

# ALR Federal 2d *Alert*

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## From the editor

One of the most ubiquitous and controversial pieces of federal legislation that Congress has passed in recent memory is the healthcare reform bill known as the Patient Protection and Affordable Care Act. It has polarized the nation over whether the federal government has the power to compel citizens to purchase health insurance, even if they do not wish to do so, that is being debated everywhere from family kitchen tables to presidential primary debate podiums. In short time, its constitutionality will be debated in the halls of the United States Supreme Court. The current volume of A.L.R. Fed. 2d features an annotation addressing the validity and construction of the centerpiece of this legislation: the individual mandate [60 A.L.R. Fed. 2d 1]. In addition, the current volume addresses several issues in criminal law, including the allowance of bail in international extradition proceedings [60 A.L.R. Fed. 2d 203], a statute specifically proscribing murder as a means to silence witnesses of federal crimes [60 A.L.R. Fed. 2d 331], and the sufficiency of a court's compliance with a defendant's right of allocution [60 A.L.R. Fed. 2d 511]. The subsequent volume focuses on exceptions and limitations of several federal statutes. It features an annotation addressing an exception to foreign state sovereign immunity when they engage in commercial activity outside of the U.S. that has a direct effect on our country [61 A.L.R. Fed. 2d], the preservation of sovereign immunity regarding the loss, miscarriage or transmission of letters or postal matter [61 A.L.R. Fed. 2d], the pre-emptive effect of the Truth in Lending Act regarding the disclosure of consumer credit terms [61 A.L.R. Fed. 2d], and the extent of individuals' intangible property rights in cookbooks, recipes, cooking shows, and the like under the Federal Copyright Act [61 A.L.R. Fed. 2d].

*Douglas A. Bass, J.D. and Michael T. Poccia, Editor*

## Highlights

### HEALTH INSURANCE

#### Individual Mandate

The Patient Protection and Affordable Care Act was signed into law by President Barack Obama on March 23, 2010. The proponents of this Act



identified its purposes as reforming America's health care system to achieve universal medical insurance coverage for all Americans and lowering the costs of health care nationally. To achieve these goals, Congress identified as a crucial component of

this Act a mandate that all individuals, with certain limited enumerated exceptions, must procure what the Act defines as “minimum essential” medical insurance coverage or be subject to a financial penalty. This annotation collects and analyzes all of the cases in which the court has addressed the validity of the “minimum essential medical insurance coverage” or “individual mandate” provision of the Patient Protection and Affordable Care Act of 2010. [60 A.L.R. Fed. 2d 1](#)

## EXTRADITION

### Bail in International Extradition Proceedings

Bail in extradition cases may be governed in part by the provisions of the particular international treaty under which extradition is sought, which cannot be trumped by the Eighth Amendment’s admonition concerning the need to set reasonable bail in criminal cases. This annotation collects and analyzes the federal cases that have considered the propriety of allowing bail in extradition proceedings. [60 A.L.R. Fed. 2d 203](#)

## CRIMINAL PROCEDURE RULES

### Allocution

Rule 32(i)(4)(A)(ii) of the Federal Rules of Criminal Procedure provides for a right of allocution before sentencing. This annotation collects and discusses all cases that have ruled on the sufficiency of a court’s compliance with a defendant’s right of allocution under Rule 32(i)(4)(A)(ii) of the Federal Rules of Criminal Procedure and its predecessor rules. [60 A.L.R. Fed. 2d 511](#)

## OBSTRUCTING JUSTICE

### Witness Tampering—Murder

In relevant part, the federal witness tampering statute provides that it is a federal criminal offense to “kill[ ] or attempt to kill another person, with intent to ... prevent the communication by any person to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense ....” This annotation collects and discusses the cases that have construed and applied the federal witness tampering statute. [60 A.L.R. Fed. 2d 331](#)

# Coming Soon



1976 provides that a foreign state or its instrumentalities shall not enjoy sovereign immunity in federal or state courts where the court action is based upon an act outside the territory of the United States in connection with a commercial activity of the foreign state elsewhere and that act causes a direct effect in the United States. This annotation collects and analyzes the federal cases specifically discussing the elements of the third clause of the commercial activities exception and finding that the third clause gave the court subject matter jurisdiction. [61 A.L.R. Fed. 2d](#)

## COPYRIGHT AND LITERARY PROPERTY

### Cookbooks, Recipes, Cooking Shows, Etc.

The United States Constitution authorizes Congress to grant authors a limited intangible property right in their creative works. However, ideas may not be copyrighted, only the expressions of ideas. Similarly, statements of facts, generic elements of works or material in the public domain, and procedures, processes, or systems may not be copyrighted, raising the question whether recipes, cookbooks, and televised cooking shows contain sufficient originality to be eligible for copyright protection. This annotation collects and discusses all of the cases that have considered the copyrightability of cookbooks, recipes, cooking shows, and the like. [61 A.L.R. Fed. 2d](#)

## JURISDICTION

### Foreign Sovereign Immunities Act of 1976

The third clause of the commercial activity exception in the Foreign Sovereign Immunities Act of

## FEDERAL TORT CLAIMS ACT

### Postal Matter Exception

Although the Federal Tort Claims Act generally waives the federal government’s sovereign immunity with respect to tort claims for which a private person would be liable under like circumstances, it contains a number of exceptions, one of which, the so-called “postal matter” exception, provides that sovereign immunity is not waived with respect to any claim arising out of the loss, miscarriage, or negligent transmission of letters or postal matter. This annotation collects and analyzes cases construing or applying the postal matter exception. [61 A.L.R. Fed. 2d](#)

## TRUTH IN LENDING

### Preemption of State Statutes

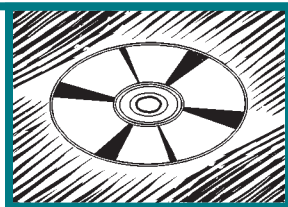
The Truth in Lending Act (TILA) was enacted to

ensure that the terms of consumer credit are disclosed in a meaningful way so that consumers can knowledgeably compare credit terms. An express preemption provision provides that TILA does not “annul, alter, or affect” any state laws relating to the disclosure of information in connection with credit

transactions, except to the extent that such laws are inconsistent with the Act and then only to the extent of such inconsistency. This annotation collects and analyzes all of the cases in which courts have considered whether state-law claims involving the provision of credit are preempted by TILA. **61 A.L.R. Fed. 2d**

# Index

The following is a complete list, arranged alphabetically by topic, of annotations contained in Volume 60 of A.L.R. Fed. 2d or scheduled for publication in Volume 61 of A.L.R. Fed. 2d. Some of the annotations listed may be rescheduled.



## ALIENS

Construction and Application of Alien Tort Statute (28 U.S.C.A. § 1350): Parties, **61 A.L.R. Fed. 2d**

## ALLOCATION

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Information Filed in Bankruptcy Court as Trade Secret or Confidential Research, Development, or Commercial Information Protected from Public Disclosure Pursuant to 11 U.S.C.A. § 107(b)(1), **61 A.L.R. Fed. 2d**

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Validity, Construction, and Application of Copyright Remedy Clarification Act, Pub.L. No. 101-553, 104 Stat. 2749 (codified at 17 U.S.C.A. §§ 501(a), 511), **60 A.L.R. Fed. 2d 627**

Application of Copyright Law to Cookbooks, Recipes, Cooking Shows, and the Like, **61 A.L.R. Fed. 2d**

## ELEVENTH AMENDMENT

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## PRODUCTION OF DOCUMENTS

Information Filed in Bankruptcy Court as Trade Secret or Confidential Research, Development, or Commercial Information Protected from Public Disclosure Pursuant to 11 U.S.C.A. § 107(b)(1), **61 A.L.R. Fed. 2d**

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