

1992

Table of Contents, Volume 30, Number 2, Winter 1992

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Recommended Citation

Table of Contents, Volume 30, Number 2, Winter 1992, 30 Duq. L. Rev. [v] (1992).

Available at: <https://dsc.duq.edu/dlr/vol30/iss2/2>

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Duquesne Law Review

Volume 30, Number 2, Winter 1992

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Articles

ADMISSION OF BUSINESS RECORDS INTO EVIDENCE: USING THE BUSINESS RECORDS EXCEPTION AND OTHER TECHNIQUES

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Thomas J. Cunningham

This article discusses problems encountered by attorneys faced with complex civil litigation where much evidence is contained in business-related documents. The article discusses evidentiary problems that recur in a majority of business documents, such as opinions by persons who are unavailable or non-experts that are contained in these documents, and multiple levels of hearsay within business documents. In addition, this article explores the alternative options available to counsel when attempts to use the "business records exception" fail.

ESCAPING THE RICO DRAGNET IN CIVIL LITIGATION: WHY WON'T THE LOWER COURTS LISTEN TO THE SUPREME COURT?

Michael P. Kenny 257

This article provides a comprehensive analysis of civil RICO, and shows that the federal courts are divided in their interpretations of virtually every significant aspect of civil RICO. Mr. Kenny argues that the division of opinion is due to articulate meaningful interpretations of RICO's essential elements. Mr. Kenny also argues that unless RICO is amended to clarify its central components, or unless the Supreme Court decides that RICO is unconstitutionally vague, the lower federal courts will continue to fail to reach consensus on RICO's various elements. As a result, the courts will continue to fail to articulate meaningful standards of behavior, and litigants will continue to allege RICO causes of action in disputes that are far afield from racketeering and criminal activity.

Comments

THE AIDS CHALLENGE CONTINUES: SHOULD
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Recent Decisions

CONSTITUTIONAL LAW—EIGHTH AMENDMENT—CRUEL AND UNUSUAL PUNISHMENT—PROPORTIONALITY GUARANTEE—The United States Supreme Court held that the Eighth Amendment contains no proportionality guarantee and thus upheld a mandatory sentence of life imprisonment with no possibility of parole for possession of 672.5 grams of cocaine in violation of a Michigan statute.
Harmelin v Michigan, US , 111 S Ct 2680 (1991). 387

CONSTITUTIONAL LAW—FIRST AMENDMENT—FREEDOM OF EXPRESSION—PUBLIC INDECENCY—The United States Supreme Court held that the enforcement of Indiana’s public indecency statute to require dancers to wear G-strings and pasties at adult entertainment establishments did not violate the First Amendment.
Barnes v Glen Theatre, Inc., US , 111 S Ct 2456 (1991). 409

INSURANCE—The United States Court of Appeals for the Third Circuit held that, under Pennsylvania law, the phrase “on authorized business” in a life insurance policy was ambiguous and could reasonably be interpreted to apply to an employee who was murdered by her estranged husband after she had completed her work shift but before she had left her employer’s premises.
McMillan v State Mutual Life Assurance Co. of Am., 992 F2d 1073 (3d Cir 1990). 427

INTERNATIONAL LAW—CIVIL RIGHTS—The United States Supreme Court held that Title VII does not apply extraterritorially to regulate employment practices of United States employers who employ United States citizens abroad.
EEOC v Arabian Am. Oil Co., US , 111 S Ct 1227 (1991). 453