

KEITH N. HYLTON

OCCUPATION:

William Fairfield Warren Distinguished Professor,
Boston University

Professor of Law,
Boston University Law School

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)

Articles (by Research Area):

Tort Law and General Rights

Summary: My articles on tort law have approached the subject from two perspectives: operational and doctrinal. The articles focusing on the operation of the tort system have examined the incentive effects of tort litigation. These articles have emphasized the influence of litigation

costs and judicial error on incentives under tort law. Since both the costliness of litigation and the risk of judicial error can be attributed to the costliness of information generally, these articles essentially explore the effects of information costs on the incentives created by tort law. My IRLE 1990 article presents a model for analyzing the ex ante incentive effects of strict liability, taking litigation costs into account. The article delivers the fundamental result that strict liability (with costly litigation) tends to underdeter tortious conduct. My JLEO 1990 extends the IRLE 1990 article by incorporating judicial error in the model of incentives, and demonstrates the paradox that some degree of judicial error may be necessary to bring about full compliance with the law in a costly tort system. My articles on fee shifting (JLS 1993, Vanderbilt 1993) were the first to incorporate compliance equilibrium effects in the analysis of litigation-cost shifting. My JLEO 2005 article extends the costly litigation model to analyze the incentive and welfare effects of damage multipliers.

The doctrinal line of articles explore areas such as intent in tort law, strict liability, nuisance, necessity doctrine, causation, and products liability. My articles on strict liability (e.g., Northwestern 1996, RLE 2008) were the first to set out a positive economic theory of *Rylands v. Fletcher* and related doctrines (nuisance, and also the notion of "duty" in tort law). My articles on causation were the first to model the problem of ex ante versus ex post information in the torts causation setting.

My articles on punitive damages (Georgetown 1998, JLEO 2005) provide a positive economic theory of the punitive damages case law. Because of these articles, I was asked by the plaintiffs in both *Campbell v. State Farm* and *Philip Morris v. Williams* to submit amicus briefs on the question of deterrence and punitive damages to the U.S. Supreme Court. In addition to standard tort doctrine, I have also examined questions at the boundary of torts involving general rights, such as freedom of speech, freedom of religion, and reparations for historical

injustices.

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

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

"Litigation Costs and the Economic Theory of Tort Law," **University of Miami Law Review**, v. 46, 111-148, 1991.

"The Internalization Paradox and Workers' Compensation," (with Steven Laymon) **Hofstra Law Review**, v.21, 109-182, 1992.

"Litigation Cost Allocation Rules and Compliance with the Negligence Standard," **Journal of Legal Studies**, v. 22, 457-476, 1993.

"Fee Shifting and Incentives to Comply with the Law," **Vanderbilt Law Review**, v. 46, 1069-1128, 1993.

"A Missing Markets Theory of Tort Law," **Northwestern University Law Review**, v. 90, 977-1008, 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), 35-57, 1996.

"Punitive Damages and the Economic Theory of Penalties," **Georgetown Law Journal**, v. 87 (n.2), 421-471, 1998.

"Property Rights and the Human Body," in **ENCYCLOPEDIA OF THE AMERICAN CONSTITUTION**, Levy & Karst, eds., 2d ed., 2057-2058, 2000.

"The Theory of Tort Doctrine and the Restatement of Torts,"

Vanderbilt Law Review, v.54, Torts
symposium, 1413-1438, 2001.

"When Should We Prefer Tort Law to Environmental Regulation,"
(invited torts symposium article) **Washburn Law Journal**,
v. 41, 515-534, 2002.

"Welfare Implications of Costly Litigation under Strict
Liability," **American Law and Economics Review**,
v. 4, n. 1, 18-43, 2002.

"A Framework for Reparations Claims," (keynote address) **Boston
College Third World Law Journal**, v. 24 (n.1),
31-43, 2004. (Reprinted in **Rethinking Commodification**,
Martha M. Ertman and Joan C. Williams, eds., 2005.)

"Slavery and Tort Law," (Symposium on the Jurisprudence of
Slavery Reparations) **Boston University Law Review**, v.84
1209-1255, 2004.

"Should Tort Damages Be Multiplied?" (with Thomas Miceli),
Journal of Law, Economics, and Organization,
v.21, n. 2, 388-416, 2005. (Reprinted in
Economics of Tort Law, volume II, Edward Elgar
Publishing Ltd., Alan Sykes, ed., 2007).

"Property Rules and Liability Rules, Once Again," **Review of
Law & Economics**, v.2 (n.2), Article 1, 137-191, 2006.
<http://www.bepress.com/rle/vol2/iss2/art1>

"Torts and Choice of Law: Searching for Principles,"
v. 56, **Journal of Legal Education**, 551-559, 2006.

"Duty in Tort Law: An Economic Approach," (Symposium
on Internal View in Law and Ethics), **Fordham Law Review**,
v. 75 (n. 3), 1501-1528, 2006. (Reprinted in
Foundations of Tort Law, Levmore and Sharkey eds.; also
reprinted in **Duty of Care: Corporate Liability**,
Icfai Univ. Press, 2008.)

"Property Rules, Liability Rules, and Immunity: An Application to Cyberspace," **Boston University Law Review**, vol. 87 (n. 1), 1-39, 2007.

"Reflections on Remedies and Philip Morris v. Williams, (Symposium, Remedies: Justice and the Bottom Line), **The Review of Litigation**, vol. 27 (n. 1), 9-35, 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>.

"Preemption and Products Liability: A Positive Theory," **Supreme Court Economic Review**, v. 16, 205-249, 2008.

"Due Process and Punitive Damages: An Economic Approach," (Symposium on Punitive Damages), **Charleston Law Review**, vol. 2 (n. 2), 345-374, 2008. (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), 927-948, 2008.

"Asbestos and Mass Torts with Fraudulent Victims," (Perspectives on Asbestos Litigation Symposium), **Southwestern Law Review**, vol. 37 (n. 3), 575-593, 2008

"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), 673-703, 2008.

"Tort Duties of Landowners: A Positive Theory," (Symposium on the Third Restatement), **Wake Forest Law Review**, vol. 44 (n. 4), 1049-1069, 2009.

"Intent in Tort Law" (Monsanto Lecture), **Valparaiso University Law Review**, vol. 44 (n.4), 1217-1242, 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>.

"Church and State: An Economic Analysis," with Yulia Rodionova and Fei Deng, **American Law and Economics Review**, v. 13, 1-51, 2011.

"The Economics of Necessity," **Journal of Legal Studies**, v. 41, 269-289, 2012.

"An Economic Perspective on Preemption," **Boston College Law Review**, vol. 52, 203-231, 2012.

"The Law and Economics of Products Liability," **Notre Dame Law Review**, vol. 88 (n.5), 2457-2514, 2013.

"Negligence, Causation, and Incentives for Care," **International Review of Law and Economics**, v. 35, 80-89, 2013.

"Causation in Tort Law: A Reconsideration," in **Research Handbook on the Economics of Torts**, 97-113, Jennifer Arlen, ed., Edward Elgar Publishing, 2013.

"Nuisance," **Encyclopedia of Law and Economics**, Living Reference Work Entry, 1-11, Jürgen Backhaus, ed. 2014.

"Negligence and Two-Sided Causation," **European Journal of Law and Economics**, vol. 40, 393-411, 2015.

Antitrust Law and Economics, and Intellectual Property

Summary: My antitrust articles have focused on monopolization and related doctrines, such as tying. From a doctrinal perspective, I have offered an economic framework for monopolization standards, including the question of antitrust intent. More recent work has focused on the static versus dynamic competition problem, and providing a theoretical framework for analyzing the tradeoff (JCLE 2014, CPI 2008, ALJ 2010). In an entirely different vein, my empirical analysis of global antitrust enforcement (ALJ 2007) is the first major study to use measures of the scope of various competition regimes to empirically assess global antitrust enforcement.

My book (Harvard 2013) and articles on intellectual property have emphasized and formalized the tradeoff between static and dynamic competition. The tradeoff approach to intellectual property can be contrasted with the dominant approach that emphasizes minimization of ratio of the social loss to the reward from property protection.

"Economic Rents and Essential Facilities," **Brigham Young University Law Review**, v. 1991, number 3, 1243-1284, 1991.

"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**, 131-139, (Wiley, 1998).

"Procompetitive Theories of Vertical Control," (with Andy C. M. Chen), **Hastings Law Journal**, v. 50, 573 - 633, 1999.

"Preserving Competition: Economic Analysis Legal Standards and Microsoft," (with Ronald A. Cass), ICER Working Paper No. 15/99, **George Mason Law Review**, v. 8, 1 - 40, 1990. (Reprinted in **Microsoft, Antitrust and the New Economy: Selected Essays**, David S. Evans, ed. 2002.)

"Antitrust Intent" (with Ronald Cass) **Southern California Law Review**, v. 74, 657-745, 2001.

"Tying Law and Policy: A Decision Theoretic Approach," (with Michael Salinger) **Antitrust Law Journal**, v. 69, n. 2, 469-526, 2001. (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, 199-229, 2002.)

"Reply to Grimes: Illusory Distinctions and Schisms in Tying Law," (with Michael Salinger) **Antitrust Law Journal** 2002.

"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.

"Weyerhaeuser, Predatory Bidding, and Error Costs," **The Antitrust Bulletin**, v. 53 (n.1), 51-73, 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.

"Optimal Antitrust Enforcement, Dynamic Competition, and Changing Economic Conditions," (with Haizhen Lin) **Antitrust Law Journal**, v. 77 (n.1), 247-276, 2010.

"The Law and Economics of Monopolization Standards," in

Antitrust Law and Economics 82-115 (K. Hylton ed.)
Edward Elgar Publishing 2010.

- "*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.
- "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.
- "A Unified Framework for Competition Policy and Innovation
Policy," **Texas Intellectual Property
Law Journal** (Heath Symposium), vol. 22 (n.2), 2014.
- "Deterrence and Antitrust Punishment: Firms Versus Agents,"
100 **Iowa Law Review** 2069, 2015.
- "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), 2016.
- "Scalia and Antitrust," (invited article) **Antitrust**, vol. 30
(n.3), 60-65, 2016.

"Patent Uncertainty: Toward a Framework with Applications,"
(Symposium on Notice in IP), **Boston University Law Review**,
Vol. 96 (n.3), 1117-1148, 2016.

"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.

"Optimal Remedies for Patent Infringement," (with Mengxi
Zhang), **International Review of Law and Economics**, vol.
52, 44-57, 2017.

"Enhance Damages for Patent Infringement: A Normative
Approach," (Symposium on Patent Damages), **The Review
of Litigation**, vol. 36, 417-441, 2017.

Economics of Litigation and Legal Evolution

Summary: My articles on the economics of litigation provide economic explanations of litigation patterns (e.g., win rate patterns), settlement practices, arbitration, and related topics. My article on the selection of disputes for litigation (JLS 1993) was the first to propose the "asymmetric information theory" of win rate patterns. The alternative to the asymmetric information theory is the Priest-Klein theory. My articles on waivers (SCER 2000, JLS 2003) were among the first to examine theoretically and empirically the welfare consequences of waivers and arbitration clauses. Specifically, SCER 2000 was the first article to show that waivers, in a low transaction cost setting, tend to eliminate welfare losses from socially wasteful litigation. My article on reverse payment settlements was the first to explore the basic economics of such agreements from a general perspective (not focused on antitrust). My article on dismissals was one of the first to explore the economics of the Supreme Court's Twombly

decision.

My articles on legal evolution (ALER 2006, Brooklyn Symposium 2014) discuss the history of legal evolution and provide economic models of the process. My model of evolution emphasizes the process by which the private information of litigants is incorporated into legal rules.

"Asymmetric Information and the Selection of Disputes for Litigation," **Journal of Legal Studies**, v. 22, 187-210, 1993.

"Fee Shifting and Predictability of Law," **Chicago-Kent Law Review** (Symposium on Fee Shifting), v. 71 (No.2), 1995.

"Rule 68, the Modified British Rule, and Civil Litigation Reform," **Michigan Law & Policy Review** (Symposium on Tort Reform), v.1, 1996, 73-98.

"Agreements to Waive or to Arbitrate Legal Claims: An Economic Analysis," **Supreme Court Economic Review**, vol. 8, 209-263, 2000.

"An Asymmetric-Information Model of Litigation," **International Review of Law and Economics**, v.22, n. 2, 153-175, 2002.

"The Economics of Litigation and Arbitration: An Application to Franchise Contracts," (with Chris Drahozal) **Journal of Legal Studies**, v.32 (n.2), 549-584, 2003. (Reprinted in **ECONOMICS OF COMMERCIAL ARBITRATION AND DISPUTE RESOLUTION**, edited by ORLEY C. ASHENFELTER and RADHA K. IYENGAR, Edward Elgar Publishing, 2009).

"Arbitration: Governance Benefits and Enforcement Costs," (Lead article in Symposium on Federal Courts), **Notre Dame Law Review**, v. 80 (n.2), 489-500, 2005.

"Calabresi and the Intellectual History of Law and Economics," (Symposium on Calabresi) **Maryland Law Review**, v. 64

(n.1-2), 85-107, 2005.

"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.)

"When Should a Case Be Dismissed? The Economics of Pleading
and Summary Judgment Standards," **Supreme Court
Economic Review**, vol. 16, 39-66, 2008.

"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.

"The Economics of Injunctive and Reverse Settlements"
(with Sungjoon Cho), **American Law and Economics Review**,
v. 12 (n.1), 181-203, 2010.

"The Economics of Third-Party Financed Litigation," 8 **Journal
of Law, Economics & Policy**, v. 8, 701-741, 2012.

"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/>)

"Toward a Regulatory Framework for Third-Party Funding of
Litigation," **DePaul Law Review** (Clifford Symposium),
vol.63 (n.2), 527-545, 2014.

"The Economics of the Restatement and of the Common Law,"
Brooklyn Law Review (Restatement Symposium),
vol. 79 (n.2), 595-619, 2014.

"The Economics of Class Actions and Class Action Waivers,"
Supreme Court Economic Review, vol. 23, 305-339, 2016.

Criminal Law and Procedure, Economics of Crime

Summary: These articles examine criminal law from an operational and doctrinal perspective. Operationally, I have examined the implications of victim care for the optimal level of enforcement (RAND 1996). Doctrinally, I have emphasized public choice considerations in explaining criminal procedure rules. My articles with Vic Khanna were the first to provide a public choice theory of the major criminal procedure doctrines.

"Optimal Law Enforcement and Victim Precaution," **RAND Journal of Economics**, v. 27, 197-206, 1996.

"The Theory of Penalties and the Economics of Criminal Law," **Review of Law & Economics**, v.1 (n.2), Article 1, 175-201, 2005. <http://www.bepress.com/rle/vol1/iss2/art1>

"A Public Choice Theory of Criminal Procedure"
(with Vic Khanna), **Supreme Court Economic Review**, v.15, 61-118, 2007.

"Political Economy of Criminal Procedure" (with Vic Khanna)
in **Criminal Law and Economics**, 171-206, N. Garoupa, ed., Edward Elgar Publishing, 2009.

"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).

"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.

Labor Law and Economics

Summary: My articles in labor law set out a positive economic theory of the intricate legal doctrine developed by the courts and the National Labor Relations Board. The articles cover most of the substantial facets of labor law: union organization, bargaining rules, general rights, successorship, arbitration, labor antitrust. The articles provide a set of policy arguments that can be used both to understand and to provide some degree of consistency in labor law doctrine. The core idea in these articles is that unions can, under certain conditions, be economically efficient. Viewed as a whole, these articles show that much of labor law doctrine can be understood as permitting or encouraging efficient practices and discouraging inefficient practices.

"Illusory Wage Differentials: Comment," **American Economic Review**, 1984.

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

"Rent Appropriation and the Labor Law Doctrine of
Successorship," (with Maria O'Brien Hylton) **Boston
University Law Review**, v. 70, number 5, 821-863, 1990.

"Efficiency and Labor Law," **Northwestern University
Law Review**, 1992 (reprinted in **Foundations
of Labor and Employment Law**, Estreicher and Schwab, eds.)

"An Economic Theory of the Duty to Bargain," **Georgetown
Law Journal**, v. 83, 19-77, 1994.

"A Theory of Minimum Contract Terms, with Implications for
Labor Law," **Texas Law Review**, v. 74 (No.7), 1996.

"Labor and the Supreme Court: Review of the 1996-97 Term,"
The Labor Lawyer (invited paper), v. 13, 263-298, 1997.

"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, 315-345, 2001.

"Law and the Future of Unions," (Keynote Address) **Wayne State
University Law Review**, v. 49 (n.3), 685-703, 2003.

"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, 257-302, 2004.

Inner Cities and Development Lending

*Summary: These articles explore the market failures that
give rise to urban decay, and the role that banks can play
in fostering economic development. Taken as a whole,
these articles are critical of federal banking policy and
offer an alternative approach that encourages the growth
of banking services in poor areas of cities.*

"Lending Discrimination: Economic Theory, Econometric Evidence,
and the Community Reinvestment Act," (with Vincent
Rougeau) **Georgetown Law Journal**, v. 85, 237-294, 1996.

"The Community Reinvestment Act: Questionable Premises and
Perverse Incentives," (with Vincent Rougeau) **Annual
Review of Banking Law**, v. 18, 163-196, 1999.

"Banks and Inner Cities: Market and Regulatory Obstacles to
Development Lending," **Yale Journal on Regulation**, v. 17,
197-251, 2000.

"Development Lending and the Community Reinvestment Act,"
Western New England Law Review (Symposium on Community
Economic Development), v. 29 (n. 1), 59-73, 2006.

Biomedical Ethics, Law, and Economics

*Summary: My articles in this area provide a utilitarian
case for expanding the role of markets in the organ
procurement process and for market-based reasoning in
biomedical ethics generally.*

"The Law and Economics of Organ Procurement,"
Law & Policy, v. 12, number 3, 1990.

"The Law and Ethics of Organ Sales," **Annual Review of Law and
Ethics** (Symposium on Bioethics and the Law), v. 4,
115 - 136, 1996.

"Biomedical Ethics and the Law: A Critical Perspective," **Annual
Review of Law and Ethics** (Symposium on Bioethics), v. 15,
611 - 632, 2007.

Econometrics and Miscellaneous

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

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

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

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, 1907-1908, 1994.

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

"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**, 2004.

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

"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), 251-268, 2007.

"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**, 2010.

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

"New Private Law Theory and Tort Law: A Comment,

Harvard Law Review Forum, vol. 125, 173-188, 2012.

"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**, an online ABA journal, 2014.

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

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

"Hate Crime Statutes Don't Impede Free Thought, They Deter Crime," **National Law Journal**, 2017.

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>.

PUBLIC/PROFESSIONAL SERVICE:

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

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

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

Associate Editor, International Review of Law and Economics.

Contributing Editor, Antitrust Law Journal, March 2011-present.

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

Member, American Law Institute, 2002.

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.