

Dear Friends,

It's been a little less than a year since my last newsletter.

1. The big news is that I've published a new book, co-authored with Quinn Curtis:

[Retirement Guardrails: How Proactive Fiduciaries Can Improve Plan Outcomes, Cambridge University Press \(2023\)](#) (with Quinn Curtis)

The basic idea is that (1) a substantial minority of plan participants make substantial allocation errors in choosing funds from plans, (2) plan sponsors should do a better job of becoming informed of such mistakes, and (3) plan sponsors should take action in the form of streamlining and guardrailing (imposing percentage caps on allocations to undiversified menu options) to reduce the menu mistakes.

When I described the book thusly to my sainted father-in-law, he responded, "I hope there's more to it than that." Luckily there is. We also show that plan advisors can increase their profits by adding undiversified fund options to plan menus that carry high fees. And there are cool chapters discussing a controversial randomized experiment where we sent letters to 7,000 fiduciaries warning them in various ways that they were probably paying excessive fees to their advisors. And the book also includes one of the only sustained analyzes showing the potential pitfalls of brokerage windows.

You can read summaries of the basic ideas in these two recent press pieces:

[How Retirement Plans Should Protect Employees From Themselves](#), Wall Street Journal (Aug. 6, 2023) (with Quinn Curtis).

[Guardrailing Retirement Choices for Investor Success](#), Fifteen Eight Four (June 6, 2023) (with Quinn Curtis).

2. This (single-authored!) piece, [Legacy and Accountability](#), *Iowa Law Review*, November 21, 2022, is a bit eclectic:

- a. It grapples with the problem of older people clinging to power in ways that jeopardize their legacy. I come to terms with the reckless actions of two of my heroes, and to some of colleagues who have failed to retire in a timely fashion and to my father who failed to give up driving when he should. I am enamored of the article's first

sentence: "Part of me wished that Chief Justice John Roberts had voted with the majority to overrule Roe v. Wade."

b. It also grapples with the Supreme Court's deficit in democratic accountability. Republican-nominated Justices have continuously held a majority of seats on the Supreme Court for 53 years. Even though Democratic Presidents have won five of the last eight presidential elections, Republican-nominated Justices currently hold six seats on the Court.

3. Kartikeya Kandula and I ran Monte Carlo simulations to estimate how long this Republican-nominated majority is likely to persist.:

Ian Ayres and Kart Kandula, [How Long is a Republican-Nominated Majority on the Supreme Court Likely to Persist?](#), BALKINIZATION (July 3, 2022).

We found that even if Democrats have a 70 percent chance of winning future presidential elections, a Republican-nominated majority on the Supreme Court is likely to persist for more than twenty-five years:

[T]he most likely outcome, if our current nomination/tenure/court size structure remains in place, is that no one currently admitted to the bar is likely to live to see a day when this majority is displaced.

4. Fred Vars and I have continued to toil away on gun safety. Filing a series of amicus briefs defending the statutes in New York, New Jersey, and Delaware that have adopted our idea of a "[no carry](#)" default with regard to private property. In this oped, we argue that police should be [allowed](#) to use the background check system when they have good reason to suspect that a person standing right in front of them is in illegal possession of a firearm. [We are taking an ostrich approach to enforcing gun laws - with deadly results](#), *The Hill*, November 22, 2022 (with Fredrick Vars).

5. Finally, here's an op-ed suggesting how the U.S. and other NATO countries might use immigration policy to spur defection from Russian army:

[A secret weapon to defeat Putin: A path to U.S. citizenship for Russian deserters](#), *New York Daily News*, October 15, 2022.

I was running a smoking cessation field experiment in Kiev up until the invasion. I now play chess once a week on Zoom with the 10-year-old

child of the Ukrainian who was in charge of administering the experiment on site.

If all goes well, my next newsletter will report the publication of a book on the power of resisted temptation. I hope the remaining days of summer are somehow both restful and productive.