

# ALR 6th

## Alert

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### From the editor

Volumes 29 and 30 of A.L.R.6th both contain annotations dealing with different aspects of technology affecting the legal process. One annotation discusses the discoverability of metadata (29 A.L.R.6th 167) and another discusses the service of process via computer or fax (30 A.L.R.6th). Also contained in these volumes are annotations addressing state statutes providing for the revocation of driver's licenses for the failure to pay child support (30 A.L.R.6th), state regulations of payday loans (29 A.L.R.6th 461), long-term care insurance policies (30 A.L.R.6th), and the application of the "prisoner mailbox rule" by state courts (29 A.L.R.6th 237).

*Jennifer J. Ho, J.D.*

## Highlights

### TIME

#### Application of "Prisoner Mailbox Rule" by State Courts under State Statutory and Common Law.

The prisoner mailbox rule, as applied to appeals, is that a pro se prisoner is deemed to have filed his or her notice of appeal at the time it is delivered, properly addressed, to the proper prison authorities to be forwarded to the clerk of the court. The United States Supreme Court established what has become known as the prisoner mailbox rule when it held (*Houston v. Lack*, 487 U.S. 266, 108 S. Ct. 2379, 101 L. Ed. 2d 245, 11 Fed. R. Serv. 3d 849 (1988)), that a prisoner's delivery to prison authorities, for forwarding to a federal district court, of a notice of appeal in a habeas corpus case in which the prisoner is acting pro se, amounts to the filing of the notice for purposes of the Federal Rules of Appellate Procedure. Some states have adopted the prisoner mailbox rule articulated in *Houston* and applied it to a broad range of filings, others have not. This annotation collects and analyzes all of the cases which have construed and applied, under common law and state statutes, the prisoner mailbox rule. 29 A.L.R.6th 237



### INSURANCE

#### Rescission of Directors' and Officers' Liability Insurance Policy

In the wake of the savings and loan and accounting scandals of the late twentieth century, many carriers of directors' and officers' liability insurance sought to avoid the extraordinary cost of covering the extensive litigation that was filed against corporate officials who had misrepresented or concealed the financial health of their companies. Insurers' actions for rescission have largely been based on material misrepresentation or concealment of financial information or of actual or potential litigation against insured persons and entities that was required to be submitted with the application for insurance. The effect of rescission of a directors' and officers' liability policy is to void the policy in its entirety with respect to all those insured under the contract, in the absence of other contract language, such as severability provisions that may operate to protect innocent insureds who neither signed the application, nor had knowledge of the misrepresentations or concealment. This annotation collects and analyzes the cases in which courts have considered whether a party to a directors' and officers'

liability insurance policy was entitled to rescind the contract. 29 A.L.R.6th 189

## USURY

### State Regulation of Payday Loans

Payday loans are high-interest short-term loans for small amounts of money, generally a few hundred dollars. The due date on a payday loan is usually within two weeks, timed to coincide with the borrower's next payday, hence the term "payday" loan. Due to the high annual percentage rates lenders charge for payday loans, which are generally much higher than the interest rates allowed on other consumer loans, state legislatures are beginning to regulate the issuance of such loans. This

annotation collects and discusses all cases addressing issues arising from state regulation of payday loans. 29 A.L.R.6th 461

## EVIDENCE

### Discoverability of Metadata

The prevalence of metadata, which is information that is hidden within a digital copy of document, which is not rendered visible when the document is printed out into hardcopy, poses unique issues for discovery of electronically stored information. This annotation collects and summarizes those cases in which courts have determined the discoverability of metadata. 29 A.L.R.6th 167

# Coming Soon

Listed below are a few of the topics scheduled to be published in 30 A.L.R.6th in January 2008. Some of the annotations listed may be rescheduled.



emotional distress, as this annotation illustrates. 30 A.L.R.6th

## AUTOMOBILES

### State Statutes Providing for Revocation of Driver's License for Failure to Pay Child Support

#### Failure to Pay Child Support

In 1996, Congress enacted the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), 42 U.S.C.A. §1305, which imposed greater federal oversight over the states' participation in the Child Support Enforcement Act (CSEA), 42 U.S.C.A. §651. While states are not required to participate in the CSEA, in order for a state to receive, inter alia, federal money to assist in collecting child support under PRWORA, the state must operate a child support enforcement program that meets federal requirements. A number of courts have analyzed state statutes providing for the revocation or suspension of an individual's driver's license for failure to pay child support. This annotation collects and discusses the cases which have considered the validity, construction, and application of state statutes providing for the revocation or suspension of an individual's driver's license for failure to pay child support. 30 A.L.R.6th

## CONSTITUTIONAL LAW

### Prayers Offered at Legislative Sessions

The practice of having prayers at sessions of deliberative public bodies has been held, generally, not to violate the Establishment Clause of the First Amendment, although the content of particular prayers and the policy governing the practice of legislative prayer or the selection of clergy to deliver such prayer has been challenged on constitutional grounds. This annotation collects and summarizes those cases in which courts have determined the constitutionality of legislative prayer practices. 30 A.L.R.6th

## TELECOMMUNICATIONS

### Infliction of Emotional Distress Derived from Use of Internet and Electronic Communications

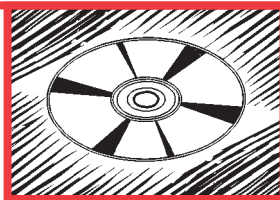
With merely a few taps on a keyboard or clicks of a mouse, anyone connected to the Internet can send out electronic messages or post information to websites that can instantly be read by countless numbers of individuals. Unfortunately, this improvement in the speed and quantity of communications has its downside; embarrassing or defamatory messages are disseminated just as widely and as quickly as innocuous information or mild chit-chat. A variety of tort remedies have been utilized by aggrieved parties to redress injuries from such e-mails, posted messages, and the like, including the remedies of the intentional or negligent infliction of emotional distress. Courts have reached a wide variety of conclusions as to the imposition of tort liability for electronic communications based on theories of the infliction of

## SENTENCING AND PUNISHMENT

### State Statute Including "Sexually Motivated Offenses" Within Definition of Sex Offense for Purposes of Sentencing or Classification of Defendant as Sex Offender

A number of states have enacted statutes relating to the sentencing or classification of a defendant as a sex offender. Some of those statutes include "sexually motivated offenses" within the definition of a sex offense. This annotation collects and summarizes those cases in which courts have determined the validity, construction, and application of state statutes including "sexually motivated offenses" within the definition of a sex offense for purposes of sentencing or classification of a defendant as a sex offender. 30 A.L.R.6th

# Index



The following is a complete list, arranged alphabetically by topic, of annotations contained in the current volume 29 A.L.R.6th or scheduled for publication in 30 A.L.R.6th. Some of the annotations listed may be re-scheduled.

## ABANDONMENT OF PROPERTY OR RIGHT

Validity, Construction, and Application of State Statutes Implementing the Uniform Unclaimed Property Act or Its Predecessor—Modern Status. [29 A.L.R.6th 507](#)

## CONFRONTATION OF WITNESSES

Comment Note: Construction and Application of Supreme Court's Ruling in Crawford v. Washington, 541 U.S. 36, 124 S. Ct. 1354, 158 L. Ed. 2d 177, 63 Fed. R. Evid. Serv. 1077 (2004) with Respect to Confrontation Clause Challenges to Admissibility of Hearsay Statement by Declarant Whom Defendant Had No Opportunity to Cross-Examine. [30 A.L.R.6th](#)

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