

ABSTRACT:

Pretrial bargaining may be described as a game played in the shadow of the law. There are two possible outcomes: settlement out of court through bargaining, and trial, which represents a bargaining breakdown. The courts encourage private bargaining but stand ready to step from the shadows and resolve the dispute by coercion if the parties cannot agree. Bargaining is successful from an economic viewpoint if an efficient solution to the dispute is found at little cost. In technical language, a dispute is resolved successfully if a solution is found on the contract curve with little expenditure on search.

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