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PROOF OF PROPRIETY OF REVOCATION OF ATTORNEY PRO HAC VICE ADMISSION

*Cecily Fuhr, J.D.**

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Scope

This article provides a practice guide for proving propriety of a revocation of an attorney's pro hac vice admission. Such a revocation may occur in a variety of contexts, including the imposition of sanctions and the attorney disciplinary process.

Research References

West's Key Number Digest

Attorneys and Legal Services ⇨1081

Westlaw Search Query

adv: "pro hac vice" /15 revok! revoc!"

A.L.R. Library

A.L.R. Index, Contempt; Pro Hac Vice

West's A.L.R. Digest, Attorneys and Legal Services ⇨1081

Attorneys: revocation of state court pro hac vice admission, 64

A.L.R.4th 1217

Attorney's right to appear pro hac vice in state court, 20 A.L.R.4th
855

Revocation of Attorney Pro Hac Vice Status in Federal Court, 103
A.L.R. Fed. 3d Art. 3

Attorney's right to appear pro hac vice in federal court, 33 A.L.R.
Fed. 799

Legal Encyclopedias

Am. Jur. 2d, Attorneys at Law; Bankruptcy; Federal Courts

PROOF OF IMPROPER COMMITMENT UNDER
INSANITY DEFENSE REFORM ACT, 18 U.S.C.A.
§§ 4241 ET SEQ.

*James L. Buchwalter, J.D.**

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PROOF OF ADMISSIBILITY OF BODY CAMERA EVIDENCE

*Kimberly J. Winbush, J.D.**

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Scope

This article presents a practice guide for obtaining and admitting body camera evidence in federal and state courts, in civil and criminal trials. This article will only discuss evidence from body cameras affixed to law enforcement officers.

Research References

West's Key Number Digest

Criminal Law ◊633.16; Evidence ◊873, 877, 2661

PROOF OF SIMILARITY FOR COPYRIGHT INFRINGEMENT CLAIMS INVOLVING COMIC BOOKS, CARTOON DRAWINGS, AND VIDEO GAME CHARACTERS

*Elizabeth Williams, J.D.**

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Scope

This article presents a practice guide for proving similarity in copyright infringement claims involving comic books, cartoon strips, and video game characters.

Research References

West’s Key Number Digest

Copyright and Intellectual Property Ⓒ589

Westlaw Search Query

(similar! /30 “comic book” comics “graphic novel” cartoon “video game” /150 infring! copyright! (17 /3 u.s.c.! /3 10!) “visual artists rights act” (37 /3 c.f.r. /3 202.1!)) (“arroza poster” “bob spongee” “amphoman”)

A.L.R. Library

A.L.R. Index, Copyright and Literary Property; Infringement

West’s A.L.R. Digest, Copyright and Intellectual Property Ⓒ589

Abandonment of Copyright, 93 A.L.R. Fed. 3d Art. 3

Cancellation of Copyright Registration by Judicial Action, 87 A.L.R. Fed. 3d Art. 8

Notice of Termination of Copyright Grants Under Copyright Act (17 U.S.C.A. §§ 203, 304(c), and 304(d)), 87 A.L.R. Fed. 3d Art. 7

Works Made for Hire as Statutorily Exempt from Copyright Termination Rights Under 17 U.S.C.A. §§ 203 and 304(c), 87 A.L.R. Fed. 3d Art. 6

Conduct Constituting Innocent or Non-Willful Copyright Infringement Under 17 U.S.C.A. § 504(c)(2), 77 A.L.R. Fed. 3d Art. 3

Proof of Access to Copyrighted Work by Widespread Dissemination in Infringement Case, 76 A.L.R. Fed. 3d Art. 5

Copyright Protection of Computer Programs Under 17 U.S.C.A. § 117, 31 A.L.R. Fed. 3d Art. 5

Construction and Application of Copyright Act—Supreme Court Cases, 24 A.L.R. Fed. 3d Art. 6

Statutory Notice of Termination of Copyright Grants Under Copyright Act, 17 U.S.C.A. § 203, 87 A.L.R. Fed. 2d 1

Application of Copyright Law to Cookbooks, Recipes, Cooking Shows, and the Like, 61 A.L.R. Fed. 2d 81

Application of Copyright Law to Jewelry, 30 A.L.R. Fed. 2d 577

Intellectual Property Rights in Video, Electronic, and Computer Games, 7 A.L.R. Fed. 2d 269

PROOF OF CONSTRUCTIVE ABANDONMENT OF CHILD

*Theodore Z. Wyman, J.D.**

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Scope

This article presents a practice guide for litigating whether a child was constructively abandoned or emancipated in the context of parental rights termination proceedings.

Research References

West's Key Number Digest

Infants ◊2001

Westlaw Search Query

constructive! /3 emancip! abandon! /15 child! /35 terminat! /15 parent! /15 rights relationship

A.L.R. Library

A.L.R. Index, Children and Minors; Parent and Child

West's A.L.R. Digest, Infants ◊2001

Construction and Application by State Courts of the Federal Adoption and Safe Families Act and Its Implementing State Statutes, 10 A.L.R.6th 173

Right of Parent to Regain Custody of Child After Temporary Conditional Relinquishment of Custody, 6 A.L.R.6th 229

Determination that Child is Neglected or Dependent, or that Parental Rights Should be Terminated, on Basis that Parent Has Failed to Provide for Child's Education, 6 A.L.R.6th 161

Parents' Mental Illness or Mental Deficiency as Ground for Termination of Parental Rights—Effect on Parenting Ability and Parental Rights, 116 A.L.R.5th 559

Parents' Mental Illness or Mental Deficiency As Ground for Termination of Parental Rights—General Considerations, 113 A.L.R.5th 349

Right to Jury Trial in Child Neglect, Child Abuse, or Termination of Parental Rights Proceedings, 102 A.L.R.5th 227

Parent's use of drugs as factor in award of custody of children, visitation rights, or termination of parental rights, 20 A.L.R.5th 534

Legal Encyclopedias

Am. Jur. 2d, Parent and Child

C.J.S., Infants