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CASES FOR CONTRACT THEORY *Mark B. Wessman* 635

Professor Wessman discusses the features of the unilateral contract model that have been applied uncritically to virtually all promotional games and similar devices. After analyzing the degree to which various types of games fit the traditional model, he isolates a class of promotional games that neither fit the classical unilateral contract model nor satisfy the requirements of traditional alternate grounds of promissory enforcement. Professor Wessman argues that there are good reasons in favor of continuing to enforce such prize promises as a matter of contract law, provided that the traditional grounds of contractual liability are reconceptualized in the manner suggested by contract scholarship of the past decade.

WHEN FIRST AMENDMENT VALUES AND

COMPETITION POLICY COLLIDE:

RESOLVING THE DILEMMA OF

MIXED-MOTIVE BOYCOTTS *Kay P. Kindred* 709

This Article explores the conflict between classic First Amendment doctrine and established antitrust jurisprudence in economic boycotts undertaken for political ends, so called "mixed-motive" boycotts. In the recent decision of *FTC v. Superior Court Trial Lawyers*, the Supreme Court expanded the *per se* doctrine of antitrust liability to collective political activity. Using this case as a backdrop for a broader discussion of the legality of concerted commercial activity undertaken for political ends, this Article argues that the Supreme Court has repeatedly failed to properly analyze mixed-motive boycotts in light of established First Amendment jurisprudence. It proposes a new analytic approach to such cases that balances competition policy with First Amendment values.

CORPORATE CULPABILITY UNDER THE

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This Article examines the use of corporate culpability in the Federal Sentencing Guidelines. The Author begins by discussing the principal reasons why culpability has been important at the trial and sentencing of individuals, and argues that similar reasons justify concern with culpability in corporate sentencing. She contends that of the three prevailing theories of corporate culpability, the "corporate character theory" is the most satisfying, and is particularly well-suited for use at the sentencing stage, where judges engage in an assessment of the character of offenders. Finally, the Author argues that a version of the corporate character theory informs the Federal Sentencing Guidelines for Organizations. She concludes that the adoption of the theory enables the Guidelines to pursue a wider range of sentencing aims that is traditional in the sentencing of corporations, and represents a step toward a fairer, more unified, and more effective corporate criminal law.

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