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Brain Damage from a Cleaning Product

Roger W. Shuy

in Fighting over Words: Language and Civil Law Cases

Published in print: 2008 Published Online: May 2008 Publisher: Oxford University Press
DOI: 10.1093/
ISBN: 9780195328837 eISBN: 9780199870165 acprof:oso/9780195328837.003.0009
Item type: chapter

This product liability case brought against a company that produced a ship cleaning product centered on the warning label for the cleaning product, which had caused a worker's brain damage. Comparison was made between the industry safety standards for the precautionary labeling of industrial chemicals and the text on the cleaning product's container. The wording of the warning section on the container was not prominent to the potential danger of the product. The communication of the dangers that users might encounter were unclear, and the advice about what to do if users got into trouble using it were not conveyed explicitly. The discourse sequencing within the warnings placed the least crucial information before the most crucial and provided no information about what to do to avoid the hazards that the product contained. The plaintiff also rewrote the text of the container to show how it could have been user-friendly and to communicate useful information and prevent further harm.

Worldwide Financial Reporting

George J. Benston, Michael Bromwich, Robert E. Litan, and Alfred Wagenhofer

Published in print: 2006 Published Online: February 2006 Publisher: Oxford University Press
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Item type: book

This book provides readers with reasonably concise descriptions of the state of global markets, the benefits and limitations of financial accounting and accounting/auditing standards, and the development, status, and current policy issues of corporate financial reporting in major countries and the European Union. The globalization of financial markets has contributed to a growing consensus that national financial

reporting standards should give way to a single, harmonized set of global reporting standards. This book takes a more practical approach and reaches a different conclusion: that global standards are unlikely to be achieved, and in any event, are not likely to remain unified in the face of continued changes in markets and financial practices. National accounting standards are likely to continue to be relevant for the foreseeable future, and for that reason, the book discusses the national systems and their origins in some detail. The authors also consider a range of other substantive reporting issues, notably the debate over the issue of “fair value” measurement of assets and liabilities, which the authors reject in favor of a system that marks to market only those assets with deep traded markets, coupled with additional disclosures, where relevant.

Rational Risk Policy

W. Kip Viscusi

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Ideally, individual risk-taking decisions and government risk policies should be based on a rational balancing of risk and cost. Unfortunately, private decisions are subject to a number of biases including overestimation of small probabilities and alarmist responses to ambiguous risks. Hazard warnings can potentially be effective, but are not always ideal, as the people now overestimate the risks of smoking. Labour market estimates of the value of life can provide a rational reference point for benefit-cost tests of risk regulations. The pressures exerted by irrational public responses to risk often lead to regulations that impose inordinately high costs per life saved. Excessive regulation potentially makes society worse off from a health and safety standpoint as shown by the risk-risk analysis methodology developed in this book. Similarly, liability rules and social insurance systems also should be structured to reflect an efficient balancing of risk and cost.

Total Liability for Excessive Harm

Robert D. Cooter and Ariel Porat

in *Getting Incentives Right: Improving Torts, Contracts, and Restitution*

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Item type: chapter

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This chapter proposes a novel form of the negligence rule known as total liability for excessive harm to address situations in which several injurers cause harm and the court can verify the total harm caused by all injurers but not the degree of harm caused by each injurer. Under the rule of total liability for excessive harm, each individual injurer should be liable for the total harm that everyone causes in excess of the optimal harm. This rule creates efficient incentives because each injurer internalizes the marginal social benefit from reducing his excessive pollution, for example. The chapter first considers alternative liability rules such as strict liability, strict total liability, and proportionate liability, along with their limitations. It then explains the basic model of total liability for excessive harm and concludes with some real and hypothetical examples in which the rule could be applied to great advantage.

The Case for Marking Public Plan Liabilities to Market

Jeremy Gold and Gordon Latta

in The Future of Public Employee Retirement Systems

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State and local US pension plans hold an estimated \$3 trillion in assets, with market values regularly disclosed in plan financial statements. By contrast, public defined benefit pension liabilities are routinely reported at actuarial values that may differ substantially from market values. The authors propose that a more accurate way to value plan liabilities measures the present value of accrued benefits discounted at market interest rates for fixed income investments that are (or are nearly) default-free. They illustrate the difference between these measures for a set of public sector pensions using publicly available information.

Killing in War

Jeff McMahan

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Killing a person is in general among the most seriously wrongful forms of action, yet most of us accept that it can be permissible to kill people on a large scale in war. Does morality become more permissive in a state of war? This book argues that conditions in war make no difference to what morality permits and that the justifications for killing people are the same

in war as they are in other contexts, such as individual self-defence. This view is radically at odds with the traditional theory of the just war and has implications that challenge common sense views. It implies, for example, that it is wrong to fight in a war that is unjust because it lacks a just cause, that those who fight in a just war are not legitimate targets of attack, and that some civilians may, in principle if not in practice, be morally liable to suffer certain harms in war.

Between Scylla and Charybdis: Improving the Cost Effectiveness of Public Pension Retirement Plans

M. Barton Waring

in *The Future of Public Employee Retirement Systems*

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Unless defined benefit pension plans are managed much better and more cost-effectively, they will be replaced by defined contribution plans. Benefit and contribution policies need to be carefully evaluated to make sure that a reasonable level of ongoing contributions, together with investment income, are adequate to fund the defined benefit plan without unpleasant surprises. Unless valuation and contribution conventions change to market-valued economically based quantities, decision makers will lack the right information with which to make informed policy decisions.

Conclusion

Robert D. Cooter and Ariel Porat

in *Getting Incentives Right: Improving Torts, Contracts, and Restitution*

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This book has advanced three central claims, each related to a different branch of private law. First, to achieve efficiency under negligence law, all foreseeable risks should be included when setting standards of care and awarding damages. Second, to achieve efficient contracts, the law should respond more to the promisee's incentives for cooperation and reliance. Third, the law should encourage unrequested benefits by making the beneficiaries compensate the benefactors more often, and by reducing the liability of injurers and breaching parties who externalize

benefits. In support of these claims, the book has introduced novel principles such as total liability for excessive harm, anti-insurance, decreasing liability contracts, and the public goods theory of restitution. In conclusion, the book proposes three main legal reforms to improve private law in terms of promoting social welfare, such as removing misalignments in tort law or reducing the benefactor's liability for accidents.

Liability Externalities and Mandatory Choices

Robert D. Cooter and Ariel Porat

in *Getting Incentives Right: Improving Torts, Contracts, and Restitution*

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This chapter introduces the general theory of liability externalities and applies it to mandatory choices. "Liability externality" refers to costs and benefits conveyed to others that market prices do not capture and liability law does not correct. In these circumstances, adjusting liability can improve incentives. The contrast between doctoring and driving illustrates the difference between actual and ideal law. According to actual law, a doctor who negligently breaks a patient's leg has the same liability as a driver who negligently breaks a pedestrian's leg. Ideally, however, the doctor's liability should be less than the driver's liability. The chapter considers suitable circumstances for applying the general theory of liability externalities, given limited information available to courts. It also discusses disgorgement damages for risk of accidents and the equalization principle, which states that the difference in expected social harm between mandatory alternatives should equal the difference in the actor's liability.

Exchange Rate Management and Micro Tools for Macro-Management

Joseph E. Stiglitz, José Antonio Ocampo, Shari Spiegel, Ricardo Ffrench-Davis, and Deepak Nayyar

in *Stability with Growth: Macroeconomics, Liberalization and Development*

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This chapter looks at exchange rate management and other policy options for an open economy. It begins with an introductory discussion of overall macroeconomic management for open economies, including the issues of internal and external balance and inflation targeting. It then examines how countries can attempt to manage the exchange rate. Topics covered in this section include the benefits of maintaining an undervalued exchange rate in some developing countries, government interventions to smooth out exchange rate fluctuations, and the trade-off between stability and flexibility when choosing an exchange rate regime. The chapter concludes with an analysis of other policy options in open economies, including heterodox microeconomic interventions, public sector liability management, and debt restructuring.