

Rule-Intermediaries in Action: How State and Business Stakeholders Influence the Meaning of Consumer Rights in Regulatory Governance Arrangements

SHAUHIN TALESH

The boundaries between public and private actors are increasingly blurred via regulatory governance arrangements and the contracting out of rights enforcement to private organizations. Regulation and governance scholars have not gained enough empirical leverage on how state actors, private organizations, and civil society groups influence the meaning of legal rules in regulatory governance arrangements that they participate in. Drawing from participant observation at consumer law conferences and interviews with stakeholders, my empirical data suggest that consumer rights and, in fact, consumer law, mean different things to different stakeholders tasked with adjudicating consumer rights. Rights afforded consumers who purchase warranties are now largely contingent on first using alternative dispute resolution structures, some created and operated by private organizations with soft state oversight and others run by stakeholders but with greater state oversight and involvement. Using new institutional sociology and regulatory governance theories, I find that stakeholders involved in overseeing and administering these dispute resolution systems filter the meaning of consumer rights through competing business and consumer logics. Because consumer laws mean different things to stakeholders tasked with adjudicating consumer rights, two different rights regimes simultaneously exist in this field. I conclude that how rule-intermediaries administering private and state-run dispute resolution systems conceptualize what consumer laws mean in action may have implications for regulatory governance and more broadly, consumers' access to justice.

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Address correspondence to Shauhin Talesh, University of California, Irvine—School of Law, 401 E. Peltason Drive, Ste. 4800L, Irvine, CA 92697, USA. Telephone (949) 824-9214; E-mail: stalesh@law.uci.edu.

INTRODUCTION

Increased involvement, delegation, and deference to nonstate actors is probably the most significant change to the regulatory state in the past three decades (Shamir 2010; Jordana and Levi-Faur 2004). Whereas previously command-and-control government regulation structured civil society responses, governance frameworks allow private organizations, experts, professional associations, and civil society actors greater involvement and voice in how they will be regulated (Ansell and Gash 2008; Lobel 2004; Braithwaite 2002; Sturm 2001; Freeman 1997, 2000; Majone 1997). Since the 1980s, governance through regulation is the central reform across the United States (Ansell and Gash 2008), European Union (Majone 1994, 1997), Latin America (Jordana and Levi-Faur 2004; Manzetti 2000), East Asia (Jayasuriya 2001), and developing countries (Cook et al. 2004). “Hard” laws and directives coming with the coercive backing of the state decline as states move toward a broader conception that establishes legally nonbinding “soft” rules such as standards and guidelines (Djelic and Sahlin-Andersson 2006). Countries increasingly contract out government services, streamline government functions, cut the delivery of many services and benefits traditionally run by public institutions, and devolve power to lower levels of government who in turn look to private actors to help execute their new responsibilities (Salman 1995).

Although regulation and governance scholars have captured the theoretical foundations of governance and empirical studies highlight the new instruments and techniques involved in regulatory governance frameworks, there has been less empirical research directed toward how regulatory governance stakeholders act as rule-intermediaries and influence the meaning of law (Gilad 2014; cf. Schneiberg and Bartley 2008).¹ In particular, how do state actors, private organizations, and civil society actors mediate the meaning of legal rules in regulatory governance arrangements that they participate in?

I use consumer warranty laws to specifically explore this question because consumer rights are now contingent on using different disputing systems operating outside the court system, some operated by private organizations and others run by the state. In response to automobile manufacturers not standing behind their warranties and making repairs, all fifty states in the 1970s and 1980s passed consumer warranty laws affording consumers strong legal rights and remedies in court such as the ability to seek a full refund or replacement car, attorneys’ fees, and sometimes a civil penalty if they can show that they gave the manufacturer a reasonable number of attempts to fix the problem.

Manufacturers, in turn, created dispute resolution structures to resolve these grievances outside courts. These disputes are now, through legislation and accompanying regulatory oversight, largely contingent on first using alternative dispute resolution structures where no attorneys’ fees or civil penalties are available and arbitrators have discretion to award an

additional repair attempt as opposed to refund or replacement. In particular, all fifty states allow consumers the option to have their automobile warranty disputes be resolved in dispute resolution forums funded by automobile manufacturers but operated by external third-party organizations. The third-party administrator programs are certified by state regulators, but they have considerable autonomy in how they train arbitrators and run their consumer warranty law dispute resolution programs. In addition to allowing consumers the option of using the private dispute resolution forums, thirteen states also allow consumers the choice of using a state-run dispute resolution process where the only remedies are refunding or replacing the automobile. Unlike the single-arbitrator system in private dispute resolution models, the state-run systems often have a three-to-five person board with citizen representatives, a technical expert, and an automotive dealer representative that decide cases in a government forum that is run by a state administrator. In terms of consumer outcomes, my prior research demonstrates that consumers win twice as often in state-run dispute resolution structures as private-run structures (Talesh 2012). Thus, consumer warranty disputes are an ideal site to explore how stakeholders that act as rule-intermediaries in regulatory governance arrangements shape the meaning of public legal rights because relevant stakeholders are simultaneously operating two different dispute resolution structures, one highly private with soft state oversight, and one highly public with active involvement from civil society actors.²

Unlike prior studies of consumer warranty laws (Talesh 2009, 2012, 2014), this article inductively identifies the “logics” or ways of thinking operating in this regulatory governance field (which I refer to as “the lemon law field”) and empirically explores the extent that field actors adhere to uniform or contested scripts and understandings as to the purpose and meaning of lemon laws and dispute resolution (cf. Akerlof 1970). Empirical data drawn from participant observation at lemon law conferences and interviews with stakeholders across the country suggest, contrary to many studies of organizational fields as either settled or contested (Levi-Martin 2003; DiMaggio and Powell 1983, 1991), that the lemon law field is simultaneously settled in some areas while contested in others.

Field actors from across the United States all agree that alternative dispute resolution venues are preferable to courts for resolving lemon law disputes and that lemon laws are ambiguous with respect to their meaning. The ambiguity in law, consequently, leaves much of the interpretation and implementation to field actors who construct the meaning of lemon laws (Stryker 1994, 2000; cf. Edelman 1990, 1992). In this instance, stakeholders mediate or influence the meaning of consumer rights through different business and consumer logics operating in the lemon law field. In particular, public (state regulators, state lemon law administrators, state arbitrators, policymakers) and private (automobile manufacturers, automobile dealers, third-party administrators, private arbitrators, private auditors) stakeholders filter the

goals of informal dispute resolution and the purpose of lemon laws through these competing logics.

The contestation in field logics goes beyond the goals and purposes of dispute resolution and lemon laws. Indeed, my data reveal that public and private actors even contest the actual meaning and implementation of consumer rights and lemon laws. Because there is no consensus among stakeholders concerning the meaning of consumer law, the conditions are ripe for public and private organizations and other stakeholders to each construct and implement an alternate form of consumer law embedded in different business and consumer logics in various state and private-run dispute resolution systems operating across the country.

This article, therefore, makes several contributions to regulation and governance and new institutional studies. Although prior new institutional studies show how managerial values shape the way organizations go about complying with law (Marshall 2005; Edelman, Fuller, and Mara-Drita 2001), my empirical data reveal that there are conflicting field logics over the purpose of lemon laws and the goal of dispute resolution structures. This article also contributes to studies of regulatory governance by revealing *how* stakeholders influence the meaning of rights in regulatory governance arrangements. Whereas recent work on regulatory governance focuses on how rule-intermediaries affect, control, and monitor relations between rule-takers and rule-makers (Levi-Faur and Starobin 2014), I show how rule-intermediaries often act as rule-makers by constructing the meaning of ambiguous legal rules. In doing so, I demonstrate that the gap between regulatory governance as established by legislatures and administrative agencies and regulatory governance in action is filled with competing beliefs, norms, and values operating in the lemon law field. Although allowing stakeholders greater participation in achieving regulatory goals is potentially productive, the logics or values that stakeholders bring into regulatory governance arrangements can lead to two different legal orders operating: one oriented toward business values while the other balances business and consumer values in the design of the process.

REGULATORY GOVERNANCE AND NEW INSTITUTIONAL THEORIES: UNDERSTANDING REGULATORY AND ORGANIZATIONAL FIELDS

My theoretical framework for answering how regulatory governance actors shape the meaning of public legal rights draws from regulatory governance and new institutional sociology studies. Under a new era of public-private partnerships, regulation is still an important component of governance, but governance schemes go beyond mere regulation because they are consensus oriented, deliberative, and aim to allow private industry and civil society groups more direct involvement and control in implementing public policies (Benish 2014; Ansell and Gash 2008; Lobel 2004; Sturm 2001; Freeman 1997, 2000; Majone 1997; Braithwaite 1982, 2002).

Empirical studies of governance highlight the new instruments and techniques of regulation, including negotiated rule making, management-based regulation, and other regulatory systems that try to follow the logic of governance (Howard-Grenville 2005; Coglianese and Lazer 2003; Coglianese and Nash 2001; Gunningham and Sinclair 1999, 2009; Coglianese 1997; Gunningham 1995; Ayres and Braithwaite 1992). More recently, scholars are examining how state, business, and civil society actors act as rule-intermediaries that affect, control, or monitor relations between rule-makers and rule-takers (Levi-Faur and Starobin 2014; Locke 2013). Recent research in this vein demonstrate how rule-intermediaries play a major role monitoring, verifying, testing, auditing, and certifying legal rules (Levi-Faur and Starobin 2014).

For the most part, however, scholarship on regulatory governance has produced far more empirical research on the rise and character of governance than on its translation into practice (Schneiberg and Bartley 2008). Schneiberg and Bartley note that:

researchers have amassed evidence for the recent proliferation of regulation and new forms at the national and transnational levels. However, they have barely begun to analyze systematically how new forms are translated into practice, leaving scholars with little to say about the extent to which new forms actually reshape markets and organizational behavior on the ground . . . [T]heoretical preoccupations in some quarters with adoption, diffusion, and legitimacy [of governance models], can sideline issues of implementation, effectiveness, and local impact. (Schneiberg and Bartley 2008, 49)

While the form or design of governance arrangements is well documented, research specifying the mechanisms and processes through which rule-intermediaries, such as private organizations, state actors, and civil society stakeholders, shape law within collaborative governance arrangements is limited (cf. Gilad 2014). In particular, access into governance arrangements remains difficult to obtain. But this line of research is critical because governance arrangements often devolve considerable flexibility to businesses and other civil society actors to interpret, implement, and construct legal rules.

Some new institutional scholars specify the institutional and political mechanisms through which private organizations and civil society actors shape the content of legal rules (Gilad 2014; Edelman et al. 2011; Schneiberg and Clemens 2006; Zeitlin 2005; Schofer and McEneaney 2003; Parker 2002; Stryker 1994, 2000, 2002). Using the concept of organizational fields,³ new institutional sociologists examine how organizations interact with their social and legal environment. Early accounts of organizational fields emphasize the uniformity, taken-for-grantedness, and institutional isomorphism that results in a dominant or settled institutionalized logic within a field (Tolbert and Zucker 1983). More recently, political sociologists and new institutionalists who study institutional change treat institutions as settlements of con-

flict among actors with differential power and competing frames (Gilad 2014; Schneiberg and Bartley 2001; Rao 1998; Roy 1997; Fligstein 1996; Stryker 1994, 2000). Empirical studies demonstrate that institutional logics are replaced or abandoned for a new dominant logic (Rao, Monin, and Durand 2003; Lounsbury 2002; Thornton 2002; Thornton and Ocasio 1999; Haveman and Rao 1997), coexist and coevolve over time (Dunn and Jones 2010), and that field actors sometimes mobilize multiple logics within organizational fields (McPherson and Sauder 2013).

Recent work in this area focuses attention on how organizational field logics influence the legal field, that is, “the environment within which legal institutions and legal actors and in which conceptions of legality and compliance evolve” (Edelman 2007, 58; see also Edelman and Stryker 2005; Stryker 1994, 2000; Clemens 1993, 1997; Leblebici and Salancik 1982). The tensions between the logics of organizational and legal fields, one anchored around efficiency and rationality, the other around rights and justice (and more recently informality in the form of alternative dispute resolution), come into play when organizational and legal actors and institutions interact (Talesh 2012, 2014; Edelman 2007; Stryker 1994, 2000). As organizations increasingly “legalize” themselves through the creation of written policies and procedures and lawlike structures, managerial logics come to influence the way in which organizations (Marshall 2005; Edelman et al. 1993, 2001), courts (Edelman et al. 2011), and legislatures (Talesh 2009, 2014) understand compliance.

Although existing studies by new institutional organizational scholars demonstrate that organizations generally follow cultural scripts with little deviation (Meyer and Rowan 1977) or that organizational fields are “sites of contestation” ultimately ending in a “settled” or “stabilized” field (Armstrong 2005), there has been less attention directed toward how organizational fields can (1) have multiple, contested, and competing field logics as to what law and compliance means, and (2) be simultaneously settled in some areas and contested with respect to the meaning of legal rules. In sum, while new institutional and regulation and governance scholars have made significant contributions, albeit using slightly different theoretical frameworks, they have not fully addressed how state actors, private organizations, and civil society actors translate logics into action and mediate the meaning of legal rules in regulatory governance arrangements that they participate in (McPherson and Sauder 2013; Thornton, Ocasio, and Lounsbury 2012).

Rather than conceptualizing fields as “formed” and “settled” based on institutional logics and scripts or as “a field of contestation, a battlefield” (Levi-Martin 2003, 28), my article shows how this regulatory field (i.e., the lemon law field), is segmented into areas of consensus while continually contested concerning how public and private field actors understand and interpret lemon laws. In this case, the lemon law field is organized around institutionalized sets of rules about the value of alternative dispute resolution forums and the inherent ambiguity of lemon laws. However, public and

private stakeholders mediate the purpose and meaning of lemon laws and dispute resolution through competing business and consumer logics operating in the lemon law field.

METHODOLOGY

To evaluate how participants in an organizational or regulatory field shape the meaning of public legal rights, my research design attempted to account for and evaluate how the lemon law field, that is, automobile manufacturers, third-party dispute resolution administrators, private auditors, state regulators, private and state arbitrators, and consumer advocates, coexist and interact. I also needed to determine how field actors understand what consumer law means. Similar to prior studies' focus on field logics operating within organizational and regulatory fields (Thornton, Ocasio, and Lounsbury 2012; Thornton and Ocasio 2008; Friedland and Alford 1991; Tolbert and Zucker 1983), I sought to answer the following three subquestions: (1) How do private and public actors within the lemon law field understand the purpose and meaning of lemon laws? (2) Do their conceptions cohere or conflict? (3) How do public and private actors tasked with resolving lemon law disputes think alternative dispute resolution forums should operate? Through interviews with regulatory stakeholders across the country as well as participant observation at conferences where lemon law field actors come together and interact, I inductively explored the field logics that are operating in the lemon law field, and whether stakeholders adhere to uniform or contested scripts and understandings as to the purpose and meaning of lemon laws and dispute resolution. My qualitative research also sought to reveal whether similar to prior studies, managerial or business conceptions of law influence the meaning of law in an organizational field (Marshall 2005; Edelman, Fuller, and Mara-Drita 2001; Edelman, Erlanger, and Lande 1993), or whether there are potentially conflicting meanings of law.

Unlike prior studies of consumer lemon laws that focused on legislative history or observations of arbitrator-training programs (Talesh 2009, 2012, 2014), this article uses different sources of data from a variety of locations to study the multifaceted dimensions through which stakeholders in a regulatory governance arrangement influence the meaning of public legal rights.⁴ Attending annual lemon law conferences and meetings allowed me to examine the social epicenter of collective life to see where lemon law field actors from across the United States meet, interact, and engage one another (DiMaggio and Powell 1983). A central focus of my research was on understanding how the meaning of consumer rights gets constituted, deployed, and contested by stakeholders participating in private or state-run lemon law dispute resolution processes.

PARTICIPANT OBSERVATION AT LEMON LAW CONFERENCES

I attended multiple International Association of Lemon Law Arbitration (IALLA) conferences. IALLA conferences are four-day annual conferences that bring together various actors engaged in lemon law dispute resolution to discuss important issues concerning lemon laws. I chose these conferences because these conferences were where the majority of actors involved in lemon law dispute resolution interact and engage one another. I attended conferences to assess the state of the field. These conferences allowed me to observe the field and to explore how various stakeholders think about lemon laws and dispute resolution, to document what logics or frames were dominating the discourse, and to identify the areas where field logics of various actors diverged or were in agreement.

IALLA conferences were typically held at a hotel. Approximately forty to sixty-five field actors attended these conferences. Conference panel sessions occurred daily and brought attendees together in one room that had tables and chairs for audience members and invited panelists.⁵ Panel sessions addressed various issues relating to lemon laws, including updates by various state regulators on changes in lemon laws and panels with participants discussing the meaning and interpretation of various legal terms and elements of lemon laws. During official break periods, lunches, and dinners, I observed who stakeholders interacted with and paid particular attention to whether business and state actors engaged one another.

IN-DEPTH AND ETHNOGRAPHIC INTERVIEWS

I conducted sixty-two in-depth and ethnographic interviews with nine categories of participants: (1) automobile manufacturers; (2) two separate third-party administrator organizations; (3) state regulators; (4) private arbitrators; (5) state administrators; (6) arbitrators; (7) private auditors; (8) automotive dealers; and (9) lawyers. I applied a combination of “purposive” (units, people, observations are selected with preestablished criteria), “niche” (targeting certain groups), and “snowball” (research subjects refer researcher to additional potential subjects) sampling (Lofland 1995). In particular, my observations at the annual lemon law conferences that I attended allowed me to identify the primary contact persons for various public and private organizations. Of note, eleven of the eighteen manufacturer representatives that I invited to participate in my study agreed to interviews.

Most interviews lasted about one hour, with some running as long as ninety minutes. Interviews occurred both in person and over the phone in five different states. All in-depth interviews were digitally recorded and transcribed with the consent of the research subjects. To maximize the candor of the interviews and conform to common procedures for the protection of human subjects, the interviews were confidential. The interviews are identified in my study by type of organization or professional affiliation.

I asked each actor to offer his or her perspective on the purpose of warranties and lemon laws. I also asked about their attitudes and experiences concerning various conventional and alternative dispute resolution forums. I asked all interviewees to characterize the objectives of lemon law dispute resolution structures and their role in such structures, as well as the goals of training programs. This line of questioning was especially useful when interviewing persons involved with training arbitrators or designing and implementing lemon law dispute resolution programs. Finally, I evaluated how, if at all, business and consumer logics influence stakeholders' construction of lemon law disputes.

By asking substantially similar questions to all stakeholders in the field, public and private, I was able to chart the field logics that were emanating from the field and identify the areas of consensus and contestation concerning the meaning of lemon laws and dispute resolution. However, consistent with standard in-depth interviewing protocol, I departed from my interview schedule when interview subjects wanted to elaborate a particular topic.

Following standard procedures and protocols of participant-observation fieldwork, data analysis was interrelated with coding (Lofland et al. 2005). However, in order to address the traditional critique that qualitative fieldwork does not sufficiently reveal the analytic coding process (Fielding 1993), I used qualitative coding software (ATLAS.ti) to code my interview and fieldnote data across a variety of categories. This allowed an additional layer of transparency, systematization, and formality to my coding process.

Finally, it is important to note that because the construct of a regulatory field or regulatory governance arrangement is empirically ambiguous, one could possibly approach these findings as suggesting that multiple, as opposed to one, lemon law fields exist because of the different institutional environments of private and state-run dispute resolution systems. I believe, however, that it makes more sense to conceptualize the lemon law field as one field because manufacturers are national companies and indicated in interviews that they approach lemon law disputes in the same manner across the United States regardless of whether they arbitrated a dispute in a private or state-run dispute resolution process. Except for any changes in the formal laws, private third-party administrators also indicated their training programs were the same across all fifty states. Manufacturers and their private third-party administrators, therefore, operate with field logics that appear uninfluenced by local and cultural norms or whether the dispute resolution process is private or state-run. Moreover, during interviews, stakeholders that participate in private dispute resolution structures articulated the same logics as field actors participating in state-run structures.

Participant observation and ethnographic interviews at lemon law conferences that I attended confirm that state regulators and consumer advocacy organizations across the country operated with the same consumer logic while manufacturers, private third-party administrators, and other private entities operated with a different business logic concerning the goals and

purposes of lemon laws and dispute resolution. Thus, the competing field logics operating in the lemon law field were reflected in public and private actors across the country regardless of whether they participated in a private or state-run dispute resolution process. The difference was *how* public and private actors operating different dispute resolution systems in the lemon law field filter the meaning of lemon laws and consumer rights through these competing logics.

HOW REGULATORY GOVERNANCE ACTORS FILTER THE MEANING OF CONSUMER RIGHTS THROUGH COMPETING BUSINESS AND CONSUMER LOGICS

This section demonstrates how regulatory governance actors mediate the meaning of consumer rights. My empirical data suggest, contrary to prior studies of organizational fields, that the lemon law field is simultaneously settled in some areas while contested in others. While field actors from across the United States recognize the inherent ambiguity in lemon laws and share a logic that favors alternative disputing forums over courts for resolving lemon law disputes, they contest the meaning and implementation of lemon laws and consumer rights in powerful ways. Thus, my findings suggest that there can be significant variation in the way that law is interpreted and implemented in regulatory governance settings by rule-intermediaries that are tasked with implementing lemon law arbitration programs. Lemon law conferences and in particular, panel sessions, allow public and private actors to spread and institutionalize these competing logics among other field actors (Bisom-Rapp 1996, 1999; cf. Edelman, Abraham, and Erlanger 1992).

CONSENSUS AND COHESION AMONG PUBLIC AND PRIVATE ACTORS IN THE LEMON LAW FIELD

My empirical data suggest that the lemon law field is organized around agreed-upon sets of rules and institutionalized logics that serve to unite stakeholders in the entire field. Figure 1 highlights the consensus in the logics operating among all field actors.

For example, all public and private actors that I interviewed repeatedly indicated that they prefer resolving legal disputes in alternative dispute resolution forums rather than courts. Also, consistent with new institutional studies of law and organizations in the employment context (Edelman 1990, 1992), all field actors also share a logic that consumer warranty laws are ambiguous with respect to their meaning and, in particular, how organizations are supposed to comply with these laws. Field actors repeatedly note that required legal elements for establishing a breach under the lemon law statutes, such as “reasonable number of attempts,” “substantial impairment

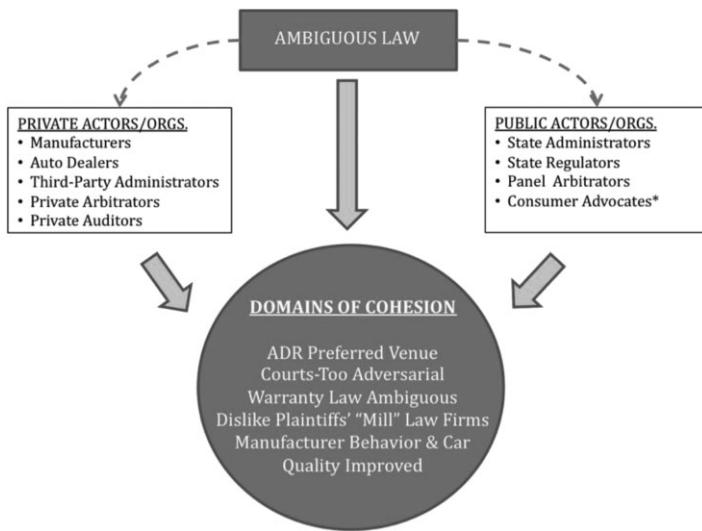


Figure 1. Settlement and Consensus in the Lemon Law Field.

*Figure 1 illustrates the consensus among public and private actors in the lemon law field. While technically private actors, my interviews reveal that consumer advocates adhere to a consumer logic similar to the public actors. Moreover, consumer advocates typically advocate on behalf of a public group or for the public good. For these reasons, I locate consumer advocates in the “public actor” category.

of use, value, or safety,” “repair attempt,” “days out of service,” and “willful,” are not clearly defined by statutes. Private third-party administrators and state regulators both indicate that consumer warranty statutes are subject to interpretation by field actors because there is “a lot of grey area” regarding what statutory provisions mean.

In addition to sharing a logic that law is ambiguous and alternative dispute resolution forums are the appropriate venue for lemon law claims, all field actors also share a logic that (1) manufacturers and dealers are more responsive to consumer concerns than before lemon laws were passed, (2) automobile quality and repairs have improved dramatically since lemon laws were passed, and (3) plaintiff “mill” law firms harm consumers and the viability of lemon law dispute resolution programs.⁶ The consensus among all stakeholders is important because it serves to maintain and reproduce solidarity and cohesion between public and private actors and unite the field around opposing courts, dubious plaintiffs’ lawyers, poor car quality, and manufacturer nonresponsiveness. Lemon law conferences, therefore, provide an opportunity to annually reconfirm field consensus. Most importantly, because lemon laws are considered ambiguous by all field actors, it provides an opportunity for field logics emanating from the stakeholders in the lemon law field to shape the meaning of lemon laws in different ways (Gilad 2014; cf. Stryker 1994, 2000; Edelman 1990, 1992).

CONTESTATION AND DISRUPTION AMONG PUBLIC AND PRIVATE ACTORS IN
THE LEMON LAW FIELD

Despite the consensus, my interviews and observations in the field reveal that there are competing logics operating in the lemon law field concerning the purposes and goals of lemon laws and dispute resolution operating in the lemon law field. As in the employment context (Edelman, Fuller, and Mara-Drita 2001; Edelman, Erlanger, and Lande 1993), managerial and business values shape the way “private actors,” that is, manufacturers, dealers, private arbitrators, private auditors, and third-party administrators, think about lemon laws and dispute resolution. Private actors mediate the purpose of lemon laws and the value of informal disputing forums through “business logics” of efficiency, cost-effectiveness, allowing for managerial discretion and control, providing an opportunity to solve problems informally, and retaining customers. Conversely, despite believing an informal, quick dispute resolution forum is good for consumers with cars that are lemons, “public actors,” that is, state administrators, regulators, policymakers, state panel arbitrators, and consumer advocates, anchor their discourse in a consumer logic that emphasizes consumer rights; public safety; consumer protection; equal access and resources for consumers; transparency; and, most importantly, following the law.

BUSINESS LOGICS IN THE LEMON LAW FIELD

The following examines how this organizational field maintains multiple logics concerning the purpose of lemon laws and goal of dispute resolution, one anchored around business values and the other around consumer values. Table 1 highlights the business logics operating in the lemon law field.

Table 1. Business Logics

Efficiency
Customer Retention
Positive Corporate Image
Discretion and Flexibility in Remedies and Control of Forum
Productivity (Solving Problems)
Alternative Dispute Resolution Trumps Substantive Law
Flexible Application of Formal Law

PRIVATE ACTORS VALUE INFORMAL DISPUTE RESOLUTION BECAUSE SUCH FORUMS ARE EFFICIENT, HELP RETAIN CUSTOMERS, AND IMPROVE THE CORPORATE IMAGE

Manufacturers that I interviewed frame the value of institutional dispute resolution forums in terms of “efficiency.” However, manufacturers define

efficiency in different ways. Some manufacturers indicate efficiency means having a process that avoids the high cost of using the court system: “obviously, it’s a huge cost savings for us. If we can get someone to go through [our third-party dispute resolution administrator], it’s very inexpensive for us. We don’t have to hire more paralegals to handle things that go to court, obviously” (Manufacturer DB6530, lines 340–50). Third-party administrators believe manufacturers also view these processes as efficient because they resolve disputes without unnecessary delay and high transaction costs:

THIRD-PARTY ADM.: [Manufacturers] also want to avoid the state programs. [...]n some states they have to be there in person. And today, a lot of the companies do their hearings by telephone. That’s kind of a strong incentive for them not to have to send someone or fly someone in to attend a hearing. (Third-party Adm., BC8040, lines 405–17)

In addition to viewing these processes as efficient, manufacturers indicate their goal when selling products is customer retention: “You know that’s always the goal, to retain the customer” (Manufacturer, DB6530, lines 948–49), “customer first” (Manufacturer, DB6520, lines 112–16). Unlike during the legislative process where customer satisfaction was paramount (Talesh 2014), here, private actors now emphasize customer retention. Manufacturers repeatedly indicate that retaining customers not only improves their profit and solidifies their market share of consumers, but helps their corporate image to the extent their dispute resolution programs are perceived as legitimate. Thus, the value of lemon laws and the accompanying dispute resolution system are viewed favorably to the extent they help retain customers and improve the corporate image. A manufacturer representative involved in designing manufacturer disputing forums explains how customer retention and exuding legitimacy to the public dominates how manufacturers structure their process:

MANUFACTURER: One of the premises right from the very beginning was that it was cheaper for them as well, and more cost-effective, to retain the customers they already had. . . . We were looking for a neutral device. What we wanted was a perception that said, these [dispute resolution judges] are all going to be qualified people. (Manufacturer, DB6510, lines 300–07, 381–99)

One third-party administrator specifically recruits manufacturers to use their dispute resolution system by marketing the program as capable of helping retain customers while simultaneously exuding legitimacy to state regulatory agencies and the public:

THIRD-PARTY ADM.: [Dispute resolution systems] save the customer. It keeps them in their product. And the cost to acquire a customer versus the cost of saving a customer is much, much less. And the other part is, if your process is certified by the state agency, that can be helpful to the consumers—Then, the consumer’s perspective is that the process really is going to be a fair process. (Third-party Adm., BC8010, lines 496–540)

Private actors believe, in part, the value of participating in dispute resolution programs is that they are efficient, retain customers, and improve their corporate image.

PRIVATE ACTORS VALUE MANAGERIAL DISCRETION AND CONTROL IN PRIVATE DISPUTE RESOLUTION SYSTEMS

Manufacturers and their affiliates also value lemon laws and organizational disputing forums because they provide manufacturers greater discretion and control of the design, remedies, and format for resolving conflicts (Gilad 2008; cf. Edelman, Erlanger, and Lande 1993). According to manufacturers, discretion and flexibility are paramount when resolving consumer disputes: “I think with anything to do with consumers you have to be very flexible, and that’s why I say, any [dispute resolution] mechanism that has more flexibility in the decision process is better” (Manufacturer, DB 6510, lines 1030–37).

Third-party administrators repeatedly note that manufacturers enjoy having some voice and discretion in the institutional design of the dispute resolution system:

THIRD-PARTY ADM.: [I]t is by law [the manufacturers’] process. So they can have some input as to what can go into it or what can’t as far as eligibility. For instance, vehicles that have been in accidents don’t go through this process. They have another firm to hear that. Manufacturers do have the right to pick and choose up front, not after the fact, they can say, vehicles with these types of warranty problems can come through the process, but we are not going to take bodily injury cases, we are not going to hear cases about sales disputes, those kinds of things. (Third-party Adm., BC8000, lines 245–59)

The goals of lemon laws and dispute resolution are, according to private actors, anchored around allowing sufficient discretion and flexibility in the institutional design, the processing of claims, and the resolution of disputes.

PRIVATE ACTORS VALUE PRIVATE DISPUTE RESOLUTION BECAUSE IT IS PRODUCTIVE (SOLVES PROBLEMS)

Consistent with the findings of prior new institutional studies in the employment context (Edelman, Erlanger, and Lande 1993), my interviews show that private actors transform the meaning of lemon laws away from rights and protection and toward solving problems and addressing the underlying problem:

THIRD-PARTY ADM.: Is your interest really in \$400 or is your interest in having a reliable means of transportation? People will turn it into a money thing when in fact their real interest is in being able to get to and from work. Their real interest is not breaking down in the middle of the highway with their kid in the back seat.

Those are the interests of the party, so if we can get at their underlying interests, we can take it away from being kind of a money thing.

I think that's the beauty of dispute resolution, is that you can have these outcomes that, quite frankly, could be anything, as long as they're not illegal. People can agree to anything. In our program customers, staff, manufacturers have all seen [solutions] that they wouldn't have thought about. (Third-party Adm., BC8050, lines 825–51)

Private actors across the country routinely emphasize that resolving problems and addressing the underlying interest in a nonadversarial environment are the primary purposes of having an alternative dispute resolution forum.

In sum, like prior new institutional studies (Marshall 2005; Edelman, Fuller, and Mara-Drita 2001; Edelman, Erlanger, and Lande 1993), this article shows that managerial and business values shape the way that private actors think about the purpose of lemon laws and goals of dispute resolution (cf. Gilad 2008). However, the following section shows how, unlike prior new institutional studies that examine law, a competing consumer logic influences how public actors conceptualize lemon laws and dispute resolution. In the lemon law context, public and private actors filter the meaning of law and, in particular, consumer rights, through conflicting logics.

CONSUMER LOGICS IN THE LEMON LAW FIELD

Public actors view the purpose of lemon laws and goals of informal dispute resolution through a consumer logic. As is the case when employees draw from formal law when faced with managerialized conceptions of law emanating from employers (Edelman, Erlanger, and Lande 1993; Edelman, Abraham, and Erlanger 1992), state administrators, regulators, and consumer advocates draw from liberal legal values and public policy considerations in the face of a competing business logic. Table 2 highlights the consumer logics operating in the lemon law field.

Table 2. Consumer Logics

Public Safety
Consumer Rights
Consumer Protection
Equal Access to Resources for Consumers
Uniform Process and Remedies
Substantive Law Trumps Alternative Dispute Resolution
Follow Formal Law

PUBLIC ACTORS BELIEVE THE LEMON LAW'S PURPOSES ARE PUBLIC SAFETY AND PROTECTING CONSUMER RIGHTS

Public actors indicate that the purpose of lemon laws is to protect consumers and keep the public safe: "the most important goal is to get unsafe cars off the

road,” “the main purpose, definitely, is to protect consumers,” and “the goal is to really get them to make better quality cars. And make them right from the beginning” (Con. Adv. SR2020, lines 191–92, 210–11, 228; State Reg., SR 2010, lines 126–35). In fact, public policy considerations that public actors maintain stem from the fact that many regulators, policymakers, and legislators involved with lemon law legislation and regulation previously worked for consumer-advocacy organizations: “As consumer organizations, we were able to get the ball rolling, and then those of us who move over to the legislative side were then able to actually do the work to craft the law” (Legislative Analyst/State Regulator, SR2050, lines 338–41).

Indeed, the state actors that I interviewed who previously worked for consumer-advocacy organizations admit that they import a consumer perspective into the lawmaking and regulatory process that focuses on public safety and consumer protection:

As opposed to customer retention and improved corporate image, state regulators and lemon law administrators frame the purpose of lemon laws in terms of “rights” and “enforceability.” Policymakers and regulators indicate that the purpose of lemon laws in part is to provide consumers with a right to enforce warranties: I decided that we should introduce a bill to make provisions of consumer warranties enforceable. (Legislative Analyst, SR2030, lines 78–100)

Thus, the consumer logic is oriented more around public safety, consumer rights, and enforceability.

PUBLIC ACTORS VALUE DISPUTE RESOLUTION SYSTEMS THAT PROVIDE UNIFORM PROCESSES AND REMEDIES

While private actors anchor the value of dispute resolution around having an efficient, flexible, and discretionary process, public actors emphasize uniformity and raise concerns over the discretion in manufacturer-sponsored dispute resolution programs:

CONSUMER ADV.: It would be uniform. One of the best things that having a state-run program does is that it doesn’t matter whose product it is. You don’t have one process for Ford owners, another one for BMW owners, GM owners. You know, what we have in California is very flawed in that way. Some manufacturers have no process at all . . . Some have a process that works this way or that way. (Cons. Adv., SR2020, lines 729–37)

Moreover, public actors emphasize efficiency much less. Whereas private actors view the process of dispute resolution through a lens of efficiency, according to public actors, concerns over efficiency and speed of the dispute resolution system should not trump due process protections or influence the fact-finding process. Public actors believe a process is efficient if it provides a consumer an accessible forum to obtain full relief: “Efficiency is a code word for it’s not going to cost the manufacturers anything. It’s the result that

counts” (Pl. Att./Con. Adv., PS3020, lines 524–26). In sum, my data suggest that, unlike prior new institutional studies that show how a managerial logic pervades an organizational field (Edelman, Fuller, and Mara-Drita 2001), a competing consumer logic anchored in public safety, consumer protection, rights, consumer voice, and uniformity operate among public actors in the lemon law field concerning the goals of lemon laws and value of informal dispute resolution.

CONTESTATION OF THE MEANING OF LEMON LAWS AND CONSUMER RIGHTS AMONG PUBLIC AND PRIVATE STAKEHOLDERS

The contestation in field logics in the lemon law field goes beyond the goals of lemon laws and purposes of dispute resolution. The contestation is most evident in the way public and private stakeholders mediate the meaning of lemon laws through competing business and consumer logics operating in the lemon law field. The following focuses on three specific areas of contestation over the meaning of lemon laws: (1) the supremacy of substantive provisions of law; (2) the meaning of warranty; and (3) what constitutes a fair adjudicatory process. In the lemon law context, rule-intermediaries filter law’s meaning through distinctive logics as opposed to mobilizing multiple logics (cf. McPherson and Sauder 2013). Figure 2 highlights how stakeholders in regulatory governance settings shape the meaning of consumer rights.

PUBLIC AND PRIVATE ACTORS CONTEST WHETHER SUBSTANTIVE PROVISIONS OF FORMAL LAW SHOULD BE APPLIED STRICTLY OR FLEXIBLY

Public and private actors across the country conflict over how much deference formal law should be afforded in these forums. While public actors believe formal law should govern at all times, private actors believe informality and discretion should trump formal law. Private actors repeatedly stress the importance of due process, in particular, notice of hearing, opportunity to be heard, and the right to representation. However, they do not believe that organizational dispute resolution forums need to be exclusively anchored in formal law. Private actors reflect a logic that de-emphasizes substantive law:

THIRD-PARTY ADM.: Case law that has set precedent, we don’t really make decisions based on precedent. Every case is assessed and weighed on its own merits. . . .

Case law starts to shove legal things into a process that really was intended not to be a legal process completely. I don’t see it as having a prominent place in the arbitration format. (Third-Party Adm., BC 5050, lines 685–90, 728–34)

Private actors believe rigid adherence to case law compromises the informality, flexibility, and discretion alternative dispute resolution systems provide:

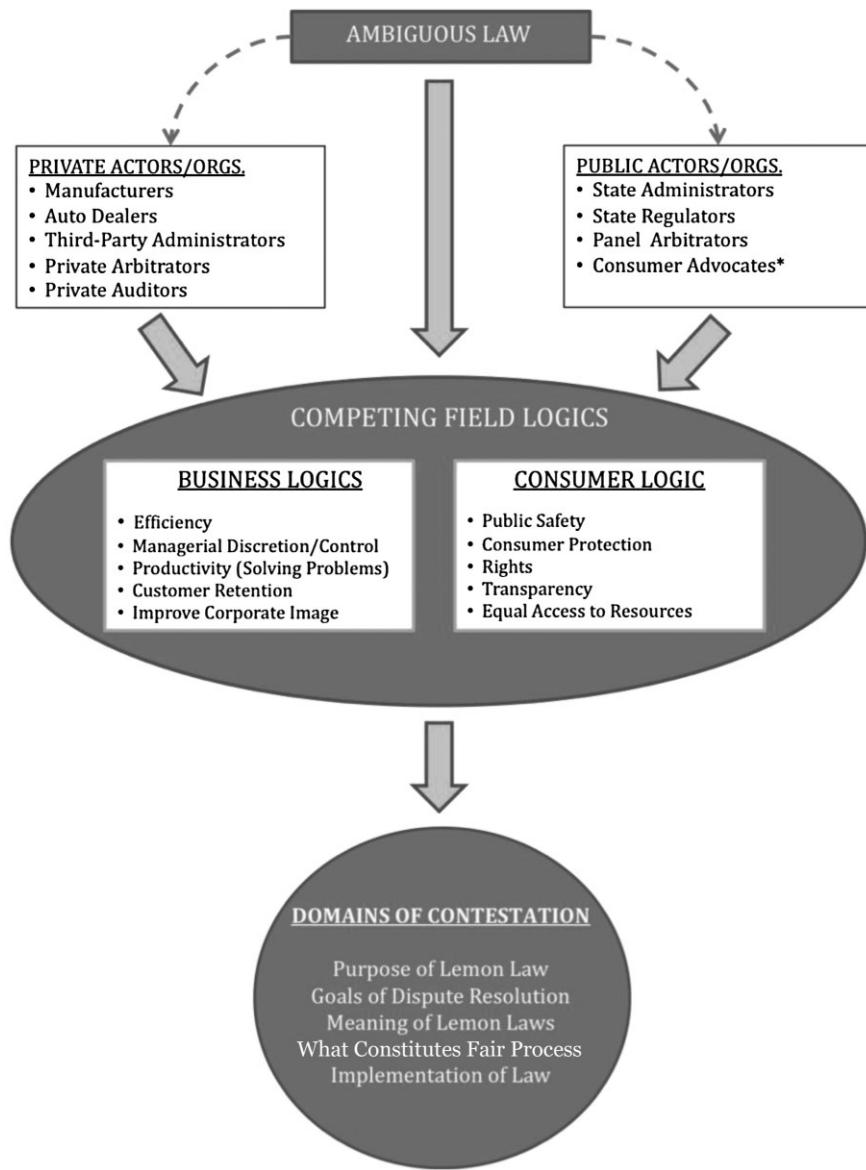


Figure 2. How Rule-Intermediaries Mediate the Meaning of Consumer Rights.

*Figure 2 illustrates the competing business and consumer logics operating among public and private actors in the lemon law field. Public and private actors conflict regarding the purposes and goals of lemon laws and dispute resolution and, in particular, the meaning of lemon laws.

INTERVIEWER: Other than in California, the [third-party administrator] doesn't put case law in their other manuals for the rest of the states. I'm curious what's the thought process behind leaving out appellate court cases?

THIRD-PARTY ADM.: Yeah, the fact that we include them in California has actually always been a source of agitation for me. I don't like that we include it. This is an alternative to litigation. It's an alternative format. And while arbitrators are asked to take into account standards of the law, this program has always been a fairness and equity program, always. And arbitrators are asked to do kind of what's in their gut after they hear all this. (Third-party Adm., BC8050, lines 675–83)

Thus, manufacturers, as well as third-party administrators, tasked with training and administering manufacturers' dispute resolution programs conceptualize the role of formal law as less important. By de-emphasizing case law and precedent, rule-intermediaries play a critical role in how law is interpreted and implemented.

On the other hand, public actors indicate that formal law should govern the outcome of the dispute, despite being in an informal setting. While public actors see the value of a forum that allows for quick disposition and adjudicatory relief, they do not conceptualize those values as trumping formal legal values, especially over an important issue like a car:

CONSUMER ADV.: You need [your car]. It's a necessity of life. And it's such a big financial investment. The stakes are really high. You have to have an expedited way to get it resolved. And so in that sense ADR was an opportunity for a speedy resolution. A good thing.

But one of the biggest flaws in our dispute resolution process is that to this day they don't have to apply the law in California. They're supposed to apply the law. Here they can ignore it. So you get these decisions, they're like all over the map. It's a law that depends on the kind of training and who the arbitrators are, and a lot of it's subject to abuse . . . and manipulation and discretion.

In Washington State they have highly trained arbitrators that are very familiar with recent case law. In Washington State you go and they're supposed to apply the law and they do. And the cases can be appealed. They rarely are. And when they have been appealed I believe they've always been upheld on appeal.

[If] you apply in Washington State for arbitration the results are a foregone conclusion. If you have a lemon they're going to be told to buy it back. So the handwriting's on the wall. (Con. Adv., SR2020, lines 290–327)

Thus, in the face of business and managerial conceptions of law, public actors draw from the liberal legal edict of strict adherence to formal law.

Similar to my in-depth interviews, the tensions between competing business and consumer field logics manifest themselves when field actors directly interact and engage one another at lemon law conferences. Panel sessions, testimonials, audience participation during panels, and various informal social activities where individuals conversed revealed state regulators rely

directly on statutes and case law for legal guidance while defense lawyers, manufacturers, and the third-party administrators view consumer law as open to interpretation and construction.

Whereas new institutional scholars who study the employment context have shown how organizational fields construct what constitutes compliance through professional management literature on employment discrimination and compliance (Edelman, Fuller, and Mara-Drita 2001), I find in the lemon law context that field actors *broaden* the meaning of legal terms and create discretionary space for varied and contested interpretations through conference panels. As law's meaning is filtered through competing logics, rule-intermediaries are in effect acting as rule-makers in action. Because field actors believe lemon laws are ambiguous, private actors during panels spend considerable time constructing the meaning of specific legal terms that carry powerful meaning in lemon laws. For example, during a conference panel, a third-party administrator indicated that what constitutes a “reasonable number of attempts” for these cases should be guided by general notions of what is reasonable as opposed to statutory standards specifically defining a reasonable number of attempts as thirty days out of service or four repair attempts. He indicated that common sense, rather than lawyers, should govern this standard. This administrator rhetorically asked, “why would we need a lawyer to figure out what a reasonable number of attempts are? There is no need for experts. The parties and the arbitrator need to think about what is ‘reasonable,’ what is a ‘reasonable number of attempts’ to fix the problem” (Conference FN II, IL9010, lines 116–34).

Another panel entitled “What constitutes a lemon law repair attempt?” perhaps best highlights the contestation in field logics concerning lemon laws and how panels serve as domains where field logics are communicated to other field actors. Whether a consumer’s visit to a manufacturer’s authorized repair facility constitutes a “repair attempt” is an important issue for a consumer seeking to establish that she gave a manufacturer a “reasonable number of attempts” as a matter of law. Although courts and legislatures have defined what constitutes a repair attempt as a matter of law, an entire conference panel was devoted to analyzing and constructing what repair attempt means.

In particular, the panel consisted of a state regulator, a defense lawyer, and an expert mechanic. The moderator presented a hypothetical: should each consumer’s visit to an authorized repair facility where the repair facility cannot duplicate the defect count as a separate repair attempt? The state regulator succinctly indicated that, in his state, a defect that cannot be duplicated by the manufacturer automatically counts as a repair attempt as a matter of law. In doing so, he cited the relevant case law supporting his position. For the next fifty-five minutes, the defense lawyer and the mechanic fielded questions on this issue without the state regulator interjecting a comment. In particular, the following ethnographic excerpt highlights how the defense lawyer dominated the discourse and noted that a myriad of

additional issues that should be considered when determining whether a repair facility that cannot duplicate an intermittent problem should count as a repair attempt against the manufacturer:

“One needs to look to the evidence itself, look for objective support, for recurring condition, is it in fact a defect or characteristic of the car that is not to the satisfaction of the customer.” [The defense lawyer] noted manufacturers should involve the dealer to see what effort there was to duplicate the problem. For example, one needs to look to see if the mechanic performed a test drive. Or, “have the customer come out and perform a test drive to show the problem.” He noted that “if the customer refuses to come out for a test drive, perhaps the manufacturer should not count it as a repair attempt should the customer ask for a buyback later.” . . . The defense lawyer indicated that manufacturers should get an expert when they cannot duplicate a problem and road test the car. He also noted that it is hard to defend such a case if the consumer can get an expert. . . . The defense lawyer noted that one of the keys is to “put the burden on the customer to duplicate the problem in these situations.” (Conference FN IV, IL9030, lines 36–125).

Thus, in educating the audience on the legal meaning of what constitutes a “repair attempt,” the defense lawyer built in additional discretion and reshaped legal meaning under a hypothetical that many manufacturers at the conference admitted they often experience. In doing so, the defense lawyer conveyed to other field actors in the audience from across the country an interpretation of law as flexible and discretionary. In this instance, field actors at conferences are not just reflecting the logic of fields but are shaping and producing the logic of fields (cf. Thornton and Ocasio 2008; Edelman 2007; Edelman, Fuller, and Mara-Drita 2001).

PUBLIC AND PRIVATE STAKEHOLDERS CONTEST WHAT A WARRANTY MEANS

Rule-intermediaries also view the purpose of warranties differently. Manufacturers and third-party administrators frame the purpose of a warranty narrowly, often as a “promise to fix” (Manufacturer DB 6530, Lines 200–53; Third-Party Adm., BC8000, lines 770–85), “if there is a defect in materials or workmanship, [manufacturers] will fix it” (Third-party Adm., BC 8000, lines 765–75), and “a warranty is whatever is represented to you by the manufacturer” (Manufacturer, lines DB 6520, lines 389–95). One manufacturer even noted that warranties were a marketing device in a competitive market: “we need to step back and remember that Warranty is a Marketing tool, not a requirement other than a moral requirement. It is an attempt at competitive advantage” (Manufacturer, DB 6515, (written statement)). Private actors took exception to consumers’ broad conceptualization of a warranty: “[Consumers] got a Wal-Mart mentality. Just bring it back and give me a new one. I will keep bringing it back until I get one I really like” (Third-Party Adm., BC8000, lines 770–85).

Conversely, public actors describe a warranty more broadly as a “guaranty” (Con. Adv., SR2020, lines 191–92, 210–11, 228; Legis. Analyst, SR 2040, lines 624–27), “a promise that the overall quality of the product will work” (Con. Adv., PS 3030, lines 88–164), “an assurance that this will work . . . If it doesn’t get fixed, you’re going to get another one or they’re going to return your money, and that’s really the way consumers look at it” (Legis. Analyst, SR 2040, lines 628–41).

Stakeholders indicate broad and narrow interpretations of the meaning of warranty often affect the way warranty disputes are resolved when consumers bring their cars into automotive dealerships for service. One lemon law lawyer describes how different conceptions of the meaning of warranty influence the consumer-manufacturer relationship:

[The consumer thinks] I bought a car with a new engine installed in it, and therefore, I should have my money back. Whereas the manufacturer at that point oftentimes believes that it’s a vehicle with a problem that we’ve agreed to fix and can fix, and therefore, you should be allowed to fix under the warranty. Those are the two perceptions that sometimes apply. (Lemon Law Attorney, PS 3030, lines 130–64)

Most importantly, the different conceptions of what a warranty means also impact consumers using these private and state-run arbitration systems. Under this coregulatory scheme, a consumer adjudicating her case in the private dispute resolution forum and a consumer adjudicating her case in the state-run dispute resolution program will likely encounter arbitrators that have been trained to think about what a warranty is in very different ways.

PUBLIC AND PRIVATE STAKEHOLDERS CONTEST WHAT CONSTITUTES A FAIR ADJUDICATORY PROCESS

Private actors believe that an adjudicatory process is fair if the parties are allowed to share their story in a comfortable environment and informal setting, that is, “[o]ur brand, our mission is to create a . . . forum for disputes to get resolved” (Third-party Adm., BC8020, lines 420–22). Procedural justice and the idea that the participants should feel like they were treated fairly dominate their conception of what constitutes a fair process (Tyler 1990). In particular, instructors from different third-party administrators articulate similar frames regarding what constitutes a fair process:

THIRD-PARTY ADM. (NDR): [L]et the consumer feel like they showed you the problem. That is what is important. (Third-party Adm., IR7030, NDR FN, lines 841–43)

THIRD-PARTY ADM. (BDR): One of the things we promise the consumer is, this is your chance to say what you want your own way . . . Tell me about the problem with your car. The only way we control that is through what you do as an arbitrator. You have to sit in that room and make that person feel comfort-

able sharing what they want to share. And make that person feel they were heard and they were understood and that you're going to take what they have to say into consideration. That's all you can do in any dispute resolution process that's an adversarial process. (Third-party Adm., BDR BC8030, lines 710–20)

While state administrators, state regulators, and consumer advocates also emphasize procedural justice, they note a fair adjudicatory process is one that is optional (not mandatory), transparent, “offers equal access and equal resources for manufacturers and consumers” (State Regulator, SR2000, lines 476–77), “user-friendly” (Con. Adv., SR2020, lines 726–27), and uniformly applies legal rules. State regulators, in particular, conceptualize a fair process as broader than one that is procedurally fair:

INTERVIEWER: What's a fair process?

STATE REG.: Well, one thing is to have equal access and equal resources for the manufacturers and the consumer. I know there is always going to be an advantage towards a manufacturer because that's their business . . . But allowing the consumer to go online, just like the manufacturer, to retrieve all the documentation that was submitted by either party. Whatever each party submits to the administrator they should both have equal access to the documents.

INTERVIEWER: Are you saying that doesn't happen all the time?

STATE REG.: It doesn't happen every time. (State Regulator, SR 2000, lines 473–80, 581–600)

In sum, the lemon law field operates in a simultaneous state of disruption and conflict while also maintaining degrees of uniformity and settlement. In this instance, field actors across the country share a logic that alternative structures are the preferred domain to resolve consumer disputes, and warranty law is ambiguous. However, because consumer protection law is ambiguous with respect to its meaning of compliance and particular legal terms, it leaves room for public and private stakeholders that act as rule-intermediaries in various private and state-run arbitration programs to segment the field and filter how they understand the purposes of lemon laws and goals of dispute resolution through competing business and consumer logics.

The contestation goes beyond the purpose of lemon laws and goals of dispute resolution. Here, interviews and participant observation at annual conferences reveal that these competing business and consumer logics in the lemon law field influence and shape the meaning of lemon laws and consumer rights. Because there is no consensus among stakeholders concerning the meaning of consumer law, there is considerable space for public and private field actors in these regulatory governance arrangements to each construct and implement an alternate form of consumer law embedded in different logics in various state and private-run dispute resolution systems operating across the country.

THEORETICAL, POLICY, AND METHODOLOGICAL IMPLICATIONS

The implications of this research for regulation and governance and more broadly, consumer protection policy, are significant. In particular, in a world where the boundaries between public and private actors are increasingly blurred via collaborative governing arrangements and the contracting out of rights enforcement to private organizations (Freeman and Minow 2009; Lobel 2004), regulation and governance and new institutional scholars need to gain more empirical leverage on how regulatory actors—state administrators, private organizations, and civil society actors—maintain private legal orders, construct the meaning of law, and influence the meaning of public legal rights. To the extent the “litigation game” occurs outside conventional courts and in institutional venues at the public-private divide with legislative support and varying degrees of regulatory oversight, empirical research should increase its focus on how legal rules are constructed and implemented by rule-intermediaries that operate different organizational dispute resolution structures. Contrary to prior research (cf. Levi-Faur and Starobin 2014), the boundaries between rule-takers, rule-makers, and rule-intermediaries are much more blurred in the lemon law field. Because legal provisions in the lemon law field are ambiguous, rule-intermediaries filter law’s meaning through competing logics and, in doing so, act as rule-makers.

This article suggests that consumer rights, consumer protection, and consumer *law*, mean different things to different stakeholders tasked with adjudicating rights. The gap between the law on the books and the law in action is filled with widely divergent competing business and consumer perspectives concerning consumer laws. This is especially important since legislatures have codified these various dispute resolution structures into law and made consumer rights essentially contingent on using disputing forums operating outside the court system. As prior research demonstrates, in terms of consumer outcomes in these hearings, consumers do far worse in private rather than state-run disputing structures (Talesh 2012). Thus, the institutionalized logics through which consumer rights are filtered in these divergent private- and state-disputing structures appear to have at least some impact on consumers’ ability to realize their rights. Building on my earlier empirical work in this area (Talesh 2009, 2012, 2014), this article allows us to cautiously draw the logical next inference: A consumer adjudicating her dispute in the private dispute resolution system (with an arbitrator trained by a third-party administrator) is likely participating in a process where business values influence how an arbitrator understands consumer law, while a consumer participating in the state-run dispute resolution system (with an arbitration panel of three consumer advocates, an automotive dealer, and mechanical expert) is likely participating in a process where business and consumer perspectives are both accounted for in the design of the dispute resolution system.

Thus, while prior research suggests institutional design of dispute resolution systems matter (Talesh 2012), the values and logics that

rule-intermediaries use to filter law's meaning may also impact a dispute resolution system's ability to effectuate procedural and substantive justice. Given the divergent perspectives on what consumer law means among field actors, policymakers going forward need to interrogate the structure and design of these dispute resolution systems and perhaps not afford these structures such wide-ranging deference.

I do not mean to suggest that business construction of what public legal rights mean is always harmful to individuals who encounter law in private or state dispute resolution structures. My empirical research suggests that manufacturers and their third-party administrators believe that these processes are better for consumers because they are more informal and efficient. Moreover, all stakeholders believe that these processes free the court system of these cases. However, manufacturers' ability to control consumer warranty rights through private dispute resolution procedures may reshape and potentially undermine formal legal rights. Thus, the privatization of legal roles and processes under soft regulatory oversight may allow private organizations to colonize the formal dispute resolution institutions consumers are likely to encounter and implement an altered version of the lemon law.

In terms of theoretical and methodological contributions, my qualitative research of the lemon law field builds on and enhances regulation and governance and new institutional studies of law and organizations in several ways. First, as opposed to predetermining the logics in the field, my multisite, mobile ethnographic approach provides a nuanced way to inductively learn what are the field logics in the lemon law field and explore how state actors, private organizations, and civil society actors, through the fields they operate within, influence what consumer rights mean in action. Second, my qualitative fieldwork extends governance studies by showing *how* legal rules in regulatory governance arrangements are mediated and shaped based on the values, norms, and beliefs of stakeholders. Whereas prior research focuses on the roles, interests, transparency, and accountability of rule-intermediaries (Levi-Faur and Starobin 2014), I show how rule-intermediaries often act as rule-makers by filtering the meaning of legal rules through their own values. Third, I also extend new institutional accounts of organizational fields by qualitatively demonstrating how fields can be simultaneously settled in some areas and contested in others with respect to issues of law and compliance. Fourth, I extend new institutional accounts of organizational fields by demonstrating how fields do not have one managerial logic or a common system of legal meaning (Marshall 2005; Edelman, Fuller, and Mara-Drita 2001; Edelman, Erlanger, and Lande 1993), but multiple systems of legal meaning. Finally, consistent with more recent studies (Thornton, Ocasio, and Lounsbury 2012; cf. Morrill 2008; Bartley 2007; Schneiberg and Bartley 2001; Clemens and Cook 1999), I illuminate how field actors are embedded in social and organizational contexts that are complex, multidimensional, and filled with competing logics. However, whereas prior research suggests that

field actors mobilize multiple logics in different situations (McPherson and Sauder 2013), here public and private actors filter law's meaning through two different logics with little overlap.

Moving forward, more research is needed to investigate the ways in which stakeholders participating in public-private partnerships shape the meaning of public legal rights. Regardless of whether one is a proponent or opponent of public-private partnerships and regulatory governance arrangements, such arrangements are here to stay. We can expect rule-intermediaries to play an increasing role in not just affecting, controlling, or monitoring relations between rule-makers and rule-takers, but influencing the way in which these actors understand law and compliance. Thus, consistent with Schneiberg and Bartley's plea (2008), we need to interrogate under what conditions governance systems mediate what law means and how do such interpretations impact society (cf. Gilad 2014). If this article suggests anything, it is that researchers may find interesting variation in how rule-intermediaries interpret and shape law in different regulatory governance settings.

NOTES

1. Regulation and governance scholars are increasingly looking at actors who behave as rule-intermediaries in between rule-makers and rule-takers (Levi-Faur and Starobin 2014). Regulatory intermediaries are regulatory actors "with the capacity to affect, control, and monitor relations between rule-makers and rule-takers via their interpretations of standards and their role in the increasingly institutionalized processes of monitoring, verification, testing, auditing, and certification" (Levi-Faur and Starobin 2014, 21).
2. Although traditionally regulatory governance arrangements focus on rule-making, monitoring, and enforcement by an administrative law regulator, more recently scholars are focusing on rule-intermediary involvement in dispute resolution arrangements in private and global governance regimes and international relations (Alter 2014; Marx 2014; Linder, Lukas, and Steinkellner 2013; Koremenos 2007). These systems often actively involve state, business, and civil society actors in various capacities in the design and implementation of the dispute resolution system. Thus, my study fits within this framework because these dispute resolution systems are under the technical arm of various state administrative agencies, each of whom has either delegated its dispute resolution program to private actors or have a state-run program with civil society actors actively participating in the process.
3. An organizational field refers to the community of organizations that coexist and interact in some area of institutional life and share common systems of meaning, values, and norms (Scott 2002; Scott et al. 2000; Scott and Meyer 1991; DiMaggio and Powell 1983, 1991).
4. My research design for studying the lemon law field, therefore, relied heavily on stakeholders (i.e., field actors). The statements of field actors, taken collectively, reflect the logics and institutionalized modes of thought operating in the lemon law field.
5. There was never more than one panel session going on at a time.
6. Because my research questions primarily concern how field actors understand the purposes, goals, and meaning of lemon laws and dispute resolution, this article

does not focus on consensus regarding manufacturers' increased responsiveness, improved car quality and repairs, and plaintiff mill firms. However, I include them as part of my findings in part to note the consensus in the field goes beyond merely that law is ambiguous and all actors prefer alternative dispute resolution to courts.

SHAUHIN TALESHPHOTO is Assistant Professor of Law, Sociology, and Criminology, Law & Society at the University of California, Irvine. He is an interdisciplinary scholar whose work spans law, sociology, and political science. His empirical studies address the intersection between organizations, risk, and legal regulations, focusing on private organizations' responses to and constructions of laws that are designed to regulate them. His broader research interests include the empirical study of law and organizations, dispute resolution, consumer protection, insurance, and the relationship between law and social inequality.

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