LIABILITY RULES

Vicarious Liability Under a Negligence Rule, by C. Y. Cyrus Chu andYingyi Qian

It has been shown that if the agent has limited assets, the vicarious liability law under a strict liability rule can effectively make the principal monitor her agent and induce the agent to take more care, which thereby reduces the social cost. In practice, the negligence rule still applies to many tort cases, and the principal's monitoring evidence is often needed to prove the agent's negligence. It is possible that the principal will conceal the monitoring evidence from the court in order to avoid vicarious liability. To save the investigation cost, the court may want to provide incentives to induce honest reports either by lowering the due care level, or by lowering the level of vicarious liability. The effect of vicarious liability under a negligence rule when the principal holds the evidence for her agent's liability is discussed. *International Review of Law & Economics,* September 1995, 15(3): 305–322. (Reprinted with permission of ABI/Inform, copyright UMI.)

LIABILITY RULES

Manufacturer Moral Hazard and the Tort Contract Issue in Products Liability, by Mark Geistfield

It is well known that contracting may well lead to inefficient outcomes if consumers are not perfectly informed of product risks, so the types of imperfect information that might justify tort regulation are central to the issue of whether tort or contract rules should allocate liability for product-caused injuries. It is currently thought that tort rules might lead to more efficient outcomes than contracting if consumers are unaware of product risks, underestimate risk levels, underestimate how increased safety improvements reduce risk levels, or have information only about average rather than brand-specific risk levels. However, it is determined that inefficiencies created by manufacturer moral hazard do not necessarily justify tort regulation. Also, there is not necessarily an efficiency-enhancing role for contracting merely because tort rules fail to yield first-best outcomes. *International Review of Law & Economics,* September 1995, 15(3): 241–257. (Reprinted with permission of ABI/Inform, copyright UMI.)

LIABILITY RULES

Special Levies on Punitive Damages: Decoupling, Agency Problems, and Litigation Expenditures, by Marcel Kahan

A study extends the economic model of decoupling the damage award payable by a defendant and the award received by a plaintiff in the context of recently enacted special levy statutes. These statutes require plaintiffs to hand over portions of their punitive damage awards to the state. The basic model of decoupling is expanded by incorporating the effect of levies on litigation expenditures and settlement and by examining the effect of agency problems between the plaintiff and his attorney. Consistent with the basic model, the study finds that, in the absence of agency problems, if a case goes to trial, levies reduce the expected award payable by the defendant and the plaintiff's litigation expenses. However, the effect of levies on settlement is indeterminate. In the presence of agency problems, certain levies will have no effect on the defendant's expected payments, on litigation expenses, or on the settlement; and other forms will either be equally ineffective as the former forms or less effective than they are in the absence of agency problems. *International Review of Law & Economics,* June 1995, 15(2): 175–185. (Reprinted with permission of ABI/Inform, copyright UMI.)