

ELISSA PHILIP GENTRY

Florida State University College of Law
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Tallahassee, FL 32301
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RESEARCH INTERESTS

Health, Risk and Regulation, Law and Economics

PROFESSIONAL HISTORY/AFFILIATIONS

2024- Associate Professor (with tenure), Florida State University College of Law
2023- Kevin Wood and Mary Jo Peed Professor, Florida State University College of Law
2023- Courtesy Professor, Department of Economics, Florida State University
2022- Associate Member, Toulouse School of Economics
2019- Assistant Professor, Florida State University College of Law
2017–2019 Postdoctoral Research Fellow, Institute for Advanced Studies in Toulouse, France
2016–2017 Judicial Clerk, Hon. Jane Roth, U.S. Court of Appeals, Third Circuit, Philadelphia, PA

EDUCATION

2010–2016 Ph.D. in Law and Economics, Vanderbilt University
Fields: Risk and Environmental Regulation, Labor Market and Human Resources
Dissertation: “Safety and Effectiveness: The FDA’s Approach to Risk in Prescription Medication”
Committee: W. Kip Viscusi (Chair), James Blumstein, Daniel Gervais, and Melinda J. Beeuwkes Buntin
J.D., Vanderbilt University
Senior Articles Editor, VANDERBILT LAW REVIEW
2006–2010 B.S. in Human and Organizational Development & Economics, Vanderbilt University
Summa cum laude, Rank: 1/315

PUBLICATIONS

“Market versus Policy Responses to Novel Occupational Risks,” with Robert J. Cramer and W. Kip Viscusi, *Journal of Empirical Legal Studies* 21(4): 716-756 (2024).
“Disregarding Uncertainty, Marginalizing Patients,” *Indiana Law Review* 57(2): 357-401 (2023).

- “When Patients are Assailants: Attitudes toward Healthcare Occupational Risks,” with W. Kip Viscusi, 14 *Journal of Benefit-Cost Analysis* 356-385 (2023).
- “The Misapplication of the Major Questions Doctrine to Emerging Risks,” with W. Kip Viscusi, 63 *Houston Law Review* 469-516 (2024).
- “Damned Causation,” *Arizona State Law Journal* 54(2):419-469 (2022).
- Reviewed in *JOTWELL* (March 2024).
- “A Socially Beneficial False Claims Act?,” *Tennessee Law Review* 88(3): 725-770 (2021).
- “Contaminated Relationships in the Opioid Crisis,” with Benjamin McMichael, *Hastings Law Journal* 72(3), 827-870 (2021).
- “Responses to Liability Immunization: Evidence from Medical Devices,” with Benjamin McMichael, *Journal of Empirical Legal Studies* 17(4), 789-819 (2020).
- “Asymmetric Effects of Changes in Workers’ Compensation Laws,” with W. Kip Viscusi. *American Law and Economics Review* 21(2), 307-345, (2019).
- “Empirical Evidence of Risk Penalties for NTI Drugs,” *Journal of Risk and Uncertainty*, 58(2), 219-224 (2019).
- “The Fatality and Morbidity Components of the Value of Statistical Life,” with W. Kip Viscusi, *Journal of Health Economics*, 46, March 2016, 90–99.
- “The Value of a Statistical Life for Transportation Regulations: A Test of the Benefits Transfer Methodology,” with W. Kip Viscusi, *Journal of Risk and Uncertainty*, 51(1), 53–77 (2015).
- “*United States v. Caronia*: How True Does ‘Truthful’ Have to Be?” Case Comment, 67 *VANDERBILT LAW REVIEW EN BANC* 157 (2014).
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WORKING PAPERS (DRAFTS AVAILABLE UPON REQUEST)

- “Value of a Statistical Embryo”, with W. Kip Viscusi. This project explores the implications of categorical treatment of embryonic personhood for medical care. Using clinic-level data on patient fertility choices, it shows that fertility patients’ choices are more consistent with a risk-risk approach to the chance of conception, rather than the 1-to-1 embryo implantation-pregnancy trade-off implied by embryonic personhood. The ramifications of these results for policy are explored.
- “Contextual Informed Consent.” The traditional tool for disclosing medical information that a patient would need to make their own individualized choice—*informed consent*—falls short of this goal in contexts like fertility treatment. In addition to the issues with enforcement, which plague many contexts, contexts like fertility run the risk of experience-sensitive preferences: preferences that change due to focusing on the already-incurred risks and costs. This Article proposes a soft intervention that balances respect for patient’s preferences with nudges against incremental ratcheting of acceptable risks and costs. This informational intervention in the form of a patient decision aid (“Patient Preference Tracker”) records initial preferences and requires a discussion when those preferences change. Patients are free to change their minds, but providers have the obligation to discuss this decision. This intervention is entirely feasible at various government levels and does not fall prey to the underenforcement that litigation-based informed consent cases do. This is an important development in health law that applies to other emotionally charged contexts and is necessary for the continued success of ART services.
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“Strategic Submissions: A Cross-Country Analysis of Supplemental Drug Approvals,” with Pierre Dubois and Tuba Tunçel, (first revision resubmitted *Journal of Law and Economics*). We investigate the impact of regulatory changes concerning marketing authorizations on pharmaceutical firms’ behavior. Using a unique data set that lists the research and development projects of pharmaceutical firms, we exploit these regulatory changes to understand whether and how firms react to government policies. Preliminary results, consistent with strategic firm behavior, show that firms prioritize uses of their drugs to submit for formal approval in response to the policy changes toward off-label promotion. This has consequences on research and development of the pharmaceutical sector and thus on innovation.

“Behavioral Impediments to Beneficial Experimentation,” with W. Kip Viscusi. Prior evidence suggests that people do not experiment enough, and that when they do experiment, they do so poorly. Without sufficient instruction about when experimentation would be beneficial, consumers may be too reluctant to experiment with uncertain treatments. This project explores consumers’ sensitivity to estimate precision and data quality in their willingness to experiment by allowing participants to choose between a traditional drug and a “new” drug, whose efficacy is less certain. The survey explicitly discloses several key data: the success rate and sample size associated with the traditional drug and any existing evidence for the new drug, as well as the quality and sample size of additional data about the new drug. It also provides visual representations of the mechanics and weaknesses of different sampling techniques (random vs. voluntary samples). Using an incentive-compatible experimental design, we measure participants’ willingness to pay for additional information about new treatments and ability to update their prior beliefs based on this additional information. Results demonstrate that participants’ willingness to pay for additional information is sensitive to quality of data offered, the existing data available, and the potential selection observed in the data. Once purchased, participants incorporate data by discounting heavily selected samples in their updated beliefs.

PRESENTATIONS
<p>“Contextual Informed Consent.”</p> <ul style="list-style-type: none"> • University of Arizona James E. Rogers College of Law, October 2024 • Queen’s University Faculty of Law, November 2024
<p>“Market versus Policy Responses to Novel Occupational Risks”</p> <ul style="list-style-type: none"> • Notre Dame Law and Economics Seminar, September 2024 • Society for Benefit-Cost Analysis, March 2024 • American Law and Economics Society, May 2024 • Georgetown Law and Economics Workshop, October 2023 • Conference for Empirical Legal Studies, October 2023 • Southern Economic Association Conference, New Orleans, November 2023
<p>“Damned Causation”</p> <ul style="list-style-type: none"> • Program in Psychiatry and the Law Seminar, Massachusetts Mental Health Center (Harvard Medical School teaching hospital), March 2023
<p>“Behavioral Impediments to Beneficial Experimentation,”</p> <ul style="list-style-type: none"> • Texas A&M Law and Economics Conference, October 2024 • Southern Economic Association Annual Meetings, November 2023 • American Society of Health Economists, June 2023 • Southern Economic Association Annual Meetings, November 2022
<p>“Disregarding Uncertainty, Marginalizing Patients,”</p> <ul style="list-style-type: none"> • Southeastern Junior Senior Conference, December 2022
<p>“The Misapplication of the Major Questions Doctrine to Emerging Risks,”</p> <ul style="list-style-type: none"> • 17th Annual Colloquium on Scholarship in Employment and Labor Law (COSELL), October 2022 • Society for Risk Analysis, Keynote Panel, December 2022 (remarks based on the above paper)
<p>“When Patients are Assailants: Attitudes toward Healthcare Occupational Risks,”</p> <ul style="list-style-type: none"> • Cardozo Law School faculty workshop, April 2022 • Law Economics & Society Seminar at University of Alabama, March 2022 • Boston University Law and Economics Workshop, March 2022 • Conference of Empirical Legal Studies, March 2022 • Duke Law and Economics Colloquium, March 2022 • George Mason Larry Ribstein Law & Economics Workshop, March 2022 • Southern Economic Association Annual Meetings, November 2021 • American Society of Health Economists, June 2021 • ETH Zurich Seminar, May 2021 • Society for Benefit-Cost Analysis, March 2021 • Southern Economic Association Annual Meetings, November 2020 • Experimental Methods in Legal Scholarship, October 2020

<p>“Strategic Submissions: A Cross-Country Analysis of Supplemental Drug Approvals,”</p> <ul style="list-style-type: none"> • American Law and Economics Association, Boston University, June 2023 • Lancaster Conference on Auctions, Regulation, and Public Policy, Lancaster University, UK, June 2023 • University of Texas Law and Economics Seminar, November 2022 • Charles River Associates Seminar, March 2023 • Econ Brown Bag Seminar, Food and Drug Administration, November 2022 • UCLA Seminar on Pharmaceutical Economics and Policy, October 2022 • American Society of Health Economists, June 2022 • Bates White Life Sciences Symposium, May 2022 • Vanderbilt Law and Economics PhD Workshop, February 2022 • NBER Productivity Seminar, May 2021 • Empirical Health Law Conference, Duke University, April 2020 • Southern Economic Association Annual Meetings, November 2019
<p>LEC Judicial Symposium on Scientific Evidence</p> <ul style="list-style-type: none"> • Panel Presentation, March 2022 • Panel Presentation, March 2021 • Panel Presentation, March 2020 (cancelled due to COVID)
<p>“Responses to Liability Immunization: Evidence from Medical Devices,”</p> <ul style="list-style-type: none"> • Conference on Empirical Legal Studies, November 2019 • Queen’s University Seminar, Kingston, Canada, November 2018
<p>“Empirical Evidence of Risk Penalties for Prescription Drugs,”</p> <ul style="list-style-type: none"> • Pricing Lives: Guideposts for a Safer Society Symposium, Vanderbilt University, September 2018 • Southern Economic Association Annual Meetings, November 2015
<p>“Valuations of Ambiguity in Prescription Drug Risks: Evidence by Framing and Risk Type,”</p> <ul style="list-style-type: none"> • Behavioral Law and Economics Conference, Vanderbilt University, October 2017, Nashville, TN
<p>“The Fatality and Morbidity Components of the Value Statistical Life,”</p> <ul style="list-style-type: none"> • Southern Economic Association Annual Meetings, November 2015 • Society for Benefit-Cost Analysis Annual Conference, March 2015
<p>“Learning about Ineffectiveness: Physicians’ Prescription Decisions Regarding Off-Label Drug Uses,” (later reworked into “A Socially Beneficial FCA”)</p> <ul style="list-style-type: none"> • Conference on Empirical Legal Studies, November 2014 • American Law and Economics Association Annual Meeting, May 2014

COURSES TAUGHT

Torts (Law), Florida State University

Law and Economics (Law), Florida State University

Medical Malpractice (Law Seminar), Florida State University

Health Law (Law), Florida State University

Empirical Environmental Economics (Masters), Toulouse School of Economics

HONORS AND ACTIVITIES

Weatherall Visiting Scholar, Queen's University Fall 2018

University Graduate Fellowship

Provost's Graduate Fellowship

Scholastic Excellence Award for Civil Procedure and Employment Law

Vanderbilt Law and Economics Scholars Program

Southern Economic Association Graduate Student Award

OTHER SERVICE

Appointments Committee Chair (Fall 2024-present)

Advisory Editor, Journal of Risk and Uncertainty

Referee for Journal of Empirical Legal Studies, Journal of Law and Biosciences, Journal of the European Economic Association, Journal of Risk and Uncertainty, International Review of Law and Economics, BMC Health Services Research

Program Committee (Area Coordinator) for Conference on Empirical Legal Studies 2022, Program Organizer (Area Organizer) for American Law and Economics Association Conference 2023
