ASSIGNING MORAL RIGHTS TO HOLDERS OF BUSINESS SECRETS: THE POINT OF DIFFERENTIATION OF TRADE SECRETS WITH THE SYSTEM OF INTELLECTUAL PROPERTY

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Abstract
In accordance with the opinion of lawyers, the trade secrets are considered as intellectual properties. In the intellectual property system, in order to protect creativity and intellectual works, two types of economic and moral rights are devoted to the creators and owners of them. Moral rights are typically non-monetary concessions that are created to support the personality of the creators. Unlike economic rights, they are not limited to time and place. In industrial properties, unlike literary and artistic works, the importance of moral rights has diminished in terms of focusing on commercial interests. This has been intensified due to the unique nature of trade secrets, since the creativity, originality and even the novelty of the intellectual works are not important, and it is enough to take the reasonable safeguards to keep them confidential. Therefore, in written sources, there is no trace of the moral rights of the owners of trade secrets. Our findings suggest that the concept of "privacy" could be the basis for the formation of moral rights for the owners of trade secrets. Accordingly, "maintaining the confidentiality of information" and "disclosing secrets in the form of invention, compilation, and etc." are the two rights that can be justified by the mentioned concept. Since the initiation source of such rights (i.e. the occurrence of information in the owner's privacy) is not their reason and since these rights are not the main cause for the creation of an object and are not also reserved for the person holding the secrets, it is essential to consider the rights in question as voluntarily and coercively transferable.

Keywords
Intellectual property, Trade secrets, Moral rights, Iranian law and Islamic jurisprudence.

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ELECTRONIC CIVIL PROCEDURE: LEGAL PROCESS AND TECHNICAL APPLICATION

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Abstract
Electronic civil justice process are all forms of using electronic communication methods for the production, processing, receipt, recycling, storage and management of data on civil proceedings in the lawsuit process, announcement (service), hearings, preparation of minutes and other written documents (bulletins of the parties to the case, etc.), court hearings, as well as their notification and execution to the extent that it is technically feasible. This paper, after a brief review of the disadvantages and advantages of electronic civil procedure, discussed this process from the start to its end. Then, the tools and procedures for the implementation of electronic civil procedure are based on the solutions that can be presented to our country's system of law.

Keywords
Electronic Civil Procedure, Advantages and Disadvantages, Process, Supplies, And Operations.

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THE PURPOSE OF BANKRUPTCY LAW

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Abstract
The bankruptcy law is born in financial crisis. The legal rules of bankruptcy change the rule of nonbankruptcy law to reduce its negative effects. The main question is that what should be the basic purposes of bankruptcy law? We seek "what it should be?" Therefore, this research has an analytical method. The theories “Creditors bargain”, “Bankruptcy policy”, “Risk sharing” and “Rehabilitating values” has been raised in answer to this question. Study of these theories show that the purpose of bankruptcy law must be defined in two economic and social dimensions. The maximization of wealth is the purpose of economic dimension of bankruptcy law which emerges in the maximizing the value of existing property and maintaining the enterprise. In the social dimension, the optimal distribution of property is the purpose of bankruptcy law. There are two approaches to social dimension of bankruptcy. The first approach is that the distribution must comply with the agreement before the bankruptcy procedure begins. The second approach considers the distributive approach to the weak party of the bankruptcy.

Keywords
Optimal Distribution, Maximization of Wealth, Risk Sharing Theory, Creditors Bargains Theory, Bankruptcy Policy Theory.

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GENERAL THEORY OF FINANCIAL CONTRACTS IN MONETARY SYSTEM

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Abstract
Bank and monetary system are the issues of modernization and industrialization process. Implementing some terms and conditions to contracts is one the solutions to make nominal contracts compatible and up-to-date for developments in modern societies. Since the nominate contracts were created and legislated centuries ago, modern societies are sometimes challenged to cover their needs in those formats. To solve these challenges, one solution is to recourse the principle of contractual freedom. As a result, numerous modern contracts have been made in the name of innominate contracts in the current Iranian system. The second solution is to legislate new specific or nominated contracts, such as insurance contracts and labor contracts. The third solution is to recourse the condition theory. Hence, by means of implementing some terms in the contract, we can update the same past nominate contracts, according to the needs of the day. This method has been widely used in financial markets, especially the monetary and banking markets. In this paper it has been attempted to explain the legal inefficiencies of this theory in financial contracts and suggest an optimal solution.

Keywords
Nominate Contract, Innominate Contract, Financial Contracts, Monetary and Banking Market.

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CONTINGENT ACTIONS IN IRANIAN AND FRENCH LAW

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Abstract
Paragraph 9 of Article 84 of Civil Procedure Act refers to contingency of action as one of the exceptions to which defendant can resort against the appellant. The interest of appellant on contingent actions is not an unconditional one. The necessity of unconditional interest in bringing actions in courts is one of the principles of civil procedure in Iranian and French law, but this principle can also affect some exceptions. In some cases, the law allows the bringing of action to prevent future damages. On the other hand, despite this fact that the declaratory actions are not preceded by prejudice, but in some cases the declaratory actions are permitted in Iranian and French law. In addition, in Iranian and French law some cases of interrogatory actions are permitted, actions which aimed to force someone who has an option to decide. In addition to principal contingent actions, Iranian and French law permitted in some cases the executive contingent actions. Consequently, in this article preliminarily the cases and conditions of principal actions are discussed and secondly the cases and conditions are argued about executive contingent actions.

Keywords
Contingent actions, Preventive actions, Declaratory actions, Interrogatory actions.

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STUDY ON TACKLING JUDICIAL CORRUPTION STRATEGIES IN IRAN'S JUDICIAL SYSTEM

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Abstract
Judicial corruption is a crisis that undermines the judicial integrity and prevents individuals the basic right to a fair and impartial trial. Enhancing the independence of the judiciary, introducing accountability mechanisms and transparency, increasing the judiciary's salaries and revenues and adopting anti-corruption laws, are among the strategies that can be introduced to reduce corruption. This article will deal with the preventive strategies. They must be applied together for effectiveness.

Keywords
Judicial corruption, Judicial integrity, Judicial independence, Iran's judicial system.

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STUDY OF DOCTRINE OF CORPORATE GROUPS IN BANKING LAW

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Abstract
A corporate group is emerged with a parent company and one or several subsidiaries that each of them has their own legal personality. Classic corporate law considers no differences between companies of group and other companies but modern law especially economic law under influence of economic thoughts considers the member of corporate group as united phenomenon. Legal unity of corporate group is called doctrine of the group of companies or corporate group. In Iranian banking law is united beneficiary. In this article, we have examined the doctrine of group companies in banking law as one important branch of economic law.

Keywords
Corporate group, Control, Dialectical movement of corporation law, economic law, Legal unity of corporate group, Parent company, Piercing the corporate veil, Subsidiary.

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THE THIN SKULL RULE: NON- EFFECT OF ESPECIAL CONDITION OF VICTIM IN REMEDY OF BODILY HARMS IN COMMON LAW

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Abstract
The thin skull rule, as judicial invention of 20th century, has come up from bodily damages cases. This rule applies where negligent defendant due to pre-existing susceptibility and vulnerability victims, lead to unpredictable damages. The thin skull rule or eggshell plaintiff rule was initially enunciated by Lord Justice Kennedy in Dulieu, in 1901. Although place of birth thin skull rule is bodily damage cases but the courts tend to extend that rule to mental harm cases. This rule is known as an exception to the foreseeability of damage rule that is considerable in material damage cases. This rule is applicable in our law.

Keywords
Bodily harms, Foreseeability of damage, Pre-existing conditions of victim, Shabby Millionaire Rule, Thin skull rule, Verdict of Dieh.

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A LEGAL ANALYSIS TO BRINGING IN THE THIRD PARTY AS THE MERE FOLLOWER LITIGATION

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Abstract
Although bringing in the third party was in Civil Procedure Act of Iran for about 100 years, but rarely its points have been noticed. Despite presence of some kind of dependence between main and ancillary litigation at all ancillary litigations, such dependence is much more apparent in three litigations of third party entrance. It can be said that the dependence is bringing in the third party. In other words, bringing in the third party is follower litigation. This obedience is observed not only in required number of plaints for bringing in the third party, but also in court's jurisdiction. In a way that independent hearing of a litigation which is in real bringing of the third party would be impossible in any instance of the trial.

Keywords
Bringing in the third party, Follower litigation, Defense, appeal, Pleading the Supreme Court.

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THE JUDICIAL VALUE OF THE DOCUMENTS ON PROPERTY IN THE REGISTRY

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Abstract
Any property that is subject to a registration but it is registered until completed and no ownership document issued. This is the property in the registration process. The registration process starts with the registration of the application, by publishing alternatives, with the expiry of the protest deadline, by protest action, in the deadline as step 5. By issuing a definitive vote in favor of registered applicant or protester, the process can be initiated in step 6 with limitation around territory. Step seven is to finish the limitation of territory and dispute resolution. Finally, by registering at the real estate office and issuing the ownership document, the property goes out of the registration process. In this article, it was established by law and regulations as well as the record procedures. It has a positive value of Judiciary circumstantial evidence. The official documents can be determinative to real estate process.

Keywords
Registry Statement, Certificate of Ownership, Official Document, Applicant for Registration.

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THE RULE OF REASONING THE ARBITRATION AWARD

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Abstract
The arbitration is one method of the Alternative Dispute Resolutions (ADR) with a quasi-judicial nature. The Foundations of this method can reduce the cost of resolving disputes, saving time and etc. The compliance with the objectives is subject to the quality of hearing and award in the arbitration process. The efficiency of arbitration is displayed in the award. The effective award is reasoned. The Iranian legislator approved this rule. Several questions will be asked about this rule: Is the concept of a reasoned arbitration award and a reasoned judicial judgment the same? Are there foundations of judicial judgment in arbitration award? What is the sanction of unreasoned arbitration award? What is the approach of the International Commercial Arbitration Rules?

Keywords
Arbitration award, Reasoning, Reasoned award, Question of fact, Question of law.

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CONCEPT OF INSOLVENCY WITH A COMPARATIVE STUDY OF OTHER LEGAL SYSTEMS

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Abstract
In the present era in Iran legal system, several comments have been made with respect to one of the most fundamental concepts of bankruptcy law as the cessation of payments. Some of the law intellectuals believe that only not paying the debts at the due time will result in bankruptcy and apparently article 412 of commerce code approved in 1932 confirms this belief. Some of the other intellectuals on the contrary believe that the merchant must be incapable of settlement of his dues considering all his assets and not being capable of paying one or more debts shall not be deemed as the insolvency. In countries like Iran where merchants have usually delays in paying their debts, the first belief would be in contrast with the practical truth of the society. The bankruptcy rules in commerce code and implementing ratio of assets to the debts is not considered by the legislator. On this basis, it seems appropriate to provide a moderate view based on a legal and economic analysis. The cessation of payments should be presented, and the research in this regard will be the subject of this article with a look at other legal systems.

Keywords
Credit, Debt, Insolvency, Property, Merchant.

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LEGAL NATURE OF INTRODUCTION OF PROPERTY BY THIRD PARTY FOR SETTLEMENT OF THE JUDGMENT DEBT AND ITS EFFECTS (THE SUBJECT OF THE NOTE OF ARTICLE 34 OF THE ENFORCEMENT OF CIVIL JUDGMENTS LAW)

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Abstract
The property introduced at the enforcement stage is often owned by the judgment debtor. However, sometimes a third party has come to judgment debtor's aid and, by introducing his property; it provides the ground for executing the judgment. This third party action is the subject of the note of Article 34 of the Enforcement of Civil Judgments Law. It has not been analyzed in the legal books, and the authors have just focused on this point that the note has been codified in accordance with Article 267 of the Civil Code. This states that "if someone is not the actual debtor to pay the debt in question, it shall be discharged". This silence of the legal community, along with the general statement of the above-mentioned note, has provided ground for disagreement in the judicial process regarding the conditions and effects of third party action, which itself raises the necessity of analyzing its legal nature. Through studying legal sources and analysis of third-party action, it turns out that his action is a unilateral legal act because the creation of the legal effect, namely the permission of possession in third party's property in order to pay the judgment debt, is carried out on his unilateral will.

Keywords
Enforcement of Judgment, Introduction of Property, Payment of Debt, Third Party, Unilateral Legal Act.

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