

# Law & Economics:

This is Water, ~~Too~~ Three?

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MORNING BOYS,  
HOW'S THE WATER?

WHAT THE HELL  
IS WATER??

-DFW-THIS IS WATER-

"...the most **obvious**,  
**important** realities are often  
the ones that are  
**hardest** to see  
and talk about."



Practical

# Law & Economics

Comparative  
Contract Law  
and Economics

EE

# LAW & ECONOMICS

VOLUME III

OC

## THE PROBLEM OF SOCIAL COST

R. H. COASE  
*University of Virginia*

### I. THE PROBLEM TO BE EXAMINED<sup>1</sup>

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# The Future of Law & Economics

*Essays in Reform and Recollection*

GUIDO CALABRESI

# BEHAVIORAL LAW & ECONOMICS

Edited by  
**Cass R. Sunstein**

## Methodologies of Law and Economics

EDITED BY  
THOMAS S. ULEN

VOLUME 10  
OF THE  
ENCYCLOPEDIA OF LAW AND ECONOMICS,  
SECOND EDITION

EE

# An Introduction to Law and Economics

A. Mitchell Polinsky

FOURTH EDITION

Wolters Kluwer  
Law & Business  
Copyright Material

Law and  
Economics Review  
American  
Economics





Ph.D's in top law schools

27%

Economic

Ph.D's

7%



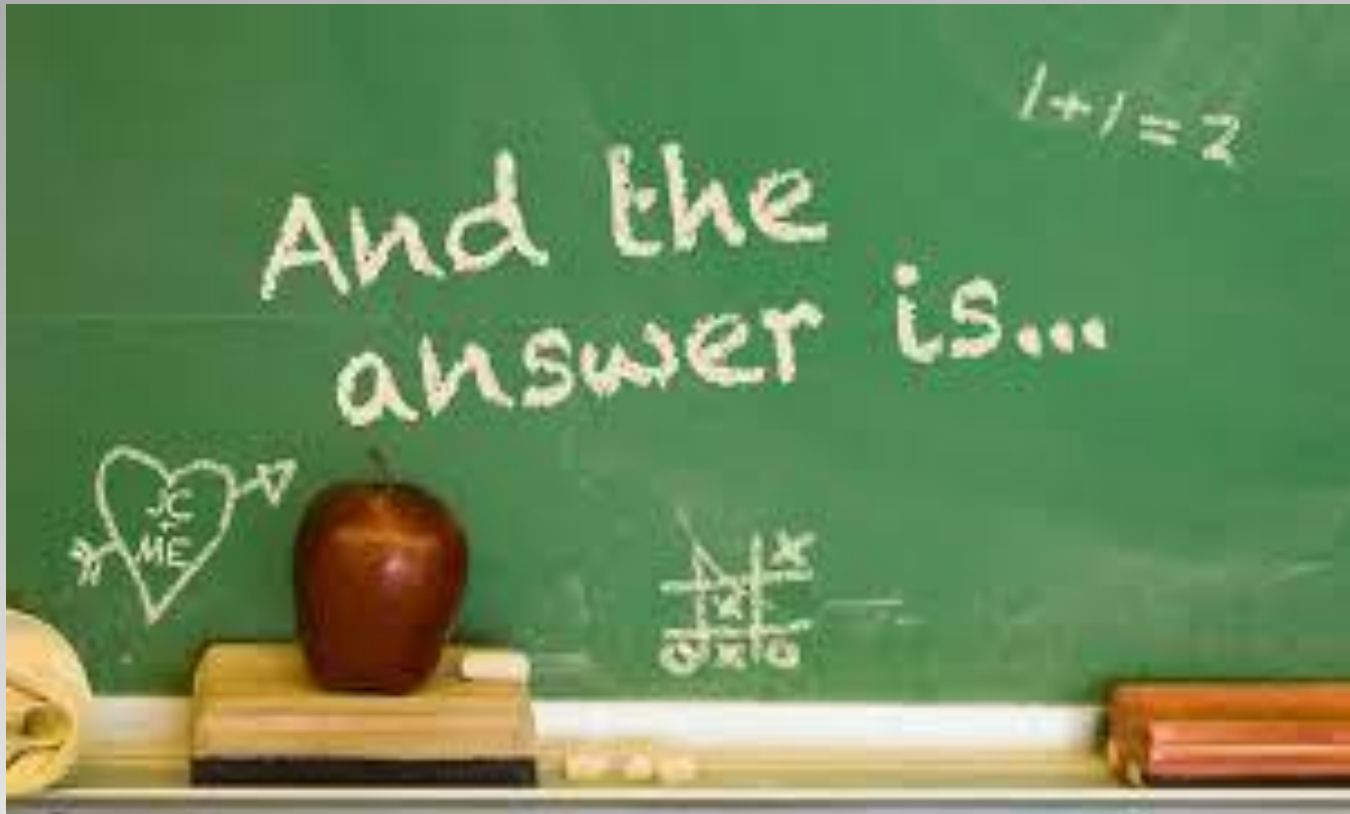
Ph.D's in private practice

2.6%

Economic

Ph.D's

0.026%

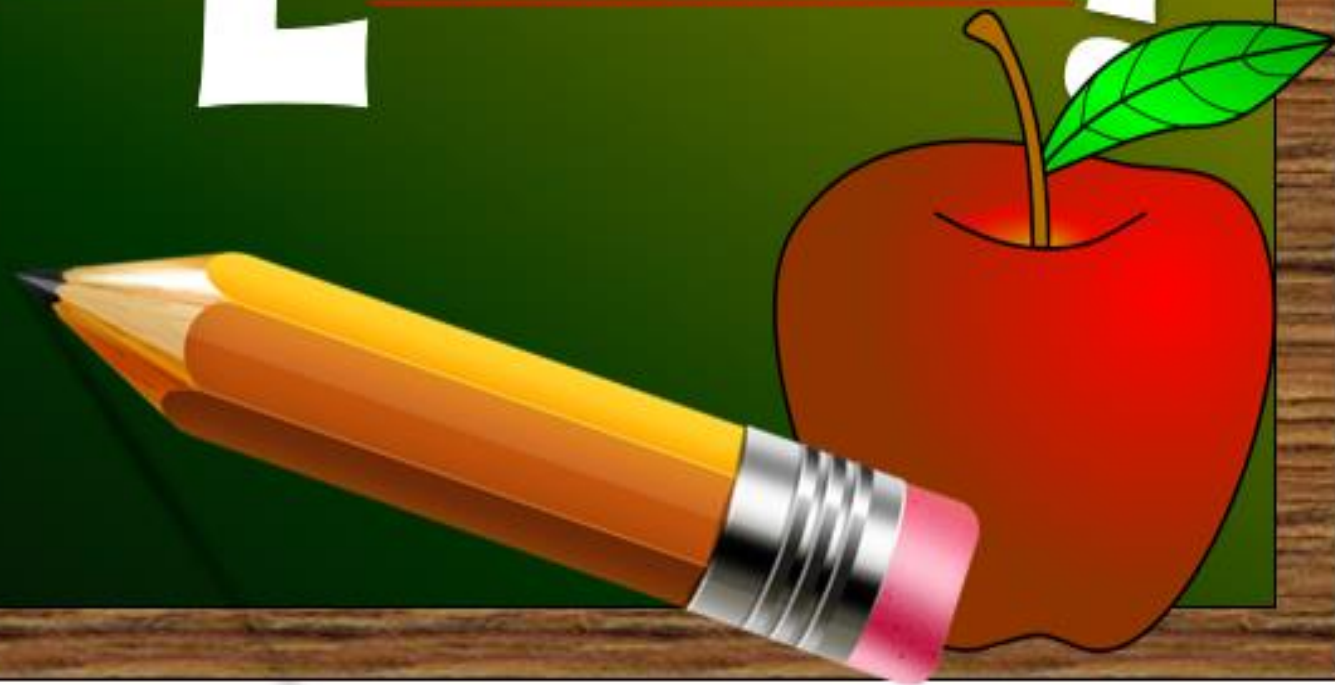


L&E is

everywhere

**So let's play!**

Are You Smarter  
Than An Economist?



Damages

Statistics

Supreme  
Court

Expert  
Witnesses



# Supreme Court

Within the current term through May 30, 2019, the two justices who have voted together the most (majority/concurring, or dissent) are:

- A. Thomas and Gorsuch
- B. Ginsberg and Sotomayor
- C. Kavanaugh and Gorsuch
- D. Thomas and Alito

Thomas Ginsberg Breyer Alito Sotomayor Kagan Gorsuch Kavanaugh

Roberts

75.00%	73.33%	74.42%	86.36%	74.42%	79.07%	71.11%	91.43%
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Thomas

60.00%	63.64%	88.64%	59.09%	63.64%	84.09%	82.86%
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Ginsberg

88.89%	66.67%	97.78%	93.33%	68.89%	74.29%
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Breyer

72.09%	90.70%	95.35%	67.44%	80.00%
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Alito

65.91%	70.45%	86.36%	82.86%
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Sotomayor

95.35%	69.77%	71.43%
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Kagan

67.44%	77.14%
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Gorsuch

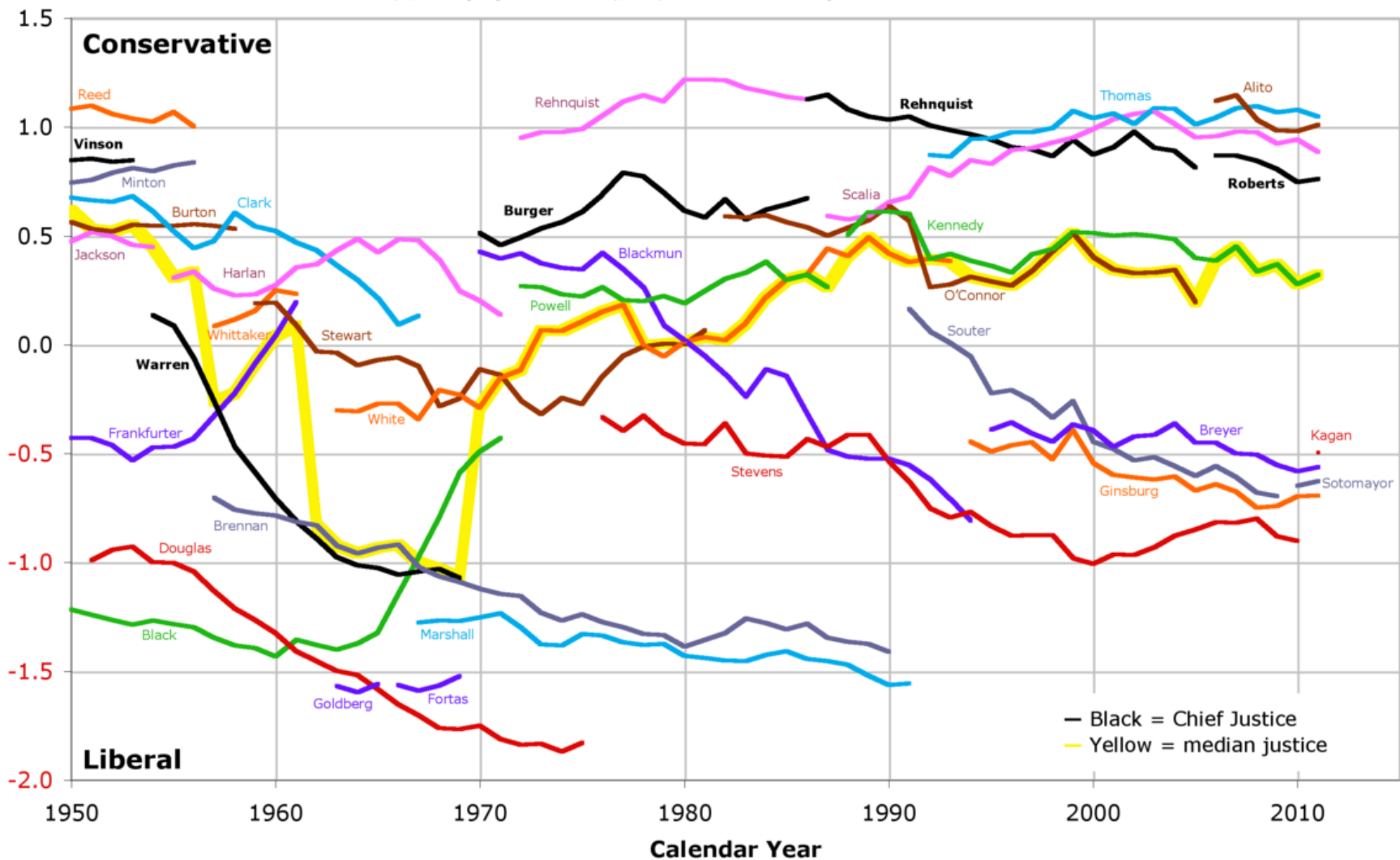
77.14%
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Kavanaugh

<b>Kagan</b>	<b>80.22%</b>
<b>Kavanaugh</b>	<b>79.64%</b>
<b>Breyer</b>	<b>79.07%</b>
<b>Roberts</b>	<b>78.14%</b>
<b>Sotomayor</b>	<b>77.78%</b>
<b>Ginsberg</b>	<b>77.62%</b>
<b>Alito</b>	<b>77.42%</b>
<b>Gorsuch</b>	<b>74.03%</b>
<b>Thomas</b>	<b>72.12%</b>

# Ideological Leanings of Supreme Court Justices

Source Data: Michael A. Bailey, Georgetown University, June 2012  
[http://www9.georgetown.edu/faculty/baileyma/Data/Data\\_Measuring1950to2011\\_June2012.htm](http://www9.georgetown.edu/faculty/baileyma/Data/Data_Measuring1950to2011_June2012.htm)



END

Damages

Statistics

Supreme  
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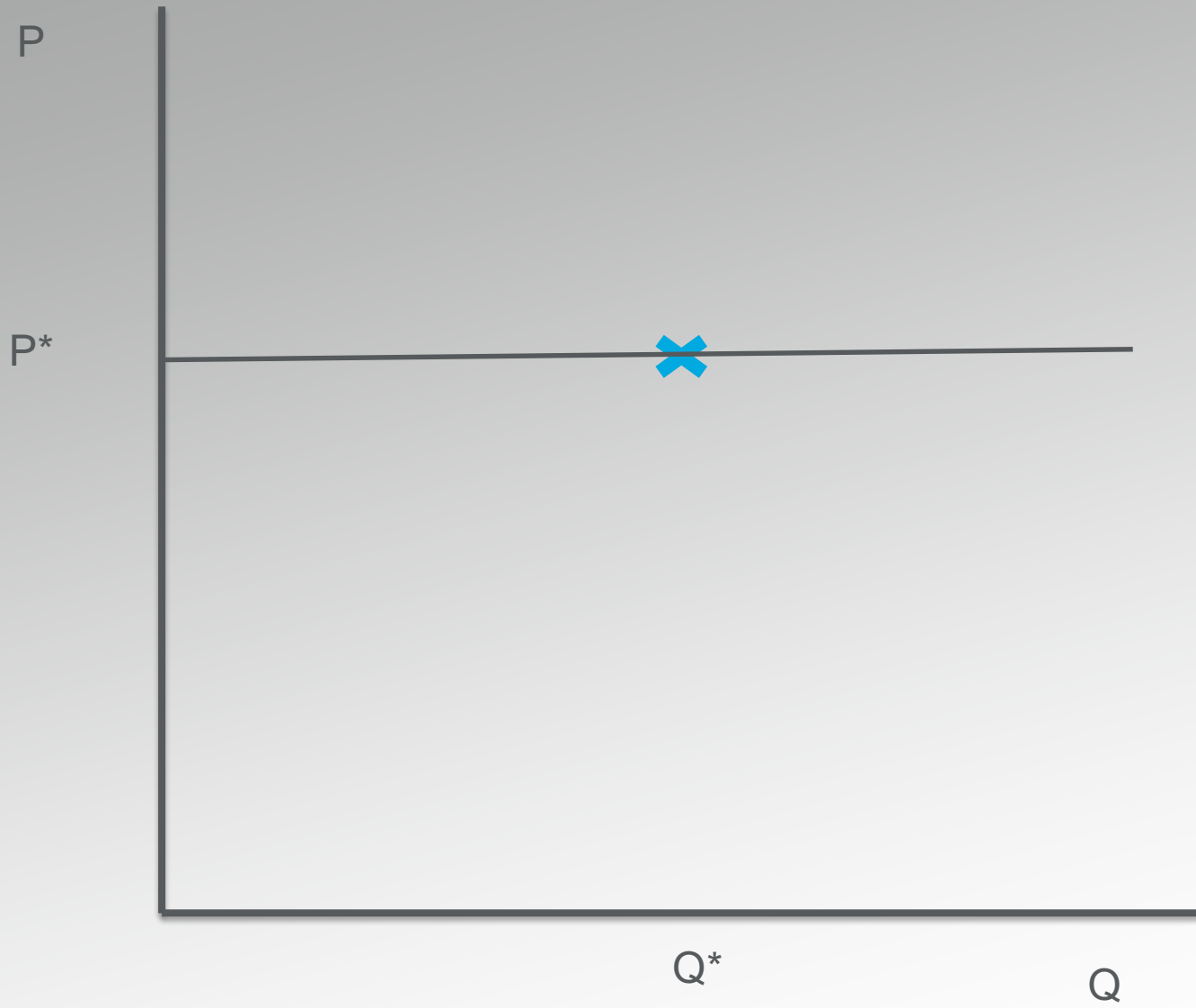
Expert  
Witnesses

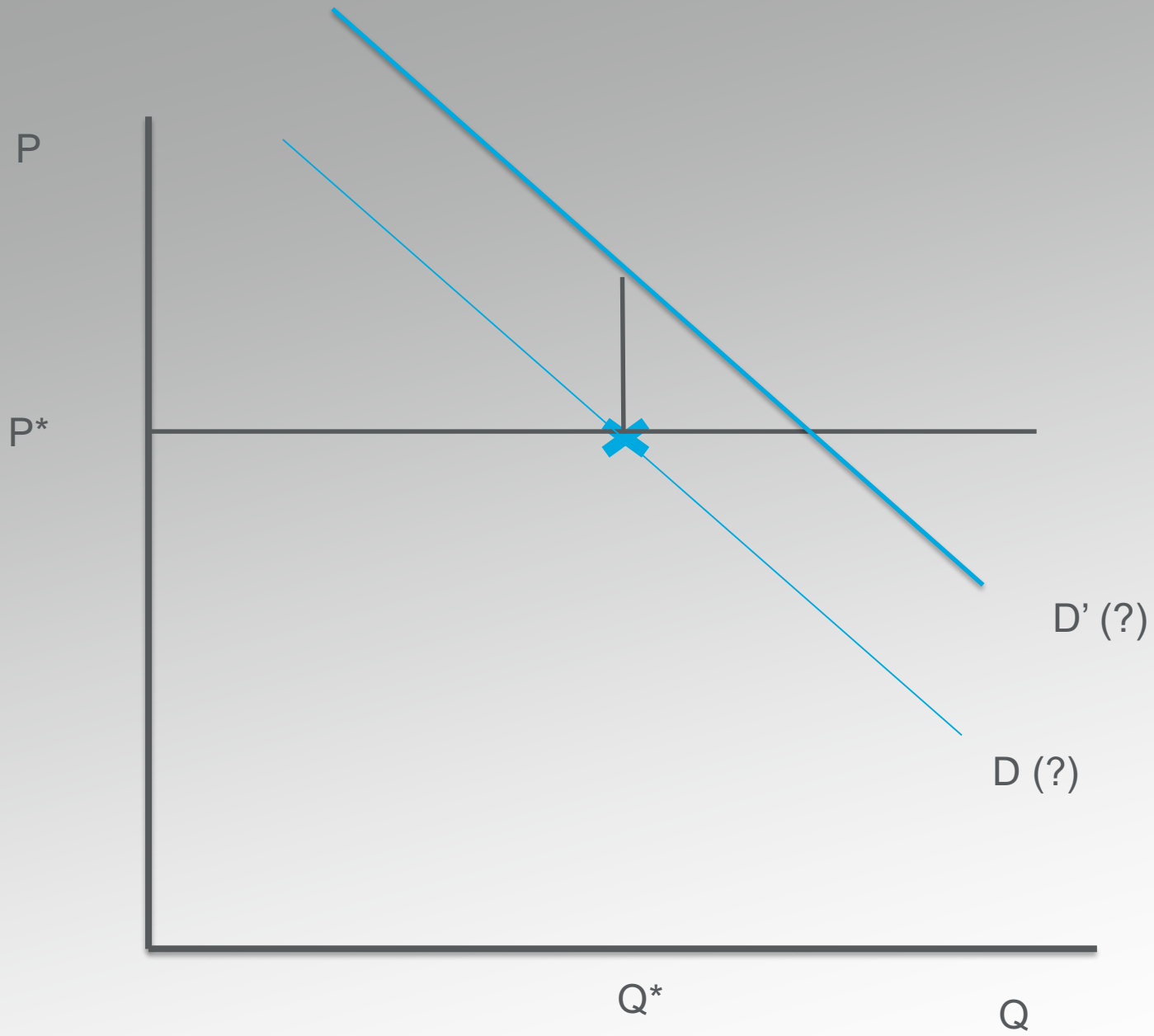
# Damages

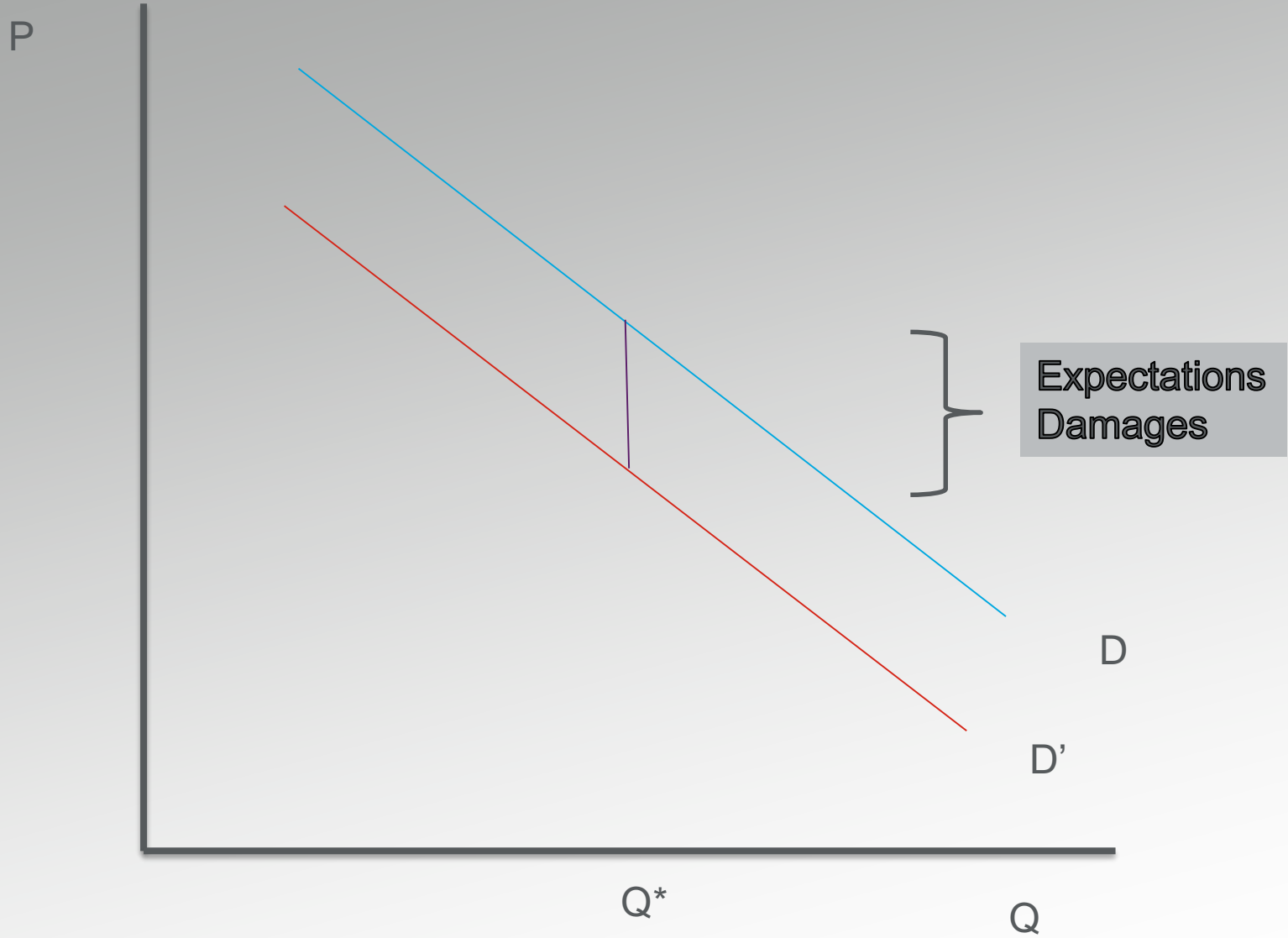


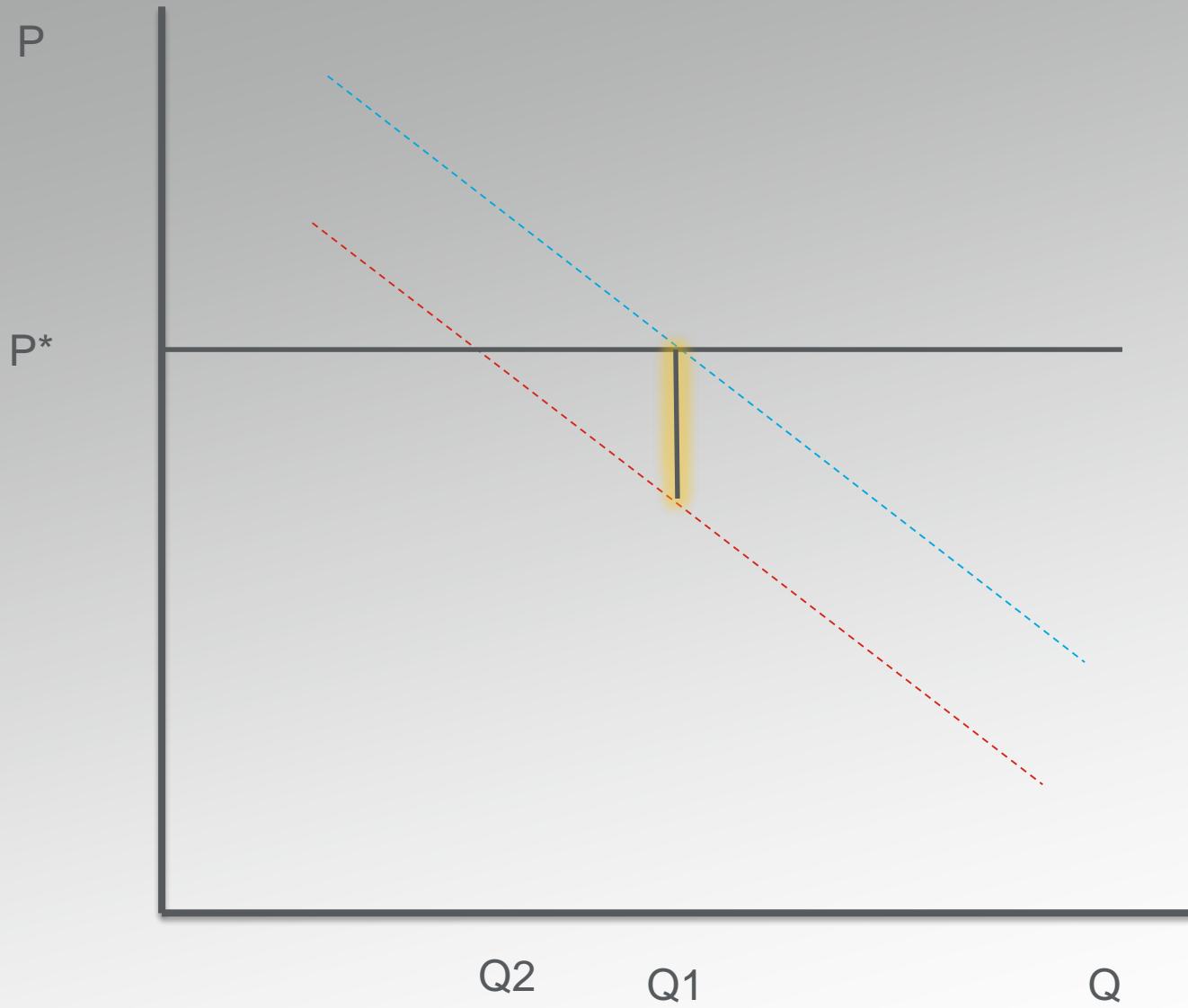
Alex values his Picasso at \$2M, but Barry offers him \$2.1M and they agree. Before Barry pays and takes possession, Carol offers \$2.5M and Alex sells it to her instead. Barry's expectation damages are:

- A. \$0
- B. \$400,000
- C. Barry's personal value less \$2.1M
- D. \$2.5M









END

Damages

Statistics

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# Statistics

In December 2018, BMJ published the first randomized controlled trial of parachute use and found that death and major trauma after jumping from an aircraft were

A. no different between parachute use and the control

B. statistically significant and lower than the control

C. higher than the control but not statistically significant



# Parachute use to prevent death and major trauma when jumping from aircraft: randomized controlled trial

Robert W Yeh,<sup>1</sup> Linda R Valsdottir,<sup>1</sup> Michael W Yeh,<sup>2</sup> Changyu Shen,<sup>1</sup> Daniel B Kramer,<sup>1</sup> Jordan B Strom,<sup>1</sup> Eric A Secemsky,<sup>1</sup> Joanne L Healy,<sup>1</sup> Robert M Domeier,<sup>3</sup> Dhruv S Kazi,<sup>1</sup> Brahmajee K Nallamothu<sup>4</sup> On behalf of the PARACHUTE Investigators

## ABSTRACT

### OBJECTIVE

To determine if using a parachute prevents death or major traumatic injury when jumping from an aircraft.

### DESIGN

Randomized controlled trial.

### SETTING

Private or commercial aircraft between September 2017 and August 2018.

### PARTICIPANTS

92 aircraft passengers aged 18 and over were screened for participation. 23 agreed to be enrolled and were randomized.

### INTERVENTION

Jumping from an aircraft (airplane or helicopter) with a parachute versus an empty backpack (unblinded).

### MAIN OUTCOME MEASURES

Composite of death or major traumatic injury (defined by an Injury Severity Score over 15) upon impact with the ground measured immediately after landing.

regarding the effectiveness of an intervention exist in the community, randomized trials might selectively enroll individuals with a lower perceived likelihood of benefit, thus diminishing the applicability of the results to clinical practice.

## Introduction

Parachutes are routinely used to prevent death or major traumatic injury among individuals jumping from aircraft. However, evidence supporting the efficacy of parachutes is weak and guideline recommendations for their use are principally based on biological plausibility and expert opinion.<sup>1 2</sup> Despite this widely held yet unsubstantiated belief of efficacy, many studies of parachutes have suggested injuries related to their use in both military and recreational settings,<sup>3 4</sup> and parachutist injuries are formally recognized in the World Health Organization's ICD-10 (international classification of diseases, 10th revision).<sup>5</sup> This could raise concerns for supporters of evidence-based medicine, because numerous medical interventions

<sup>1</sup>Richard A and Susan F Smith Center for Outcomes Research in Cardiology, Beth Israel Deaconess Medical Center, Harvard Medical School, 375 Longwood Avenue, Boston, MA 02215, USA

<sup>2</sup>David Geffen School of Medicine, University of California, Los Angeles, CA, USA

<sup>3</sup>Department of Emergency Medicine, University of Michigan and Saint Joseph Hospital, Ann Arbor, MI, USA

<sup>4</sup>Michigan Integrated Center for Health Analytics and Medical Prediction, Department of Internal Medicine and Institute for Healthcare Policy and Innovation, University of Michigan, Ann Arbor, MI, USA

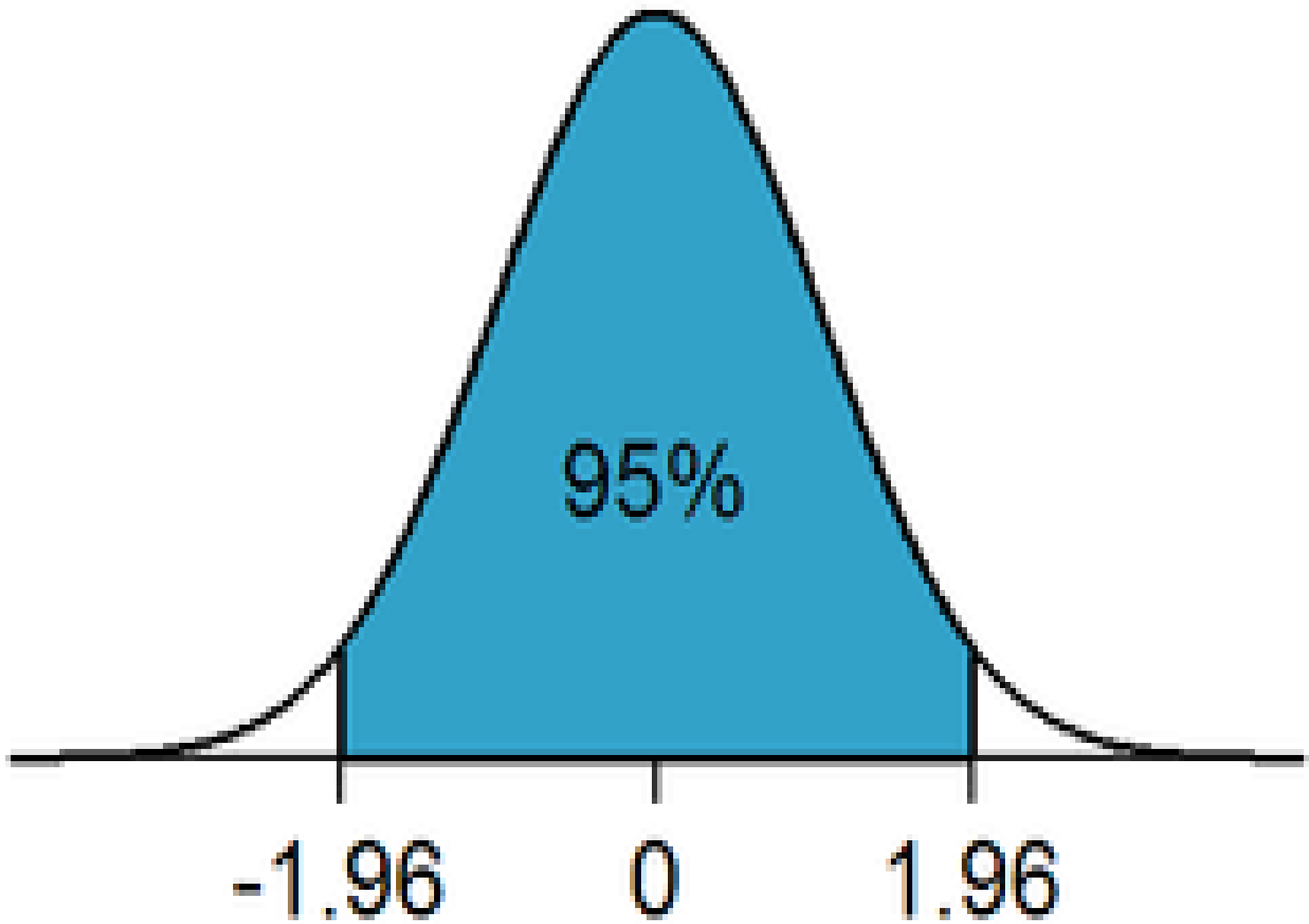
Correspondence to: R W Yeh ryeh@bidmc.harvard.edu (or @rwyeh on Twitter)

Additional material is published online only. To view please visit the journal online

*Matrixx Initiatives, Inc. v. Siracusano*, 563 U.S. 27 (2011).

*Equal Employment Opportunity Commission v. Mavis Discount Tires, Inc.*, 129 F. Supp. 3d 90 (S.D. N.Y. 2015).

*In re Zoloft (Sertraline Hydrochloride) Products Liability Litigation*, 26 F. Supp. 3d 449 (E.D. Pa. 2014).



Damages

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# Expert Witnesses

According to a 2016 George Mason study of 1,017 federal lawsuits, defendants winning a *Daubert* motion

- A. makes settlement more likely
- B. makes settlement less likely
- C. has no effect on settlement

# Recent study by James Cooper

(George Mason University)

2,127 rulings

from 1,017 cases

in 91 federal districts

from 2003-2014

**71%** of motions are filed by **Defendants**

**29%** by **plaintiffs**

Average of **2.1** motions per case

Defendants win **50%** (at least in part)

full grant in **25%** of cases

Plaintiffs win **40%** of the time (**18%** fully)

Plaintiffs are most successful in **IP** cases

Plaintiff's **Daubert** wins



affect

Plaintiff's win rate

Defendant's win rate not affected by

**Daubert** results

Defendants' Daubert wins

entrench

the parties,

discouraging settlement.

**Reason:** Defendants win on SJ

**84%** of time (regardless of success on

Daubert motion)

Damages

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**Thanks for  
playing!**