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State Regulation of Franchising: The Washington Experience

Donald S. Chisum

The successful use of franchising as an adjunct to more traditional marketing techniques by business firms seeking nationwide distribution for their products, services, and ideas has stimulated many franchisor abuses. Professor Chisum comprehensively discusses a variety of remedies available to the franchisee seeking relief from franchisor abuses, including remedies provided by the common law, federal and state securities laws, and the federal antitrust laws. The article assesses the relative success and failure of these general remedies in rectifying the specific problems of franchisor abuses. The author then critically examines the Washington Franchise Investment Protection Act which was enacted in 1971 for the purpose of preventing such abuses. Professor Chisum presents his evaluation of the major provisions of the Act, highlighting those areas which are likely to produce litigation and those areas in which he believes the language of the Act may frustrate its purpose.

Laird v. Nelms: A Call for Review and Revision of the Federal Tort Claims Act

Cornelius J. Peck

Despite the Federal Tort Claims Act's explicit purpose to make state law determinative of recovery for governmental wrongs, the United States Supreme Court in Laird v. Nelms held that liability under the Act may not be predicated on a state statute imposing absolute or strict liability. Professor Peck challenges the Court's rationale in reaching this decision, concluding that Laird v. Nelms makes legislative revision of the Federal Tort Claims Act imperative. To guarantee that the Act will not insulate the government from strict liability for its ultrahazardous activities, Professor Peck proposes several basic changes to the Federal Tort Claims Act, the most vital of which are amendments to the Act's jurisdictional grant and discretionary function provisions.

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