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Articles

AN ESSAY CONCERNING JUDICIAL RESIGNATION AND NON-COOPERATION IN THE PRESENCE OF EVIL

Bruce Ledewitz 1

The author discusses the justification for judicial resignation in abortion and death penalty cases against the background of the movement to abolish slavery. The author criticizes the profession for failure to consider the personal responsibility of judges for enforcing particular laws. The author proposes a formal, public mechanism of recusal in cases of conscience so that judges need not choose between enforcement and resignation.

RESTORING THE NECESSITY OF TIMELY COURT APPROVAL FOR THE ASSUMPTION OR REJECTION OF UNEXPIRED LEASES UNDER BANKRUPTCY CODE SECTION 365(d)(4)

Anthony Michael Sabino 35
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"Restoring The Necessity Of Timely Court Approval For The Assumption Or Rejection Of Unexpired Leases Under Bankruptcy Code Section 365(d)(4)" deals with the bankruptcy statute which demands that a trustee or debtor-in-possession assume or reject an unexpired lease of nonresidential real property within sixty days after the bankruptcy case commences. A sharp dichotomy has developed between courts which have held that the mandatory court approval of such assumption or rejection must be given within these same sixty days and those that have found such approval need not be obtained within that same time. Given the Supreme Court's recent denial of certiorari for a case ruling on this issue, the authors' review and analysis of the conflict and suggestions for remedial legislation are quite timely.

INTEREST ANALYSIS OR THE RESTATEMENT SECOND OF CONFLICTS: WHICH IS THE PREFERABLE APPROACH TO RESOLVING CHOICE-OF-LAW PROBLEMS?

David E. Seidelson 73

A court confronted with a choice-of-law problem must determine what methodology to utilize to resolve the problem. Among the choices available to the court are interest analysis and the "most significant relationship" test of the Restatement Second of Conflicts. Concluding that those two approaches differ in method and result, the author compares the two for the purpose of determining which approach is preferable and why. The comparison is effected by using each approach in a series of choice-of-law cases. The author concludes that interest analysis is the preferable approach because it produces more rational results, compels a more precise consideration of the reasons underlying

conflicting local laws and better enables courts to utilize prior decisions in resolving choice-of-law problems. In addition, the author finds that the approach of the Restatement Second of Conflicts sends conflicting signals to courts, requiring some degree of interest analysis but then blurring the results of such analysis with a territorial bias and a reversion to *lex loci* conflicts rules.

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