

# SUBMISSION INSTRUCTIONS

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# **Contrato e racionalidade**

*Contract and rationality*

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ÁREA DO DIREITO: Civil; Processual; Consumidor

**RESUMO:** O presente artigo é fruto de pesquisa empírica levada a cabo junto aos acórdãos do TJRS, especificamente em matéria contratual. Aqui, trago as conclusões obtidas no âmbito dos contratos abrangidos pelo Sistema Financeiro de Habitação. Delimitei a racionalidade jurídica nutrida pelos desembargadores de referido Tribunal ao procederem às tomadas de decisões neste tema. Após precisar o conceito central deste trabalho (racionalidade), exponho e analiso os dados obtidos junto aos acórdãos coletados, promovendo uma classificação dos atores jurídicos consentâneo o teor argumentativo invocado na fundamentação dos votos, ocasião em que a nova teoria dos contratos passa a ser contextualizada em meio a um processo de transformações pelas quais vem passando o direito privado como um todo.

**PALAVRAS-CHAVE:** Cláusulas gerais – Juros – Revisão contratual – Racionalidade – Rematerialização

**ABSTRACT:** The present article is a result of empiric research mode next to judgements of Tribunal de TJRS, specifically in contractual subject. Here, I bring the conclusions got among the contracts embroiled by the "Sistema Financeiro de Habitação". I delimited the juridical rationality sustained by magistrates of the abovementioned Tribunal when they took decisions on this matter. After precising the main concept of this work (rationality), I expose and analyse data got next to judgements collected, promoting a classification of the juridical acts according to the argumentative contents evoked in the fundamentation of votes, occasion where the new theory of contracts starts to be contextualized in a process of transformations, which practical law is passing as a whole.

**KEYWORDS:** General clauses – Interest – Contratação – Law – Rationality – Rematerialization

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1 INTRODUÇÃO

## 6 BIBLIOGRAFIA (EXEMPLOS)

- ALBERGARIA, A. *Cinco anos sem chover: história de João Louco*. Recife: Sertão, 1999.

ARRUDA ALVIM WAMBIER, Teresa. *Nulidades da sentença*. 3. ed. São Paulo: Malheiros, 1999.

BRASIL. *Código Penal*. 13. ed. São Paulo: Ed. RT, 2008, coleção RT Códigos.

ESTEFAM, André. Temas polêmicos sobre a nova lei do júri. Disponível em: [www.damasio.com.br/?category\_id=506]. Acesso em: 24.09.2008.

GOMES, Luís Gustavo et alii. *Direito civil brasileiro*. 2. ed. Recife: Sertão, 1999. vol. 3.

KELSEN, Hans. *Direito positivo*. 10. ed. Trad. Celso Bastos. São Paulo: Ed. RT, 2000.

OLIVEIRA, José Antonio. Verdade real. In: STOCO, Rui (coord.). *Direito penal*. 2. ed. São Paulo: Ed. RT, 2000. vol. 5, t. II.

SILVA, José Augusto da. *Ação declaratória*. Dissertação de mestrado, São Paulo, PUC, 2000.

\_\_\_\_\_. E o Brasil, como vai? *Folha de S. Paulo*, Cad. Mundo, 24.01.2004.

SOUZA, Artur César. As cortes de Warren e Rehnquist: judicial activism ou judicial self-restraint. *Revista dos Tribunais*. vol. 874, p. 11. São Paulo: Ed. RT, ago. 2008.