

Capsule Reviews

reviewed by Book Review Editor

WILLIAM F. DOLSON, MAX ZIMNY, & CHRISTOPHER A. BARRECA,
LABOR ARBITRATION: CASES AND MATERIALS FOR ADVOCATES (BNA
Books, 1997, Second Printing September 1998. 575 pp. \$45.00).

This nontraditional “casebook” presents a balanced and nonpartisan survey of the situations and law encountered in labor arbitration. The book offers eighteen separate hypothetical case files, each based upon actual arbitration cases, which include witness examination transcripts and exhibits. The authors, who come from academia, union, and management labor law practice, have kept the needs of practitioners, students, and sophisticated nonlawyers in mind. The hypothetical cases cover such issues as absenteeism, drugs, sexual harassment, unsatisfactory performance, seniority, leaves of absence and holidays, strikes and lockouts, and management rights. Several appendices are also included, which contain sample forms, briefs, and statements, as well as examples of typical arbitration awards in selected areas of labor and employment law. Readers are to examine the case files from the standpoint of an advocate from both the management and union/employee side, as well as from the impartial standpoint of the arbitrator, and are to work through the case from pre-hearing activities to closing statements and the award.

STUART DORSEY, CHRISTOPHER CORNWELL, & DAVID MCPHERSON,
PENSIONS AND PRODUCTIVITY (W.E. Upjohn Institute for Employment
Research, 1998. 139 pp. \$ 27.95).

This monograph studies the impact of pensions, with an emphasis on defined-benefit pension plans, on workplace productivity using the internal labor market perspective. The authors pose the question of whether the shift from defined-benefit plans signifies a drop in the expected productivity gains from such plans, or if the shift is instead due to increased administrative costs, brought on in part by complex federal regulation. The

question of whether the rise in defined-contribution coverage is an indication of weakening bonds between employers and employees and decreasing productivity is also discussed. The book does not set forth a definitive test of productivity theory versus other pension theories. It instead sets out to summarize and test past research and writing in the field, explore the possible ways in which pensions may increase productivity, present some new empirical research, and suggest new lines of inquiry and research. The authors discuss how defined-benefit plans may encourage retirement at a chosen optimum time, when the value of an employee's pension benefits will be maximized, but may also impede efficient labor mobility. Indirect evidence that pensions help attract forward-looking employees and contribute to positive outcomes in employer-employee relationships is also examined. Data linking pensions with job training and showing greater productivity in firms with pensions plans also provides evidence of a positive relationship between pensions and productivity (although the productivity gap between employees who participate in defined-benefit plans and defined-contribution plans has narrowed in recent years). Finally, the authors urge the gathering of comprehensive and firm-specific data sets and the conduct of case studies and psychological research. The evidence gathered by the authors does suggest a relationship between pensions and productivity, but the authors avoid specific policy suggestions, citing a lack of comprehensive, highly reliable data to base them upon. The book primarily offers new directions for thinking about pension incentives and suggests new areas of research, rather than presenting new empirical data and conclusions.

VERN E. HAUCK, *ARBITRATING SEX DISCRIMINATION GRIEVANCES*
(Quorum Books, 1998. 208 pp. \$59.95).

This book examines gender discrimination grievances, arbitral awards, and federal court decisions that have occurred over the past fifty years. This body of precedent and legal history is used to identify recurring problems and practical policies relating to gender discrimination in both unionized and non-union workplaces. First, for the benefit of practitioners and advocates, the changing criteria used to identify gender discrimination and the unique procedure, evidentiary rules, and proofs used in employment discrimination arbitration are discussed. The remainder of the book analyzes and summarizes arbitral precedent in this area, including sections on recruiting and hiring, absenteeism and tardiness, layoff and recall, sexual preference, facilities and dress code, performance appraisal, comparable worth, seniority, training, job classification, sexual harassment, and pregnancy and childbearing. The book provides an overview of the process and content of gender discrimination challenges, as well as

providing practical strategies for avoiding arbitration or litigation and responding to such grievances.

VERN E. HAUCK, *ARBITRATING RACE, RELIGION, AND NATIONAL ORIGIN DISCRIMINATION GRIEVANCES* (Quorum Books, 1997. 208 pp. \$59.95).

Hauck's book on the arbitration of racial, religious, and national origin discrimination grievances follows the same format as his book on arbitrating gender discrimination grievances. He begins by considering the history of human rights grievances and discussing the application of the traditional arbitration format to such disputes. A chapter on the procedure, evidentiary standards, and proofs that are peculiar to discrimination grievances follows. The remainder of the book is devoted to the detailed analyzation and summarization of the substance of and precedent regarding such grievances. The chapter on race discrimination includes sections about recruiting and hiring, supervisor animus, personal appearance, work performance, seniority, promotion, retaliation, and testing. Sections discussing reasonable accommodations, leave, self help on the part of believers, proselytizing, and dress are included in the chapter on religious discrimination. National origin discrimination is covered by material relating to citizenship discrimination, language proficiency, falsified applications, discharge and discipline, tenure, and seniority. The book serves as an overview of and quick reference guide to the subject, geared towards practitioners and advocates.

THEODORE J. ST. ANTOINE, EDITOR, *THE COMMON LAW OF THE WORKPLACE: THE VIEWS OF ARBITRATORS* (BNA Books, 1998. 368 pp. \$85.00).

This volume collects the leading arbitral principles that have evolved over the last fifty years. In response to the need to communicate the favored rules of arbitration to a new generation of arbitrators and ensure that they are used in new areas of labor and employment arbitration. Although not intended as a definitive statement of rules governing the administration of hearings or an official statement by the National Academy of Arbitrators, it is an attempt to set down the most widely recognized methods of dealing with the most common problems encountered in all types of labor arbitration matters. The principles are presented as black-letter headings followed by longer commentaries, some with references and citations to case law. Each chapter is written by a different author, and cover administrative areas like practice, procedure, and remedies, as well as substantive areas such as contract interpretation, management and union rights, job assignments, seniority, discipline and

discharge, wages and hours, safety and health, and fringe benefits. The rules contained in this volume, though not intended for use as authority of any kind in hearings or briefs, are comprehensive in their scope and serve as an excellent tool for both preliminary research and case assessment and analyzation.