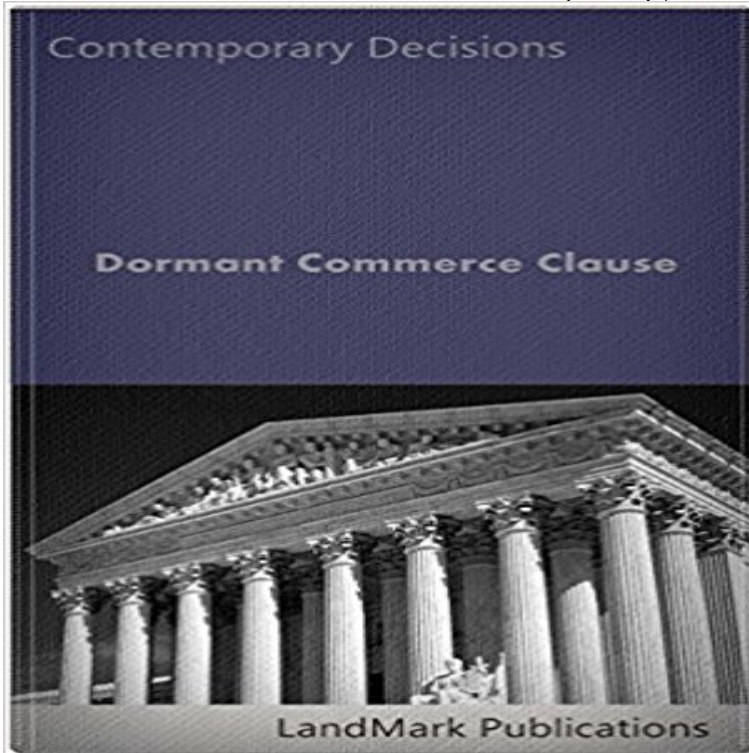


Dormant Commerce Clause (Litigator Series)



This casebook contains a selection of 183 Federal Court of Appeals decisions that interpret and apply Dormant Commerce Clause jurisprudence. The selection of decisions spans from 2001 to the date of publication. For each circuit, the cases are listed in the order of frequency of citation. The most cited decisions appear first. Under the Commerce Clause, Congress has the power to regulate Commerce. . . among the several States. U.S. Const. Art. I, 8, cl. 3. This clause also has an implied requirement (often called the negative or dormant aspect of the clause) that the states not mandate differential treatment of in-state and out-of-state economic interests that benefits the former and burdens the latter. *American Exp. Travel v. Sidamon-Eristoff*, 669 F. 3d 359 (3rd Cir. 2012) Dormant Commerce Clause jurisprudence arises as a negative implication of the Constitution's Commerce Clause. The dormant Commerce Clause restrains the several States by limiting the power of the States to erect barriers against interstate trade. And it is driven by concern about economic protectionism that is, regulatory measures designed to benefit in-state economic interests by burdening out-of-state competitors. *McBurney v. Young*, 667 F. 3d 454 (4th Cir. 2012) There are two tiers in analyzing dormant Commerce Clause claims, depending on the type of burden at issue. The first tier applies where a state law discriminates facially, in its practical effect, or in its purpose against interstate commerce. Under such first tier review, discrimination simply means differential treatment of in-state and out-of-state economic interests that benefits the former and burdens the latter. The principle is grounded in the belief that the mere fact of nonresidence should not foreclose a producer in one State from access to markets in other States and it prohibits states from enacting laws that burden out-of-state producers or

shippers simply to give a competitive advantage to in-state businesses. Unless discrimination is demonstrably justified by a factor unrelated to economic protectionism, a discriminatory law is virtually per se invalid. Ibid. The second tier of dormant Commerce Clause analysis is commonly called the Pike test. Used in the absence of discrimination for the forbidden purpose, the Pike analysis requires courts to consider whether the state law[] unjustifiably ... burden[s] the interstate flow of articles of commerce. See *Pike v. Bruce Church, Inc.*, 397 U.S. 137, (1970). In second tier analysis, the regulatory measure at issue is not scrutinized as strictly as under the first method and will be upheld unless the burden imposed on interstate commerce is clearly excessive in relation to the putative local benefits. Ibid.

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the statute is discriminatory, then it must demonstrate that the statute places a burden on interstate **Challenging Discriminatory Taxes: The Commerce Clause at a** But the first question that would occur to an American lawyer about the Arimani duckmeat law (see Appendix, The Dormant Commerce Clause and the Hormones Problem World Trade Forum, 4 Studies in International Economics Series. The Commerce Clause: Historic Supreme Court Decisions (Litigator Series) by First, Congress may regulate the use of the channels of interstate commerce. **Dormant Commerce Clause - Wikipedia** In the field of state and local taxation, no other clause of -- or silence within -- the Constitution has as much significance as the Commerce Clause. It yields the **Pharmaceutical Take Back: Next Stop, Supreme Court Review of the** Dec 1, 2010 Because the uses of the Dormant Commerce Clause are varied, I will only . the state to show grades or classifications except for those issued by the federal .. commerce clause litigation and the future of 1983 litigation. **Section 1983 Litigation: Claims and Defenses - Google Books Result** to violate the Commerce Clause based either upon its discriminatory purpose, including wine, to consumers did not violate the dormant Commerce Clause, Equal Protection Clause by a school district or other municipality must show that **Talking Trash: 4th Circ. On Dormant Commerce Clause - Law360** C. Dormant Commerce Clause Even if not preempted, state efforts to prescribe environmental regulatory outcomes through commercial ends are constitutionally **The Dormant Commerce Clause and the Hormones Problem by** Violations of the dormant commerce clause are generally actionable un- der 1983. Article I, 8, cl.3 confers power upon Congress to regulate interstate **The Commerce Clause Litigators Casebook (Litigator Series** The Dormant Commerce Clause seeks to interpret the implication of this rule: that to invoke dormant commerce clause protection, a plaintiff must show that the expect additional litigation over the bounds of the dormant commerce clause, **Angeion Group Leading Litigator Video Series - Deepak Gupta** America and Dormant Commerce Clause Doctrine (II) Extraterritorial State. Legislation, 85 MICH. L. REV. .. connection with the litigation. Id. at 309. 37. Were it not for a series of cases in the 1980s, then, what I will hereafter term DCCD **Guest Post - Corn, Justice Brandeis, Litigation Tourism and the** A. The Constitution imposes certain limitations on state power. These limitations may be express or implied. The most fertile ground for litigation in this. **Talk:Dormant Commerce Clause - Wikipedia** the dormant Commerce Clause derives from the great silences of the Constitution). 2. U.S. CONST. art. .. Article is to show that the Court has neglected this requirement . Commerce Clause litigation-state regulation of solid waste dis-. **Crime & Federalism: Part 2. The Dormant Commerce Clause The ESA and the Commerce Clause Legal Planet** Clause has increasingly played a role in litigation over land use regulation.1 With .. the Courts language in a series of dormant Commerce Clause cases has. **The Flawed Economics of the Dormant Commerce Clause** Aug 30, 2002 Whether filed pursuant to state or federal law, multistate litigation is the product of . preemption and the Dormant Commerce Clause doctrine, in areas of Attorneys General (NAAG) of a series of antitrust and consumer. **The U.S. Constitutions Commerce Clause, the Supreme Court, and** Aug 7, 2006 As the parties regroup and consider their next moves, we take the opportunity to reflect upon the current state of Dormant Commerce Clause **Environmental Litigation: Law and Strategy - Google Books Result** unlawful burden on interstate commerce and sought relief under 1983. The Nebraska Supreme Court ruled that dormant commerce clause claims may not be **The Dormant Commerce Clause Casebriefs** The dormant Commerce Clause broadly prohibits state laws that discriminate against interstate trade. In a series of decisions, the Supreme Court has indicated **Section 1983 Litigation - Google Books Result** Other dormant Commerce Clause challenges to California environmental not yet concluded, the results of the Massachusetts and Missouri litigation show that