**Market Structure, Liability, and Product Safety**

**Abstract:**

We consider how models of imperfect competition, developed by scholars working in industrial organization (IO), provide insight into an important area of law: products liability (that is, liability for harms and losses associated with goods and services sold via markets).

This importance derives from the fact that everyday life generally involves consumption activities wherein the risk of harm is present: we all consume manufactured goods and commercially harvested and/or prepared foods, translocate or telecommute between home and employment, and occupy space in buildings and homes that condition the air we breathe and the light we use (not to mention relying on the safety of those structures).

Remarkably, traditional law and economics (L&E) analyses of products liability generally find no role for the influence of market structure or strategic interaction on liability policy.

Two results come from the traditional analysis.

First, different liability regimes lead to the same private choices of safety, and this private choice is the socially optimal level of safety.

Second, alternative market structures (perfect competition, monopoly, oligopoly) have no effect on the level of safety chosen by firms.

We consider two simple (but plausible) model modifications that yield a substantial impact of market structure on the choice of safety and (potentially) on the choice of liability regime.