

## BASICS OF LIABILITY DERIVED FROM ADVERTISING

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### **Abstract**

The current paper aims to examine the liability observed in sphere of presentation of goods and services with the infraction of special codes and regulations related to advertising or general codes or regulations of liability with contractual or non-contractual basis. Specifically, there are not any mentions about all kinds of these liabilities in the rules of Iran. The current research, which is conducted using descriptive method and legal analysis, examines what liabilities can be presented and also which of contractual basis or non-contractual foundations cover them in the light of advertising. This paper first provides the meaning of liability derived from advertising and then describes all kinds of contractual liability arising from defect, misrepresentation, fault, breach of implied terms. Finally, the liability arising from deception, loss, causation, firm offer in the light of advertising as well as its conditions are explained.

### **Keywords**

advertising, competition law, liability, tort law.

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## THE LEGAL STATUS OF THE BONA FIDE PURCHASERS SUBJECTED TO THE TITLE RETENTION CLAUSE

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### **Abstract**

When there is a title retention clause, the seller is the owner of the subject of sale. The buyer, might yet, sell the same chattel to a third bona fide person. In the conflicts of the interests of the owner and bona fide purchaser, the right of one of them should prevail. Iranian law and its religious background always prefers the right of the owner and neglects the right of the bona fide purchaser. In an international level, however, it is not so. Sale by non-owners is allowed in some systems of law. This article considers different kinds of title retention clauses and the rights of the owners and bona fide purchasers. Economic analyses of these rights lead the writers to support the bona fide purchasers. This would help the interests of the economic efficiency of the commerce as a whole. Opportunity costs would be lower and growth of the commerce would be more. This will amount to development of the countries which, in turn, would amount to the wealth of the universe as a whole. The rules and regulations should help to make the life of the people and merchants easier. The reasoning given in this article serves to support the bona fide purchasers, in order to reach the appropriate goal.

### **Keywords**

bona fide purchaser, economic and social analysis, ownership, priority, title retention clause.

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## A FAIR USE OF LITERARY AND ARTISTIC WORKS: RIGHT FOR THE PUBLIC

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### **Abstract**

Fair use is a common legal theory of copyright in order to provide free access to scientific, literary and artistic works. The theory has long been faced with a lot of ups and downs in the common law countries and can be considered as a criterion for other countries as well. The recent paper attempts to study this theory in a descriptive-analytical way. Finally, it concludes that the acceptance of fair use is essential with attention to the needs of society.

### **Keywords**

common law, copyright, fair use, work.

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## UNDERSTANDING OF THE EXCLUSIVE DISTRIBUTION CONTRACT AND ITS LEGAL NATURE

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### **Abstract**

Distribution contract is a covenant agreement that does not lead to ownership. In fact, the next sales contract transfers the ownership. Since the distribution contract cannot be specified in the form of well-known traditional and specific contract, it inevitably should be considered under the "no name contract of article 10" of the civil code. In distribution agreement, the distributor is an independent merchant who can freely decide about the method of his activities, so he bears the interest and losses of distributional activities. There are different kinds of distributive contract among which the exclusive distribution is one of the commonest one. From a legal point of view, the problem is that whether the relationship between suppliers and distributors complies with the contract agency brokerage business, branch or subsidiary or it has a specific nature? The current paper aims to scrutinize and investigate the structure of the legal nature of the contract.

### **Keywords**

distributor, exclusive distribution, exporter, legal nature of exclusive distribution.

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## THE COMPETENT AUTHORITY TO SETTLEMENT OF DISPUTES IN IRAN'S CAPITAL MARKET

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### Abstract

As the need for both the speed and certainty in the capital market's professional activities grows, the possibility of disputes also increases. These debates are not limited to the relations of certain business activities and exist in courts and authorities jurisdiction as well. Hence, consistent rules are required to resolve any dispute, which observe the above principles. In addition, Because Iranian legal literature in this filed is incomplete; a complete survey in the subject is required. In this survey we investigate competent authority to resolution of dispute in Iran's Capital Market. To achieve this goal, various dimensions of this matter will be reviewed to strictly determine competent dispute resolution bodies such as the Arbitration Board of securities markets, Arbitration Board of privatization, Supreme Administrative Court, and the public judicial authorities.

### Keywords

alienation, arbitration board of privatization, arbitration board of securities market, capital market, conflict of jurisdiction, professional activity, public judicial authorities, supreme administrative court.

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## A COMPARATIVE STUDY ON THE WAYS OF COMPENSATION IN NON-CONTRACTUAL CIVIL LIABILITY

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### **Abstract**

Ways of compensation in civil liability, which are the ways taken by the aggressor to execute his obligations, are determined based on civil liability purposes. These purposes include: perfect compensation, consent of the aggrieved party, and restoration of his previous status (restitution in integrum). Given that the originality of these purposes is different in legal systems, the ways to provide them are not the same. These ways are generally as follows: restitution in kind or restoration of the previous status, which is represented in different forms, and equivalent compensation, which has two forms: non-pecuniary compensation (giving the substitute) and pecuniary compensation (paying money). Although the general principles of these ways are more or less the same in different systems, the quality of their utilizations and preferences is different in legal systems. The two main ways of compensation are not along with each other, so that each party can freely choose one. But the transposition between them is not related to the public orders, so both parties can compromise the contrary, or the courts will take appropriate way.

### **Keywords**

equivalent compensation, replacement, restitution in kind, restoration of previous status (restitution in integrum), substitute, value.

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## EFFECT OF FINANCIAL CORRUPTION ON STATUS OF GOVERNMENTAL CONTRACTS

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### **Abstract**

Contrary to Iranian and German law which do not agree on legal status of contracts obtained by corruption, in common law system such contract is typically deemed against public policy and void. But ICSID Convention, in spite of relying on public policy, considers these contracts voidable.

### **Keywords:**

barrier to achieving the goals and duties of the government, complying with the interests of government, disruption in competition, lack of good faith, public policy.

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## RELATION BETWEEN INDEPENDENCE OF ADJUDICATION AND ADVOCACY

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### **Abstract**

Adjudication Independence can be studied in two areas namely independency of Judicial Power and Independency of Judge. The first one is based on the Separation of Powers Theory but judge independence means its freedom from parties and their Attorneys and its independence in intern of Judiciary Power. This sense of independence has two objectives: 1) Judge's freedom in applying the law to fact and its interpretation; 2) Judge's freedom in issuing the Judgment. Independence of Bar Association means its separation from the body of Government by having independent legal identity and competence to making decision about new the lawyer requesting to be Attorney and Self-governing of its organization and enacting its necessary rules. If an attorney belongs to the powers of government, the separation theory will be violated and if he belongs to the judicial power, the judge's independence will be neglected. So lawyer's independence is a result of different roles he plays in contemporary societies, accordingly, lawyer's independence of adjudication and independence of advocacy are not coexistent; an independent adjudication, however, needs an independent advocacy.

### **Keywords**

different roles, Independence of Bar Association, independency of Judge, independency of Judicial Power, separation theory.

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## THE ROLE OF HUMAN DIGNITY IN PRIVATE LAW

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### **Abstract**

“Human dignity” is mentioned in both the instruments of international human rights and the national constitutions of countries, and is often recognized either as a justification of “rights” or as one of the constitutional rights. This issue has a special place in the Constitution of Iran as well. Consistent with the international and national human rights instruments, in different legal systems, case law enjoys the notion of human dignity. In this paper, we explain the role of human dignity in Iranian legal system and some other countries. We believe that, alongside with the states, private parties should also respect human dignity and courts could use it to protect human rights.

### **Keywords**

constitutional right, human dignity, exemptions from the enforcement of judgments, human rights, non-pecuniary damage, private law.

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## AN INVESTIGATION OF THE STATUS AND EFFECTS OF THE CEO'S CONTRACT WITH THE COMPANY COMPARE WITH THE NEW BILL OF BUSINESS LAW

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### **Abstract**

The CEO as the highest executive official is considered as the honest person of the company and he manages the company as its representative. In the same line, he is bound to take into account the shareholders' interests and expediency of the company. One of the issues that may cause the CEO to disregard such honesty and therefore prefer his personal benefits over those of the company is doing some contract with the company which leads to the emergence of conflict within his duties and personal benefits. In order to create a control system, the legislator around the Joint Stock and Cooperative Company has made some rules and laws, and to some extent, he has identified some of its effects; in the following part of the present article, different forms of such contract and its comparison with the new bill of business law are discussed. Thus, there is no ruling in case of other commercial companies. In this case, by studying and criticizing numerous opinions, based upon the CEO's representative nature, we have regarded his contract with the company as subjected to agency agreement regulations.

### **Keywords**

control system, contract with company, representative, shareholders' interests.

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