

ALR 6th

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From the editor

Building a case against a criminal defendant can be a difficult task. Annotations in volumes 4 and 5 of A.L.R.6th discuss some of the tools available to investigators and prosecutors, subject to Constitutional limitations, to aid in achieving law enforcement and prosecutorial goals, including forfeiture of assets traceable to drug trafficking, the use of the Collective Knowledge Doctrine (also called the “Fellow Officers’ Rule”) to establish probable cause, and the use of global positioning (GPS) technology or other electronic devices to track the movements of suspects. Also addressed in volumes 4 and 5 are such varied topics as bias or interest on the part of zoning officers, identification of robbery victims as person named in indictment or information, products liability involving mechanical or chain saws, and child support obligations of former same sex partners.

Jill M. Marks, J.D.

Highlights

DRUGS AND NARCOTICS

Evidence Tracing Cash to Illegal Drug Activity To Permit Forfeiture—State Law

In determining whether currency, bank accounts, or cash equivalents are subject to forfeiture, or declaration as contraband, under state law, on the grounds that the assets at issue are traceable to illegal drug trafficking, factors to which courts have attached great significance are whether the claimants resisting forfeiture have offered innocent explanations concerning the assets and the credibility of those explanations. A claimant’s failure to offer an explanation is not generally sufficient in itself to justify forfeiture. Explanations offered by claimants may relate to the source of the money in question, its intended use, or the circumstances surrounding its seizure by law enforcement authorities. When such an explanation is offered, state authorities seeking forfeiture may be required



to address it directly and not rely on other circumstantial evidence of drug trafficking. This annotation collects and discusses the cases that have considered evidence of explanation or lack thereof in tracing currency, bank accounts, or cash equivalents to ille-

gal drug trafficking so as to permit their forfeiture, or declaration as contraband, under state law. [4 A.L.R.6th 113](#)

ZONING

Bias or Interest of Administrative Officer in Zoning Proceeding

The neutrality and impartiality of members of a zoning proceeding are essential to the fair and proper operation of a zoning body. In a zoning proceeding, bias can take the form of favoritism toward one party or hostility toward the opposing party, that is, personal bias or prejudice which imperils the

open-mindedness and sense of fairness which a zoning official is required to possess. This annotation collects and summarizes those state and federal cases in which courts have determined whether an administrative officer sitting in a zoning proceeding had a bias or interest necessitating disqualification of the officer or affecting the validity of the zoning decision. [4 A.L.R.6th 263](#)

INSURANCE AND INSURANCE COMPANIES

Estoppel of Insurer to Assert Statute-of-Limitations Defense—Homeowners' Insurers

When an insurance claim involving a homeowner's insurance carrier is not resolved within a period of time set forth in a statute of limitations, a conflict can arise between two principles. Under one principle, the law favors establishing a point of repose for the purpose of terminating stale claims and the enforcement of a statute of limitations serves that purpose. A second principle, while rejecting a homeowner's estoppel argument based upon the particular facts of the case, recognizes that an insurance carrier can be estopped from relying upon a limitation-of-actions defense under appropriate circumstances, such as when a carrier misleads a homeowner with respect to the time period when a claim will be barred. This annotation collects and

analyzes homeowner insurance cases dealing with estoppel of the insurer to assert the statute of limitations defense. [4 A.L.R.6th 509](#)

PROBABLE CAUSE

Collective Knowledge Doctrine or Fellow Officers' Rule—State Cocaine Cases

Under the collective knowledge doctrine, also known as the fellow officer rule, several officers' observations can be aggregated to establish the probable cause needed for a warrantless search or seizure or to obtain a search or arrest warrant under the Fourth Amendment. Courts have responded to challenges to application of this doctrine, such as the contention that it violates a defendant's right to confront his or her witnesses, or that it is trumped by the exclusionary rule to the Fourth Amendment, and have grappled with what requirements are necessary to invoke this doctrine, such as whether the state must present the testimony of the officer whose underlying observations arguably establish probable cause for a fellow agent's search or seizure. This annotation collects and analyzes 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 cocaine-related crimes. [4 A.L.R.6th 599](#)

Coming Soon

Listed below are a few of the topics scheduled to be published in volume 5 of A.L.R.6th. Some of the annotations listed may be rescheduled.



CUSTODY AND SUPPORT OF CHILDREN

Child Support Obligation of Former Same-Sex Partners

As same-sex relationships obtain more widespread recognition, the courts are called upon to resolve legal issues arising from these relationships and their dissolution. One such issue is whether a former same-sex partner can be called upon to provide financial support for a child of the partnership. This annotation collects and analyzes all the federal and state cases discussing whether a member of a now-dissolved same-sex partnership may be compelled to provide financial support for a child conceived during or raised by the partnership, where the person is not the birth, or an adoptive, parent of the child. [5 A.L.R.6th](#)

SEARCH AND SEIZURE

Use of Electronic Tracking Devices Under Fourth Amendment or State Law

Advances in surveillance technology have raised new issues with respect to the constitutionality of searches and seizures. The use of electronic tracking devices, such as a global positioning system (GPS), to track the location of a suspect's vehicles is generally held to constitute a search, giving rise to Fourth Amendment protection. This annotation collects and summarizes those state and federal cases in which courts have determined whether monitoring of a motor vehicle, aircraft, or watercraft violated the Fourth Amendment (U.S. Const. Amend. 4) or a state constitutional provision. [5 A.L.R.6th](#)

LAW SCHOOLS AND STUDENTS

Rights and Liabilities of Unaccredited Law Schools and their Students

A state may require an applicant for admission to the bar to pass an examination to demonstrate his or her legal knowledge. Procedural due process in connection with the denial of a license to practice law requires that

the applicant be given notice and an opportunity to be heard by the body which rules on his or her application. When the denial is based on lack of the requisite character and fitness, due process requires that the applicant be afforded notice of reasons why admission was refused, which adequately inform the applicant of the nature of the evidence against him or her, and an opportunity to be confronted with, and to cross-examine, witnesses who supply the adverse information. This annotation collects and discusses the cases which have considered the rights and liabilities of unaccredited law schools and their students. **5 A.L.R.6th**

LIMITATION OF ACTIONS

Statute of Repose—Actions Against Architect, Engineer, or Builder

Statutes of repose applicable in actions against architects, engineers, builders and others involved

in the construction of an improvement to real property for injury or death caused by defective design or unsafe condition of improvement may bar a plaintiff's claims even if the injury occurs and the cause of action accrues after the end of the repose period. Such statutes have been challenged on various constitutional grounds, including federal and state due process and equal protection provisions. This annotation discusses the validity, as to claims alleging design or construction defects, of statutes imposing time limitations upon actions against architects, engineers, or builders for injury to persons, injury to property or death arising out of the defective or unsafe condition of improvements to real property. **5 A.L.R.6th**

Index

The following is a complete list, arranged alphabetically by topic, of annotations contained in the current volume 3 or scheduled for publication in volume 4 of A.L.R.6th. Some of the annotations listed may be rescheduled.



ABORTION

Validity of Statutory Requirement that Abortion Occur in Hospital. **5 A.L.R.6th**

CIVIL RIGHTS

Validity, Construction, and Application of Governmental or Private Regulation of Breast Feeding. **5 A.L.R.6th**

CUSTODY AND SUPPORT OF CHILDREN

Right to Credit on Child Support for Continued Payments to Custodial Parent for Child Who Has Reached Majority or Otherwise Becomes Emancipated. **4 A.L.R.6th 531**

Construction and Application of Interstate Compact on the Placement of Children (ICPC). **5 A.L.R.6th**

Child Support Obligations of Former Same-Sex Partners. **5 A.L.R.6th**

CRIMINAL LAW

Robbery: Identification of Victim as Person Named in Indictment or Information. **4 A.L.R.6th 577**

DRUGS AND NARCOTICS

Evidence Considered in Tracing Currency, Bank Account, or Cash Equivalent to Illegal Drug

Trafficking so as to Permit Forfeiture, or Declaration as Contraband, Under State Law—Explanation or Lack Thereof. **4 A.L.R.6th 113**

Application in State Narcotics Cases of Collective Knowledge Doctrine or Fellow Officers' Rule Under Fourth

Amendment—Cocaine Cases. **4 A.L.R.6th 599**

ELECTIONS AND VOTING

Validity, Construction, and Application of State Statutory Voting Offenses. **5 A.L.R.6th**

FREEDOM OF INFORMATION ACTS

What Constitutes Commercial or Financial Information, Exclusive of Trade Secrets, Exempt from Disclosure Under State Freedom of Information Acts—General Rules of Construction. **5 A.L.R.6th**

INSURANCE

Estoppel of Insurer to Assert Statute-of-Limitations Defense—Homeowners' Insurers. **4 A.L.R.6th 509**

LAW SCHOOLS AND STUDENTS

Rights and Liabilities of Unaccredited Law Schools and their Students. **5 A.L.R.6th**

LIMITATION OF ACTIONS

Validity, as to Claim Alleging Design or Building Defects, of Statute Imposing Time Limitations Upon Action Against Architect, Engineer or Builder for Injury or Death Arising out of Defective or Unsafe Condition of Improvement to Real Property. **5 A.L.R.6th**

Validity of Medical Malpractice Statutes of Repose. **5 A.L.R.6th**

PAROLE, PROBATION, AND PARDON

Validity of Condition of Probation, Supervised Release, or Parole Restricting Computer Use or Internet Access. **4 A.L.R.6th 1**

PROBABLE CAUSE

Application in State Narcotics Cases of Collective Knowledge Doctrine or Fellow Officers' Rule Under Fourth Amendment—Cocaine Cases. **4 A.L.R.6th 599**

PRODUCTS LIABILITY

Products Liability: Mechanical or Chain Saw or Components Thereof. **4 A.L.R.6th 401**

SEARCH AND SEIZURE

Application in State Narcotics Cases of Collective Knowledge Doctrine or Fellow Officers' Rule Under Fourth Amendment—Cocaine Cases. **4 A.L.R.6th 599**

Fourth Amendment Protections, and Equivalent State Constitutional Protections, as Applied to the Use of GPS Technology, Transponder, of the Like, to Monitor Location and Movement of Motor Vehicle, Aircraft, or Watercraft. **5 A.L.R.6th**

WORKERS' COMPENSATION

Right to Workers' Compensation for Injury Suffered at Worker's Home Where Home is Claimed as "Work Situs." **4 A.L.R.6th 57**

ZONING

Bias or Interest of Administrative Officer Sitting in Zoning Proceeding as Necessitating Disqualification of Officer or Affecting Validity of Zoning Decision. **4 A.L.R.6th 263**

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