

ALR 6th *Alert*

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From the *editor*

In the aftermath of the country's economic woes at the turn of the century, corporate scandals have come to plague the nightly news. Volume 2 A.L.R.6th contains two annotations dealing with such corporate transgressions. One annotation deals with the "Intracorporate Conspiracy Doctrine" as it is applied to a corporation and its employees. The other annotation deals with the acceptance and application of reverse veil-piercing as it pertains to third-party claimants. Volume 3 A.L.R.6th contains a wide variety of topics including family law (the right to credit on child support for contributions to travel expenses), product liability (products liability for home and office furnishings), and criminal law (lesser-included-offense charges of voluntary manslaughter to juries in state murder prosecutions).

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Highlights

CORPORATIONS

Corporate Veil—Reverse Piercing

While a corporation and its individual owners are distinct legal entities, in appropriate circumstances, a corporate identity may be disregarded and the "corporate veil" may be pierced. Traditionally, the corporate veil is pierced so that a shareholder may be held liable for the conduct of a corporation. In a number of jurisdictions, it has been recognized that a corporate veil may be pierced in "reverse," so that a corporation may be held liable for the conduct of a shareholder. This annotation collects and discusses the cases that have considered the availability and application of the doctrine of reverse piercing of the corporate veil in the context of third party claims seeking to hold a corporation or other entity responsible for actions or liabilities of an individual with an ownership interest in the target entity. [2 A.L.R.6th 195](#)



SEARCH AND SEIZURE

Knock and Announce

Government agents often seek search warrants authorizing an unannounced entry or determine at the time of executing a warrant that exigent circumstances exist which excuse compliance with the knock and announce requirement. Under the exclusionary rule, evidence obtained from a search, which did not comply with the Fourth Amendment, was not admissible at trial. Application of the rule was intended to encourage law enforcement personnel to obtain a warrant authorizing a search, and to deter misconduct by those individuals in conducting searches. However, a good faith exception to the exclusionary rule was established by *U.S. v. Leon*, 468 U.S. 897, 104 S. Ct. 3405, 82 L. Ed. 2d 677 (1984), where even if the no knock provision in a search warrant was not properly supported by the affidavits submitted in applying therefor, the evidence obtained in the search

may yet be admissible provided the officer reasonably relied in good faith on the warrant issued by a neutral magistrate. This annotation collects and analyzes cases addressing the applicability of the Leon good faith exception to the exclusionary rule where law enforcement officers execute search warrants without knocking and announcing their presence. [2 A.L.R.6th 169](#)

INSURANCE

Propriety of Insurers' Use of Staff Attorney to Represent Insureds

Typically, corporations cannot practice law and are thus prohibited from engaging in the unauthorized practice of law. A corporation, however, may employ lawyers in any matter in which it has a direct primary interest, or in any litigation in which it is a party. The issue has arisen as to whether the representation of an insured by a licensed attorney who is a full-time employee of the insured's insurance company constitutes the unauthorized practice of law or violates rules of professional responsibility. This annotation collects and analyzes all of the cases discussing

the propriety of an insurers' use of staff attorneys to represent insureds. [2 A.L.R.6th 537](#)

CONSPIRACY

Intracorporate Conspiracy Doctrine—State Cases

Under a basic principle of agency, a corporation can act only through the authorized acts of its corporate directors, officers, and other employees and agents. The intracorporate conspiracy doctrine (sometimes referred to as intracorporate immunity) holds that a corporation, acting through its agents, cannot conspire with itself. This annotation collects and analyzes the state court cases applying this principle to corporate employees and discussing whether, in general or under the particular circumstances, multiplicity of actors exists, supporting the existence of a civil conspiracy, between a corporation or governmental body and one or more of its employees, or between two or more employees of the same corporation or governmental body. This annotation shall collect and analyze the state court cases applying the principle of intracorporate conspiracy doctrine to corporate employees. [2 A.L.R.6th 387](#)

Coming Soon

Listed below are a few of the topics scheduled to be published in volume 3 of A.L.R.6th in April, 2005. Some of the annotations listed may be rescheduled.



ATTORNEYS AT LAW

Admission to Bar—Criminal Record

It is axiomatic that an individual who desires admission to a federal or state bar must demonstrate, prior to admission, that he or she is of "good moral character." Character encompasses both a person's past behavior and the opinion of members of that person's community arising from it. The issue arises as to whether an applicant's criminal record affects the applicant's "moral character" for purposes of admission to the bar. This annotation collects and discusses the cases in which state and federal courts have considered whether the criminal record of an applicant for admission to the bar so adversely affects the applicant's moral character as to preclude admission. [3 A.L.R.6th](#)

WITNESSES

Rule 607—Impeachment of Party's Own Witness

The common law rule forbidding the impeachment of a party's own witness has been abolished by Uniform Rule of Evidence 607. Rule 607 provides that the credibility of a witness may be attacked by any party, including the party calling the witness. Many authorities have criticized the voucher rule that a party vouches for the credibility of its own witness. The reason for the rule traces back to ancient times, when witnesses were not like witnesses in the modern sense of the term, but were persons who attended trials on behalf of the parties as "oath-helpers" who would "swear off" on their party's case. As such, they were ex officio partisans. Given the evolution of the trial into a search for the truth, many have characterized the rule as an unneeded remnant. Courts have construed the propriety, under Rule 607, of impeachment of a party's own witness with different results depending on circumstances and the particular form of the rule adopted by the jurisdiction. This annotation collects and discusses all of the cases decided under the Uniform Rule of Evidence 607 concerning the impeachment of one's own witness. [3 A.L.R.6th](#)

DIVORCE AND SEPERATION

Professional Degree or License as Marital Property

Some courts hold that a professional degree and/or license earned or achieved during the marriage of the parties, is a divisible marital asset or otherwise subject to distribution, or that the enhanced earning capacity resulting there from may be considered in connection with alimony or support awards. Similarly, other courts consider that in such circumstances, the non-titled spouse may be entitled to restitution, rehabilitative or reimbursement alimony, or other forms of compensation as a result of the contributions and/or forbearances made. Other courts, however, hold that such a degree and/or license may not be considered to have any distributive value, while other cases have reached contrary results depending upon the circumstances presented and the varying rules applied by the courts. This annotation collects and analyzes the state and federal cases that consider whether a spouse's professional degree and/or license constitutes marital property or may otherwise be considered with regard to alimony, support or other forms of compensation upon dissolution of the marriage. **3 A.L.R.6th**

LIBEL AND SLANDER

Defamation By Internet Publication

The emergence of the Internet age has affected many causes of action, including defamation claims. Computer access enables any individual to send or post electronic communications to individuals, websites and Internet chat rooms basically stating anything that the user pleases. Assuming proper jurisdiction, a cause of action for defamation on the Internet may be brought against the author of the statement that was posted on a website or transmitted by an E-mail, an employer if the individual that wrote the allegedly defamatory statement did so at work, a company or state agency whose website contains the allegedly defamatory statement. This annotation will examine when liability arises for defamatory statements sent or created electronically. Issues of jurisdiction over defendants that send, or post, allegedly defamatory statements, obligations to seek retractions and general defamation liability are also affected by the Internet and are discussed herein. **3 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 2 or scheduled for publication in volume 3 of A.L.R.6th. Some of the annotations listed may be rescheduled.



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