

# ALR 6th

## Alert

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### From the editor

While the decision in *Miranda v. Arizona* clearly states that a subject must be informed of his or her constitutional rights before a custodial interrogation, the specifics as to what is “custodial interrogation” continues to be a contested topic. In the upcoming volumes of ALR6th we examine how a police vehicle fits into the definition of “custodial interrogation. In volume 34, we look at circumstances where the defendant was out side, but in the immediate vicinity of the vehicle or if the defendant was inside a parked vehicle (34 A.L.R.6th 1). In volume 35, we look at circumstances where the vehicle is in motion or if it is unspecified as to whether or not the vehicle is in motion (35 A.L.R.6th). Also in volume 34, we look at tracing the amount and packing of money and/or drugs to determine whether currency, bank accounts, or cash equivalents are traceable to such drug trafficking so as to be subject to forfeiture or declaration as contraband under state law (34 A.L.R.6th 539). Volume 35 also discusses the application of Collective Knowledge Doctrine in state narcotics cases (35 A.L.R.6th).

*Michael T. Poccia, Editor and Jason B. Binimow, J.D.*

## Highlights

### CRIMINAL LAW

#### Custodial Interrogation-Stationary Vehicle

In *Miranda v. Arizona*, 384 U.S. 436, 86 S. Ct. 1602, 16 L. Ed. 2d 694, 10 A.L.R.3d 974 (1966), the United States Supreme Court held 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 curtailed 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 takes place with the defendant outside, but in the immediate vicinity of the law enforcement vehicle,



or where the defendant is seated in a parked or stationary law enforcement vehicle. 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*, when the purported interrogation takes place with the defendant outside, but in the immediate vicinity of the law enforcement vehicle, or where the defendant is seated in a parked or stationary law enforcement vehicle. 34 A.L.R.6th 1

### FINES, PENALTIES, AND FORFEITURES

#### Amount and Packaging of Money and Drugs

Forfeiture of assets used by drug dealers in connection with drug trafficking, or acquired as a result of drug trafficking, has become a tool frequently used by states to combat

the illegal drug business. When the asset at issue is not something inherently illegal to possess, but something that is lawful in itself and becomes subject to forfeiture only because it is traceable to illegal drug trafficking, it is necessary for the state entity seeking forfeiture to offer evidence to connect the asset sought to be forfeited to the illegal drug business. When the asset in question is currency, a bank account, or a cash equivalent, and no direct evidence of the connection of the specific asset to a drug transaction is available, states often seek to rely, at least in part, on evidence that the amount or packaging of the money, or the amount or packaging of drugs in connection with which the money is discovered, conform to a pattern frequently used by drug dealers. This annotation collects and analyzes the state cases in which courts have expressly considered the amount or packaging of money, or the amount or packaging of drugs, found in connection with alleged drug trafficking in determining whether currency, bank accounts, or cash equivalents are traceable to such drug trafficking so as to be subject to forfeiture, or declaration as contraband, under state law. [34 A.L.R.6th 539](#)

## JUDGMENTS

### Refusal of Offer of Judgment—State Litigation

Many states have an offer of judgment rule or statute patterned after the federal offer of judgment rule, Fed. R. Civ. P. 68. Like the federal rule, most states' offer of judgment

rules and statutes provide for an award of "costs." While a few states' offer of judgment rules and statutes define the costs that are recoverable, most do not. Thus, the courts have had to determine what costs are recoverable under offer of judgment rules and statutes. Some courts have looked to an underlying statute to provide the basis for determining recoverable costs. Other courts have looked to underlying cost-taxation rules. Still other courts have determined that any reasonable litigation cost is recoverable despite the absence of an underlying statute or rule providing the basis for the recovery of the cost. This annotation collects and analyzes state cases that examine the basis of recoverable costs under state offer of judgment rules and those that determine whether particular costs are recoverable. [34 A.L.R.6th 431](#)

## UNFAIR LABOR PRACTICES

### Increase, Promise of Increase, or Withholding of Increase

Courts have determined whether an increase, or promise of an increase or withholding of an increase, of wages was an unfair labor practice under state labor relations acts. This annotation collects and discusses those cases which have considered whether an increase, or promise of an increase or withholding of an increase, of wages was an unfair labor practice under state labor relations acts. [34 A.L.R.6th 327](#)

# Coming Soon

Listed below are a few of the topics scheduled to be published in [35 A.L.R.6th](#) in May 2008. Some of the annotations listed may be rescheduled.



it is unspecified in the opinion as to whether the law enforcement vehicle is moving or stationary. [35 A.L.R.6th](#)

## CRIMINAL LAW

### Custodial Interrogation-Moving Vehicle

The United States Supreme Court, in *Miranda v. Arizona*, 384 U.S. 436, 86 S. Ct. 1602, 16 L. Ed. 2d 694, 10 A.L.R.3d 974 (1966), held 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 curtailed 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 takes place with the defendant in a moving law enforcement vehicle, or where it is unspecified in the opinion as to whether the law enforcement vehicle is moving or stationary. 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*, when the purported interrogation takes place with the defendant in a moving law enforcement vehicle, or where

## DRUGS AND NARCOTICS

### Collective Knowledge Doctrine—Marijuana Cases

Under the collective knowledge doctrine, also termed the fellow officer rule, information or observations of several officers can be combined to establish the probable cause needed for a warrantless search or seizure, under the Fourth Amendment, or to obtain a search or arrest warrant. Cases have explored the requirements for application of this rule, such as whether testimony by the officer whose underlying observations arguably establishes probable cause is necessary, or whether the arresting officer must make personal observations in addition to fellow officers' collective knowledge. Defendants have mounted numerous challenges to application of the collective knowledge rule, such as contending that it violates a defendant's right to confront witnesses, that it is trumped by the exclusionary rule to the Fourth Amendment, that testimony introduced pursuant to the rules constitutes inadmissible hearsay, or that it allows the introduction of unreliable information. The courts have applied this doctrine where partners, teams of officers, superior and subordinate officers, central dispatches, police computer systems, police from other jurisdictions or agencies, security guards and police officers, and officers who previously had contact with the defendant have shared information leading to the establishment of probable cause. This annotation shall collect and analyze the state court cases applying the collective knowledge doctrine, also termed the fellow officer rule, in situations

where the defendants were arrested for or convicted of marijuana-related crimes. **35 A.L.R.6th**

## **BIRTH CONTROL**

### **Group Coverage for Prescription Contraceptive**

A number of states have passed laws of various types requiring mandatory coverage of prescription contraceptives. This annotation collects and discusses those cases in which courts have determined the constitutionality of state acts requiring employers that provide group insurance coverage for prescriptions to include prescription contraceptives in that coverage. **35 A.L.R.6th**

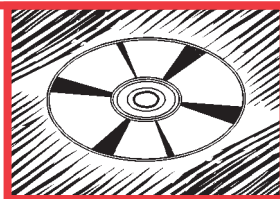
## **ANTITRUST**

### **Right of Retail Buyer of Price-Fixed Product to Sue Manufacturer on State Antitrust Claim**

The United States Supreme Court in *Illinois Brick Co. v. Illinois*, 431 U.S. 720, 97 S. Ct. 2061, 52 L. Ed. 2d 707 (1977), adopted an “indirect purchaser rule” pursuant to which only direct purchasers of a manufacturer’s product are entitled to sue for treble damages under § 4 of the Clayton Act (15 U.S.C.A. § 15) for violations of federal antitrust laws. Subsequently, the Supreme Court in *California v. ARC America Corp.*, 490 U.S. 93, 109 S. Ct. 1661, 104 L. Ed. 2d 86 (1989), ruled that the *Illinois Brick* decision did not preempt state antitrust laws. A number of states have enacted statutes expressly authorizing indirect purchasers to seek damages for violations of state antitrust laws. In states which have not enacted such statutes, the right of a retail buyer to sue a manufacturer of an allegedly price-fixed product under state antitrust law is not clear. Cases discussing the right of a retail buyer of allegedly price-fixed products to sue the manufacturer under state antitrust laws are collected in this annotation. **35 A.L.R.6th**

# **Index**

The following is a complete list, arranged alphabetically by topic, of annotations contained in the current volume **34 A.L.R.6th** or scheduled for publication in **35 A.L.R.6th**. Some of the annotations listed may be rescheduled.



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