Having previously pooh-poohed the dangers of the coronavirus, Richard Epstein is now calling for an immediate end to social distancing and business shutdowns. It's unfortunate that he has chosen to dig himself deeper into a hole rather than admitting his earlier mistake and moving on.

As I discussed in a previous post, Epstein initially predicted that the coronavirus would cause about 500 deaths in the U.S., which he then revised to 5000. The U.S. is now at 50,000, which is what Epstein initially predicted as *global* mortality.

Epstein says that his estimates are more accurate than initial estimates of millions of U.S. deaths. He may have been referring to the two million deaths estimated by Imperial College, London, a widely publicized forecast. But that high estimate explicitly assumed no government intervention. Epstein's estimate of the number of deaths *without* government intervention was one-tenth the actual number of deaths, which took place *despite* vigorous government intervention. That isn't saying much for his powers of prediction.

In mid-March, Epstein said confidently that "it is highly unlikely, given the relatively short (two-week) incubation period, that the number of current cases will more than double or triple. " On March 15, there had been 3600 U.S. cases and 121 deaths. Now we're at 850,000 cases and 50,000 deaths. So his prediction of the number of cases was off by a factor of 80 or so.

Epstein's confidence in his powers as an epidemiologist has only continued to grow. In a recent interview with Vox, he said: "If I'm correct in what I said, the dominant model has about a one percent chance of being true, and my model, forget about the differences, is essentially you're talking about normal flu season, 30,000 to 50,000 deaths, is 99 percent true."

Epstein has attempted to minimize the disparity between his predictions and reality by contesting the official figures. He insists that the reported numbers are much too high. Indeed, he says, "the evidence is overwhelming that the virus by itself kills few individuals."

Epstein's dispute with the reported figures relates mostly to preexisting conditions. He argues that most coronavirus victims should not be counted because preexisting conditions contributed to their deaths. I'm a bit surprised that an expert in tort law would take that position. As we all tell students, something can be a "but for" cause of harm even though other contributing factors were also necessary to the

outcome. Yes, people had preexisting conditions. The fact remains they would be alive today but for the coronavirus.

Think of it this way. Suppose some terrorist released a virus that targets people who suffer from obesity, heart trouble, or diabetes, resulting in ten thousand deaths. Epstein's view apparently is that, if we're counting annual deaths from terrorism, we should deduct some or all of these victims from the count.

Epstein makes two other arguments. The first is that the number of new infections is declining, so we no longer need social distancing. This is like saying that you should stop chemotherapy because it's starting to shrink your tumor.

The other argument is that the government doesn't need to do anything because the market will solve the problem. Businesses will compete to demonstrate their safety and people will take their own precautions. It's certainly not surprising that a libertarian would embrace the magic of the market as a solution to most any problem.

Any economist could shoot a dozen holes in Epstein's reliance on the market in this situation. In fact, law and economics has had so much impact in law schools that most law professors can see the flaws. Feel free to skip this next part, however, if you find the specifics a bit geeky.

If Epstein gave a faculty workshop on the subject, here are a few points he'd get hit with:

1. People's behavior will take into account the risks that they themselves face, but not the risk that they will infect others. Economists call this an externality, and markets don't solve those.
2. A related externality is that greater risk-taking by some people will require additional costly precautions by those who are at risk. Another externality.
3. There's also what economists call a congestion externality. Drivers don't take into account that their morning drive to work will slow down other traffic. Similarly, people won't take into account the harm they may do others simply by clogging the medical system if they get the virus, reducing medical care available to others.
4. People have imperfect information about what precautions businesses are actually taking. Imperfect information also screws up markets. If people can't be sure of telling a safe business from an unsafe one, there's no competitive

advantage in being safe.
5. Businesses have imperfect information about what their employees are doing, which may encourage shirking by employees regarding safety measures. So businesses may not be able to deliver on promises of safety.
6. Individuals are risk averse, but insurance markets may not be adequate to spread risks, leading them to take excessive precautions to avoid the risks.

In other words, this is a situation rife with market failures. The market will no more be able to solve this problem than a sieve will work as a life preserver.

I don't want to argue the general merits of libertarianism. Maybe, although I'm not convinced of this, it's actually the right answer much of the time. Even so, a pandemic is not one of those times.

Epstein is right that we can't be sure what will happen if we relax social distancing at a point where the infection is slowing. There's a lot we still don't know about this virus, and we can't be sure of how businesses and people would respond. Maybe things wouldn't get as bad as experts now predict. But what Epstein overlooks is that uncertainty cuts both ways: the outcome could also be much worse than the experts predict.

Epstein's basic mistake is common among really bright people. It's a tendency to overestimate their ability to make expert judgments outside of their own domain. It comes along with a tendency to assume that people in other fields are pretty dumb – for instance, that epidemiologists are unaware of the risks of shutting down elective medical services.

It's a free country, and Epstein is entitled to his views. What's worrisome is that the Trump Administration has a track record of listening to him.