

ALR 6th

Alert

Route to:

- _____
- _____
- _____
- _____
- _____
- _____

From the editor

In order to bolster the credibility of a sexual offense victim, the courts allow, through the “fresh complaint” rule, the alleged victim’s disclosure of said offense into evidence. A.L.R. has two annotations discussing the various aspects of this rule. [39 A.L.R.6th 257](#) examines the procedural restrictions courts have imposed as to how the fresh complaint rule is applied, while an annotation in the upcoming [40 A.L.R.6th](#) will analyze the restrictions placed on what details of the fresh complaint are admissible as evidence. Other topics of note include validity of retrocessional insurance agreements in [39 A.L.R.6th 391](#) and actions by or against individuals or groups protesting or picketing at funerals in [40 A.L.R.6th](#).

Douglas S. Jurenko, Editor, and Brenda M. Williamson, J.D.

Highlights

CRIMINAL LAW

Registration—Juvenile Offenders

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. The courts have been called on to construe and analyze, and to rule on the validity of, state statutes or ordinances requiring juvenile offenders previously convicted of a crime to register with authorities. This annotation discusses those cases that have considered issues relating to a stay, exception, exemption, or waiver relieving a juvenile offender from a registration requirement, or the expungement of juvenile records relating to registration and the removal of a juvenile from a state criminal registry, pursuant to the application to a juvenile offender of a state statute or ordinance requiring persons previously convicted of



a crime to register with authorities. [39 A.L.R.6th 577](#)

ELECTION OF REMEDIES

Claims Sounding in Contract and Tort

Election of remedies or rights or theories of recovery is a doctrine that requires a plaintiff to embrace only one of two or more inconsistent remedies, rights, or theories of recovery. As a general rule, an election of remedies requirement is not favored, and in states where it exists or is adopted, the courts apply it in a strict and limited way. Generally, a party having an action for damages in contract and tort may elect which remedy he will pursue, and the allegations of his petition taken as a whole will determine the character of the plaintiff’s action. This annotation collects and discusses those cases in which the courts have determined the application of the doctrine of election of remedies where one claim sounds in tort and the other claim sounds in contract. [39 A.L.R.6th 155](#)

INSURANCE AND INSURANCE COMPANIES

Retrocessional Reinsurance Agreements

A retrocessional reinsurance agreement is an agreement to provide reinsurance to a reinsurer. Generally speaking, reinsurance is an arrangement under which an insurance company buys insurance from another company to assume some of its risks. The insurer shifts or “cedes” some of the risk and a share of the associated premiums to the reinsurer. When the reinsurer cedes some of the same risk to another insurance company, this risk is said to be “retroceded,” the ceding insurance company is called a “retrocedent,” and the companies assuming the risk are called “retrocessionaires.” This annotation collects and discusses state and federal cases in which the courts considered the validity and effect of retrocessional reinsurance agreements. [39 A.L.R.6th 391](#)

RAPE

Fresh Complaint Doctrine

An alleged victim’s disclosure that a sexual offense has occurred has been accorded special evidentiary treatment. In many jurisdictions, the “fresh complaint” rule allows the fact that such a disclosure was made, or even the content of the disclosure, to be admissible during the prosecution’s case in chief for the limited purpose of negating the inference the jury could draw from the absence of such disclosure. As the doctrine may permit the admission of extra-judicial statements commonly excluded as hearsay, the courts have developed procedural restrictions governing its application in order to lessen the likelihood of unfair prejudice to accused sexual offenders. For example, some jurisdictions limit the testimony of fresh complaint witnesses to the first person to whom the victim disclosed the assault. This annotation collects and analyzes cases dealing with the application of the fresh complaint doctrine and the various restrictions imposed on such application. [39 A.L.R.6th 257](#)

Coming Soon

Listed below are a few of the topics scheduled to be published in 40 A.L.R.6th in December 2008. Some of the annotations listed may be rescheduled.



CRIMINAL LAW

Fresh Complaint Doctrine

An alleged victim’s disclosure that a sexual offense has occurred has been accorded special evidentiary treatment. In many jurisdictions, the “fresh complaint” rule allows the fact that such a disclosure was made, or even the content of the disclosure, to be admissible during the prosecution’s case in chief for the limited purpose of negating the inference the jury could draw from the absence of such disclosure. As the doctrine may permit the admission of extra-judicial statements commonly excluded as hearsay, the courts have developed procedural restrictions governing its application in order to lessen the likelihood of unfair prejudice to accused sexual offenders. The majority of jurisdictions limit fresh complaint testimony to include only those limited details of the victim’s disclosure necessary to associate the complaint with the sexual offense charged. However, other courts have adhered to the rule that fresh complaint witnesses may testify to the victim’s statements of the details of the alleged assault. This annotation will collect and analyze cases dealing with the fresh complaint rule’s various restrictions imposed upon the admissibility of the contents of a victim’s complaint. [40 A.L.R.6th](#)

FUNERALS AND FUNERAL DIRECTORS

Protesting or Picketing at Funerals

The activities of individuals or groups protesting or picketing at funerals has generated legislation restricting when and where picketers may demonstrate at funerals, as well as a diversity of actions brought by or against funeral picketers. Constitutional challenges have also been made to statutes restricting funeral picketing, as well as requests for restraining orders and injunctive relief. This annotation will collect all cases that have ruled on state statutory and common law actions brought by or against individuals or groups protesting or picketing at funerals. [40 A.L.R.6th](#)

ELECTIONS AND VOTING

Payment—Nominating Petitions

State statutory requirements that a prospective candidate for political office collect a certain amount of signatures on nominating petitions before the candidate’s name can be placed on a ballot make sense because collecting a large number of signatures shows that the candidacy is a serious one. However, it isn’t always easy to get a large group of volunteers to cover the entire relevant area in order to collect the requisite amount of signatures, so candidates have often turned to professional signature collectors. The same difficulties in gathering the requisite numbers of signatures are also encountered where the signatures are being gathered for the placement on the ballot of an initiative or referendum. On the other hand, because of fears of fraud and the like, numerous states have enacted provisions limiting all or some types of payments to

signature collectors, such as prohibitions on per-signature payments. Such restrictions have been challenged on a number of grounds. The courts have reached a variety of conclusions as to the validity, construction, and application of such state statutory limitations on payments to petition signature-gatherers, as this annotation will illustrate. **40 A.L.R.6th**

COMPUTERS

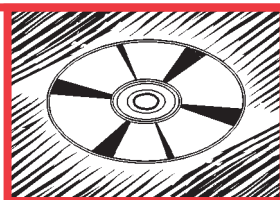
Conversion of Electronic Data

The tort of conversion involves the unauthorized and wrongful exercise of control over another's personal

property. Its historical origins were in providing a remedy for someone who lost goods against the finder of those goods who refused to return them. It therefore was traditionally limited to tangible personal property. Though all jurisdictions have gone beyond the most rigid limitations to recognize the conversion of some intangible property rights, only a few states have fully recognized the conversion of electronic data such as domain names and computer-stored data. This annotation will collect the federal and state cases discussing the conversion of electronic data under state law. **40 A.L.R.6th**

Index

The following is a complete list, arranged alphabetically by topic, of annotations contained in the current volume **39 A.L.R.6th** or scheduled for publication in **40 A.L.R.6th**. Some of the annotations listed may be rescheduled.



ATTORNEY AND CLIENT

Unauthorized Practice of Law as Contempt, **40 A.L.R.6th**

CLOSE CORPORATION

Majority's Fiduciary Obligation to Minority Shareholder of Close Corporation—Breach and Remedy, **39 A.L.R.6th 1**

COMPUTERS

Conversion of Electronic Data, Including Domain Names, **40 A.L.R.6th**

CONSTITUTIONAL LAW

Actions by or Against Individuals or Groups Protesting or Picketing at Funerals, **40 A.L.R.6th**

Validity, Construction, and Application of Municipal Enactments Prohibiting Sex Offenders from Parks, **40 A.L.R.6th**

CRIMINAL LAW

Application of Common-Law "Fresh Complaint" Doctrine as to Admissibility of Alleged Victim's Disclosure of Sexual Offense—Post-1950 Cases, **39 A.L.R.6th 257**

State Statutes or Ordinances Requiring Persons Previously Convicted of Crime to Register with Authorities as Applied to Juvenile Offenders—Expungement, Stay or Deferral, Exceptions, Exemptions, and Waiver, **39 A.L.R.6th 577**

Restrictions on Disclosure of Contents of Complaint Alleging Sexual Offense Under Common Law "Fresh Complaint" Doctrine—Post-1950 Cases, **40 A.L.R.6th**
Admissibility of Computer Forensic Testimony, **40 A.L.R.6th**

DAMAGES

Application of Doctrine of Election of Remedies Where One Claim Sounds in Tort and Other Claim Sounds in Contract, **39 A.L.R.6th 155**

DIVORCE AND SEPARATION

Divorce and Separation: Appreciation in Value of Separate Property During Marriage with Contribution by Either Spouse as Separate or Community Property (Doctrine of "Active Appreciation"), **39 A.L.R.6th 205**

ELECTION OF REMEDIES

Application of Doctrine of Election of Remedies Where One Claim Sounds in Tort and Other Claim Sounds in Contract, **39 A.L.R.6th 155**

ELECTIONS AND VOTING

Validity, Construction, and Application of State Statutes Regulating or Proscribing Payment in Connection with Gathering Signatures on Nominating Petitions for Public Office or Initiative Petitions, **40 A.L.R.6th**

EVIDENCE

Admissibility of Evidence Taken from Vehicular Event Data Recorders (EDR), Sensing Diagnostic Modules (SDM), or "Black Boxes," **40 A.L.R.6th**

FORUM SELECTION CLAUSES

Enforceability of Floating Forum Selection Clauses, **39 A.L.R.6th 629**

FUNERALS AND FUNERAL DIRECTORS

Actions by or Against Individuals or Groups Protesting or Picketing at Funerals, **40 A.L.R.6th**

INSURANCE AND INSURANCE COMPANIES

Validity and Effect of Retrocessional Reinsurance Agreements, **39 A.L.R.6th 391**

LIBEL AND SLANDER

Defamation by Radio—Actual Malice, **40 A.L.R.6th**

RAPE

Application of Common-Law “Fresh Complaint” Doctrine as to Admissibility of Alleged Victim’s Disclosure of Sexual Offense—Post-1950 Cases, **39 A.L.R.6th 257**

Restrictions on Disclosure of Contents of Complaint Alleging Sexual Offense Under Common Law “Fresh Complaint” Doctrine—Post-1950 Cases, **40 A.L.R.6th**

REGISTRATION

State Statutes or Ordinances Requiring Persons Previously Convicted of Crime to Register with Authorities as Applied to Juvenile Offenders—Expungement, Stay

or Deferral, Exceptions, Exemptions, and Waiver, **39 A.L.R.6th 577**

REINSURANCE

Validity and Effect of Retrocessional Reinsurance Agreements, **39 A.L.R.6th 391**

WORKERS’ COMPENSATION

Right to Workers’ Compensation for Physical Injury or Illness Suffered by Claimant As Result of Nonsudden Mental Stimuli—Compensability Under Particular Circumstances, **39 A.L.R.6th 445**

Validity, Construction, and Application of Statutory Provisions Exempting or Otherwise Restricting Farm and Agricultural Workers from Worker’s Compensation Coverage, **40 A.L.R.6th**

Have questions or need help? Please call customer support at 1-800-225-7488, or e-mail at ALRLCS-Rochester@thomson.com.



This publication was created to provide you with accurate and authoritative information concerning the subject matter covered; however, this publication was not necessarily prepared by persons licensed to practice law in a particular jurisdiction. The publisher is not engaged in rendering legal or other professional advice and this publication is not a substitute for the advice of an attorney. If you require legal or other expert advice, you should seek the services of a competent attorney or other professional.