
PREFACE

In this Fifth Edition of *EMPLOYMENT LAW*, we continue the original vision of this book with important updates for the events that have reshaped the law since the last edition. From the beginning, this book has served to fill the gap left by the once-predominant approach to employment law, which divided the field into two parts: collective bargaining (or “labor law,” as it is still known in many law school curriculums) and employment discrimination law. The two-part approach treated the remainder of employment law as a residue banished to the periphery. In contrast, this book is designed for a broad survey of employment law that accounts more effectively for important topics beyond collective bargaining and discrimination, including disputes over individual contract rights, statutory regulation of compensation and benefits, work-related injury and safety, conflicts between the demands of employment and the demands of family or the public interest, post-employment competition, and the resolution of disputes between employers and individual employees.

Collective bargaining and discrimination are not omitted. Both topics are themes that run substantial courses through this book. It is assumed, however, that students wishing for a deeper understanding of collective bargaining or employment discrimination will take additional courses in these topics. This survey course stands either independently or as a third pillar in the employment law curriculum. It could appeal to either of two groups of students. First, students who might never take another course in employment law will find this course provides the widest exposure to a subject that, in one way or another, can affect nearly any other area of the law. Second, for students who plan to take or have already taken more specialized courses in employment discrimination or collective bargaining, this survey will complete the employment law picture.

The organization of the book follows certain stages, contexts, and problems in the employment relationship. For example, after two introductory chapters about the historical development of employee relations and the distinctive characteristics of employment, Chapter 3 addresses the selection and hiring of employees, and the chapters that follow address successive aspects and stages of the relationship. From one chapter to the next, a few laws are ubiquitous.

Naturally, antidiscrimination law and the potential for collective bargaining permeate every aspect of employment with complexity that deserves the opportunity for further study in more specialized courses. However, it is impossible to isolate these topics from examination of any other part of employment law, and a course that purported to do so would hardly serve as a representative survey. This book solves the problem by presenting a foundation of basic principles in antidiscrimination law and collective bargaining at the earliest appropriate stages and building on these early foundations in the various contexts and problem areas that follow. For example, employment discrimination laws make their first important appearance

in Chapter 3, which presents the problem of discrimination and the basic theories of discrimination law in the context of employee selection. Students who have not studied employment discrimination law before this course will learn enough in Chapter 3 to work their way through the additional contexts examined in the subsequent chapters, including compensation and benefits, work-related safety and injury, supervision (including sexual harassment), work-family conflicts, and termination. By concentrating on one context or problem area at a time, students will have an opportunity to consider the contextual goals, needs, and circumstances of the parties, and to learn the interrelationships among different employment statutes, common law rules, and constitutional rules.

This Fifth Edition builds on the foundation of the first four editions and presents the most important developments of the last four years, including the Supreme Court's interpretation of illegal "sex discrimination" to include LGBT discrimination, the impact of the #MeToo movement, demands for solutions to sex discrimination in compensation, and Covid-19 issues in workplace safety law and workers' compensation.

This edition also introduces three new authors: Professors Michael C. Duff, Dallan F. Flake, and Richard A. Bales. Professor Scott Moss, who coauthored the third and fourth editions, has rotated off the team but we are forever grateful for the vision and breadth of knowledge he brought to the book in its earlier editions.

Richard Carlson

October 2022