

Selected Labor & Employment Law Capsule Reviews

compiled by the Book Review/Casenote Editor

TERESA M. BEINER, *GENDER MYTHS V. WORKING REALITIES: USING SOCIAL SCIENCE TO REFORMULATE SEXUAL HARASSMENT LAW* (New York University Press, 2004, 262 pp. \$45.00).

Theresa M. Beiner contrasts perspectives from social scientists on the realities of workplace sexual harassment with the current legal standard. When it comes to sexual harassment law, all too often courts (and employers) are left in the difficult position of grappling with vague legal standards and little guidance about what sexual harassment is and what can be done to stop it. Often, courts impose their own stereotyped views of how women and men “ought” to behave in the workplace, views which are frequently out of sync with reality. Thus, Beiner provides valuable insight into what behaviors people perceive as sexually harassing, why such behavior can be characterized as discrimination because of sex, and what types of workplaces are more conducive to sexually harassing behavior than others. Throughout, Beiner offers proposals for legal reform with the goal of furthering workplace equality for both men and women.

LIZA FEATHERSTONE, *SELLING WOMEN SHORT: THE LANDMARK BATTLE FOR WORKERS’ RIGHTS AT WAL-MART* (Basic Books, 2004, 282 pp. \$25.00).

This volume reveals how Wal-Mart, a self-styled “family-oriented,” Christian company has carried out the following violations: depriving women (but not men) of the training they need to advance; relegating women to lower-paying jobs, like selling baby clothes, while reserving the more lucrative positions for men; inflicting punitive demotions on employees who object to discrimination; and exploiting Asian women in its sweatshops in Saipan, a U.S. commonwealth. In addition, this book reveals the creative solutions Wal-Mart workers around the country have applied: fighting for unions, living-wage ordinances, and childcare options.

SELLING WOMEN SHORT combines the personal stories of these employees with superb investigative journalism to show why women who work low-wage jobs are getting a raw deal, and what they are doing about it.

HORACE HUNTLEY & DAVID MONTGOMERY, EDS., *BLACK WORKERS' STRUGGLE FOR EQUALITY IN BIRMINGHAM* (University of Illinois Press, 2004, 244 pp. \$35.00).

This long-awaited volume is the first set of annotated oral interviews from the front lines of the Civil Rights Movement to be undertaken by the Birmingham Civil Rights Institute. Interviewees recount their struggles against discrimination both in and outside of the workplace, showing how collective action, whether through unions, the Movement, or networks of workplace activists, sought to gain access to better jobs, municipal services, housing, and less restrictive voter registration. This is a powerful work that reconsiders the links of the labor movement to the struggle for civil rights.

ZARAGOSA VARGAS, *LABOR RIGHTS ARE CIVIL RIGHTS: MEXICAN AMERICAN WORKERS IN TWENTIETH-CENTURY AMERICA* (Princeton University Press, 2004, 368 pp. \$29.95).

LABOR RIGHTS ARE CIVIL RIGHTS paints a multifaceted portrait of the complexities and contours of the Mexican American struggle for equality from the 1930s to the postwar era. Drawing on extensive archival research, Zaragosa Vargas focuses on the large Mexican American communities in Texas, Colorado, and California. As he explains, the Great Depression heightened the struggles of Spanish speaking blue-collar workers, and employers began to define citizenship to exclude Mexicans from political rights and erect barriers to resistance. The mounting strife resulted in strikes by Mexican fruit and vegetable farmers. This collective action, combined with involvement in the Communist party, led Mexican workers to unionize. Vargas carefully illustrates how union mobilization in agriculture, tobacco, garment, and other industries became an important vehicle for achieving Mexican American labor and civil rights. In addition, he details how interracial unionism proved successful in cross-border alliances, in fighting discriminatory hiring practices, in building local unions, in mobilizing against fascism and in fighting brutal racism. No longer willing to accept their inferior status, a rising Mexican American grassroots movement would utilize direct action to achieve equality.

JAMES A. WOOTEN, *THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974: A POLITICAL HISTORY* (University of California Press, 2005, 415 pp. \$65.00).

This study of the Employee Retirement Income Security Act of 1974 (ERISA) explains in detail how public officials in the executive branch and Congress overcame strong opposition from business and organized labor to pass landmark legislation regulating employer-sponsored retirement and health plans. Before Congress passed ERISA, federal law gave employers and unions great discretion in the design and operation of employee benefit plans. Most importantly, firms and unions could and often did establish pension plans that placed employees at great risk for not receiving any retirement benefits. In the early 1960s, officials in the executive branch proposed a number of regulatory initiatives to protect employees, but business groups and most labor unions objected to the key proposals. Faced with opposition from powerful interest groups, legislative entrepreneurs in Congress, chiefly New York Republican senator Jacob K. Javits, took the case for pension reform directly to voters by publicizing frightening statistics and “horror stories” about pension plans. This deft and successful effort to mobilize the media and public opinion overwhelmed the business community and organized labor and persuaded Javits’s colleagues in Congress to support comprehensive pension reform legislation. The enactment of ERISA in September 1974 recast federal policy for private pension plans by making worker security an overriding objective of federal law.