

BOOK REVIEWS

Federal Law of Employment Discrimination in a Nutshell, by Mack A. Player, St. Paul, Minnesota: West Group, 1999. 356 pp. (paperbound).

Employment discrimination law focuses on discrimination in the workplace based on an individual's race, color, national or ethnic origin, sex, religion, age, and disability. It is a part of the broader topic of employment law or employee rights law that includes issues of workers' compensation, occupational safety, child labor, immigration law, and minimum wage and overtime, retirement and similar benefits, and a host of other statutory and regulatory protections of the worker.

The emphasis of this *Nutshell* is on the federal discrimination statutes, in particular, Title VII of the 1964 Civil Rights Act, the Age Discrimination in Employment Act, and the Americans With Disabilities Act. State legislation is also discussed. State law often goes beyond protections of federal law and provides an avenue of relief plaintiffs cannot secure from the federal courts. Nonetheless, state statutes often parallel federal law in most substantive aspects, and state courts tend to be influenced by federal court interpretation of the similar statutory terms.

Part I provides a context of employment discrimination through a survey of the common law, labor relations statutes, and the constitution. Part II provides an overview of the employment discrimination field. It covers the key statutes and introduces the EEOC and its enforcement mechanisms. Part III surveys the coverage and scope of the major statutes. The *Nutshell's* core is Part IV. It contains the analysis of what constitutes illegal discrimination. The various models of proof as well as the statutory defenses and provisos are discussed, with a focus on hiring, promotion, and discharge. Part V is relatively short, dealing with workplace discrimination, in particular harassment. Part VI identifies each of the protected class and focuses on particular issues as they apply to the protected classes (race and color, national origin and citizenship, sex including pregnancy, religion, age, and disability). It takes the general principles discussed in Parts IV and V and applies them to the unique problems and issues of the various classes. The final segment, Part VII, surveys remedies and procedures.

This *Nutshell* should help students in any employment discrimination course primarily as a review or preview vehicle. A practitioner in the field of employment law will also be well served by this *Nutshell*. It could also be helpful to the lay person, trained in the law or not, who seek introductory guidance to this area.

Kurt H. Dekker

Employment Discrimination Law: Cases and Materials, by Mack A. Player, Elaine W. Shoben, and Risa L. Lieberwitz, St. Paul, Minnesota: West Group, 1995 (second edition). 700 pp. (hardbound).

This work is the second of the *Employment Discrimination Law*, by Mack A. Player of Santa Clara University, Elaine W. Shoben of the University of Illinois, and Risa L. Lieberwitz of Cornell University. In this book's first edition (1990), the authors presented a new organization and new approach to the study of employment discrimination, as a successor to Player, *Employment Discrimination Law* (2d Ed. 1984). This second edition retains this new approach, with some minor structural changes, as well as important additions in content, based on new statutory and case law that has evolved in the intervening years between the first edition and this second edition.

This second edition incorporates important statutory developments since 1990, in particular, the Civil Rights Act of 1991, and the Americans With Disabilities Act of 1990. The book examines the legislative foundations and judicial interpretations of these statutes.

As in the first edition, the second edition sharpens its focus on employment discrimination on the basis of race, color, sex, religion, national origin, disability, age, and sexual orientation. The book does not address the entire spectrum of workplace treatment, which would include employment-at-will, constitutional protection of public employees, and protections of the labor relations acts. Rather, it focuses on the more traditionally defined employment discrimination law, given its expanded scope through new statutory and judicial developments requiring a corresponding increase in scope and depth of study.

The book is divided into seven major parts. Part I is an overview of the entire statutory scheme, presented primarily through text, with several cases. Part II contains the core of the book, which is a structural analysis of discrimination as applied to the selection of employees. The principle of equal treatment and the role of motivation are introduced, followed by close analysis of facial distinctions and the defenses or avoidances to facial classifications, such as the BFOQ and affirmative action. The next chapter returns to a deeper examination of motivated distinctions, which includes the issues and problems of proving individual disparate treatment through statistical proof. Third, and finally in Part II, neutral

selection devices are analyzed. This chapter introduces the disparate impact model and provides specific analysis of burdens and proof in cases dealing with objective and nonobjective criteria. Part III applies these concepts of discrimination to particular areas of employer practices and conduct, including racial and sexual harassment. Part IV analyzes the unique issues of compensation discrimination, including comparable worth and the complex relationship between Title VII and the Equal Pay Act. Part V analyzes these previously developed principles of discrimination as they relate to defining classes protected by the various employment discrimination statutes. Here, some of the unique aspects of several statutes are analyzed: The Pregnancy Discrimination Act, The Reconstruction Era Civil Rights Act, The Age Discrimination in Employment Act, the Immigration Reform and Control Act, The Rehabilitation Act, the Americans With Disabilities Act, and the treatment of issues of sexual orientation under federal and state law. This part includes a much expanded analysis of disability law, given the passage of the Americans With Disabilities Act, with judicial interpretations. Part VI, the last substantive area, analyzes protection against retaliation, provided by the employment discrimination statutes and traditional labor relations legislation. The book closes with Part VII, focusing on procedures and remedies.

For anyone contemplating teaching a course on discrimination law, this book is a must. It can be used at both the law school and graduate level.

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