

**ASIAN INSTITUTE OF INTERNATIONAL FINANCIAL LAW  
FACULTY OF LAW, THE UNIVERSITY OF HONG KONG**

**LAW AND ECONOMICS WORKSHOP SERIES**

**Rules and Standards:  
An Experiment**

**Professor Dan Klerman**

*Edward G. Lewis Professor of Law and History  
University of Southern California Law School*

**Tuesday, 3 July 2018, 1:30 - 2:30 pm**  
**Room 708, 7/F Cheng Yu Tung Tower**  
**The University of Hong Kong**

The research investigates experimentally the difference between rules and standards in a realistic setting. Sixty-one federal judges were given an hour to read briefs and make a decision in a simulated tort case, where the outcome turned on choice of law and the applicability of one state's cap on damages. Some judges were asked to decide the case under the traditional rule, which instructs judges to choose the law of the place where the accident happened. Others were tasked with deciding under the Restatement Second's open-ended standard, which selects the law of the place with the "most significant relationship" to the dispute. The authors also randomly varied legally irrelevant characteristics of the plaintiff and defendant to test if judges would be influenced by sympathy. Judges reached the legally "correct" answer more often under the rule than under the standard, although even under the rule judges deviated from the correct answer almost one quarter of the time. Judges were motivated by sympathy, although statistical significance depends on specification. Judges also preferred to fully compensate injured plaintiffs. This research is a joint work with Professor Holger Spamann of the Harvard Law School.



**Dan Klerman** is the Edward G. Lewis Professor of Law and History at the University of Southern California Law School. His scholarship focuses on civil procedure, English legal history, and law and economics. He, has been Co-President of the Society for Empirical Legal Studies, served on the Board of Directors of the American Law & Economics Association, and is a member of the American Law Institute. His historical work won the American Society of Legal History's Sutherland Prize and the Selden Society's Dave Yale Prize. He received a B.A. summa cum laude from Yale with majors in Math

& Philosophy and History and then earned a J.D. and Ph.D. in History from the University of Chicago. After law school, he clerked for Judge Richard Posner of the 7th Circuit Court of Appeals and Justice Paul Stevens of the US Supreme Court. He has taught at Harvard, Stanford, the University of Chicago, Caltech, and Tel Aviv University. Recent work includes "Inferences from Litigated Cases" (Journal of Legal Studies 2014), "Forum Selling" (Southern California Law Review 2016), and "Quantitative Legal History" (Oxford Handbook of Legal History, forthcoming).

**Please register online via [www.AIFL.com](http://www.AIFL.com) to reserve a place.**

*For Enquiries: Flora Leung at [flkleung@hku.hk](mailto:flkleung@hku.hk)*

**The Law & Economics Workshop**, directed by Dr Angela Huyue Zhang, is a forum devoted to discussing the latest research in law and economics featuring both external and internal speakers. The Workshop aims to promote interdisciplinary research, and to foster collaboration between law professors and scholars from other disciplines. Anyone with a keen interest in law and economics is welcome.