

ALR Federal 2d *Alert*

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From the editor

It is a sad thing indeed that, some two generations after America's enactment of a great flurry of civil rights and anti-discrimination legislation, such matters continue to be among the most fertile sources of annotatable legal issues. A publication that tracks the law as made, analyzed, and reported in the cases that come before a country's courts must, however, reflect the legal manifestations of that country's societal shortcomings as they occur, not as one might wish they would, and the upcoming volumes of A.L.R. Fed. 2d are accordingly well-stocked with annotations on matters pertaining to employment discrimination. This will be seen from the presence of an article on union responsibility for discrimination in Vol. 4, and projected articles in Vol. 5 on age and sex discrimination. The ALR review of the 2004-2005 United States Supreme Court term is accessible at <http://west.thomson.com/newsletters/westelert/alrupdate.doc>.

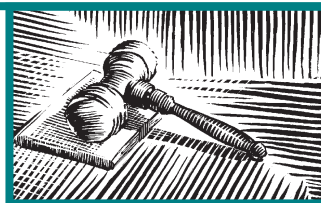
Russell G. Donaldson, J.D.

Highlights

AVIATION

"Accident" Under Warsaw Convention

The Warsaw Convention provides a uniform set of legal rules governing accidents occurring in international air travel. Article 17 of the Warsaw Convention imposes liability on an air carrier for the death or bodily injury of a passenger if the accident that caused the damage so sustained took place on board the aircraft or in the course of any of the operations of embarking or disembarking. This annotation discusses those
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global cases in which the courts have considered what constitutes an "accident" as that term is used under Article 17 of the Warsaw Convention.
4 A.L.R. Fed. 2d 1

DISABLED PERSONS

ADA—"Major Life Activity" of Walking—Physical Injuries

The term "disability," as defined in the Americans With Disabilities Act (ADA) (42 U.S.C.A. §§ 12101 to 12213) and implementing regulations of the Equal

Employment Opportunity Commission (EEOC), includes impairments that substantially limit the “major life activity of walking.” This has led courts in a number of cases to consider whether and under what circumstances walking and related activities constitute a major life activity. A large number of these cases focus on physical injuries and similar impairments which affect the ability to walk. This annotation collects and analyzes cases relating to the question of physical injury or impairment to walking as constituting an ADA disability. [4 A.L.R. Fed. 2d 569](#)

FRAUD AND DECEIT

Federal Identity Theft Prosecution

Personal identifying information has become increasingly subject to theft. Cases have addressed a broad range of substantive and procedural issues presented by identity theft cases, and numerous identity theft cases deal with sentencing issues, including adjustments to defendants’ base offense levels, and departures from the appropriate sentence range. This annotation collects and analyzes cases involving particular issues arising out of prosecutions for

violation of federal criminal statutes that encompass identity theft. [4 A.L.R. Fed. 2d 365](#)

IMMIGRATION

Asylum—Past Persecution in American Nations

One method of establishing refugee status under § 101(a)(42)(A) of the Immigration and Nationality Act of 1952 (8 U.S.C.A. § 1101(a)) is for aliens to demonstrate that they are unable or unwilling to return to, and unable or unwilling to avail themselves of the protection of, the country of their nationality, because of past persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. This annotation collects and discusses the cases that have adjudicated the sufficiency of the evidence to establish an alien’s past persecution entitling the alien to the status of a refugee under § 101(a)(42)(A) of the Immigration and Nationality Act of 1952 (8 U.S.C.A. § 1101(a)) concerning alleged persecution in North or South American nations. [4 A.L.R. Fed. 2d 117](#)

Coming Soon

Listed below are a few of the topics scheduled to be published in volume 5 of A.L.R. Fed. 2d in August, 2005. Some of the annotations listed may be rescheduled.



BANKRUPTCY

Rule 9011 Sanctions in Chapter 11 Bankruptcy Proceedings

Chapter 11 of Title 11 of the U.S. Code was designed to help financially distressed businesses restructure debts and finances so that they may continue to operate, provide their employees with jobs, pay their creditors, and produce a return for stockholders. Parties or attorneys involved in a Chapter 11 proceeding are subject to Fed. R. Bankr. P. 9011, which allows for the imposition of sanctions against a party who signs or files petitions or other bankruptcy papers for improper purposes or

without any factual or legal merit. For example, sanctions may be imposed where a Chapter 11 petition was filed solely to delay or prevent foreclosure of an asset rather than to restructure a business. This annotation collects and

analyzes the federal cases arising out of Chapter 11 bankruptcy proceedings that have adjudicated or discussed the propriety of sanctions against litigants, their attorneys, or other participants under Fed. R. Bankr. P. 9011, which is the bankruptcy equivalent of Rule 11 in the Federal Rules of Civil Procedure. [5 A.L.R. Fed. 2d](#)

STANDING

Next-Friend Standing for Habeas Corpus

“Next friend” standing is the procedure by which a third party appears in court on behalf of detained prisoners who are themselves unable to seek relief. To establish next-friend standing to file a federal habeas corpus petition on a prisoner’s behalf, the putative next friends must show (1) that the

prisoner is unable to litigate his own case due to mental incapacity, lack of access to the court, or other similar disability, and (2) that the next friend has some significant relationship with, and is truly dedicated to, the best interests of the prisoner. This annotation collects and analyzes cases addressing next-friend standing for purposes of bringing a federal habeas corpus petition. **5 A.L.R. Fed. 2d**

BRIBERY

Federally Assisted Programs

Title 18 U.S.C.A. § 666(a)(2) makes it a crime to corruptly give, offer, or agree to give anything of value to any person with the intent to influence or reward any agent or agency of a State, local, or Indian tribal government that receives at least \$10,000 in assistance through a federal program in one year, in connection with any transaction or business of that agency involving anything of value of \$5,000 or more. This annotation collects and discusses all

federal cases decided under 18 U.S.C.A. § 666(a)(2). **5 A.L.R. Fed. 2d**

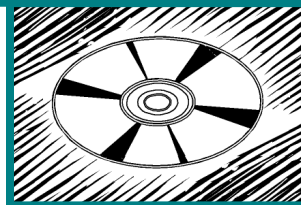
CONSUMER PROTECTION

Misleading Business Headings on Consumer Debt Communications

The Fair Debt Collections Practices Act prohibits a debt collector from using unfair or unconscionable means to collect or attempt to collect any debt (15 U.S.C.A. § 1692f), including, in subsection (8), using any language or symbol, other than the debt collector's address, on any envelope when communicating with a consumer by use of the mails or by telegram, except that a debt collector may use his or her business name if such name does not indicate that he or she is in the debt collection business. This annotation collects all of the cases which have construed or applied this particular provision of the Fair Debt Collections Practices Act. **5 A.L.R. Fed. 2d**

Index

The following is a complete list, arranged alphabetically by topic, of annotations contained in the current 4 A.L.R. Fed. 2d volume or scheduled for publication in volume 5 of A.L.R. Fed. 2d. Some of the annotations listed may be rescheduled.



ARMED FORCES

Validity, Construction, and Application of Solomon Amendment, Which Denies Federal Funding to Institutions of Higher Education that Prohibit Military Representatives Access to and Assistance for Recruiting Purposes. **5 A.L.R. Fed. 2d**

BANKRUPTCY

Bankruptcy Rule 9011 Sanctions in Chapter 11 Bankruptcy Proceedings. **5 A.L.R. Fed. 2d**

BRIBERY AND CORRUPTION

Validity, Construction, and Application of 18 U.S.C.A. § 666(a)(2) Pertaining to Bribery Concerning Programs Receiving Federal Funds. **5 A.L.R. Fed. 2d**

CITIZENSHIP AND NATIONALITY

Who Is "National" of the United States for Removability Purposes. **5 A.L.R. Fed. 2d**

CONSUMER PROTECTION

Construction and Application of Provision of Fair Debt Collections Practices Act Concerning Use of Language or Symbol on Mailed Envelope, 15 U.S.C.A. § 1692f(8). **5 A.L.R. Fed. 2d**

COPYRIGHT

Copyright Protection Afforded to Republication of Collective Works in Electronic Databases—Canadian and United States Cases. **5 A.L.R. Fed. 2d**

CRIMINAL LAW

When Has Federal Prosecutor Breached Plea Agreement—Promises Related to Upward Adjustment of Sentence in Drug Cases. **4 A.L.R. Fed. 2d 299**

DISABLED PERSONS

What Physical Injuries or Impairments Constitute Substantial Limitation on Major Life Activity of Walking for Purposes of Americans With Disabilities Act (42 U.S.C.A. §§ 12101 to 12213). **4 A.L.R. Fed. 2d 569**

FRAUD AND DECEIT

Legal and Procedural Issues in Prosecutions Under Federal Statutes Relating to Offense of Identity Theft. **4 A.L.R. Fed. 2d 365**

IMMIGRATION

Sufficiency of Evidence to Establish Alien's Past Persecution Entitling Alien to Status of Refugee Under § 101(a)(42)(A) of the Immigration and Nationality Act of 1952 (8 U.S.C.A. § 1101(a)(42)(A))—Alleged Persecution in North and South American Nations. **4 A.L.R. Fed. 2d 117**

INSURANCE

Construction and Application of Federal Women's Health and Cancer Rights Act of 1998, 29 U.S.C.A. § 1185b. **4 A.L.R. Fed. 2d 697**

INTERNATIONAL LAW

Application of Common Law Revenue Rule by Federal Courts. **4 A.L.R. Fed. 2d 279**

LABOR AND EMPLOYMENT

Award of Liquidated Damages Under § 7 of Age Discrimination in Employment Act (29 U.S.C.A. §§626(b), 633a) for "Willful" Violations of Act. **5 A.L.R. Fed. 2d**

When Is Coworker's Hostile Environment Sexual Harassment Under Title VII of Civil Rights Act of 1964 (42 U.S.C.A. §§2000e et seq.) Imputable to Employer—Service Industry—Nongovernmental Employment. **5 A.L.R. Fed. 2d**

When Is National or International Union Responsible for its Local Union's Violation of Federal Employment Discrimination Laws. **4 A.L.R. Fed. 2d 535**

PRIVACY

Validity, Construction, and Application of the Information Privacy Provisions of the Gramm-Leach-Bliley Act, 15 U.S.C.A. §§ 6801 to 6809, and Regulations Promulgated Thereunder. **5 A.L.R. Fed. 2d**

RECORDS

Requests for Expedited Processing Under Freedom of Information Act. **4 A.L.R. Fed. 2d 337**

SCHOOLS

Construction and Application of No Child Left Behind Act, Pub. L. No. 107-110, 115 Stat. 1425 (2002) (codified at 20 U.S.C.A. §§ 6301 et seq.). **4 A.L.R. Fed. 2d 103**

STANDING

Next-Friend Standing for Purposes of Bringing Federal Habeas Corpus Petition. **5 A.L.R. Fed. 2d**

TREATIES

What Constitutes Accident Under Warsaw Convention—Global Cases. **4 A.L.R. Fed. 2d 1**

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