

Elena D'Agostino

Contracts of Adhesion Between Law and Economics Rethinking the Unconscionability Doctrine

Contracts Of Adhesion Between Law And Economics
Rethinking The Unconscionability Doctrine
Springerbriefs In Law

Boudewijn Bouckaert, Gerrit de Geest



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Contracts of Adhesion Between Law and Economics Elena D'Agostino, 2014-11-21 This book examines the most controversial issues concerning the use of pre drafted clauses in fine print which are usually included in consumer contracts and presented to consumers on a take it or leave it basis By applying a multi disciplinary approach that combines consumer s psychology and seller s drafting power in the logic of efficiency and good faith the book provides a fresh and unconventional analysis of the existing literature both theoretical and empirical Moving from the unconscionability doctrine it criticizes and in some cases refutes its main conclusions based on criteria which are usually invoked to sustain the need for public intervention to protect consumers and specifically related to Law contract complexity Psychology consumer lack of sophistication criterion and Economics market structure criterion It also analyzes the effects of different regulations such as banning vexatious clauses or mandating disclosure clauses showing that none of them protect consumers but in fact prove to be harmful when consumers are more vulnerable that is whenever sellers can exploit some degree of market power In closing the book combines these disparate aspects arguing that the solution if any to the problem of consumer exploitation and market inefficiency associated with the use of contracts of adhesion in these contexts cannot be found in removing or prohibiting hidden clauses but instead has to take into account the effects of these clauses on the contract as a whole

Unfair Contracts Sinai Deutch, 1977 *The Economics of Unconscionability in Contract Law* Paul Joseph Fina, 1983

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