW SCHOOL , J.D., <i>magna cum laude</i> , 2005 <i>Journal on Legislation</i> , Editor HLS TaxHelp	
PRINCETON UNIVERSITY , B.A., Economics, <i>summa cum laude</i> , 2000 Phi Beta Kappa Human Values Forum, Junior Fellow Women's Rugby Team, All-American, 1999 and 2000	

RESEARCH & TEACHING INTERESTS

Corporate Finance, Corporate Law, Private Investment Funds, Financial Institutions, Financial Contracting, Leveraged Financing, Mergers & Acquisitions

SCHOLARSHIP

PUBLICATIONS

Private Equity's Governance Advantage: A Requiem, 99 B.U. L. REV. 1095 (2019) (Symposium: Institutional Investor Activism in the 21st Century)

Is there a First-Drafter Advantage in M&A? (with A. Badawi), 107 CAL. L. REV. (forthcoming 2019)

The Sovereign-Debt Listing Puzzle (with J. Meyer & G. M. Gulati), 71 OXFORD ECON. PAPERS 472 (2019)

Individual Autonomy in Corporate Law, 8 HARV. BUS. L. REV. 183 (2018)

The Myth of the Ideal Investor, 41 SEATTLE U. L. REV. 425 (2018) (Ninth Annual Adolf A. Berle, Jr. Symposium on Corporations, Law and Society)

Pricing Sovereign Debt: Foreign Versus Local Parameters (with M. Bradley, I. A. De Lira Salvatierra & G. M. Gulati), 24 EUR. FIN. MGMT. 261 (2018)

The Deregulation of Private Capital and the Decline of the Public Company, 68 HASTINGS L. J. 445 (2017) (selected for reprint in *The Corporate Practice Commentator* (Robert B. Thompson ed.) and *Securities Law Review* 2018 (Donald C. Langevoort ed.))

Agency Costs in Law-Firm Selection: Are Companies Under-Spending on Counsel? 11 CAP. MARKETS L. J. 486 (2016)

Law Firm Selection and the Value of Transactional Lawyering, 41 J. CORP. L. 393 (2015)

Do the Securities Laws Matter? The Rise of the Leveraged Loan Market, 39 J. CORP. L. 725 (2014) (selected for reprint in *Securities Law Review* 2016 (Donald C. Langevoort ed.); prize recipient at 2014 C-LEAF Junior Faculty Business and Financial Law Workshop at the George Washington University Law School)

Private Equity Firms as Gatekeepers, 33 REV. BANKING & FIN. L. 115 (2013)

WORKING PAPERS

Contractual Complexity in Debt Agreements: The Case of EBITDA

Market Information and the Elite Law Firm (revise and resubmit: *American Law and Economics Review*)

Debt Financing in ELGAR ENCYCLOPEDIA OF LAW AND ECONOMICS (SECOND EDITION): CORPORATE LAW AND ECONOMICS (A. Badawi ed., forthcoming 2020)

SHORTER WORKS

Putting the Securities Laws to the Test, REGULATION (Fall 2014)

COURSES TAUGHT

DUKE UNIVERSITY SCHOOL OF LAW

Business Associations (Fall 2013, Fall 2014, Fall 2019)

Corporate Finance (Spring 2014, Spring 2015, Spring 2016, Spring 2017, Spring 2018, Spring 2019)

Private Equity & Hedge Funds (Spring 2016, Spring 2017, Spring 2018, Spring 2019)

Finance for Judges, Masters of Judicial Studies Program (Summer 2014, Summer 2016, Summer 2018)

UNIVERSITY OF CHICAGO LAW SCHOOL

Business Organizations (Fall 2018)

HARVARD LAW SCHOOL

Legal Research & Writing (Fall 2011, Spring 2011, Fall 2012, Spring 2012)

SELECTED PRESENTATIONS & WORKSHOPS

“Contractual Complexity in Debt Agreements: The Case of EBITDA,” The 29th Annual Meeting of the American Law and Economics Association, NYU Law School, May 17-18, 2019 (presented by co-author A. Badawi)

Participant, The 2019 M&A Roundtable, Berkeley Center for Law, Business & the Economy and Kirkland & Ellis, May 16-17, 2019

Participant, Roundtable on Long Term Stakeholder Governance, Millstein Center at Columbia Law School and Gibson, Dunn & Crutcher LLP, May 16, 2019

“Is There a First-Drafter Advantage in M&A?” Columbia Law School, Colloquium on Contract and Economic Organization, Apr. 29, 2019

“Contractual Complexity in Debt Agreements: The Case of EBITDA,” BYU Law Winter Deals Conference, Mar. 7, 2019 (presented by co-author, A. Badawi)

Participant, NYU/Penn Conference on Law and Finance, NYU Law School, Feb. 22-23,

2019

“Private Equity’s Governance Advantage: A Requiem”, Boston University School of Law, Annual Law Review Symposium, “Institutional Investor Activism in the 21st Century,” Nov. 17, 2018

“Is There a First-Drafter Advantage in M&A?” University of Chicago Law School, Nov. 1, 2018

“Is There a First-Drafter Advantage in M&A?” Duke University School of Law (Law, Economics & Politics Seminar), Aug. 29, 2018

“The Dry-Powder Problem,” Junior Corporate Law Academic Workshop, Columbia Law School, Jun. 29, 2018

Invited Speaker, The Wall Street Journal CFO Network 2018 Annual Meeting: “Hello Private Capital,” Washington, D.C., Jun. 12, 2018

Participant, The 2018 M&A Roundtable, Berkeley Center for Law, Business & the Economy and Kirkland & Ellis, May 22-23, 2018

Invited Speaker, Council of Institutional Investors: “Public Company v. Private Company – Does it Matter?” New York, May 17, 2018

“Is There a First-Drafter Advantage in M&A?”, The 28th Annual Meeting of the American Law and Economics Association, Boston University School of Law, May 11-12, 2018

Participant, Corporate Roundtable: Institutional Investors, University of Pennsylvania Law School, Institute for Law and Economics, May 4, 2018

“Is There a First-Drafter Advantage in M&A?”, Fordham University School of Law, Apr. 5, 2018

“Is There a First-Drafter Advantage in M&A?”, BYU Law Winter Deals Conference, Mar. 1, 2018

“What is Happening to IPOs?” 2017 International Institute on Audit Regulation, Public Company Accounting Oversight Board, Dec. 7, 2017

“Is There a First-Drafter Advantage in M&A?”, Northwestern University Pritzker School of Law, Nov. 6, 2017

“The Deregulation of Private Capital and the Decline of Public Companies,” Public Company Accounting Oversight Board, July 12, 2017

“Individual Autonomy in Corporate and Securities Law,” Junior Business Law Conference, University of Colorado Law School, July 6-7, 2017

“Partisan Law Firms,” Junior Corporate Law Academic Workshop, NYU Law School, June 23, 2017

“Discussion Regarding Capital Formation, Smaller Companies, and the Declining Number of Initial Public Offerings,” U.S. Securities and Exchange Commission, Investor Advisory Committee Meeting, June 22, 2017, video available at https://www.sec.gov/video/webcast-archive-player.shtml?document_id=062217iac (presentation begins at 47:25)

“The Ideal-Investor Myth,” Berle IX Symposium: Investor Time Horizons, Georgia State University College of Law, June 5-6, 2017

Participant, The 2017 M&A Roundtable, presented by the Berkeley Center for Law, Business & the Economy and Kirkland & Ellis, May 18-19, 2017

“The Sovereign-Debt Listing Puzzle,” The 27th Annual Meeting of the American Law and Economics Association, Yale Law School, May 12-13, 2017

“Market Information and the Elite Law Firm,” Duke University’s Fuqua School of Business, Feb. 21, 2017

“The Sovereign-Debt Listing Puzzle,” Columbia Law School, Law & Economics Workshop, Nov. 28, 2016

“Market Information and the Elite Law Firm,” Notre Dame Law School, Law & Economics Workshop, Oct. 3, 2016

“The Deregulation of Private Capital and the Decline of the Public Company,” Junior Business Law Conference, University of Colorado Law School, July 7-8, 2016

“Market Information and the Elite Law Firm,” The 26th Annual Meeting of the American Law and Economics Association, Harvard Law School, May 20-21, 2016

Participant, The 2016 M&A Roundtable, presented by the Berkeley Center for Law, Business & the Economy and Kirkland & Ellis, May 18-19, 2016

“Market Information and the Elite Law Firm,” The Wharton School of the University of Pennsylvania, April 7, 2016

Participant, Investment Funds Roundtable Discussion, Boston University School of Law, December 4, 2015

“Market Information and the Elite Law Firm,” Harvard Law School, Law & Economics Seminar, November 17, 2015

“Market Information and the Elite Law Firm,” Stanford Law School, Law & Economics Seminar, October 1, 2015

“Agency Costs in Law Firm Selection,” Junior Business Law Conference, University of Colorado Law School, July 9-10, 2015

“The Value of Transactional Lawyering,” New York University School of Law, Law & Economics Colloquium, May 5, 2015

“The Value of Transactional Lawyering,” Yale Law School, Law, Economics, and Organization Workshop, April 23, 2015

Participant, Roundtable: Public and Private Enforcement after Halliburton, ATP and Boilermakers, Duke University School of Law, Global Financial Markets Center, September 26, 2014

Participant, Journal of Law, Finance, and Accounting Annual Conference, New York University School of Law, September 19-20, 2014

Participant, Corporate Roundtable: Capital Markets, University of Pennsylvania Law School, Institute for Law and Economics, May 2, 2014

“Do the Securities Laws Matter?” George Washington University Law School, C-LEAF Junior Faculty Business and Financial Law Workshop, February 8, 2014

SCHOLARSHIP SERVICE

Ad Hoc Reviewer: *American Law and Economics Review*, *Journal of Law and Economics*, *Capital Markets Law Journal*

Peer Reviewer and Program Committee Member, Conference on Empirical Legal Studies (2016)

Member, Society of Investment Law (Fall 2015-Present)

OTHER SERVICE

Academic Committees (Duke University School of Law):

- Lateral Appointments Committee (2019-2020)
- Entry-Level Appointments Committee (2015-2016)
- Curriculum Committee (2016-2017; 2017-2018; 2018-2019; 2019-2020)
- Faculty Workshop Committee (2014-2015; 2016-2017)
- Ad Hoc Committee on Teaching (2014-2015)
- Law Teaching & VAP Committee (2013-2014; 2016-2017; 2018-2019; 2019-2020)

SJD Advising (Duke University School of Law):

- Co-advisor for Ryan Clements and Juliana Bolzani
- Member of SJD committee for Marcelo Prates

Other Service (Duke University School of Law):

- Faculty Advisor, Transactional Law Competition (Fall 2014, Fall 2015, Fall 2016, Fall 2017, Fall 2018)

MEDIA & CITATIONS

Posting, “Individual Autonomy in Corporate Law,” Harvard Law School Forum on Corporate Governance and Financial Regulation, May 2, 2019, available at <https://corpgov.law.harvard.edu/2019/05/02/individual-autonomy-in-corporate-law/>

Jacob Rund, “Follow-On Offerings, ‘Blank Check’ IPOs Off to Hot Start in 2018,” Bloomberg Law, Aug. 6, 2018, available at <https://www.bna.com/followon-offerings-blank-n73014481467/>

Jean Eaglesham & Coulter Jones, “The Fuel Powering Corporate America: \$2.4 Trillion in Private Fundraising,” The Wall Street Journal, Apr. 3, 2018, available at https://www.wsj.com/articles/stock-and-bond-markets-dethroned-private-fundraising-is-now-dominant-1522683249?mod=ITP_pageone_0&tesla=y

Matt Levine, “It’s Just Another Day at the Office for Spotify,” Money Stuff, Bloomberg View, Apr. 3, 2018, available at <https://www.bloomberg.com/view/articles/2018-04-03/its-just-another-day-at-the-office-for-spotify>

Tom Braithwaite, “Letter from San Francisco,” Lex, Financial Times, Mar. 7, 2018, available at <https://www.ft.com/content/2bdcd488-21fd-11e8-add1-0e8958b189ea?tagToFollow=>

U.S. Securities and Exchange Commission, Office of the Investor Advocate, Report on Objectives: Fiscal Year 2018, available at <https://www.sec.gov/advocate/reportspubs/annual-reports/sec-office-investor-advocate-report-on-objectives-fy2018.pdf> (citation on pp. 6-7)

Matt Levine, “Airlines, Poker and Disclosure,” Money Stuff, Bloomberg View, May 1, 2017, available at <https://www.bloomberg.com/view/articles/2017-05-01/airlines-poker-and-disclosure>

Matt Levine, “Disclosure, Transparency Criticism,” Money Stuff, Bloomberg View, Apr. 28, 2017, available at <https://www.bloomberg.com/view/articles/2017-04-28/disclosure-transparency-and-criticism>

Posting, “The Deregulation of Private Capital and the Decline of the Public Company,” Harvard Law School Forum on Corporate Governance and Financial Regulation, Apr. 27, 2017, available at <https://corpgov.law.harvard.edu/2017/04/27/the-deregulation-of-private-capital-and-the-decline-of-the-public-company/>

Michael Simkovic, “How sustainable is elite law firms’ competitive advantage?” Brian Leiter’s Law School Reports, Apr. 23, 2017, available at <http://leiterlawschool.typepad.com/leiter/2017/04/how-sustainable-is-elite-law-firms-competitive-advantage-michael-simkovic.html#footer>

Matt Levine, “Activist Fights and College Recruiting,” Money Stuff, Bloomberg View, Apr. 17, 2017, available at <https://www.bloomberg.com/view/articles/2017-04-17/activist->

[fights-and-college-recruiting](#)

Posting, "Elite Law Firms Cash in on Market Knowledge," The CLS Blue Sky Blog, Apr. 17, 2017, available at <http://clsbluesky.law.columbia.edu/2017/04/17/elite-law-firms-cash-in-on-market-knowledge/>

Matthew Guarnaccia, "Law Firms' Value Is In Pricing The Intangible In Deals," Law360, Apr. 6, 2017, available at <https://www.law360.com/articles/910628/law-firms-value-is-in-pricing-the-intangible-in-deals>

Posting, "The Last Days of Stock Exchange Listings for Sovereign Debt?" The CLS Blue Sky Blog, Nov. 9, 2016, available at <http://clsbluesky.law.columbia.edu/2016/11/09/the-last-days-of-stock-exchange-listings-for-sovereign-debt/>

Andrew Strickler, "Companies May Be Underpaying Deals Attys, Law Prof Says," Law360, Jul. 14, 2016, available at <https://www.law360.com/articles/817393/companies-may-be-underpaying-deals-attys-law-prof-says>

Posting, "Law Firm Selection and the Value of Transactional Lawyering," The CLS Blue Sky Blog, Oct. 14, 2015, available at <http://clsbluesky.law.columbia.edu/2015/10/14/law-firm-selection-and-the-value-of-transactional-lawyering/>

Nabila Ahmed and Kristen Haunss, "There's a Blacklist in \$800 Billion of U.S. Loans and It's Legal," Bloomberg, Dec. 17, 2014, available at <http://www.bloomberg.com/news/articles/2014-12-18/there-s-a-blacklist-in-800-billion-of-u-s-loans-and-it-s-legal>

Lisa Abramowicz, "Dirty Secret of \$1 Trillion Loans Is When You Get Money Back," Bloomberg, Sept. 18, 2014, available at <http://www.bloomberg.com/news/2014-09-17/dirty-secret-of-1-trillion-loans-is-when-do-you-get-money-back.html>

Posting, "Do the Securities Laws Matter?" Harvard Law School Forum on Corporate Governance and Financial Regulation, May 5, 2014, available at <http://blogs.law.harvard.edu/corpgov/2014/05/05/do-the-securities-laws-matter/>

John S Kiernan, "Ask the Experts: What Will Happen if the U.S. Defaults?" WalletHub, Oct. 16, 2013, available at <http://wallethub.com/blog/ask-the-experts-what-will-happen-if-the-u-s-defaults/1159/>

Posting, "Private Equity Firms as Gatekeepers," Harvard Law School Forum on Corporate Governance and Financial Regulation, April 28, 2013, available at <http://blogs.law.harvard.edu/corpgov/2013/04/28/private-equity-firms-as-gatekeepers/>

BAR ADMISSION

Commonwealth of Massachusetts (2005)