

ALR 6th

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From the editor

Whistleblower protection statutes protect employees from retaliation for reporting unlawfulness, health or safety concerns, or other public policy infractions within the workplace. However, the various types of wrongful behavior reported and whether they fall within the type of reported behavior the laws were designed to protect has been called into question and adjudicated by the courts. An annotation in volume 36 analyzes the nature of the activity reported by private-sector employees ([36 A.L.R.6th 203](#)), while an annotation in the upcoming [37 A.L.R.6th](#) will analyze the nature of the activity reported by public or state employees. Volume 36 also contains the 2007-2008 A.L.R. United States Supreme Court Review, [36 A.L.R.6th 681](#), which notes the issues that were addressed, via opinions, or grants or denials of certiorari, by the United States Supreme Court in its 2007-2008 term, that are within the scope of and further analyzed by American Law Reports annotations.

Douglas S. Jurenko, Editor, and Jennifer J. Ho, J.D.

Highlights

AUTOMOBILES AND HIGHWAY TRAFFIC

Cell Phone Use While Driving

There are a great many potential distractions to a driver, both inside and outside a car, that cause a loss of concentration and thus contribute to automobile accidents. These include unruly passengers, interesting messages on billboards, flying insects in the car, and the like. Increasingly heading this list is the ever-expanding use of cell phones by drivers, since almost any conversation, even while using the supposedly safe "hands-free" cell phone devices, can easily cause the driver to stop paying attention to the road and drive erratically. Who among us has not noticed a driver weaving in and out of the lane, or speeding up or slowing down for no reason, and wrongly concluded that the driver was intoxicated, when in fact he or she was merely in the midst of an



absorbing cell phone conversation? However, it is not always clear whether such cell phone usage should lead to civil liability in case of an accident. The courts, often considering whether the cell phone usage caused the accident, or whether the employer was responsible for a driver-

employee's cell phone use, have reached a variety of conclusions as to such liability. [36 A.L.R.6th 443](#)

Also note Causes of Action Arising Out of Cell Phone Use While Operating a Motor Vehicle, [35 Causes of Action 2d 151](#).

LABOR AND EMPLOYMENT

Inevitable Disclosure Doctrine

In the course of their employment, some employees are exposed to confidential information such as pricing

structures, marketing and new product plans, customer information, and manufacturing processes. When these employees leave their jobs and go to work for a competitor, this information can be very useful and the former employer will often want to prevent the employee from working in a capacity in which he or she might be able to use this information. Under the “inevitable disclosure” doctrine, the former employer argues that in order to perform the new job effectively, the employee cannot help but draw upon this information learned in the previous employment. While this doctrine is not really new, it has gained popularity since it was used in *PepsiCo, Inc. v. Redmond*, 54 F.3d 1262, 10 I.E.R. Cas. (BNA) 1089, 35 U.S.P.Q.2d (BNA) 1010 (7th Cir. 1995), to grant injunctive relief under the Illinois version of the Uniform Trade Secrets Act. This annotation collects and analyzes all the cases in which the court addressed the use of the inevitable disclosure doctrine to prevent a former employer from working for a competitor. **36 A.L.R.6th 537**

MORTGAGES

Survival of Creditor’s Rights

Where a promissory note is secured by a real property mortgage or deed of trust and the creditor attempts to enforce his or her lienholder rights after collection of the note is barred by the statute of limitations, the debtor frequently asserts that the bar of the note necessarily means that enforcement of the mortgage or deed of trust

is likewise barred. This annotation collects and analyzes all the cases discussing the survival or extinguishment of a creditor’s lienholder rights under a mortgage or deed of trust after an action to collect the underlying note has been barred by the statute of limitations. **36 A.L.R.6th 387**

WHISTLEBLOWERS

Whistleblowing—Nature of Activity Reported by Private Sector Employee

Several states have enacted whistleblower protection statutes that shield employees from retaliation for reporting unlawfulness, health or safety concerns, or other public policy infractions. Since legislators have enacted such legislation in large part to encourage employees to “blow the whistle” on conduct that endangers the safety and welfare of the public, the question arises whether the particular activity reported was the sort that fell within the scope of the law. The courts have reached various conclusions when asked to determine what nature of activity should be the subject of a report or disclosure by a whistleblower protected by state law. This annotation collects and analyzes the cases in which the courts have discussed whether the particular action that was “reported” or “disclosed” by a private-sector employee purporting to be a whistleblower protected by state statute was the type of wrongful behavior the legislature intended to be reported. **36 A.L.R.6th 203**

Coming Soon

Listed below are a few of the topics scheduled to be published in **37 A.L.R.6th** in September 2008. Some of the annotations listed may be rescheduled.



rights agreements. The laws may be asserted against any person or entity who has acquired or increased proportionate control of a company, not necessarily a tender offeror or takeover bidder. This annotation shall collect and analyze the cases in which the courts have interpreted and applied state anti-takeover statutes. **37 A.L.R.6th**

CORPORATIONS

Antitakeover Statutes

In response to a trend of hostile and speculative takeovers, state legislatures began enacting anti-takeover laws to protect shareholders and employees of resident corporations. After the first generation of laws were found to be unconstitutional, second and third generation statutes followed. Of the four main types of anti-takeover laws, control share acquisition and business combination laws create restrictions based on increases in the voting power of shareholders or groups of shareholders, disclosure laws required takeover bidders to reveal information to resident shareholders, while other laws allow corporations to protect themselves by allowing them to devise their own anti-takeover measures, such as “poison pills” that might be found in shareholder

REGISTRATION

Juvenile Offenders—Constitutional Issues

Statutory schemes sometimes require persons previously convicted of a crime, such as those involving sexual offenses, drugs, or gang activity, to register with designated officials. Some states, for example, 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. Various constitutional issues may arise when such criminal registration statutes or ordinances are applied to juvenile offenders. This annotation will collect and discuss those cases that have considered constitutional issues relating to the application, as to juvenile offenders, of state statutes or ordinances requiring persons previously convicted of a crime to register with authorities. **37 A.L.R.6th**

WHISTLEBLOWERS

Whistleblowing—Nature of Activity Reported by Public or State Employee

Several states have enacted whistleblower protection statutes that shield employees from retaliation for reporting unlawfulness, health or safety concerns, or other public policy infractions. Since legislators have enacted such legislation in large part to encourage employees to “blow the whistle” on conduct that endangers the safety and welfare of the public, the question arises whether the particular activity reported was the sort that fell within the scope of the law. This annotation will collect and analyze the cases in which the courts have discussed whether the particular action that was “reported” or “disclosed” by a public or state employee purporting to be a whistleblower protected by state statute was the type of wrongful behavior the legislature intended to be reported. **37 A.L.R.6th**

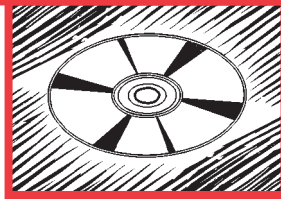
PRISONS AND PRISONERS

Uniform Mandatory Disposition of Detainers Act

The Uniform Mandatory Disposition of Detainers Act (UMDDA), promulgated in 1958 and adopted in several states, provides that an inmate of a penal or correctional institution of the enacting state may request final disposition of any untried charges pending against him in that state by making a written request addressed to the court in which the charges are pending and to the prosecuting attorney assigned to the case. If, after such a request, the prisoner is not brought to trial within the time period set in the Act, the charges must be dismissed with prejudice. The statute, by its terms, governs only intrastate detainers. The Act reflects a general policy in favor of speedy disposition of untried charges upon a proper request made by a prisoner, so that such pending charges will not disrupt or preclude the prisoner’s participation in rehabilitation programs. This annotation will collect and discuss all of the cases in which the courts have construed and applied the Uniform Mandatory Disposition of Detainers Act. **37 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 **36 A.L.R.6th** or scheduled for publication in **37 A.L.R.6th**. Some of the annotations listed may be rescheduled.



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