

ALR 6th *Alert*

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From the **editor**

As we increasingly rely on the use of cellular phones, the question arises concerning what effect the emission of radio frequency radiation from cell phones have on our health. As complaints that cellular phones potentially causes injury to human cells when the phones are used without a headset are filed against cell phone manufacturers, liability insurers of the manufacturers question their obligation to defend the suits. Volume 32 of A.L.R.6th features an annotation analyzing what constitutes “bodily injury” in an insurance policy insuring a cellular telephone manufacturer or provider against liability for claims of “bodily injury.” Volumes 32 and 33 also offer annotations on a wide variety of topics, including the Application of Class-of-One-Theory of Equal Protection to Public Employment (32 A.L.R.6th 457); Matters Constituting Unauthorized Practice of Law in Bankruptcy Proceedings (32 A.L.R.6th 531); Liability of Property Owners to Persons Who Have Never Been on or Near Their Property for Exposure to Asbestos Carried Home on Household Member’s Clothing (33 A.L.R.6th); and Constitutionality of State Statutes and Local Ordinances Regulating Concealed Weapons (33 A.L.R.6th).

Jennifer J. Ho, J.D.

Highlights

CRIMINAL LAW

Custodial Interrogation of Adult Defendant Escorted To Police Station by Law Enforcement or Is at Police Station Involuntarily

The due process right of a person subjected to a custodial interrogation by law enforcement authorities to the presence of counsel during such interrogation was established by the United States Supreme Court in the landmark decision of *Miranda v. Arizona*, 384 U.S. 436, 86 S. Ct. 1602, 16 L. Ed. 2d 694, 10 A.L.R.3d 974 (1966). *Miranda* states that the Fifth Amendment privilege against self-incrimination is available outside of criminal court proceedings, and serves to protect persons in all settings in which their freedom of action is cur-



tailed from being compelled to incriminate themselves. *Miranda* warnings are due only when a suspect interrogated by the police is in custody. The issue arises as to what constitutes “custodial interrogation” by a police officer within the rule of *Miranda*, requiring that a suspect be informed of his

or her federal constitutional rights before the custodial interrogation occurs, when the purported interrogation occurs at a police station or sheriff’s office, and where the defendant has been escorted or accompanied by law enforcement personnel to the station or office, or is otherwise at the station or office involuntarily. This annotation collects and analyzes the cases in which the courts have addressed the issue as to what constitutes “custodial interrogation” by a police officer within the rule of *Miranda*, requiring that a suspect be informed

of his or her federal constitutional rights before the custodial interrogation occurs, when the purported interrogation takes place at a police station or sheriff's office, and where the adult defendant has been escorted or accompanied by law enforcement personnel to the station or office, or is otherwise at the station or office involuntarily. [32 A.L.R.6th 1](#)

CONSTITUTIONAL LAW

Class-of-One Theory of Equal Protection to Public Employment

The United States Supreme Court in *Village of Willowbrook v. Olech*, 528 U.S. 562, 120 S. Ct. 1073, 145 L. Ed. 2d 1060, 30 Env'tl. L. Rep. 20360 (2000), held that the Equal Protection Clause may support a cause of action on behalf of a "class of one" where the plaintiff did not allege membership in a more numerous class or group. This annotation collects and discusses the state and federal cases in which the courts considered the application of the Class-of-One Equal Protection Doctrine in the context of a suit by a public employee contesting an adverse action by his or her public employer. [32 A.L.R.6th 457](#)

INSURANCE

Applicability of Insurance Policies to Alleged Bodily Injury Arising from Use of Cellular Telephones

Cellular telephones have become ubiquitous in modern life. While they are undeniably convenient, some

unsettled questions may remain concerning the health effects of the radio frequency radiation, a form of electromagnetic energy, emitted by cell phones. A number of class actions on behalf of cell phone users have asserted that cell phone manufacturers, and other suppliers of cell phones, should have equipped the phones with headsets, so as to keep the phone (and its emitted radiation) away from the user's head. The suppliers' liability insurers have questioned whether they are obligated to defend the litigation. This annotation collects and analyzes all the federal and state cases construing or applying the term "bodily injury" in an insurance policy insuring a cellular telephone manufacturer or provider against liability for claims of "bodily injury." [32 A.L.R.6th 505](#)

CONTRACTS

Permissive or Mandatory Nature of Forum Selection Clauses

A "forum selection" provision in a contract designates a particular state or court as the jurisdiction in which the parties will litigate disputes arising out of the contract and their contractual relationship. Generally, mandatory forum selection clauses have contained words such as "exclusive" or "sole" or "only" that indicate that the contracting parties intended to make the jurisdiction exclusive. This annotation collects and summarizes those cases in which the courts have determined the permissive or mandatory nature of a forum selection clause under state law. [32 A.L.R.6th 419](#)

Coming Soon

Listed below are a few of the topics scheduled to be published in 33 A.L.R.6th in April 2008. Some of the annotations listed may be rescheduled.



addressing the constitutionality of state and local statutes regulating concealed weapons. [33 A.L.R.6th](#)

WEAPONS

State Concealed Weapons Statutes

In most jurisdictions, statutes prohibit and penalize the carrying of concealed weapons. The object of concealed weapon statutes is that of protecting the public by preventing an individual from having on hand a weapon of which the public is unaware, and which might be used by that individual in a fit of passion. Most of these statutes prohibit carrying concealed weapons in general while others prohibit carrying certain types of weapons concealed or prohibit certain people from carrying concealed weapons. Some statutes also provide for licenses or permits to carry concealed weapons. All of these statutes have been challenged on constitutional grounds, although most challenges have been unsuccessful. This annotation collects and discusses the cases

MENTAL HEALTH

State Statutes Imposing Criminal Penalties for Failure to Register as Required Under Sex Offender or Other Criminal Registration Statutes

Statutes or municipal ordinances sometimes require persons previously convicted of a crime to register with designated officials. It has been held unconstitutional to punish under such an ordinance a person whose default was completely innocent in that he or she was unaware of the requirement. Some states have enacted mandatory sex-offender registration laws requiring individuals convicted of sex offenses to register with local law-enforcement agencies upon release from confinement or upon moving. The purpose of a statute requiring registration of sex offenders is to protect the public from the danger and propensity for recidivism of convicted sex offenders, and to assure that persons convicted of the crimes enumerated therein shall be readily available for police surveillance at all times, because the legislature has deemed them likely to commit similar offenses in the future. The registration of a sex offender is a reasonable means for

achieving its purposes of protecting the public and is completely consistent with the exercise of the state's police power. It has been held that a sexual predator classification subjecting a convicted sex offender to registration and public notification requirements under the sexual predators act based solely on a qualifying conviction for an enumerated sex offense does not violate the separation of powers doctrine by allegedly wresting from the courts the discretion to determine whether the offender should be declared a sexual predator. The issue arises as to the validity, construction, and application of state statutes imposing criminal penalties for failure to register as required under sex offender or other criminal registration statutes. This annotation collects those cases in which the courts have analyzed the validity, construction, and application of state statutes imposing criminal penalties for failure to register as required under sex offender or other criminal registration statutes. **33 A.L.R.6th**

NEGLIGENCE

Liability for Asbestos Carried Home on Household Member's Clothing

The danger of asbestos inhalation to workers is well-established. However, because asbestos fibers are friable and may float in the air, it is possible that even those who do not come into direct physical contact with asbestos

products may suffer from asbestos poisoning. This annotation collects and summarizes those cases in which the courts have determined the liability of property owners to persons who have never been on or near their property for exposure to asbestos carried home on a household member's clothing. **33 A.L.R.6th**

WORKERS' COMPENSATION

Workers' Compensation—Nonathlete Students as Covered Employees

Workers' compensation coverage is designed to give a reasonable amount of financial protection to a worker in case of injuries, in exchange for forfeiting rights to sue under tort law. Workers' compensation provisions are limited to employees, workers, or similar formulations, as opposed to contractors or persons sharing in the profits of an enterprise. In this connection, a question has arisen as to what is the case where a student, as part of field work, work-study programs, internship, or the like, works for the school or a third party—is this "employment" or is this merely part of the student's education? The courts have reached differing conclusions as to whether certain activities by students rendered them "employees" or the like under workers' compensation act provisions, as this annotation illustrates. **33 A.L.R.6th**

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The following is a complete list, arranged alphabetically by topic, of annotations contained in the current volume **32 A.L.R.6th** or scheduled for publication in **33 A.L.R.6th**. Some of the annotations listed may be rescheduled.

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ARBITRATION AND AWARD

Construction and Application of State Mediation Privilege. **32 A.L.R.6th 285**

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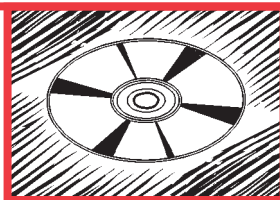
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