

KEITH N. HYLTON

OCCUPATION:

William Fairfield Warren Distinguished Professor,
Boston University

Professor of Law,
Boston University Law School

EMPLOYMENT:

William Fairfield Warren Distinguished Professor,
Boston University, June 2013 - present.

The Honorable Paul J. Liacos Professor of Law,
Boston University, November 2008 - May 2013.

Visiting Professor, Harvard Law School,
August 2011 - January 2012.

Professor and Paul J. Liacos Scholar, Boston University,
School of Law, August 1998 - November 2008.

Professor of Law, Boston University (accepted joint tenured
offer with wife at Boston University after positive tenure
decision at Northwestern in the fall of 1994)

Associate Professor, Northwestern University
School of Law, September 1992 - August 1995.

Assistant Professor, Northwestern University
School of Law, September 1989 - August 1992.

Research Fellow, American Bar Foundation,
June 1989 - September 1992.

UNDERGRADUATE STUDIES:

Harvard University, B.A., 1982, magna cum laude.

GRADUATE STUDIES:

Massachusetts Institute of Technology, Ph.D. (Economics), 1986.
Harvard Law School, J.D., 1989.

RESEARCH INTERESTS:

Law and economics with specific interests in torts,
antitrust, litigation theory, labor and corporate
law.

TEACHING EXPERIENCE:

Law:
Antitrust, Torts, Labor Law

Economics:
Economics, Law and Economics, Econometrics

PUBLIC/PROFESSIONAL SERVICE:

President, American Law and Economics Association, May 2017-May 2018.

Vice President, American Law and Economics Association, 2016-2017.

Editor, Torts, Product Liability, and Insurance Law Abstracts, published by the Legal Scholarship Network division of the Social Science Research Network, 1999 - present.

Executive Board Member, US Branch of the International Society for Labor and Social Security Law, 2018 - present.

Associate Editor, International Review of Law and Economics.

Contributing Editor, Antitrust Law Journal, March 2011-May 2019.

Co-Editor, Competition Policy International, January 2005-present.

Member, American Law Institute, since 2002.

Lecturer and Workshop Leader, Workshop on the Economics of Risk, Injury, Liability and Insurance, Mason Judicial Education Program, Summer 2018.

Lecturer, Brookings Judicial Education Program, 2004 - 2008.

Board of Directors and Executive Board, American Law and Economics Association, 1998 - 2001.

Chair, Torts and Compensation Section, Association of American Law Schools, 2002.

Executive Committee, Torts and Compensation Section, Association of American Law Schools, 1997 - 2002.

Chair, Antitrust and Economic Regulation Section, Association of American Law Schools, 2005.

Executive Board, Antitrust and Economic Regulation Section, Association of American Law Schools, 2001-2005.

Editorial Board, Journal of Legal Education, 1996 - 1998 term.

Board of Directors, Pioneer Institute, 2013-present.

Chair, Law and Economics Section, Association of American Law Schools, 2014.

Advisor, American Law Institute, Fourth Restatement of Property, 2015.

Treasurer/Secretary, American Law and Economics Association, 2015-2016.

HONORS, SCHOLARSHIPS AND FELLOWSHIPS:

Trailblazer's Award, Massachusetts Black Lawyers Association, 2018.

Wythe Lecture, William & Mary Law School, 2017.

President, American Law and Economics Association, 2017 -2018.

William Fairfield Warren Distinguished Professor (university professorship), Boston University, 2013 - present.

Monsanto Lecture in Tort Jurisprudence, 2009.

Liacos Chair, Boston University Law School, 2009 - 2013.

Secretary, American Bar Association Section on Labor and Employment Law, 1996-97.

Olin Fellowship in Law and Economics, Harvard Law School, 1986-89.

Fellowship, Board of Governors of the Federal Reserve Board, MIT, 1985-86.

Fellowship, National Science Foundation, MIT, 1982-85.

Allyn Young Prize for best undergraduate economics thesis,

Harvard 1982.

PUBLICATIONS:

Books:

TORT LAW: A MODERN PERSPECTIVE (Cambridge University Press, 2016)

LAWS OF CREATION: PROPERTY RIGHTS IN THE WORLD OF IDEAS, (with Ron Cass) (Harvard University Press, 2013)

RESEARCH HANDBOOK ON THE ECONOMICS OF CRIMINAL LAW (co-edited with Alon Harel) (Edward Elgar Publishing, 2012)

ANTITRUST LAW AND ECONOMICS (Edward Elgar Publishing, 2010).

ANTITRUST LAW: ECONOMIC THEORY AND COMMON LAW EVOLUTION (Cambridge University Press, 2003) (Chinese translation published by Peking University Press, 2010)

Peer-Reviewed Journal or Book Articles:

"Illusory Wage Differentials: Comment," ***American Economic Review***, 1124-1127, December 1984.

"A Note on the Inefficiency of Non-Linear Estimators," ***Economics Letters***, May 1985.

"Are MIT Students Rational?" (with Nils Gottfries), ***Journal of Economic Behavior and Organization***, v. 8, 1987, 113-20.

"Testing Overidentifying Restrictions with Inefficient Estimators," ***Economics Letters***, v. 25, 1987, 43-46.

"The Influence of Litigation Costs on Deterrence under Strict Liability and under Negligence," ***International Review of Law and Economics***, v. 10, 1990, 161-171.

"Costly Litigation and Legal Error under Negligence," ***Journal of Law, Economics, and Organization***, v. 6, number 2, Fall 1990, 433-452.

- "The Law and Economics of Organ Procurement,"
Law & Policy, v. 12, number 3, July 1990.
- "Asymmetric Information and the Selection of Disputes for
Litigation," **Journal of Legal Studies**, v. 22,
January 1993, 187-210.
- "Litigation Cost Allocation Rules and Compliance with the
Negligence Standard," **Journal of Legal Studies**,
v. 22, June 1993, 457-476.
- "The Law and Ethics of Organ Sales," **Annual Review of Law and
Ethics** (Symposium on Bioethics and the Law), v. 4,
115 - 136, 1996.
- "Optimal Law Enforcement and Victim Precaution," **RAND Journal
of Economics**, v. 27, Spring 1996, 197-206.
- "Measuring Market Power When the Firm has Power in the Input
and Output Markets," (with Mark Lasser) in
**ECONOMIC INPUTS, LEGAL OUTPUTS: THE ROLE OF ECONOMISTS
IN MODERN ANTITRUST** (Wiley, 1998), 131-139.
- "Labor and the Supreme Court: Review of the 1996-97 Term,"
The Labor Lawyer (invited paper), v. 13, Fall 1997,
263-298.
- "Agreements to Waive or to Arbitrate Legal Claims: An Economic
Analysis," **Supreme Court Economic Review**, vol. 8,
2000, 209-263.
- "The Law and Economics of Agreements to Arbitrate Employment
Claims," in **NYU Working Papers on Labor and Employment
Law: 1998-1999**, Michael J. Yelnosky, ed., Kluwer Law
International, 2001, 315-345.
- "Law and Economics of Mandatory Arbitration Agreements,"
in **Alternative Dispute Resolution in the Employment
Arena: Proceedings of New York University 53d Annual
Conference on Labor**, Samuel Estreicher and David
Sherwyn, eds., Kluwer Law International, 2004, 257-302.
- "Welfare Implications of Costly Litigation under Strict
Liability," **American Law and Economics Review**,
v. 4, n. 1, 2002, 18-43.
- "An Asymmetric-Information Model of Litigation," **International**

- Review of Law and Economics**, v.22, n. 2, 2002, 153-175.
- "Tying Law and Policy: A Decision Theoretic Approach," (with Michael Salinger) **Antitrust Law Journal**, v. 69, n. 2, 2001, 469-526. (For commentary, see Warren S. Grimes, "The Antitrust Tying Law Schism: A Critique of Microsoft III and a Response to Hylton and Salinger," **Antitrust Law Journal**, v.69, 2002, 199-229.)
- "Reply to Grimes: Illusory Distinctions and Schisms in Tying Law," (with Michael Salinger) **Antitrust Law Journal** (2002)
- "The Economics of Litigation and Arbitration: An Application to Franchise Contracts," (with Chris Drahozal) **Journal of Legal Studies**, v.32 (n.2), 2003, 549-584. (Reprinted in **ECONOMICS OF COMMERCIAL ARBITRATION AND DISPUTE RESOLUTION**, edited by ORLEY C. ASHENFELTER and RADHA K. IYENGAR, Edward Elgar Publishing, 2009).
- "Should Tort Damages Be Multiplied?" (with Thomas Miceli), **Journal of Law, Economics, and Organization**, v.21, n. 2, Fall 2005, 388-416. (Reprinted in **Economics of Tort Law**, volume II, Edward Elgar Publishing Ltd., Alan Sykes, ed., 2007).
- "The Theory of Penalties and the Economics of Criminal Law," **Review of Law & Economics**, v.1 (n.2), Article 1, 2005, 175-201. <http://www.bepress.com/rle/vol1/iss2/art1>
- "Information, Litigation, and Common Law Evolution," **American Law and Economics Review**, v.8, n.1, 33-61, 2006. (Reprinted in **Economic Approaches to Law**, volume on **The Evolution of Efficient Common Law**, edited by Paul H. Rubin, forthcoming, Edward Elgar Publishing Ltd.)
- "Property Rules and Liability Rules, Once Again," **Review of Law & Economics**, v.2 (n.2), Article 1, 2006, 137-191. <http://www.bepress.com/rle/vol2/iss2/art1>
- "Antitrust Around the World: An Empirical Analysis of the Scope of Competition Laws and Their Effects," **Antitrust Law Journal**, v. 74 (n.2), 271-341, 2007.
- "A Public Choice Theory of Criminal Procedure"

- (with Vic Khanna), **Supreme Court Economic Review**, v.15, 61-118, 2007.
- "Torts and Choice of Law: Searching for Principles," v. 56, **Journal of Legal Education**, 551-559, December 2006.
- "Biomedical Ethics and the Law: A Critical Perspective," **Annual Review of Law and Ethics** (Symposium on Bioethics), v. 15, 611 - 632, 2007.
- "A Positive Theory of Strict Liability," **Review of Law & Economics**, v. 4 (n.1), 153-181, 2008.
<http://www.bepress.com/rle/vol4/iss1/art9>.
- "Weyerhaeuser, Predatory Bidding, and Error Costs," **The Antitrust Bulletin**, v. 53 (n.1), 51-73, 2008.
- "Preemption and Products Liability: A Positive Theory," **Supreme Court Economic Review**, v. 16, 205-249, 2008.
- "When Should a Case Be Dismissed? The Economics of Pleading and Summary Judgment Standards," **Supreme Court Economic Review**, vol. 16, 39-66, 2008.
- "The Lawful Acquisition and Exercise of Monopoly Power and Its Implications for the Objectives of Antitrust," (with David S. Evans) **Competition Policy International**, vol. 4 (n.2), 203-241, 2008.
- "Unilateral Refusals to Deal and the Antitrust Modernization Commission Report," **The Antitrust Bulletin**, v. 53 (n.3), 623-641, 2008.
- "Remedies, Antitrust Law, and *Microsoft*: Comment on Shapiro," (Symposium on the Microsoft Antitrust Litigation), **Antitrust Law Journal**, v. 75 (n.3), 773-786 (2009).
- "Calabresi's Influence on Law and Economics," in **Pioneers of Law and Economics**, 224-245, L.R. Cohen and J.D. Wright eds., Edward Elgar Publishing, 2009.
- "Political Economy of Criminal Procedure" (with Vic Khanna) in **Criminal Law and Economics**, 171-206, N. Garoupa, ed., Edward Elgar Publishing, 2009.
- "The Economics of Injunctive and Reverse Settlements"

- (with Sungjoon Cho), **American Law and Economics Review**, v. 12 (n.1), 181-203, 2010.
- "The Law and Economics of Monopolization Standards," in **ANTITRUST LAW AND ECONOMICS** 82-115 (K. Hylton ed.) Edward Elgar Publishing 2010.
- "Optimal Antitrust Enforcement, Dynamic Competition, and Changing Economic Conditions," (with Haizhen Lin) **Antitrust Law Journal**, v. 77 (n.1), 247-276, 2010.
- "The Economics of Public Nuisance Law and the New Enforcement Actions," **Supreme Court Economic Review**, v. 18 43-76, 2010.
- "The Economics of Nuisance Law" in **RESEARCH HANDBOOK ON THE ECONOMICS OF PROPERTY LAW** 323-343 (K. Ayotte and H.E. Smith eds.) Edward Elgar Publishing 2011.
- "Property Rules and Defensive Conduct in Tort Law Theory," **Journal of Tort Law**, v. 4, number 1, Article 5, 2011.
<http://www.bepress.com/jtl/vol4/iss1/art5>.
- "*Brown Shoe* Versus the Horizontal Merger Guidelines," (Symposium: The 2010 Horizontal Merger Guidelines), **Review of Industrial Organization**, v. 39 (n.1-2), 95-106, 2011.
- "American and European Monopolization Law: A Doctrinal and Empirical Comparison," with Haizhen Lin, in **COMPETITION POLICY AND PATENT LAW UNDER UNCERTAINTY: REGULATING INNOVATION**, 252-286, G. A. Manne & J. D. Wright, eds., Cambridge University Press, 2011.
- "Church and State: An Economic Analysis," with Yulia Rodionova and Fei Deng, **American Law and Economics Review**, v. 13, 1-51, 2011.
- "Some Notes on Property Rules, Liability Rules, and Criminal Law," in **Research Handbook on the Economics of Criminal Law**, Keith N. Hylton & Alon Harel, eds., Edward Elgar (2012).
- "The Economics of Third-Party Financed Litigation," 8 **Journal of Law, Economics & Policy**, v. 8, 701-741, 2012.

- "The Economics of Necessity," **Journal of Legal Studies**, v. 41, 269-289, 2012.
- "Negligence, Causation, and Incentives for Care," **International Review of Law and Economics**, v. 35, 80-89, 2013.
- "Injunctive and Reverse Settlements in Competition-Blocking Litigation" (with Sungjoon Cho) **European Journal of Law and Economics**, v. 36, 243-269, 2013
(First published online, Nov. 2011; at <http://www.springerlink.com/content/c254563u467656wh/>)
- "Causation in Tort Law: A Reconsideration," in **Research Handbook on the Economics of Torts**, 97-113, Jennifer Arlen, ed., Edward Elgar Publishing, 2013.
- "Innovation and Optimal Punishment, with Antitrust Applications," (with Haizhen Lin) **Journal of Competition Law and Economics**, v. 10 (n.1), 1-25, 2014.
- "Antitrust Enforcement Regimes: Fundamental Differences," **The Oxford Handbook of International Antitrust Economics**, Volume 1, R.D. Blair and D. Sokol, eds. Oxford University Press, 2014.
- "Nuisance," **Encyclopedia of Law and Economics**, Living Reference Work Entry, 1-11, Jürgen Backhaus, ed. 2014.
- "Information and Causation in Tort Law: Generalizing the Learned Hand Test for Causation Cases," **Journal of Tort Law**, v.7, 35064, 2014.
- "Negligence and Two-Sided Causation," **European Journal of Law and Economics**, vol. 40, 2015, 393-411.
- "Should Antitrust Fines Target Firms or Agents?" (Conference Proceedings) in **Global Antitrust Economics - Current Issues in Antitrust and Law & Economics**, Douglas H. Ginsburg, Joshua D Wright, eds., Concurrences Review, 2016.
- "Microsoft After Fifteen Years, **Competition Policy International**, vol. 11(No.1), Spring/Autumn 2016.
- "The Economics of Class Actions and Class Action Waivers," **Supreme Court Economic Review**, vol. 23, 305-339, 2016.

- "Scalia and Antitrust," (invited article) **Antitrust**, vol. 30 (n.3), 60-65, 2016.
- "Law, Social Welfare, and Net Neutrality," **Review of Industrial Organization**, vol. 50, 417, 2017.
- "Antitrust and Intellectual Property: A Brief Introduction," 81-91, **The Cambridge Handbook of Antitrust, Intellectual Property, and High Tech**, R.D. Blair and D.D. Sokol, eds. Cambridge University Press, 2017.
- "Economics of Criminal Procedure," in **The Oxford Handbook of Law and Economics**, Vol. III: Public Law & Legal Institutions, 325-343, F. Parisi, ed., Oxford Univ. Press, 2017.
- "Optimal Remedies for Patent Infringement," (with Mengxi Zhang), **International Review of Law and Economics**, vol. 52, 44-57, 2017.
- "Economic Theory of Criminal Law," Oxford Research Encyclopedia of Economics and Finance, August 2019.
- "Law and Economics versus Economic Analysis of Law," **European Journal of Law and Economics**, vol. 48, 77-88, 2019.
- "Causation and Incentives, with Updating Courts," (with Beixi Zhou) **Journal of Institutional and Theoretical Economics**, vol. 176, 123-146, 2020.
- "Error Costs, Ratio Tests, and Patent Antitrust Law," (with Wendy Xu) **Review of Industrial Organization**, vol. 56, 563-591, 2020.
- "Incentives to Take Care Under Contributory and Comparative Fault," (with Benjamin Ogden) **International Review of Law and Economics**, vol. 61, 1-10, 2020.

Law Review Articles and Book Chapters:

- "Rational Decisions and Regulation of Union Entry," (with Maria O'Brien Hylton) **Villanova Law Review** v. 34, number 2, 1989, 145-207.
- "Rent Appropriation and the Labor Law Doctrine of Successorship," (with Maria O'Brien Hylton) **Boston**

- University Law Review**, v. 70, number 5, November 1990, 821-863.
- "Economic Rents and Essential Facilities," **Brigham Young University Law Review**, v. 1991, number 3, 1991, 1243-1284.
- "Litigation Costs and the Economic Theory of Tort Law," **University of Miami Law Review**, v. 46, September 1991, 111-148.
- "Efficiency and Labor Law," **Northwestern University Law Review**, December 1992 (reprinted in **Foundations of Labor and Employment Law**, Estreicher and Schwab, eds.)
- "The Internalization Paradox and Workers' Compensation," (with Steven Laymon) **Hofstra Law Review**, v.21, Fall 1992, 109-182.
- "Fee Shifting and Incentives to Comply with the Law," **Vanderbilt Law Review**, v. 46, October 1993, 1069-1128.
- "An Economic Theory of the Duty to Bargain," **Georgetown Law Journal**, v. 83, November 1994, 19-77.
- "Fee Shifting and Predictability of Law," **Chicago-Kent Law Review** (Symposium on Fee Shifting), v. 71 (No.2), December 1995.
- "A Theory of Minimum Contract Terms, with Implications for Labor Law," **Texas Law Review**, v. 74 (No.7), June 1996.
- "Implications of Mill's Theory of Liberty for the Regulation of Hate Speech and Hate Crimes," **University of Chicago Law School Roundtable**, v. 3 (n.1), 1996, 35-57.
- "Rule 68, the Modified British Rule, and Civil Litigation Reform," **Michigan Law & Policy Review** (Symposium on Tort Reform), v.1, 1996, 73-98.
- "A Missing Markets Theory of Tort Law," **Northwestern University Law Review**, v. 90, Spring 1996, 977-1008.
- "Lending Discrimination: Economic Theory, Econometric Evidence, and the Community Reinvestment Act," (with Vincent Rougeau) **Georgetown Law Journal**, v. 85, December 1996, 237-294.

- "Punitive Damages and the Economic Theory of Penalties," **Georgetown Law Journal**, v. 87 (n.2), November 1998, 421-471.
- "The Community Reinvestment Act: Questionable Premises and Perverse Incentives," (with Vincent Rougeau) **Annual Review of Banking Law**, v. 18, 1999, 163-196.
- "Procompetitive Theories of Vertical Control," (with Andy C. M. Chen), **Hastings Law Journal**, v. 50, March 1999, 573 - 633.
- "Property Rights and the Human Body," in **ENCYCLOPEDIA OF THE AMERICAN CONSTITUTION**, Levy & Karst, eds., 2d ed., 2000, 2057-2058.
- "Preserving Competition: Economic Analysis Legal Standards and Microsoft," (with Ronald A. Cass), ICER Working Paper No. 15/99, **George Mason Law Review**, v. 8, 2000 1 - 40. (Reprinted in **Microsoft, Antitrust and the New Economy: Selected Essays**, David S. Evans, ed. 2002.)
- "Banks and Inner Cities: Market and Regulatory Obstacles to Development Lending," **Yale Journal on Regulation**, v. 17, Summer 2000, 197-251.
- "The Theory of Tort Doctrine and the Restatement of Torts," **Vanderbilt Law Review**, v.54, Torts symposium, 2001, 1413-1438.
- "Antitrust Intent" (with Ronald Cass) **Southern California Law Review**, v. 74, 2001, 657-745.
- "When Should We Prefer Tort Law to Environmental Regulation," (invited torts symposium article) **Washburn Law Journal**, v. 41, 2002, 515-534.
- "A Framework for Reparations Claims," (keynote address) **Boston College Third World Law Journal**, v. 24 (n.1), 2004, 31-43. (Reprinted in **Rethinking Commodification**, Martha M. Ertman and Joan C. Williams, eds., 2005.)
- "Law and the Future of Unions," (keynote address) **Wayne State University Law Review**, v. 49 (n.3), Fall 2003, 685-703.
- "Slavery and Tort Law," (Symposium on the Jurisprudence of Slavery Reparations) **Boston University Law Review**, v.84,

December 2004, 1209-1255.

- "Calabresi and the Intellectual History of Law and Economics,"
(Symposium on Calabresi) **Maryland Law Review**, v. 64
(n.1-2), 2005, 85-107.
- "Arbitration: Governance Benefits and Enforcement Costs,"
(Lead article in Symposium on Federal Courts),
Notre Dame Law Review, v. 80 (n.2), January 2005, 489-500.
- "Duty in Tort Law: An Economic Approach," (Symposium
on Internal View in Law and Ethics), **Fordham Law Review**,
v. 75 (n. 3), December 2006, 1501-1528. (Reprinted in
Duty of Care: Corporate Liability, Icfai Univ. Press,
2008.)
- "Development Lending and the Community Reinvestment Act,"
Western New England Law Review (Symposium on Community
Economic Development), vol 29 (n. 1), 2006, 59-73.
- "Property Rules, Liability Rules, and Immunity: An Application
to Cyberspace," **Boston University Law Review**, vol. 87
(n. 1), February 2007, 1-39.
- "Reflections on Remedies and Philip Morris v. Williams,
(Symposium, Remedies: Justice and the Bottom Line),
The Review of Litigation, vol. 27 (n. 1), Fall 2007, 9-35.
- "Due Process and Punitive Damages: An Economic Approach,"
(Symposium on Punitive Damages), **Charleston Law Review**,
vol. 2 (n. 2), Spring 2008, 345-374. (Reprinted in
Due Process: Legal Dynamics, Icfai Univ. Press, 2008.)
- "A Theory of Wealth and Punitive Damages, (Symposium on
"Crimtorts"), **Widener Law Journal**, vol. 17 (n. 3), 2008,
927-948.
- "Asbestos and Mass Torts with Fraudulent Victims,"
(Perspectives on Asbestos Litigation Symposium),
Southwestern Law Review, vol. 37 (n. 3), 2008, 575-593.
- "The Economic Theory of Nuisance Law and Implications for
Environmental Regulation," (Symposium on Common Law
Environmental Protection), **Case Western Reserve Law
Review**, vol. 58 (n. 3), Spring 2008, 673-703.

- "Tort Duties of Landowners: A Positive Theory,"
(Symposium on the Third Restatement), **Wake Forest
Law Review**, vol. 44 (n. 4), Winter 2009, 1049-1069.
- "Intent in Tort Law" (Monsanto Lecture), **Valparaiso
University Law Review**, vol. 44 (n.4), Summer 2010,
1217-1242.
- "An Economic Perspective on Preemption," **Boston College
Law Review**, vol. 52, January 2012, 203-231.
- "The Law and Economics of Products Liability," **Notre Dame
Law Review**, vol. 88 (n.5), 2013, 2457-2514.
- "A Unified Framework for Competition Policy and Innovation
Policy," **Texas Intellectual Property
Law Journal** (Heath Symposium), vol. 22 (n.2), 2014.
- "The Economics of the Restatement and of the Common Law,"
Brooklyn Law Review (Restatement Symposium),
vol. 79 (n.2), 595-619, 2014.
- "Toward a Regulatory Framework for Third-Party Funding of
Litigation," **DePaul Law Review** (Clifford Symposium),
vol.63 (n.2), 527-545, 2014.
- "Deterrence and Antitrust Punishment: Firms Versus Agents,"
100 **Iowa Law Review** 2069, 2015.
- "Patent Uncertainty: Toward a Framework with Applications,"
(Symposium on Notice in IP), **Boston University Law Review**,
Vol. 96 (n.3), 1117-1148, 2016.
- "Enhanced Damages for Patent Infringement: A Normative
Approach," (Symposium on Patent Damages), **The Review
of Litigation**, vol. 36, 417-441, 2017.
- "Whom Should We Punish, and How? Rational Incentives and
Criminal Justice Reform," (Wythe Lecture), **William & Mary
Law Review**, vol. 59, 2513-2573, 2018.
- "Comment on 'Error and Regulatory Risk in Financial Institution
Regulation'," **Supreme Court Economic Review**, vol. 25,
193-198, 2018.
- "Oligopoly Pricing and Richard Posner," **Antitrust Source**,

October 2018.

"Selling Out: An Instrumentalist Theory of Legal Ethics, **The Georgetown Journal of Legal Ethics**, vol. 34, 19-64, 2021.

Book Reviews and Comments:

Review of Agenda for reform: The future of employment relationships and the law, by William B. Gould IV, **Journal of Economic Literature**, v. 32, December 1994, 1907-1908.

"A Note on Trend-Spotting in the Case Law," **Boston College Law Review**, v.40, July 1999, 891-896.

"Tying Doctrine: Changing Views; Courts are inching Away from Per Se Rule of Illegality and Moving Closer to a Rule-of-Reason Approach," (with Ron Cass), **National Law Journal**, June 28, 2004.

"Classic Papers on Predatory Pricing," **Competition Policy International**, v. 1 (n.2), Autumn 2005, 173-175.

"Liability Externalities and the Law: A Comment on Cooter and Porat," **Journal of Tort Law**, v.1, number 1, Article 3, 2006.
Available at: <http://www.bepress.com/jtl/vol1/iss1/art3>

"A Note on Director & Levi (1956)," **Competition Policy International**, v. 3 (n.2), Spring 2007, 251-268.

"Efficient Deterrence and Crime Control," in **Criminal Law Conversations**, 97-99 (P. Robinson, S. Garvey & K. Ferzan, eds.) Oxford University Press, 2009.

"A Comment on the Intel Fine," **GCP: The Online Magazine for Global Competition Policy**, June 2009.

"Intel and the Death of U.S. Antitrust Law," **The CPI Antitrust Journal**, February 2010.

"Antitrust Conference in Honor of Joseph Brodley: Introduction," **Boston University Law Review**, v. 90 (n.4), 1367-1373, August 2010.

"New Private Law Theory and Tort Law: A Comment," **Harvard Law Review Forum**, vol. 125, 2012, 173-188.

"Microsoft's Antitrust Travails," (reviewing Gavil and First, *The Microsoft Antitrust Cases: Competition Policy for the Twenty-First Century*, MIT Press 2014), published in **The Antitrust Source**, December 2014.

"Antitrust Snoops on the Loose," **Wall Street Journal**, print edition publication April 3, 2015. (Reprinted in **CPI Antitrust Chronicle**, June 2015 (2).

"Reverse Payments Post Actavis: A Litigation Quagmire?" **CPI Antitrust Chronicle**, July 2015 (1).

"Gorsuch versus Scalia: How Will Antitrust Change?, **The Antitrust Source**, April 2017.

"The Wisdom of Douglas Ginsburg and the Competition Versus Innovation Conflict," in **Douglas H. Ginsburg: An Antitrust Professor on the Bench**, *Liber Amicorum* 57, Nicholas Charbit, Carolina Malhado & Ellie Yang, eds., Institute of Competition Law, 2018.

Amicus Briefs:

Brief of Keith N. Hylton as *Amicus Curiae* in Support of Respondents, *State Farm Mutual Automobile Insurance Company v. Curtis Campbell and Inez Preece Campbell*, United States Supreme Court (text of brief available on Westlaw, SCT-BRIEFS).

Brief of Keith N. Hylton as *Amicus Curiae* in Support of Petitioners, *Greg Johnson v. Ford Motor Company*, California Supreme Court.

Brief *Amicus Curiae* of Professors Keith N. Hylton, Kenneth G. Dau-Schmidt, Mark F. Grady, Jeffrey L. Harrison, Mark G. Kelman, and Thomas Ulen in Support of Respondents, *Philip Morris USA v. Mayola Williams*, United States Supreme Court.

Websites:

Keith N. Hylton et al., *Antitrust World Reports*, available at <http://antitrustworldwiki.com>.

LECTURES AND PAPER PRESENTATIONS:

"Litigation Costs and the Economic Theory of Tort Law," University of Chicago Law and Economics Workshop, October 11, 1990.

"Litigation Cost Allocation Rules and Compliance with the Negligence Standard," First Annual Meeting of the American Law and Economics Association, May 25, 1991, Champaign-Urbana, Illinois.

"Doctrinal Efficiency and Labor Law," Northwestern University Law School, Faculty Workshop, September 19, 1991.

"Doctrinal Efficiency and Labor Law," DePaul Law School, October 9, 1991.

"Doctrinal Efficiency and Labor Law," Stanford Law and Economics Workshop, October 17, 1991.

"Litigation Cost Allocation Rules and Compliance with the Negligence Standard," University of Southern California, Legal Theory Workshop, October 18, 1991.

"Doctrinal Efficiency and Labor Law," AALS Meetings, San Antonio, Texas, January 5, 1992.

"Doctrinal Efficiency and Labor Law," University of Chicago Law and Economics Workshop, January 14, 1992.

"Doctrinal Efficiency and Labor Law," University of Chicago Labor Economics Workshop, March 3, 1992.

"Litigation Cost Allocation Rules and Compliance with the Negligence Standard," Northwestern University Law and Economics Workshop, Economics Department, Evanston, Illinois, April 2, 1992.

"Rent Appropriation and Successorship Doctrine," Roundtable on Labor Issues, University of Pennsylvania Law School, May 1, 1992.

"Doctrinal Efficiency and Labor Law," Second Annual Meeting of the American Law and Economics Association Meetings, Yale University, New Haven, May 15-16, 1992.

Chair, Panel on Labor Law and Economics, Second Annual Meeting of the American Law and Economics Association, Yale, May 1993.

"Fee Shifting and Incentives to Comply with the Law," University of North Carolina School of Law, Legal Theory Workshop, September 3, 1992.

"A Theory of Labor Antitrust," University of Toronto School of Law, Law and Economics Workshop, January 27, 1993.

"A Theory of Labor Antitrust," Harvard Law School, Law and Economics Workshop, February 23, 1993.

"Fee Shifting and Incentives to Comply with the Law," Georgetown University School of Law, Law and Economics Workshop, March 25, 1993.

"An Economic Theory of Bargaining Obligations, University of Chicago Law School, Law and Economics Workshop, October 19, 1993.

"An Economic Theory of Bargaining Obligations, American Law and Economics Association, Annual Meeting, Stanford, May 13, 1994.

"Fee Shifting and Predictability of Law," Northwestern University faculty workshop, February 27, 1995.

"Fee Shifting, Rule 68, and Litigation Reform," Inaugural Symposium on Tort Reform, Michigan Law & Policy Review, October 14, 1995.

"A Theory of Minimum Contract Terms, with Implications for Labor Law," Employment Law Symposium, University of Texas Law School, November 1995.

"Compliance with the Law and the Trial Selection Process: A Theoretical Framework," Harvard Law School, Olin Center Conference on the Economics of Litigation, December 15-16, 1995.

"A Theory of Minimum Contract Terms, with Implications for Labor Law," American Law and Economics Association, Annual Meeting, University of Chicago, Chicago, May 10, 1996.

"Critique of Corrective Justice Theories and Implications for Teaching Torts," AALS Conference on Torts, Washington, D.C., June 5-8, 1996.

Participant, NBER Summer Institute on Law and Economics, Cambridge, Mass., July 18-19, 1996.

"The Community Reinvestment Act: Questionable Premises and Perverse Incentives," University of Southern California Law School, Olin Fellow Presentation, January 1997.

"Recent NLRA Developments: An Economic Analysis," American Bar Association Developing Labor Law Committee 1997 Mid-Winter Meeting, Puerto Vallarta, Mexico, February 3, 1997.

"Economic Analysis of Partial Closure, Subcontracting, and Successorship," Harvard Trade Union Program, Cambridge, Mass., March 6, 1997.

"Gain-Based Versus Harm-Based Penalties: Optimality and Implications for Law Enforcement," American Law and Economics Association Annual Meeting, University of Toronto School of Law, Toronto, Canada, May 9-10, 1997.

"Labor and the Supreme Court: Review of the 1996-97 Term," Section Secretary's Report, Section of Labor and Employment Law, American Bar Association Annual Meeting, San Francisco, August 4, 1997.

"Gain-Based Versus Harm-Based Penalties: Optimality and Implications for Law Enforcement," Law, Economics, and Organization Workshop, Yale Law School, September 25, 1997.

"Gain-Based Versus Harm-Based Penalties: Optimality and Implications for Law Enforcement," Economics Department Workshop, University of Connecticut at Storrs, October 17, 1997.

"Punitive Damages and the Economic Theory of Penalties," University of Alabama Law School, December 16, 1997.

Participant, National Bureau of Economic Research Behavioral Law and Economics Conference, December 1997, Harvard University.

"New Conservatism in Private Law," AALS 1998 Annual Meeting, San Francisco, January 10, 1998.

"Punitive Damages and the Economic Theory of Penalties," Northwestern University Law School, February 2, 1998.

"Punitive Damages and the Economic Theory of Penalties," Florida State University, February 13, 1998.

"Punitive Damages and the Economic Theory of Penalties," George Mason University, School of Law, February 1998.

"Punitive Damages and the Economic Theory of Penalties," 8th Annual Meeting of the American Law and Economics Association, University of California at Berkeley, May 9th, 1998.

Discussant, Fairness Versus Welfare Economics in Economic Analysis of Law, National Bureau of Economic Research Summer Institute, Law and Economics, Cambridge, Mass., July 31 - August 1st, 1998.

"Gain-Based versus Harm-Based Penalties," Boston University Economics Department, October 6, 1998.

Discussant, The Economics of Lesser Included Offenses, Conference on the Economics of Law Enforcement, Harvard Law School, Cambridge, Mass., October 17, 1998.

Panel discussant, The Economics of Bargaining Rules, Roundtable on Labor, University of Pennsylvania Law School, November 6, 1998.

Panel Chair, Torts Panels, American Law and Economics Association Annual Meeting 1999, Yale University, New Haven, May 8, 1999.

"The Community Reinvestment Act and Economic Development in Cities," Banking in the New Millennium Conference, sponsored by the Federalist Society, Washington University School of Law, St. Louis, Missouri, June 4, 1999.

"The Law and Economics of Agreements to Arbitrate Employment Claims," Labor Workshop, New York University School of Law, September 7, 1999.

"The Law and Economics of Agreements to Arbitrate Employment Claims," Roger Williams School of Law, October 20, 1999.

"Agreements to Waiver or to Arbitrate Legal Claims: An Economic Analysis," Yale Law School, Dispute Resolution Workshop, December 6, 1999.

Participant, American Law Institute conference on the Restatement of Employment Law, New York University School of Law, April 14, 2000.

"Agreements to Waive or to Arbitrate Legal Claims: An Economic Analysis," American Law and Economics Assn. Annual Meeting, New York University Law School, May 12, 2000.

Participant, NBER Summer Institute on Law and Economics, Cambridge, MA, July 2000.

"The Theory of Tort Doctrine and the Restatement of Torts," Wade conference on Restatement of Torts, Vanderbilt Law School, September 15-16, 2000.

Discussant, University of Pennsylvania Labor Law Roundtable, Philadelphia, PA, October 2000.

Discussant, Products Liability: US-EU Comparison, sponsored by Brookings and the Center for European Policy Studies, Brussels, Belgium, October 2000.

"Antitrust Intent" University of San Diego Law School, San Diego, CA, December 8, 2000.

"Mass Torts and Public Policy," American Association of Law Schools Annual Meeting, San Francisco, CA, January 5, 2001.

"Network Effects and Antitrust Law," American Association of Law Schools Annual Meeting, San Francisco, CA, January 6, 2001.

"Antitrust Intent," Regulation Workshop, Kennedy School of Government, Harvard University, February 22, 2001.

"The Economics of Litigation and Arbitration: An Application to Franchise Contracts," American Law and Economics Association Annual Meeting, Georgetown University Law School, Washington DC, May 10-11, 2001.

"Antitrust Intent," US Department of Justice, Antitrust Division, Economic Analysis Group, May 22, 2001.

Panel Chair and Commentator, Torts, Yale/Stanford Junior Faculty Forum, Stanford Law School, June 1-2, 2001.

"Toward An Economic Theory of Pro-Defendant Criminal Procedure," NBER Summer Institute in Law and Economics, August 3-4, Cambridge, MA, 2001.

"When Should We Prefer Tort Law to Environmental Regulation?" Ahrens Torts Symposium, Washburn University School of Law, September 21-22, 2001.

"Toward an Economic Theory of Pro-Defendant Criminal Procedure," Wayne State University Department of Economics, December 3, 2001.

"Toward an Economic Theory of Pro-Defendant Criminal Procedure," Fordham Law School, April 18, 2002.

Discussant, NLRB v. Pall Corp., Roundtable on Labor Law, Institute for Law and Economics, University of Pennsylvania, December 6, 2002.

Moderator and discussant: "Reparations from the Torts

Perspective," American Association of Law Schools Annual Meeting, Washington DC, January 4, 2003.

Keynote address, "A Framework for Reparations Claims," Symposium on Reparations, Boston College Law School, March 14, 2003.

Keynote address, "Law and the Future of Organized Labor in America," Symposium on the Future of Organized Labor in America, Wayne State University School of Law, April 11, 2003.

Panel Chair and Commentator, Torts, Yale/Stanford Junior Faculty Forum, Stanford Law School, June 6-7, 2003.

"Preemption and Products Liability: A Positive Theory," AALS Conference on Torts, New York, June 17-20, 2003.

Commentator, "Jury Demands and Trials," NBER Summer Institute, Law and Economics Workshop, August 1-2, Cambridge, 2003.

"Preemption and Products Liability: A Positive Theory," Legal Theory Workshop, University of Illinois Law School, Champaign-Urbana, September 29, 2003.

Instructor, Market Imperfections, Economics Institute for Judges, AEI-Brookings Judicial Education Program, The Brookings Institution, Washington, DC, October 29, 2003.

"Preemption and Products Liability: A Positive Theory," Legal Theory Workshop, Notre Dame University, School of Law, South Bend, Indiana, December 10, 2003.

"Arbitration: Governance Benefits and Enforcement Costs," Civil Procedure Program, American Association of Law Schools Annual Meeting, Atlanta, Georgia, January 3, 2004.

Commentator, Antitrust Law Program, American Association of Law Schools Annual Meeting, Atlanta, Georgia, January 4, 2004.

"Preemption and Products Liability: A Positive Theory," Legal Theory Workshop, Ohio State University, School of Law, Columbus Ohio, February 9, 2004.

"Slavery and Tort Law", Symposium on the Jurisprudence of Slavery Reparations, Boston University School of Law, Boston, Massachusetts, April 9-10, 2004.

"Calabresi and the Intellectual History of Law and Economics,"

Symposium on Calabresi's Costs, University of Maryland, School of Law, Baltimore, Maryland, April 23-24, 2004.

"Two Approaches to Equality, with Implications for Grutter, American Association of Law Schools Workshop on Racial Justice, Portland, Oregon, June 13-15, 2004.

Lecturer, Punitive Damages: The Law, The Jury, and the Judge, AEI-Brookings Joint Center for Regulatory Studies, Judicial Education Program, "Economic Perspectives on Punitive Damages, Washington DC, Wednesday, September 22, 2004.

Academic Consultant, Torts Drafting Committee, October 15-16, 2004, Philadelphia, Pennsylvania.

"The Future of Economic Analysis of Tort Law," Thomas F. Lambert Tort Law Conference (Sophisticated New Tort Theories), Suffolk University School of Law, Boston, Massachusetts, October 29, 2004.

"Church and State: An Economic Analysis," Distinguished Speaker, University of Maine, Law School, Portland, Maine, November 5, 2004.

"Church and State: An Economic Analysis," Law and Economics Workshop, University of Michigan, Ann Arbor, Michigan, December 9, 2004.

"Church and State: An Economic Analysis," Law and Economics Workshop, Stanford University, Palo Alto, California, February 17, 2005.

Panel Chair and Commentator, Torts, Yale/Stanford Junior Faculty Forum, Stanford Law School, May 27-28, 2005.

"Information, Litigation, and Common Law Evolution," University of Southern California, Law School, CLEO workshop, August 22, 2005.

"Property Rules and Liability Rules, Once Again," Law and Economics Workshop, Northwestern University, Evanston, Illinois, September 14, 2005.

"Property Rules and Liability Rules, Once Again," Workshop, George Mason University Law School, Fairfax, Virginia, September 27, 2005.

"Remarks on Section 2 and Article 82" Summit at Como: A Discussion of Competition Policy, Law, and Economics, Lake Como, Italy,

October 28-30, 2005.

"Conflicts of Laws," Transnational Torts Panel, American Association of Law Schools Annual Meeting, Washington DC, January 4, 2006.

"Coding Law", Plenary Session, Empirical Panel, American Association of Law Schools Annual Meeting, Washington DC, January 5, 2006.

"Antitrust Around the World," Antitrust Section Program, Speaker and Moderator, American Association of Law Schools Annual Meeting, Washington, DC, January 6, 2006.

Lecturer, Law and Economics, Judicial Education Program, Brookings Institution, January 24-25, 2006.

"Duty in Tort Law: An Economic Approach," Fordham Law School Conference on Legal Duties, February 9-10, 2006.

"The Future of Unions and Labor Law," Goldstein Labor Law Conference, George Washington University, February 17, 2006.

"Development Lending and the Community Reinvestment Act," Issues in Community Economic Development Conference, Western New England College of Law, Springfield MA, March 24, 2006.

"Antitrust Around the World," American Bar Association Spring Antitrust Meeting, Scholar's Showcase Panel, Washington DC, March 29, 2006.

"When Should a Case Be Dismissed? The Economics of Pleading and Summary Judgment Standards," Principal Speaker, AEI-Brookings Joint Center, Washington DC, April 5, 2006.

Instructor, Law and Economics, Judicial Education Program, Brookings Institution, April 24-26, 2006.

"When Should a Case Be Dismissed? The Economics of Pleading and Summary Judgment Standards," Law and Economics Workshop, University of Amsterdam Law School, Amsterdam, The Netherlands, May 22, 2006.

"Property Rules, Liability Rules, and Immunity: An Application to Cyberspace," Copenhagen Business School, Copenhagen, Denmark, May 24, 2006.

"Antitrust Around the World," Copenhagen Business School, Copenhagen, Denmark, May 24, 2006.

Senior Commentator, Junior Empirical Legal Scholars Conference, Cornell Law School, Ithaca, New York, September 8-10, 2006.

"When Should a Case Be Dismissed? The Economics of Pleading and Summary Judgment Standards," Civil Procedure Conference sponsored by Federalist Society and eSapience, New York University Law School, New York, September 14, 2006.

Commentator on paper by Robert Cooter and Ariel Porat, Torts conference, Columbia University Law School, New York, September 15-16, 2006.

Instructor, Law and Economics, Judicial Education Program, Brookings Institution, September 26-27, 2006.

Principal Lecturer, Antitrust Masters Course III, American Bar Association Section of Antitrust Law, Kiawah Island, South Carolina, September 28 - October 1, 2006.

"Antitrust Around the World," Conference on Empirical Legal Studies, Invited Presenter, University of Texas Law School, Austin, Texas, October 27-28, 2006.

"Antitrust Around the World," Legal Theory Workshop, Georgetown University Law School, Washington D.C., November 16, 2006.

"Punitive Damages and Tort Reform," American Association of Law Schools Annual Meeting, Workshop on Remedies, "The Political and Policy Debate Over Tort Remedies" panel, Washington D.C., January 3, 2007.

Program Faculty, Punitive Damages after *Philip Morris*, American Bar Association Teleconference (panel discussion of implications of Supreme Court's *Philip Morris* decision for punitive damages law, other faculty for program consisted of lawyers who argued *Philip Morris* in Supreme Court), March 20, 2007.

Panelist, "Are American Businesses a Threat to American Sovereignty?" National Press Club, Washington, D.C., April 11, 2007.

Instructor, Law and Economics, Judicial Education Program, Brookings Institution, April 16-18, 2007.

Presenter, Conference on Economics of Competition and Innovation, George Mason University School of Law, Fairfax, Virginia, May 4, 2007.

Panel Chair (Antitrust) and Senior Faculty Commentator, Yale-Stanford Junior Faculty Forum, Stanford, California, May 28-19 2007.

Presenter, Punitive Damages Symposium, Charleston School of Law, Charleston, South Carolina, September 7, 2007.

Principal Lecturer, Law and Economics, Judicial Education Program, Brookings Institution, Washington, D.C., October 1-3, 2007.

"Due Process and Punitive Damages: An Economic Approach," Fordham University Law School, New York, faculty workshop, October 18, 2007.

Discussant, Conference on Empirical Legal Studies, New York University Law School, November 9-10, 2007.

Panelist, Conference on Antitrust and Microsoft Case, Northwestern University School of Law, November 15-16, 2007.

Presenter, Conference on Tort Law and Asbestos Litigation, Southwestern University Law School, Los Angeles, January 18, 2008.

Keynote Address, "A Positive Theory of Strict Liability," Erasmus Mundus Law and Economics Conference, Ghent University, Ghent, Belgium, February 15, 2008.

"Wealth and Punitive Damages," Conference on the Tort-Crime Boundary, Widener Law School, February 25, 2008.

Principal Lecturer, Law and Economics, Judicial Education Program, Brookings Institution, Washington, D.C., April 2-3, 2008.

"The Economics of Public Nuisance Law and the New Enforcement Actions," Searle Center Research Roundtable: Expansion of Liability Under Public Nuisance, Northwestern University law School, Chicago, April 7-8, 2008.

"The Economics of Public Nuisance Law and the New Enforcement Actions," Legal Theory workshop, University of Kansas, School of Law, Lawrence Kansas, April 18, 2008.

"American and European Monopolization Law: A Doctrinal and

Empirical Comparison, Triangle Antitrust Research Conference, University of North Carolina at Chapel Hill (organized by Professors Scott Baker, Tracy Lewis, and Barak Richman), May 3 2008.

Principal Lecturer, Law and Economics, Judicial Education Program, Brookings Institution, Washington, D.C., June 10-11, 2008.

Panelist, U.S. v. Microsoft Ten Years Later Conference, Harvard Law School, Cambridge, MA, September 12-13, 2008.

Discussant, Yoo & Spulber book on Network Theory, Northwestern University, Searle Center, Chicago, Illinois, September 18-19, 2008.

"The Economics of Injunctive and Reverse Settlements," Chicago-Kent Law School, Chicago, Illinois, November 5, 2008.

Debate with Professor Karl Klare on the Employee Free Choice Act, Northeastern University Law School, Boston, MA, February 3, 2009.

"The Economics of Injunctive and Reverse Settlements," William and Mary Law School, Williamsburg, Virginia, February 13, 2009.

"The Economics of Injunctive and Reverse Settlements," UCLA Law School, Law, Economics, and Organization Workshop, March 10, 2009.

"Tort Duties of Landowners: A Positive Theory," Symposium on the Third Restatement of Torts, Wake Forest University Law School, Winston-Salem, North Carolina, April 2-3, 2009.

"Innovation and Optimal Punishment, with Antitrust Implications," The 7th Annual International Industrial Organization Conference, Northeastern University, Boston, MA, April 4-5, 2009.

"The Economics of Injunctive and Reverse Settlements, Law and Economics Workshop, Harvard Law School, Cambridge, MA, April 7, 2009.

Participant, Antitrust Marathon, Boston, MA April 17, 2009.

The 2009 Monsanto Lecture in Tort Jurisprudence, "Intent in Tort Law", Valparaiso University School of Law, Valparaiso, Indiana, April 23, 2009.

Panel Chair, Antitrust and Regulation sessions, American Law and Economics Association Annual Meeting, University of San Diego, Law

School, May 16-17, 2009.

Innovation and Optimal Punishment, with Antitrust Implications," invited presentation, Special Policy Session, Fourth European Conference on Competition and Regulation, CRESSE, Chania, Crete, Greece, July 4, 2009.

Conference Introduction, Antitrust Conference in Honor of Joseph Brodley, Boston University, Law School, September 18, 2009.

Honorable Paul J. Liacos Chair Lecture, Boston University Law School, October 1, 2009.

Presentation of Book Manuscript on the Law and Economics of Intellectual Property, Northwestern University Law School, Searle Institute, October 22-23, Chicago, Illinois.

Discussant, Conference on Frank Easterbrook's "Limits of Antitrust", Northwestern University Law School, Searle Institute, October 29-30, 2009, Chicago, Illinois.

"Optimal Antitrust Enforcement, Dynamic Competition, and Changing Economic Conditions," AALS Annual Meeting, Antitrust and Regulation session, New Orleans, LA, January 9, 2010.

"Optimal Antitrust Enforcement, Dynamic Competition, and Changing Economic Conditions," Vanderbilt Law School, Nashville, Tennessee, January 15, 2010.

"Rethinking Antitrust Policy: Optimal Enforcement Theory, Dynamic Competition, and Changing Economic Conditions," Notre Dame Law School, South Bend, Indiana, April 16, 2010.

"Optimal Antitrust Enforcement, Dynamic Competition, and Changing Economic Conditions," ABA Spring Antitrust Meeting, Washington DC, April 22, 2010.

"Trial Selection Theory: A Unified Model," American Law and Economics Association Twentieth Annual Meeting, Princeton University, Princeton, New Jersey, May 7, 2010.

"Property Rules and Defensive Conduct in Tort Law Theory," Legal Theory Workshop, Seton Hall Law School, Newark, New Jersey, October 5, 2010.

"Property Rules and Defensive Conduct in Tort Law Theory, Conference on Property, Tort and Private Law Theory, University of

Southern California, Los Angeles, California, October 22-23, 2010.

"Property Rules and Defensive Conduct in Tort Law Theory," Workshop, Wayne State University School of Law, Detroit, Michigan, November 5, 2010.

"An Economic Perspective on Preemption," Searle Civil Justice Institute's conference "Litigation vs. Regulation: A Model of Economic Efficiency or Economic Headwind?", George Mason University, November 11-12, 2010.

Discussant, Conference on Antitrust and Health Care, Harvard Law School, November 18, 2010.

"An Economic Perspective on Preemption," Searle Civil Justice Institute's Conference for Judges, Judicial Education Program, George Mason University, December 1-2, 2010.

Discussant and Moderator, One Hundred Years of Standard Oil Conference, George Washington School of Law, Washington D.C., June 3, 2011.

Invited Lecture on Monopolization Law, Program for Attorneys General, Searle Civil Justice Institute, George Mason University Law School, June 28, 2011.

Invited Lecture on Monopolization Law and Market Power, Judicial Education Program, George Mason University and the American Bar Association, October 3, 2011.

"The Economics of Third-Party Financed Litigation," Third-Party Financing Conference, Searle Civil Justice Institute, New York Athletic Club, New York, N.Y., October 5-6, 2011.

"The Economics of Third-Party Financed Litigation," Law and Economics Seminar, Harvard Law School, October 18, 2011.

"Monopolization Law and High-Tech Antitrust", lecture given in George Mason Law Review symposium, January 26, 2012.

"Negligence, Causation, and Incentives for Care," Conference on Decision Theory and Law, University of Alabama Law School, Tuscaloosa, Alabama, April 12-13, 2012.

"Negligence, Causation, and Incentives for Care," Law, Economics, and Business Seminar, University of Texas, April 16, 2012.

"Torts and Disaster," Torts Plenary Session, AALS Mid-Year Meeting, Workshop on Torts, Environment and Disaster, Claremont Hotel, Berkeley, CA, June 8-10, 2012.

"The Law and Economics of Products Liability," Faculty Workshop, Widener Law School, Harrisburg, Pennsylvania, August 4, 2012.

"The Economics of the Restatement," Conference on the Restatement at Brooklyn Law School, January 25, 2013,

Lecture: The Economics of Civil Procedure, George Mason Law and Economics Center Workshop for Law Professors on the Economics of Litigation and Civil Procedure, South Seas Island Resort, Captive, Florida, January 25-28, 2013.

Presentation of book "Laws of Creation" at the National Press Club, Washington, DC, hosted by the Federalist Society, January 30, 2013.

"The Economics of Class Action Waiver," presented preliminary draft at George Mason University program on Arbitration, January 31, 2013.

Presentation of book "Laws of Creation" at the Cato Institute, Washington, DC, March 20, 2013.

Presentation of book "Laws of Creation" at the Pioneer Institute, Boston, MA, hosted by Sullivan & Worcester law firm, March 29, 2013.

"The Economics of Class Actions and Class Action Waivers," presented at AGEF Third Annual Public Policy Institute on Financial Services, George Mason University, May 2, 2013.

Institute Faculty, Searle Institute Program on Law and Economics for Law Professors, Beaver Creek, Colorado, July 15-19, 2013 (taught classes on economics of criminal law, economics of tort law, and economics of labor law).

"A Unified Framework for Competition Policy and Innovation Policy," Heath Workshop, University of Florida, Gainesville, Florida, September 11, 2013.

Panelist, Jevons Institute Program, Antitrust and Intellectual Property, Cosmos Club, Washington, D.C., November 5, 2013.

Keynote Address ("A Unified Framework for Competition Policy and

Innovation Policy"), IV International Symposium on Law and Economics, Universidad Torcuato Di Tella, Buenos Aires, Argentina, December 6, 2013.

"A Unified Framework for Competition Policy and Innovation Policy," 15th Annual Texas Intellectual Property Symposium (FRAND and the Antitrust/Intellectual Property Interface) at University at Texas, Austin, February 21, 2014.

"Laws of Creation: Property Rights in the World of Ideas," presentation of book in Intellectual Property Seminar at Hofstra Law School, September 22, 2014.

"Deterrence and Antitrust Punishment: Firms versus Agents," presented at the Symposium honoring Herbert Hovenkamp, University of Iowa Law School, Iowa City, Iowa, October 24, 2014.

Co-Keynote: Innovation and Antitrust Mini-Symposium, Notre Dame Law School, November 13, 2014.

"Overbroad Remedies," panel at the American Bar Association Antitrust Section's Symposium celebrating the 100th Anniversary of the Federal Trade Commission, Washington DC, December 4, 2014.

"Causation," Section on Law and Economics Program, Annual Meeting, American Association of Law Schools, January 2015, Washington DC.

Commentator, Junior Scholars Panel, Federalist Society Annual Meeting, January 2015, Washington DC.

"Competition and Innovation," Law and Economics Workshop, UCLA, Los Angeles, California, February 19, 2015.

"Competition and Innovation" presented at the Global Antitrust Conference, George Mason University, Washington DC, May 29, 2015.

"Competition and Innovation" and "Incentives under Contributory and Comparative Fault," both presented at American Law and Economics Annual Meeting, Columbia University Law School, May 2015.

Program Committee: ISNIE Annual Meeting, Harvard University, June 18-20, 2015.

Commentator, Junior Scholars Conference, Federalist Society, June 19-20 2015, Washington DC.

"Competition and Innovation" presented at George Mason University Law School, October 1, 2015.

"Law, Social Welfare, and Net Neutrality," presented at "The Future of the Internet Ecosystem in a Post-Open Internet Order World" conference held at the National Press Club, Washington DC, January 8, 2016.

Commentator, Reasonable Certainty in Contract and Patent Damages, John Golden, Harvard Intellectual Property and Private Law conference, Cambridge, MA, March 11-12, 2016.

"Optimal Damages for Patent Infringement," American Law and Economics Association Annual Meeting, Harvard Law School, Cambridge, MA, May 20-21, 2016.

"Enhanced Damages for Patent Infringement: A Normative Approach," Patent Damages Conference, University of Texas Law School, Austin, Texas, June 9-10, 2016.

Program Faculty and Speaker, ABA Section of Antitrust Law Sentencing Symposium, George Mason University Law School, June 21, 2016.

Adviser participant: meeting on second draft of ALI Property Restatement, Philadelphia, September 30, 2016.

Panelist, "Penalties for Collusion: Can There Be an Overlap Between Fines and Damages?", Northwestern University School of Law, Chicago, October 7, 2016.

Wythe Lecture (annual distinguished lecturer), "Whom Should We Punish, and How? Rational Incentives and Criminal Justice Reform," William & Mary Law School, Williamsburg, Virginia, February 6, 2017.

"Whom Should We Punish, and How? Rational Incentives and Criminal Justice Reform," Boston University Law School, faculty workshop, Boston, Massachusetts, March 2, 2017.

"Deterrence and Aggregate Litigation," Law and Economics Seminar presentation, University of Texas Law School, Austin, Texas, April 3, 2017.

"Information Costs and the Civil Justice System," President's Address, American Law and Economics Association Annual Meeting, Yale University Law School, New Haven, Connecticut, May 12, 2017.

"Deterrence and Aggregate Litigation," American Law and Economics Association Annual Meeting, Yale University Law School, New Haven, Connecticut, May 13, 2017.

"Law and Economics versus Economic Analysis of Law," paper contributed to Symposium on the Future of Law & Economics and the Contributions of Guido Calabresi, Boston University School of Law, June 1-2, 2017.

"Deterrence and Aggregate Litigation," Antonin Scalia Law School (George Mason), Law and Economics Seminar, September 21, 2017.

"Deterrence and Aggregate Litigation," Georgetown Law School, Law and Economics Seminar, September 22, 2017.

"Deterrence and Aggregate Litigation," Boston University Law School, Law and Economics Seminar, October 11, 2017.

Panelist, Reverse Payment Settlements, McCarter-English Law firm, Boston, Massachusetts, October 26, 2017.

"Economics of Patent Antitrust Law," Morgan Lewis law firm, Boston, January 19, 2018.

"Transition to Law Professorships," presentation at Massachusetts Black Lawyers Association event at Vertex Pharmaceuticals, January 2018.

Discussant on paper by Jonathan Macey ("Error and Regulatory Risk in Financial Institution Regulation"), Supreme Court Economic Review Research Roundtable on the Economics of Legal Error, Antonin Scalia Law School (George Mason University), February 8-9, 2018.

"Economics of Patent Antitrust," Boston University Intellectual Property Workshop, February 20, 2018.

"Deterrence and Aggregate Litigation," University of Michigan Law and Economics Workshop, March 8, 2018.

Panelist, "The Antitrust IP Intersection Revisited," Harvard Law School, March 29, 2018.

"Oligopoly Pricing and Richard Posner," Posner Retrospective, Antitrust Spring Meeting, Scholar's Showcase, Washington D.C.,

April 12, 2018. Session reviewed the antitrust contributions of Judge Richard Posner.

President's Remarks, American Law and Economics Association Annual Meeting, Boston University Law School, May 11, 2018.

"Trial Selection and Estimating Damages Equations," American Law and Economics Association Annual Meeting, Boston University Law School, May 11, 2018.

Commentator, "Panel IV: Facing the Future of U.S. Regulation: New Technologies & Old Rules. Conference on New Perspectives on U.S. Regulatory History: Past and Present of Public Utilities and Antitrust Law, Harvard Business School, June 4-5, 2018.

Lecturer and Workshop Leader, Workshop on the Economics of Risk, Injury, Liability and Insurance, Mason Judicial Education Program, Boston University Law School, June 9 -13, 2018.

Panelist, The State of U.S. Antitrust Law, FTC Hearings on Competition and Consumer Protection in the 21st Century, Constitution Center, Washington DC, September 21, 2018.
<https://www.ftc.gov/policy/hearings-competition-consumer-protection>.

"Deterrence and Aggregate Litigation," University of Virginia Law and Economics Workshop, September 24, 2018.

Participant and Adviser, ALI Restatement of the Law Fourth, Property, Advisers Meeting, Philadelphia, PA, October 11, 2018.

Antitrust Institute for Federal Judges, Program Faculty, Berkeley, California, October 23-23, 2018.

Panelist, Noncompetition Issues in Merger Enforcement, Conference in Honor of Judge Douglas Ginsburg, Antonin Scalia Law School, George Mason University, Arlington, VA, November 6, 2018.

Panelist, Antitrust in the Big Data Era: Collusion, Markets, Mergers, and Innovation, AGTech Forum: Algorithms, Artificial Intelligence, and Machine Learning: Digital Platforms and the Law, Berkman-Klein Center, Harvard Law School, Cambridge, MA, December 13-14, 2018.

"Selling Out: An Instrumentalist Theory of Legal Ethics," Faculty Workshop, Emory Law School, February 6, 2019, Atlanta, Georgia.

"Digital Platforms and Antitrust Law," presented at "Understanding the Visible: The Undisputed Facts and Disputed Law of Platform Antitrust," NYU School of Law, February 22-23, 2019, New York, NY. Panelist and Moderator, Harvard European Law Association conference "Disruption, Innovation and the Future of Europe", Panel on Antitrust: Enforcement in the Digital Economy, Harvard Law School, Cambridge MA, March 2, 2019.

"Digital Platforms and Antitrust Law," Faculty Workshop, Boston University Law School, Boston, MA, March 4, 2019.

"Error Costs, Ratio Tests, and Patent Antitrust Law," conference on patent antitrust law, University of Florida School of Law, March 15, 2019, Gainesville, Florida.

"Mutual Optimism and Risk Preferences in Litigation," presented at the American Law and Economics Association Annual Meeting at New York University Law School, May 17, 2019, New York, NY.

"Causation and Incentives with Updating Courts," Seminar on Causality in the Law and in the Social Sciences, sponsored by the Max Planck Institute for Research on Collective Goods, Bonn and the University of Bonn, June 5-8, 2019, Porto, Portugal.

"Waivers," Boston University Law School Faculty Workshop, July 28, 2022, Boston, MA.

Discussion of Tort Law Concepts, Marketplace Morning Report, NPR, August 25, 2022. Web version:

<https://www.marketplace.org/2022/08/25/how-highs-the-bar-when-it-comes-to-suing-an-amusement-park/>

Radio version (conversation begins about 4:54 in):

<https://www.marketplace.org/shows/marketplace-morning-report/california-could-put-gas-cars-in-the-rearview/>

"Elon Musk, Twitter, and Tort Law," Yahoo News, https://news.yahoo.com/musk-hints-legal-claim-over-013139222.html?fr=sychnp_catchall, November 7, 2022.

Discussion of Antitrust Law Concepts, The Taylor Swift and Ticketmaster controversy, WBZ News, Boston, January 24, 2023:

<https://www.cbsnews.com/boston/news/live-nation-ticketmaster-taylor-swift-senate-hearing-jon-keller/>

"Waivers," Harvard Law School Law and Economics Workshop, February 21, 2023, Cambridge, MA.

Discussion of DOJ Antitrust lawsuit against Google, The Dallas Express, February 28, 2023, <https://dallasexpress.com/government/doj-seeks-sanctions-over-google-chat-records/>

OTHER PROFESSIONAL ACTIVITIES:

Referee on articles in theoretical econometrics, **International Economic Review**, 1986 - 1989. Referee on articles in law and economics, **Law & Social Inquiry**, **Law & Policy**, **International Review of Law and Economics**, **Journal of Legal Studies**, **Journal of Law & Economics**, and other journals.

Program Committee, American Law and Economics Association Meeting, various years. Committee to Review Scholarly Papers for the 2003 Annual Meeting, AALS, 2002 and same committee (for 2015 AALS meeting) in 2014.

UNIVERSITY SERVICE:

Northwestern University Law School; Admissions Committee, 1989-90; Curriculum Committee, 1989-90; Faculty Appointments Committee, 1990-1992; Speakers Committee, 1990-1992; Research Committee, 1992-1995; Co-director of Northwestern University Law and Economics Workshop, 1991-1995.

Boston University School of Law; First Year Faculty Advisor Program, 1995-present; Faculty Appointments Committee, 1995-1996; Chair, Workshop Committee, 1997-2000. Faculty Appointments Committee, 2000 - 2010; Workshop Committee, 2010-present, University Appointments, Promotion, and Tenure Committee, 2013-2015. Faculty Appointments Committee, 2015-present.

COMMUNITY SERVICE:

Board of Directors, McGaw YMCA, Evanston, 1991-1995.
Board of Directors, Camp Echo, 1993-1995.
Chairman, Business and Finance Committee, McGaw YMCA, 1993 - 1995.

Boston Fellows Alumni Organization, 1996 - present. Boston Fellows/Urban Scholars program, 1998.

International Students Friends Program, Harvard University,
1997-present.

Member, Citizens Participation and Planning Process Committee,
Lincoln, Mass., 1998-2000.

Coach: basketball, 7/8th grade (league champions), 2014-2015,
5/6th grade, 2013-2014; 2012-2013 (league champions); 3/4th
grade, 2011-2012; 3/4th grade, 2010-2011 (league champions);
baseball, 3d grade 2011; 2d grade 2010, 1st grade 2009.

Judge: Pioneer Institute Better Government Competition, 2014,
2010.

Board Member, Pioneer Institute, 2015-2019.