Abstract

This article analyzes best efforts provisions. In the first part, the author seeks to determine, from the common law perspective, how US Courts have defined and determined the scope of best efforts provisions. Subsequently, the article makes a comparative analysis with Colombia’s regime in order to determine if and how these provisions apply in Colombia. The main thesis of this article is that best efforts provisions are not common in Colombia due to the existence of an equivalent notion known as the theory of obligations of means and ends. Ever since Colombia incorporated through its courts the classification of obligations of means and ends, local lawyers have the preconceived notion that all obligations in general must be fulfilled deploying best efforts. This has made best efforts provisions superfluous. In sum, this article helps us understand from a comparative point of view the scope of best efforts provisions in the United States and Colombia.

Keywords

Best efforts, comparative law.