

INDEX

ALASKA. See **Constitutional Law**, V.

AMERICANS WITH DISABILITIES ACT OF 1990.

Professional corporations—Physician-shareholders as employees.—Common-law element of control is principal guidepost for deciding whether a professional corporation’s physician-shareholders are “employees” under Act; case is remanded for a determination whether, under this standard, physicians in this case are petitioner clinic’s employees. *Clackamas Gastroenterology Associates, P. C. v. Wells*, p. 440.

ANTITERRORISM AND EFFECTIVE DEATH PENALTY ACT OF 1996. See **Habeas Corpus**, 3.

“ANY WILLING PROVIDER” STATUTES. See **Employee Retirement Income Security Act of 1974**, 2.

ARBITRARY GOVERNMENT CONDUCT. See **Constitutional Law**, III, 6.

ARBITRATION.

Racketeer Influenced and Corrupt Organizations Act—Treble damages—Parties’ agreements.—Because it is unclear whether arbitration agreements of parties—physicians and managed-health-care organizations—actually prevent an arbitrator from awarding treble damages under RICO, it would be premature for this Court to address questions whether agreements are unenforceable and whether courts or arbitrators should decide enforceability in first instance; proper course is to compel arbitration. *PacifiCare Health Systems, Inc. v. Book*, p. 401.

ASBESTOSIS. See **Federal Employers’ Liability Act**.

ASSISTANCE OF COUNSEL. See **Habeas Corpus**, 1.

ATTORNEYS. See **Constitutional Law**, X; **Habeas Corpus**, 1.

AUTOMOBILE IMPOUNDMENT OR TOWING. See **Constitutional Law**, III, 2.

BANKRUPTCY.

Nondischargeable debt—Money promised in settlement agreement.—A debt for money promised in a settlement agreement accompanied by re-

BANKRUPTCY—Continued.

lease of underlying tort claims can amount to a debt for money obtained by fraud under nondischargeability provision, 11 U. S. C. § 523(a)(2)(A). *Archer v. Warner*, p. 314.

CALIFORNIA. See **Civil Rights Act of 1871**; **Constitutional Law**, II; III, 2; VII; **Habeas Corpus**, 4.

CANCER. See **Federal Employers' Liability Act**.

CAPITAL MURDER. See **Habeas Corpus**, 2.

CAR IMPOUNDMENT OR TOWING. See **Constitutional Law**, III, 2.

CASE OR CONTROVERSY. See **Constitutional Law**, I; **Justiciability**.

CERTIORARI. See **Foreign Sovereign Immunities Act of 1976**.

CHARITABLE SOLICITATIONS. See **Constitutional Law**, VI, 1.

CIVIL RIGHTS ACT OF 1871.

“Person”—Indian tribe—State-court search warrant.—Respondent Tribe is not a “person” who can sue under 42 U. S. C. § 1983 to vindicate its status as a sovereign immune from a California state-court search warrant authorizing seizure of tribal records. *Inyo County v. Paiute-Shoshone Indians of Bishop Community of Bishop Colony*, p. 701.

COMMERCE CLAUSE. See **Preliminary Injunctions**.

COMMON LAW OF FOREIGN RELATIONS. See **Foreign Sovereign Immunities Act of 1976**.

CONCESSION CONTRACTS. See **Justiciability**.

CONFESSIONS TO CRIMES. See **Constitutional Law**, VIII.

CONGRESSIONAL REDISTRICTING. See **Voting Rights Act of 1965**.

CONNECTICUT. See **Constitutional Law**, III, 3.

CONSTITUTIONAL LAW. See also **Preliminary Injunctions**.

I. Case or Controversy.

Supplemental state-law claims—Tolling of state limitations statutes—Political subdivisions.—Title 28 U. S. C. § 1367(d), which requires state statute of limitations to be tolled while a state-law cause of action is pending as a supplemental claim in federal court, is constitutional as applied to claims brought against a State's political subdivisions. *Jinks v. Richland County*, p. 456.

CONSTITUTIONAL LAW—Continued.**II. Cruel and Unusual Punishment.**

Grossly disproportionate sentences—Three-strikes law.—California Court of Appeal’s decision that Ewing’s sentence under State’s “three strikes” law is not grossly disproportionate under Eighth Amendment’s prohibition on cruel and unusual punishment is affirmed. *Ewing v. California*, p. 11.

III. Due Process.

1. *Deportation—Detainment pending removal hearing.*—Congress, justifiably concerned with evidence that deportable criminal aliens who are not detained continue to engage in crime and fail to appear for their removal hearings in large numbers, may require that such persons be detained for brief periods necessary for their removal proceedings; thus, 8 U. S. C. § 1226(e) does not violate Fifth Amendment’s Due Process Clause. *Demore v. Kim*, p. 510.

2. *Hearing delays—Automobile impoundment and towing fee recovery.*—Due Process Clause does not prohibit Los Angeles from imposing a 30-day delay when holding hearings to consider claims for reimbursement of automobile impoundment or towing fees. *Los Angeles v. David*, p. 715.

3. *“Megan’s Law”—Sex offender registry—Public disclosure.*—Second Circuit’s judgment enjoining public disclosure of sex offender registry under Connecticut’s Megan’s Law is reversed because due process does not require opportunity to prove a fact, here, current dangerousness, that is not material to State’s statutory scheme. *Connecticut Dept. of Public Safety v. Doe*, p. 1.

4. *Police interrogation—Qualified immunity.*—Ninth Circuit’s judgment that officer Chavez is not entitled to qualified immunity is reversed, and issue whether Martinez may pursue a claim of liability for a substantive due process violation based on a police interrogation that occurred while he was being treated for a gunshot wound should be addressed on remand. *Chavez v. Martinez*, p. 760.

5. *Punitive damages—Size of award.*—A punitive damages award of \$145 million, where full compensatory damages are \$1 million, is excessive and violates Fourteenth Amendment’s Due Process Clause. *State Farm Mut. Automobile Ins. Co. v. Campbell*, p. 408.

6. *Referendum petition—Repeal of municipal low-income housing ordinance.*—Submitting to voters a facially neutral referendum petition calling for repeal of a municipal ordinance authorizing construction of a low-income housing complex did not constitute arbitrary government conduct violating substantive due process. *Cuyahoga Falls v. Buckeye Community Hope Foundation*, p. 188.

CONSTITUTIONAL LAW—Continued.

7. *Validity of conviction—Definition of “weapon”—Common pocketknife exception.*—Case is remanded for Florida Supreme Court to determine whether “common pocketknife” exception to Florida’s definition of a “weapon” encompassed petitioner’s pocketknife at time his conviction became final. *Bunkley v. Florida*, p. 835.

IV. Equal Protection of the Laws.

Referendum petition—Repeal of municipal low-income housing ordinance.—Respondents present no genuine issues of material fact regarding whether Cuyahoga Falls violated Equal Protection Clause by submitting to voters a facially neutral referendum petition calling for repeal of a municipal ordinance authorizing construction of a low-income housing complex. *Cuyahoga Falls v. Buckeye Community Hope Foundation*, p. 188.

V. Ex Post Facto Laws.

“Megan’s Law”—Retroactivity of state Sex Offender Registration Act.—Because Alaska’s “Megan’s Law” is nonpunitive, its retroactive application does not violate *Ex Post Facto* Clause. *Smith v. Doe*, p. 84.

VI. Freedom of Speech.

1. *Charitable fundraising—Fraudulent solicitations.*—Consistent with First Amendment and this Court’s precedents, States may maintain fraud actions when charitable fundraisers make false or misleading representations designed to deceive donors about how their donations will be used. *Illinois ex rel. Madigan v. Telemarketing Associates, Inc.*, p. 600.

2. *Cross burning—Intent to intimidate.*—A State, consistent with First Amendment, may ban cross burning carried out with intent to intimidate; Virginia Supreme Court’s judgment invalidating respondents’ convictions for violating Commonwealth’s cross-burning statute is affirmed as to respondent Black, but vacated and remanded as to respondents Elliott and O’Mara. *Virginia v. Black*, p. 343.

VII. Full Faith and Credit.

Sovereign immunity—State tax agency.—Full Faith and Credit Clause does not require Nevada to give full faith and credit to California’s statutes providing its tax agency with immunity from suit. *Franchise Tax Bd. of Cal. v. Hyatt*, p. 488.

VIII. Searches and Seizures.

Illegal arrest—Suppression of confession.—Kaupp’s illegal arrest requires suppression of his subsequent murder confession unless State can show on remand that his confession was an act of free will sufficient to purge unlawful arrest’s primary taint. *Kaupp v. Texas*, p. 626.

CONSTITUTIONAL LAW—Continued.**IX. States' Immunity from Suit.**

Family and Medical Leave Act of 1993—Money damages.—State employees may recover money damages in federal court in event of State's failure to comply with family-care provision of federal Act. Nevada Dept. of Human Resources v. Hibbs, p. 721.

X. Taking of Property.

Per se taking—Interest on lawyers' trust accounts—Owner's pecuniary interest.—Interest earned on client funds deposited in IOLTA accounts that is transferred to a different owner for a legitimate public use may constitute a *per se* taking requiring “just compensation” to client under Fifth Amendment; but because such compensation is measured by owner's pecuniary interest, which is zero whenever Washington's IOLTA law is obeyed, there is no violation of Just Compensation Clause here. Brown v. Legal Foundation of Wash., p. 216.

CONTRACT DISPUTES ACT OF 1978. See **Justiciability.**

CONTROL. See **Americans with Disabilities Act of 1990.**

CORPORATIONS. See **Foreign Sovereign Immunities Act of 1976.**

CREDITORS AND DEBTORS. See **Bankruptcy.**

CRIMINAL LAW. See **Constitutional Law**, II; III, 1, 7; VIII.

CROSS BURNING. See **Constitutional Law**, VI, 2.

CRUEL AND UNUSUAL PUNISHMENT. See **Constitutional Law**, II.

DEBTORS AND CREDITORS. See **Bankruptcy.**

DEPORTATION. See **Constitutional Law**, III, 1; **Stays.**

DISABILITY BENEFITS. See **Employee Retirement Income Security Act of 1974**, 1.

DISCLOSURE OF SEX OFFENDER REGISTRY. See **Constitutional Law**, III, 3.

DISPROPORTIONATE SENTENCES. See **Constitutional Law**, II.

DOUBLE JEOPARDY. See **Habeas Corpus**, 2.

DUE PROCESS. See **Constitutional Law**, III.

EFFECTIVE ASSISTANCE OF COUNSEL. See **Habeas Corpus**, 1.

EIGHTH AMENDMENT. See **Constitutional Law**, II.

ELEVENTH AMENDMENT. See **Constitutional Law, IX.**

EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

1. *Disability benefits—Deference to treating physicians' opinions.*—ERISA does not require plan administrators making determination whether a claimant is entitled to disability benefits to accord special deference to opinions of claimant's treating physicians. *Black & Decker Disability Plan v. Nord*, p. 822.

2. *Pre-emption—State "Any Willing Provider" statutes.*—Kentucky's "Any Willing Provider" statutes are "law[s] . . . which regulat[e] insurance" under 29 U. S. C. § 1144(b)(2)(A) and are therefore saved from pre-emption by ERISA. *Kentucky Assn. of Health Plans, Inc. v. Miller*, p. 329.

EMPLOYER AND EMPLOYEES. See **Americans with Disabilities Act of 1990; Federal Employers' Liability Act.**

EQUAL PROTECTION OF THE LAWS. See **Constitutional Law, IV.**

EXCESSIVE DAMAGES. See **Constitutional Law, III, 5.**

EX POST FACTO LAWS. See **Constitutional Law, V.**

FAIR LABOR STANDARDS ACT OF 1938.

Removal.—Provision specifying that an FLSA suit "may be maintained . . . in any Federal or State court of competent jurisdiction," 29 U. S. C. § 216(b), does not bar removal of such a suit from state to federal court. *Breuer v. Jim's Concrete of Brevard, Inc.*, p. 691.

FALSE CLAIMS ACT.

Qui tam actions—Local governments.—Local governments are "persons" amenable to *qui tam* actions under federal False Claims Act. *Cook County v. United States ex rel. Chandler*, p. 119.

FAMILY AND MEDICAL LEAVE ACT OF 1993. See **Constitutional Law, IX.**

FEDERAL EMPLOYERS' LIABILITY ACT.

Asbestosis—Mental anguish damages—Fear of cancer.—Mental anguish damages resulting from fear of developing cancer may be recovered under FELA by a railroad worker suffering from actionable injury asbestosis caused by work-related asbestos exposure; FELA allows such a worker to recover his entire damages from a railroad whose negligence jointly caused his injury, thus placing on railroad burden of seeking contribution from other potential tortfeasors. *Norfolk & Western R. Co. v. Ayers*, p. 135.

FEDERAL MAGISTRATE ACT OF 1979.

Civil jurisdiction—Parties' consent.—Consent to a magistrate judge's designation to preside in a case can be inferred from a party's conduct during litigation; petitioners' appearances before Magistrate Judge, after being told of their right to be tried by a district judge, supplies "consent" necessary for Magistrate's "civil jurisdiction" under 28 U. S. C. § 636(c)(1). *Roell v. Withrow*, p. 580.

FEDERAL RULES OF APPELLATE PROCEDURE.

Amendments to Rules, p. 1071.

FEDERAL RULES OF BANKRUPTCY PROCEDURE.

Amendments to Rules, p. 1075.

FEDERAL RULES OF CIVIL PROCEDURE.

Amendments to Rules, p. 1083.

FEDERAL RULES OF EVIDENCE.

Amendments to Rules, p. 1097.

FEDERAL-STATE RELATIONS. See **Constitutional Law, I; Employee Retirement Income Security Act of 1974, 2; Fair Labor Standards Act of 1938; False Claims Act; Voting Rights Act of 1965.**

FIFTH AMENDMENT. See **Constitutional Law, III, 1, 4; X; Habeas Corpus, 2.**

FIRST AMENDMENT. See **Constitutional Law, VI.**

FLORIDA. See **Constitutional Law, III, 7.**

FOREIGN SOVEREIGN IMMUNITIES ACT OF 1976.

Ownership of corporation—State instrumentality—Federal common law of foreign relations.—A foreign state must itself own a majority of a corporation's shares if corporation is to be deemed an instrumentality of state under Act; instrumentality status is determined at time complaint is filed; certiorari is dismissed in No. 01-593 as petitioners did not seek review in this Court of Ninth Circuit's ruling on federal common law of foreign relations. *Dole Food Co. v. Patrickson*, p. 468.

FOURTEENTH AMENDMENT. See **Constitutional Law, III, 2-7; IV; Habeas Corpus, 2.**

FOURTH AMENDMENT. See **Constitutional Law, VIII.**

FRAUDULENT CHARITABLE SOLICITATIONS. See **Constitutional Law, VI, 1.**

FREEDOM OF SPEECH. See **Constitutional Law, VI.**

FULL FAITH AND CREDIT. See **Constitutional Law**, VII.

GROSSLY DISPROPORTIONATE SENTENCES. See **Constitutional Law**, II.

HABEAS CORPUS.

1. *Federal prisoner—Ineffective-assistance-of-counsel claim.*—An ineffective-assistance-of-counsel claim may be brought in a collateral proceeding under 28 U. S. C. §2255, whether or not petitioner could have raised claim on direct appeal. *Massaro v. United States*, p. 500.

2. *State prisoner—First-degree murder conviction.*—Respondent was not entitled to habeas relief where Michigan court's decision that Double Jeopardy Clause did not bar his continued prosecution for first-degree murder was not contrary to or an unreasonable application of this Court's clearly established precedents, 28 U. S. C. §2254(d). *Price v. Vincent*, p. 634.

3. *State prisoner—"Pending" case—Application of Antiterrorism and Effective Death Penalty Act of 1996.*— For purposes of applying rule in *Lindh v. Murphy*, 521 U. S. 320, a case is not "pending" until an actual habeas application is filed in federal court; respondent's application is subject to AEDPA because it was not filed until after that Act's effective date. *Woodford v. Garceau*, p. 202.

4. *State prisoner—Third-strike conviction.*—Ninth Circuit erred in ruling that California Court of Appeal's decision affirming Andrade's sentence for a third-strike conviction is contrary to, or an unreasonable application of, this Court's clearly established law under 28 U. S. C. §2254(d)(1). *Lockyer v. Andrade*, p. 63.

HEARING DELAYS. See **Constitutional Law**, III, 2.

HMOs. See **Arbitration**.

ILLEGAL ARRESTS. See **Constitutional Law**, VIII.

ILLINOIS. See **Constitutional Law**, VI, 1.

IMMIGRATION. See **Constitutional Law**, III, 1; **Stays**.

IMMUNITY FROM SUIT. See **Civil Rights Act of 1871**; **Constitutional Law**, III, 4; VII; IX.

INDIANS. See **Civil Rights Act of 1871**.

INEFFECTIVE ASSISTANCE OF COUNSEL. See **Habeas Corpus**, 1.

INSURANCE REGULATION. See **Employee Retirement Income Security Act of 1974**, 2.

INTEREST ON LAWYERS' TRUST ACCOUNTS. See **Constitutional Law**, X.

- INTIMIDATING CONDUCT.** See **Constitutional Law**, VI, 2.
- IOLTA.** See **Constitutional Law**, X.
- JUST COMPENSATION CLAUSE.** See **Constitutional Law**, X.
- JUSTICIABILITY.**
Ripeness—National park concession contract disputes.—Controversy over whether Contract Disputes Act of 1978 applies to national park concession contracts is not yet ripe for judicial resolution. *National Park Hospitality Assn. v. Department of Interior*, p. 803.
- KENTUCKY.** See **Employee Retirement Income Security Act of 1974**, 2.
- LAWYERS.** See **Constitutional Law**, X; **Habeas Corpus**, 1.
- LIMITATIONS PERIODS.** See **Constitutional Law**, I.
- LOW-INCOME HOUSING.** See **Constitutional Law**, III, 6; IV.
- MAGISTRATE JUDGES.** See **Federal Magistrate Act of 1979**.
- MAINE RX PROGRAM.** See **Preliminary Injunctions**.
- MANAGED-HEALTH-CARE ORGANIZATIONS.** See **Arbitration**.
- MEDICAID.** See **Preliminary Injunctions**.
- MEGAN'S LAW.** See **Constitutional Law**, III, 3; V.
- MENTAL ANGUISH DAMAGES.** See **Federal Employers' Liability Act**.
- MICHIGAN.** See **Habeas Corpus**, 2.
- MISSISSIPPI.** See **Voting Rights Act of 1965**.
- MURDER.** See **Constitutional Law**, VIII; **Habeas Corpus**, 2.
- NATIONAL PARKS.** See **Justiciability**.
- NEVADA.** See **Constitutional Law**, VII; IX.
- NONDISCHARGEABLE DEBT.** See **Bankruptcy**.
- OHIO.** See **Constitutional Law**, III, 6; IV.
- PER SE TAKINGS.** See **Constitutional Law**, X.
- PHYSICIAN-SHAREHOLDERS AS EMPLOYEES.** See **Americans with Disabilities Act of 1990**.
- POCKETKNIVES.** See **Constitutional Law**, III, 7.

PRE-EMPTION. See **Employee Retirement Income Security Act of 1974, 2; Preliminary Injunctions.**

PRELIMINARY INJUNCTIONS.

Maine Rx Program—Commerce Clause and pre-emption claims.—First Circuit’s judgment vacating a preliminary injunction that prevented implementation of Maine Rx Program—which, in order to reduce prescription drug prices for state residents, provides that if a drug manufacturer does not enter into a rebate agreement with State, its Medicaid sales will be subjected to a prior authorization program requiring state approval to qualify a doctor’s prescription for reimbursement—on Commerce Clause and pre-emption grounds is affirmed. *Pharmaceutical Research and Mfrs. of America v. Walsh*, p. 644.

PROFESSIONAL CORPORATIONS. See **Americans with Disabilities Act of 1990.**

PUBLIC DISCLOSURE OF SEX OFFENDER REGISTRY. See **Constitutional Law, III, 3.**

PUBLIC HOUSING. See **Constitutional Law, III, 6; IV.**

PUNITIVE DAMAGES. See **Constitutional Law, III, 5.**

QUALIFIED IMMUNITY. See **Constitutional Law, III, 4.**

QUI TAM ACTIONS. See **False Claims Act.**

RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT. See **Arbitration.**

RAILROAD WORKERS. See **Federal Employers’ Liability Act.**

REDISTRICTING. See **Voting Rights Act of 1965.**

REFERENDUM PETITION. See **Constitutional Law, III, 6; IV.**

REGISTRY OF SEX OFFENDERS. See **Constitutional Law, III, 3; V.**

REMOVAL JURISDICTION. See **Fair Labor Standards Act of 1938.**

REMOVAL OF DEPORTABLE ALIENS. See **Constitutional Law, III, 1; Stays.**

RIPENESS. See **Justiciability.**

SEARCHES AND SEIZURES. See **Constitutional Law, VIII.**

SEARCH WARRANTS. See **Civil Rights Act of 1871.**

SETTLEMENT AGREEMENTS. See **Bankruptcy.**

SEX OFFENDER REGISTRY. See **Constitutional Law, III, 3; V.**

SOVEREIGN IMMUNITY. See **Civil Rights Act of 1871; Constitutional Law**, VII; IX.

STATES' IMMUNITY FROM SUIT. See **Constitutional Law**, VII; IX.

STATUTES OF LIMITATIONS. See **Constitutional Law**, I.

STAYS.

Removal from United States.—Applicant's request for a stay of his removal from United States is denied where he is unable to establish a reasonable likelihood that a reviewing court would be compelled to disagree with Bureau of Immigration Appeals' decision that withholding of removal was unavailable to him. *Kenyeres v. Asheroft*, p. 1301 (KENNEDY, J., in chambers).

SUBSTANTIVE DUE PROCESS. See **Constitutional Law**, III, 6.

SUPPLEMENTAL JURISDICTION. See **Constitutional Law**, I.

SUPPRESSING CONFESSIONS. See **Constitutional Law**, VIII.

SUPREME COURT. See also **Foreign Sovereign Immunities Act of 1976**.

1. Retirement of Shelley L. Dowling as Librarian, p. III.
2. Amendments to Federal Rules of Appellate Procedure, p. 1071.
3. Amendments to Federal Rules of Bankruptcy Procedure, p. 1075.
4. Amendments to Federal Rules of Civil Procedure, p. 1083.
5. Amendments to Federal Rules of Evidence, p. 1097.

TAKING OF PROPERTY. See **Constitutional Law**, X.

TAXES. See **Constitutional Law**, VII.

THREE-STRIKES LAWS. See **Constitutional Law**, II; **Habeas Corpus**, 4.

TOLLING STATUTES OF LIMITATIONS. See **Constitutional Law**, I.

TREBLE DAMAGES. See **Arbitration**.

TRIBAL IMMUNITY. See **Civil Rights Act of 1871**.

TRUST ACCOUNTS. See **Constitutional Law**, X.

UNLAWFUL ARRESTS. See **Constitutional Law**, VIII.

VIRGINIA. See **Constitutional Law**, VI, 2.

VOTING RIGHTS ACT OF 1965.

Redistricting plan—Federal court's authority.—Federal District Court properly enjoined a Mississippi state court's proposed congressional redistricting plan.

VOTING RIGHTS ACT OF 1965—Continued.

tricting plan and fashioned its own plan under 2 U. S. C. §2c. Branch v. Smith, p. 254.

WASHINGTON. See **Constitutional Law**, X.

“WEAPON” DEFINITION. See **Constitutional Law**, III, 7.

WORDS AND PHRASES.

1. *“Consent.”* Federal Magistrate Act of 1979, 28 U. S. C. § 636(c)(1). Roell v. Withrow, p. 580.

2. *“Law[s] . . . which regulat[e] insurance.”* Employee Retirement Income Security Act of 1974, 29 U. S. C. § 1144(b)(2)(A). Kentucky Assn. of Health Plans, Inc. v. Miller, p. 329.

3. *“May be maintained . . . in any Federal or State court of competent jurisdiction.”* Fair Labor Standards Act of 1938, 29 U. S. C. § 216(b). Breuer v. Jim’s Concrete of Brevard, Inc., p. 691.

4. *“Person.”* §1979, Civil Rights Act of 1871, 42 U. S. C. § 1983. Inyo County v. Paiute-Shoshone Indians of Bishop Community of Bishop Colony, p. 701.