

Lawyers, Lawsuits, and Legal Rights



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出版者:University of California Press

出版时间:2004-10-12

装帧:Paperback

isbn:9780520243231

Lawsuits over coffee burns, playground injuries, even bad teaching: litigation 'horror stories' create the impression that Americans are greedy, quarrelsome, and sue-happy. The truth, as this book makes clear, is quite different. What Thomas Burke describes in "Lawyers, Lawsuits, and Legal Rights" is a nation not of litigious citizens, but of litigious policies - laws that promote the use of litigation in resolving disputes and implementing public policies. This book is a cogent account of how such policies have come to shape public life and everyday practices in the United States. As litigious policies have proliferated, so have struggles to limit litigation - and these struggles offer insight into the nation's court-centered public policy style. Burke focuses on three cases: the effort to block the Americans with Disabilities Act; an attempt to reduce accident litigation by creating a no-fault auto insurance system in California; and the enactment of the Vaccine Injury Compensation Act. These cases suggest that litigious policies are deeply rooted in the American constitutional tradition. Burke shows how the diffuse, divided structure of American government, together with the anti-statist ethos of American political culture, creates incentives for political actors to use the courts to address their concerns. The first clear and comprehensive account of the national politics of litigation, his work provides a new way to understand and address the 'litigiousness' of American society.

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