

From the Courtrooms, Some Economic Rights-Related Good News.

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How about some good news for a change? Several recent court rulings on issues of property, contract, and duty have gone in the right direction.

*Last year, as part of the greater seizure of landlord rights that occurred under the cover of the epidemic, New York City adopted a bill unilaterally removing owners' capacity to enforce personal guaranty conditions to recover unpaid commercial rents. In *Melendez v. City of New York*, two of three judges on a Second Circuit panel have decided that the policy violates the Constitution's Contracts Clause: "The law effectively repudiates those guarantor debts, rendering them permanently and entirely unenforceable." This is unquestionably a significant breach of contract." Because the Contracts Clause has gone largely unenforced in federal courts for decades, this might be huge news. Judge Reena Raggi wrote the decision, which was joined by Judge Jose Cabranes, and Judge Susan Carney wrote a partial dissent.

* After more than two years, the Oklahoma Supreme Court overturned a rogue district judge's (dollar)465 million judgment against Johnson and Johnson, which was based on the theory that the manufacturer had illegally created a public nuisance by pushing opioid drugs. As I said at the time, the state's case was a demagogic attempt to bend the boundaries of public nuisance legislation beyond all historical recognition. Also see this Cato podcast and post by Jeffrey Singer, as well as this study by Mike Davis for the 1889 Institute in Oklahoma.

* According to Randy Maniloff of the Wall Street Journal, judges are mainly refusing attempts to expand the terms of business interruption insurance contracts to cover pandemic-related damages. As I explained last year, this is the correct legal outcome: this category of risk has been generally understood for a long time, and insurers took care to eliminate it.

* Delaware's shady methods of designating financial assets unclaimed property and thereby forfeiting them to the state (escheat) have been slammed again by the courts, this time in

Siemens v. Geisenberger. Justices Samuel Alito and Clarence Thomas, as I previously stated, are willing to apply stricter due process scrutiny to state conduct in this area.