

# ALR Federal *Alert*

## Route to:

- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

## From the editor

ALR Fed continues to publish a number of annotations to provide practitioners with easy access to the relevant case law in response to current public scrutiny of issues affecting the stability of the United States economy, such as corporate behavior, international trade, and worldwide terrorism. Volume 183 contains an annotation on “control person” liability under the Securities Act and the Securities Exchange Act. In connection with international trade issues, Volume 183 contains an annotation that covers case law dealing with the validity, construction, and application of NAFTA and implementing regulations, and Volume 184 will contain an annotation collecting cases that addressed when an imported product made by a patented process has been materially altered by a subsequent process in order to avoid patent infringement. With respect to the response by the United States to terrorism, volume 183 contains an annotation on the International Emergency Economic Powers Act as it relates to the presidential power to impose economic sanctions when national security, foreign policy, or the economy of the United States is threatened, and volume 184 will contain an annotation relating to the right of an enemy combatant to counsel.

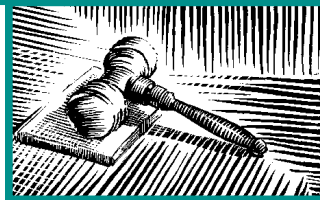
*Joel E. Smith, J.D.*

## Highlights

### TRADE

#### Validity, Construction, and Application of North American Free Trade Agreement and Implementing Statutes and Regulations

As approved and implemented by Congress in the North American Free Trade Agreement Implementation Act, 19 U.S.C.A. §§3301 to 3473, NAFTA is a comprehensive trade agreement intended to reduce barriers and liberalize restraints on investment and services by creating an integrated market for goods and services composed of the United States, Canada, and Mexico, without creating any new



trade barriers with third countries. The cornerstone of the agreement is the phasing-out of all tariffs on trade between the three countries. In addition to its tariff provisions, NAFTA contains provisions dealing with, among other things, rules

of origin, customs procedures, technical barriers to trade, dispute settlement and administration of laws, and environmental protection. This annotation collects the federal cases that have addressed the validity, construction, and application of NAFTA and implementing statutes and regulations. **183 ALR Fed 1**

## PRIVACY PROTECTION

### Validity, Construction, and Application of Federal Driver's Privacy Protection Act, 18 U.S.C.A. §§ 2721 to 2725

Congress enacted the Driver's Privacy Protection Act of 1994 as a response to privacy and safety concerns arising from easy access to the information contained in state motor vehicle department records as well as to the common practice in many states of generating revenue by selling that information. The Act generally restricts and regulates disclosure by state departments of motor vehicles and their agents of drivers' personal information without their affirmative consent, except for a number of statutorily defined permissible uses, such as situations involving government functions or motor vehicle safety or theft. This annotation collects and discusses all federal and state cases that have interpreted, or been adjudicated under, the DPPA. [183 ALR Fed 37](#)

## TERRORISM

### Validity, Construction, and Operation of International Emergency Economic Powers Act, 50 U.S.C.A. §§ 1701 to 1707

The United States government has long used economic sanctions as a foreign policy tool. Under the Trading with the Enemy Act, 50 U.S.C.A. App. § 5(b), as amended, (TWEA), enacted in 1917, the President was given broad authority to investigate, regulate, prevent or prohibit transactions in times of war or declared national emergencies. In 1977, Congress enacted the International Emergency Economic Powers Act, 50 U.S.C.A. §§ 1701 to 1706, (IEEPA), and amended the TWEA, to provide that the economic powers granted the President may be exercised to deal with any unusual and extraordinary threat, that has its source in whole or substantial part outside the United States, to the national security, foreign policy, or economy of the United States, if the President declares a national emergency with respect to such threat. Among other things,

the IEEPA authorizes the President to investigate, regulate, nullify, void, prevent or prohibit, any acquisition, transfer, importation or exportation of, or dealing in, or exercising any right, power, or privilege with respect to any property in which any foreign country or a national thereof has any interest by any person, or with respect to any property, subject to the jurisdiction of the United States. In response to the September 11, 2001 terrorist attacks, in October 2001 Congress enacted the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Pub L. 107-56, 115 Stat. 272 (the USA Patriot Act), which, among other things, expanded the authority of the President and his designees under the IEEPA by giving the President the authority to block transactions involving property during the pendency of an investigation. Federal courts have construed and applied the IEEPA with varying results. This annotation collects and discusses federal cases addressing the validity, construction, and operation of the IEEPA. [183 ALR Fed 57](#)

## SECURITIES

### Liability of an Officer, Director, Employee, or Other Individual Associated with a Seller or Issuer of Securities as a "Control Person" Under §15 of Securities Act (15 U.S.C.A. §77o) and §20(a) of Securities Exchange Act (15 U.S.C.A §78t(a))

Under both the Securities Act of 1933 and the Securities Exchange Act of 1934, liability for a securities law violation is imposed not only on the person who actually commits the violation, but also on a person who controls the violator. This annotation collects and analyzes cases dealing with the question of when and under what circumstances a person or entity that issues or sells securities, other than in the role of a brokerage firm or similar securities dealer, may be considered secondarily liable as a control person. [183 ALR Fed 141](#)

# Coming Soon

## ENEMY COMBATANT

### Right of Enemy Combatant to Counsel

The right of a criminal defendant to counsel is guaranteed by the United States Constitution. However, the federal government has asserted that "enemy combatants who are captured and detained on the battlefield in a foreign land" have "no general right under the laws and



customs of war, or the Constitution...to meet with counsel concerning their detention, much less to meet with counsel in private, without military authorities present." This annotation shall collect and discuss the procedural and substantive cases that have considered the right of an enemy combatant to counsel. [184 ALR Fed](#)

## **FIREARMS**

### **Validity, Construction, and Application of Federal Brady Act, and Implementing Federal and State Regulations Thereunder**

The Gun Control Act of 1968 (GCA), 18 U.S.C.A. §§ 921 to 930, established a detailed federal scheme governing the distribution and sale of firearms. The GCA requires that any person dealing in firearms must first obtain a federal license and contains a prohibition against transferring handguns to, and possession of firearms by, a listed class of persons. Effective November 30, 1993, Congress amended Title I of the GCA with the enactment of the Brady Handgun Violence Prevention Act (The Brady Act), 18 U.S.C.A. §§ 921 et seq., Pub. L. 103-159, 107 Stat. 1536. The Brady Act put into place interim provisions for a national background check system, and required that the United States Attorney General establish a permanent national instant background check system. Several courts have construed the Brady Act. This annotation shall collect and discuss

cases addressing the validity, construction, and application of the Brady Act and implementing federal and state regulations. **184 ALR Fed**

## **FAMILY AND MEDICAL LEAVE ACT**

### **Adequacy of Notice to Employer of Need for Leave under Family and Medical Leave Act**

Under the FMLA, an eligible employee may take up to 12 work weeks of leave during any 12-month period for a number of different specified emergencies relating to health or family matters (29 U.S.C.A. § 2612(a)(1)). In any case in which the necessity for leave is foreseeable, the employee must provide the employer with at least 30 days' notice before the date the leave is to begin, or, if circumstances require the leave to begin in fewer than 30 days, the employee must provide such notice as is practicable. This annotation shall collect and analyze the cases which have determined the sufficiency of the employee's notice of the need to take leave under the FMLA. **184 ALR Fed**

# **Index**

The following is a complete list, arranged alphabetically by topic, of annotations contained in the current Volume 183 or scheduled for publication in Volume 184 of ALR Federal. Some of the annotations listed may be rescheduled.



## **AGE DISCRIMINATION**

“Bona Fide Employee Benefit Plan” Exception to General Prohibition of Age Discrimination in Employment (29 USCA § 623(f)(2)(B)) as Applied to Plans Other Than Early Retirement Incentive Plans. **184 ALR Fed**

## **ANCIENT AND HISTORICAL MATTERS**

Validity, Construction, and Operation of Archaeological Resources Protection Act of 1979, 16 USCA §§470aa to 470mm. **184 ALR Fed**

## **CONSTITUTIONAL LAW**

Propriety of Federal Court's Abstention, Under Railroad Commission of Tex. v. Pullman Co., 312 U.S. 496, 61 S. Ct. 643, 85 L. Ed. 971 (1941), as to Federal Constitutional Due Process or Equal Protection Claim. **183 ALR Fed 379**

## **CORPORATIONS**

Liability of Officer, Director, Employee, or Other Individual Associated with Seller or Issuer of Securities as “Control Person” Under §15 of Securities Act (15 U.S.C.A. § 77o) and § 20(a) of Securities Exchange Act (15 U.S.C.A. § 78t(a)). **183 ALR Fed 141**

## **COURTS**

Propriety of Federal Court's Abstention, Under Railroad Commission of Tex. v. Pullman Co., 312 U.S. 496, 61 S. Ct. 643, 85 L. Ed. 971 (1941), as to Federal Constitutional Due Process or Equal Protection Claim. **183 ALR Fed 379**

## **DUTIES**

Validity, Construction, and Application of North American Free Trade Agreement and Implementing Statutes and Regulations. **183 ALR Fed 1**

## **EVIDENCE**

Admissibility of Handwriting Expert's Testimony in Federal Criminal Case. **183 ALR Fed 333**

## **FAMILY AND MEDICAL LEAVE ACT**

Adequacy of Notice to Employer of Need for Leave under Federal Family and Medical Leave Act of 1993. **184 ALR Fed**

## **FREEDOM OF INFORMATION ACTS**

Construction and Application of FOIA Exemption 7(F), 5 U.S.C.A. § 552(b)(7)(F), Which Permits Withholding of Information Compiled for Law Enforcement Purposes if Disclosure Could Reasonably be Expected to Endanger Life or Physical Safety. **184 ALR Fed**

## **GUN CONTROL LAWS**

Validity, Construction, and Application of Federal Brady Act, and Implementing Federal and State Regulations Thereunder. **184 ALR Fed**

## **INDIANS**

Validity, Construction, and Application of Indian Major Crimes Act. **184 ALR Fed**

## **INTERNATIONAL LAW**

Validity, Construction, and Application of North American Free Trade Agreement and Implementing Statutes and Regulations. **183 ALR Fed 1**

## **LABOR AND EMPLOYMENT**

Pre-emption of state-law wrongful discharge claim, not arising from whistleblowing, by § 301(a) of Labor-Management Act of 1947 (29 U.S.C.A. § 185(a)). **184 ALR Fed**

## **PATENTS**

When Has Imported Product Made by Patented Process Been “Materially Changed” by Subsequent Process in Order to Avoid Infringement of Patented Process. **184 ALR Fed**

## **RECORDS**

Validity, Construction, and Application of Federal Driver’s Privacy Protection Act, 18 U.S.C.A. §§ 2721 to 2725. **183 ALR Fed 37**

## **SECURITIES REGULATION**

Liability of Officer, Director, Employee, or Other Individual Associated with Seller or Issuer of Securities as

“Control Person” Under §15 of Securities Act (15 U.S.C.A. § 77o) and § 20(a) of Securities Exchange Act (15 U.S.C.A. § 78t(a)). **183 ALR Fed 141**

## **TERRORISM**

Right of Enemy Combatant to Counsel. **184 ALR Fed**

## **TRADEMARKS, TRADE NAMES, AND UNFAIR TRADE PRACTICES**

Initial Interest Confusion Doctrine Under Lanham Trademark Act. **183 ALR Fed 553**

## **TREATIES**

Construction and Application of United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. **184 ALR Fed**

## **WAR AND CIVIL DEFENSE**

Validity, Construction, and Operation of International Emergency Economic Powers Act, 50 U.S.C.A. §§1701 to 1707. **183 ALR Fed 57**

## **WITNESSES**

Validity, Construction, and Application of Federal Witness Tampering Statute, 18 U.S.C.A. § 1512(b). **183 ALR Fed 611**

Have questions or need help? Please call customer support at 1-800-225-7488 or email at [alr@westgroup.com](mailto:alr@westgroup.com).

