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EMPLOYEE'S INDIRECT DAMNIFICATION OF THE COMPANY: EXPERIENCE OF RUSSIA AND FOREIGN COUNTRIES

Keywords: damage made by an employee; employees' liability for breakage; protection of employer's rights; labour contract; local statutory act; information disparaging business reputation; compensation of property damage; dissemination of false information; dissemination of data in Internet, moral damage.

Economically unstable periods often make both the employer and the employee to use methods of force – from salary reduction and illegal dismissals from one side to revenge – from the other. Employees hack corporate sites, steal secret information, spread rumors about company's problems. What measures can employer take to protect the company from "indirect" damage made by an employee, including a former one? Along with Russian practice the author turns to the experience of lawyers from France, Belgium, Great Britain and the USA.

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SPECIAL SIMPLIFIED PROCEDURE OF CUSTOMS EXECUTION: BALANCE OF INTERESTS

Keywords: customs execution; simplified procedures; participants of foreign commerce; customs legislation.

The possibility and the way of using special simplified procedures by foreign-economic activity subjects in the process of customs execution are being considered. The author gives her opinion why with all positive sides of this innovation it still remains of little importance.

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DERIVATIVE SUIT

Keywords: derivative suit; accountability in a joint-stock company; legal relationship with members of management bodies; corporate conflict.

The author gives legal grounds and conditions of bringing a manager to account for the losses caused by his activity in the economic society. A conclusion is made that managers' accountability to the society has a contractual character and arises when the manager violates his contractual accountability. Conditions of bringing a manager to account are illustrated with examples from arbitrage practice.

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DERIVATIVE SUITS AS A FORM OF REPRESENTATION

Keywords: joint-stock company; corporate relationship; derivative suit; legal representation.

A new peculiar form of representation stipulated by the rules of Federal law "About joint-stock companies" is being researched. On the basis of such representation a shareholder goes to law in the interests of the joint-stock company for the protection of the joint-stock company itself. The article analyzes the nature of this representation, the correlation of substantive and procedural-legal interests of a shareholder and the joint-stock company at such representation. A possibility of using this form of representation in other corporate relationships is being considered.

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NEW SOURCES OF EVIDENCE AND PROBLEMS OF THEIR USAGE IN THE PROCESS OF PROOF

Keywords: source of evidence; specialist's report; specialist's statement.

Having approved of new sources of evidence – specialist's report and statement, the lawmaker has not envisaged the procedure of procedural fixation of the order of getting evidence from these new sources. We get a paradoxical situation when there is a source of evidence but the evidence got from it do not possess the characteristics of admissibility therefore they have no legal force. The author considers peculiarities and differences of status of new types of evidence, of the way of their registration and entering case papers.

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ABUSE OF CORPORATE RIGHTS IN THE PROCESS OF REORGANIZATION OF ECONOMIC SOCIETIES

Keywords: abuse; corporate rights; economic societies; reorganization.

Cases of unconscious reorganizations of economic societies including those ones connected with abuse of corporate rights by their shareholders (participants) have become noticeably frequent. Invalidation of reorganization due to this makes legal competence of legal person doubtful for an indefinite period of time. The article reveals some aspects of such abuse and defines the main principles of holding a conscientious reorganization.

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CONSTITUTIONAL LEGITIMACY IN JURISDICTION WHILE EXECUTING DECISIONS AND EXIGENCIES OF CONSTITUTIONAL COURT OF RF

Keywords: decision of Constitutional Court of RF; execution of court decisions; constitutional legitimacy; legal positions and exigencies of Constitutional Court of RF; constitutional interpretation of legal regulations.

Ascertained by Constitutional Court of RF fact of non-execution by Supreme Court Pre-ridium of RF of determination of Constitutional Court of RF of February 5, 2007 №2-P shows the illiveness of the way of protection of rights with the help of constitutional justice conferred on citizens and their associations. Violation of constitutional legitimacy principle gives cause for its scientific and legal research aimed at prevention and exclusion of such cases from judicial practice. The authors of the article suggest ways of improvement of the mechanism which secures exact execution of decisions and exigencies of Constitutional Court of RF.

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FORMATION AND DEVELOPMENT OF STATEHOOD OF ABKHAZIA

Keywords: formation of statehood; conflict; independence.

The article describes the process of formation of Abkhazian statehood. Most interesting are the historical essay of Abkhazia's independent joining Russian Empire in 1810 and the description of state-legal position of Abkhazia during the period of the USSR's existence. Special attention is paid to the infringements of Abkhazian people's rights in 1932-1991.

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LEGAL REGULATION OF REMOTE COMMERCE IN GERMANY

Keywords: Internet, catalogue, phone, media-means, commodity, services, consumer, businessman, remote commerce, electronic commerce, remote agreement, German legislation.

Being one of the forms of retail sales of goods remote commerce gained popularity all over the world long ago. However consumers turning to it frequently face problems of legal protection and businessmen incur unforeseen losses due to peculiarities of normative-judicial environment of interaction with clients. Only a well thought-out approach to solution of those questions can guarantee consumer's benefits which are inherent to global market. The author speaks about Germany's experience in this sphere.

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CRITERIA OF PROTECTION OF A BONA FIDE PURCHASER

Keywords: trust; bona fide; conscientious; excusability of ignorance; mala fides; reasonable and ordinary wariness; caution; recklessness; carelessness; awareness of the buyer; criteria of protection of a bona fide purchaser; check of alienator's authority; buyer's fault.

What are the permissible limits of interpretation of formula "didn't know and couldn't know"? Are there any reasons for absolute spread of knowledge about unauthorization of the seller for the buyer? What is the standard of ordinary and reasonable wariness in turnover? What characteristics are used to define the unforgivable carelessness of a buyer? Attempts to find answers to these and many other questions are made in this article.

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DEVELOPMENT OF RUSSIAN JURISPRUDENCE IN THE SECOND THIRD OF XIX CENTURY. ARTICLE TWELVE.

Keywords: history of scientific jurisprudence in Russia; formation of Russian criminal law science; jurisprudent S.I. Barshev.

The article is devoted to the development of criminal law science in Russia in 1840s-1850s. It analyses the work of one of its founders – the author of the first Russian training course of criminal law published in 1841 under the title "General Principles of Theory and Legislations about Criminals and Punishments in two parts", professor of faculty of law of Moscow University Sergey Ivanovich Barshev.