

Selected Current Bibliography on Labor & Employment Law

compiled by Book Review/Updates Editors

Included in this bibliography is a selection of recently published articles on United States labor and employment law. An attempt has been made to provide full and complete bibliographical data. Readers are encouraged to submit additional titles for possible inclusion in the future.

ALTERNATIVE DISPUTE RESOLUTION (ADR)

Curtiss K. Behrens & David R. Wade, *Opening Pandora's Box: Circuit City v. Adams And The Enforceability Of Compulsory, Prospective Arbitration Agreements*, 86 MARQ. L. REV. 1 (Fall 2002).

Lisa B. Bingham, *Symposium: Why Suppose? Let's Find Out: A Public Policy Research Program on Dispute Resolution*, 2002 J. DISP. RESOL. 101 (2002).

Edward Brunet, *Seeking Optimal Dispute Resolution Clauses in High Stakes Employment Contracts*, 23 BERKELEY J. EMP. & LAB. L. 107 (2002).

Ellen E. Deason, *Predictable Mediation Confidentiality in the U.S. Federal System*, 17 OHIO ST. J. ON DISP. RESOL. 239 (2002).

Lisa M. Eaton, *Note: Arbitration Agreements in Labor and Employment Contracts: Well Within the Reach of the FAA*, 2002 J. DISP. RESOL. 193 (2002).

Peter Feuille & Michael H. Leroy, *When Is Cost An Unlawful Barrier To Alternative Dispute Resolution? The Ever Green Tree Of Mandatory Employment Arbitration*, 50 UCLA L. REV. 143 (2002).

Jeremy Kennedy, *Comment: The Supreme Court Swallows A Legal Fly: Consequences For Employees As The Scope Of The Federal*

Arbitration Act Expands, 33 TEX. TECH L. REV. 1137 (2002).

Jeffrey Perron, *Note: Courts' Scope of Review of Arbitration Decisions - Supreme Court Overturns the Ninth Circuit's Rejection of the Arbitration Panel's Decision that Found No Collusion Activities by the Baseball Owners - Major League Baseball Players Association v. Steve Garvey* 121 S. Ct. 1724 (2001), 12 SETON HALL J. SPORTS L. 131 (2002).

John R. Phillips, *Symposium: Mediation as One Step in Adversarial Litigation: One Country Lawyer's Experience*, 2002 J. DISP. RESOL. 143 (2002).

Susan S. Silbey, *Symposium: The Emperor's New Clothes: Mediation Mythology and Markets*, 2002 J. DISP. RESOL. 171 (2002).

Jim Stott & Juan Carlos Gonzalez, *Construction Partnering: Can These Protocols Build a Stronger Labor Management Community?*, 2 PEPP. DISP. RESOL. L.J. 445 (2002).

AMERICANS WITH DISABILITIES ACT (ADA)

Nathan J. Barber, *Note: "Upside Down and Backwards": The ADA's Direct Threat Defense and the Meaning of a Qualified Individual After Echazabal v. Chevron*, 23 BERKELEY J. EMP. & LAB. L. 149 (2002).

Jennifer Beale, *Comment: Affirmative Action and Violation Of Union Contracts: The EEOC'S New Requirements Under The Americans With Disabilities Act*, 29 CAP. U.L. REV. 811 (2002).

Beth Collins, *Legislative Reform: The Americans With Disabilities Act: Rehabilitating Congressional Intent*, 28 J. LEGIS. 213 (2002).

Gretchen Fuss, *Refining the Tenth Circuit's Stance on Employee Rights: the ADA, Free Speech in the Workplace, and the Fair Labor Standards Act*, 79 DENV. U.L. REV. 433 (2002).

Michael Ashley Stein, *Book Review: Disability, Employment Policy, and the Supreme Court, by Ruth O'Brien* 55 STAN. L. REV. 607 (2002).

Christine Vargas, *Select Recent Court Decisions: Disability Law: Substantial Limitations Under the Americans with Disabilities Act -*

Toyota Motor Manufacturing, Kentucky, Inc. v. Williams, 122 S. Ct. 681 (2002), 28 AM. J. L. AND MED. 124 (2002).

COLLECTIVE BARGAINING

Lisa B. Bingham, Kiwhan Kim, & Susan Summers Raines, *Exploring the Role of Representation in Employment Mediation at the USPS*, 17 OHIO ST. J. ON DISP. RESOL. 341 (2002).

Bernt Bratsberg and James F. Ragan, Jr., *Changes in the Union Wage Premium by Industry*, 56 IND. & LAB. REL. REV. 65 (Oct. 2002).

William R. Corbett, *Waiting for the Labor Law of the Twenty-First Century: Everything Old Is New Again*, 23 BERKELEY J. EMP. & LAB. L. 259 (2002).

Marion Crain, *Whitewashed Labor Law, Skinwalking Unions*, 23 BERKELEY J. EMP. & LAB. L. 211 (2002).

Catherine L. Fisk, *Union Lawyers and Employment Law* 23 Berkeley J. EMP. & LAB. L. 57 (2002).

Michael J. Goldberg, *Derailing Union Democracy: Why Deregulation Would Be a Mistake*, 23 BERKELEY J. EMP. & LAB. L. 137 (2002).

Nathan Newman, *Trade Secrets And Collective Bargaining: A Solution To Resolving Tensions In The Economics Of Innovation*, 6 EMPL. RTS. & EMPLOY. POL'Y J. 1 (2002).

Hassen A. Sayeed, *FMLA: Department Of Labor Overstepped Authority* 30 J.L. MED. & ETHICS 462 (Fall 2002).

Carlton Snow, *Section III Collective Agreements And Individual Contracts Employment In Labor Law*, 50 AM. J. COMP. L. 319 (Fall 2002).

DISCRIMINATION

Heather Antecol and Kelly Bedard, *The Relative Earnings of Young Mexican, Black, and White Women*, 56 IND. & LAB. REL. REV. 122 (October 2002).

Ruben H. Arredondo, *Note: Different Strokes for Different Folks: Balancing the Treatment of Employers and Employees in Employment*

Discrimination Cases in Courts within the Tenth Circuit Court of Appeals., 16 *BYU J. PUB. L.* 261 (2002).

Edwin Robert Cottone, *Comment: Employee Protection From Unjust Discharge: A Proposal For Judicial Reversal Of The Terminable-At-Will Doctrine*, 42 *SANTA CLARA L. REV.* 1259 (2002).

John Hasnas, *Equal Opportunity, Affirmative Action, And The Anti-discrimination Principle: The Philosophical Basis For The Legal Prohibition Of Discrimination*, 71 *FORDHAM L. REV.* 423 (2002).

Wendy Hyland, *Note: Equal Opportunity for Employers: Elevating the Adverse Employment Action Standard to Allow Only Meritorious Retaliation Claims*, 90 *KY. L.J.* 273 (2001 / 2002).

Elizabeth M. Iglesias, Jo Anne Durako, Devon Wayne Carbado, Margaret E. Montoya, Michael A. Olivas, Rex R. Perschbacher, Douglas D. Scherer & Vicki Schultz, *Labor And Employment In The Academy - A Critical Look At The Ivory Tower: Proceedings Of The 2002 Annual Meeting Of The Association Of American Law Schools, Joint Program Of The Section On Labor Relations And Employment Law And Section On Minority Groups*, 6 *EMPL. RTS. & EMPLOY. POL'Y J.* 129 (2002).

Steven H. Kropp, *REVIEW ESSAY: Deconstructing Racism In American Society - The Role Labor Law Might Have Played (But Did Not) In Ending Race Discrimination: A Partial Explanation And Historical Commentary*, 23 *Berkeley J. EMP. & LAB. L.* 369 (2002).

Greg T. Lembrich, *Note Garden Leave: A Possible Solution To The Uncertain Enforceability Of Restrictive Employment Covenants*, 102 *COLUM. L. REV.* 2291 (Dec. 2002).

Cynthia Nance, Paul Miller & Mark Rothstein, *Discrimination In Employment On The Basis Of Genetics: Proceedings Of The 2002 Annual Meeting, Association Of American Law Schools Section On Employment Discrimination Law*, 6 *EMPL. RTS. & EMPLOY. POL'Y J.* 57 (2002).

Nancy J. Reichman & Joyce S. Sterling, *ARTICLE: Recasting the Brass Ring: Deconstructing and Reconstructing Workplace Opportunities for Women Lawyers*, 29 *CAP. U.L. REV.* 923 (2002).

Jesse Rudy, *What They Don't Know Won't Hurt Them: Defending Employment-At-Will in Light of Findings that Employees Believe They Possess Just Cause Protection*, 23 BERKELEY J. EMP. & LAB. L. 307 (2002).

Cathy Shuck, *Comment: That's It, I Quit: Returning to First Principles in Constructive Discharge Doctrine*, 23 BERKELEY J. EMP. & LAB. L. 401 (2002).

EMPLOYEE-OWNERSHIP

Leroy D. Clark, *Movements in Crisis: Employee-Owned Businesses—A Strategy for Coalition Between Unions and Civil Rights Organizations*, 46 HOW. L.J. 49 (2002).

EMPLOYMENT BENEFITS

Lisa Horwedel Barton, *Comment: Reconciling the Independent Contractor Versus Employee Dilemma: A Discussion of Current Developments as they Relate to Employee Benefit Plans*, 29 CAP. U.L. REV. 1079 (2002).

Robert Kaestner & Kosali Ilayperuma Simon, *Labor Market Consequences of State Health Insurance Regulation*, 56 IND. & LAB. REL. REV. 136 (Oct. 2002).

L. Darnell Weeden, *An HMO Does Not Owe An ERISA Fiduciary Duty To Its Employee Beneficiaries: After Pegram v. Herdich, Who Will Speak For The Working Class?*, 23 W. NEW ENG. L. REV. 381 (2002).

GENERAL TOPICS IN LABOR & EMPLOYMENT LAW

Philip L. Bartlett II, *Disparate Treatment: How Income Can Affect The Level Of Employer Compliance With Employment Statutes*, 5 N.Y.U. J. LEGIS. & PUB. POL'Y 419 (2001 / 2002).

Guy Davidov, *The Three Axes of Employment Relationships: A Characterization of Workers in Need of Protection*, 52 UNIV. OF TORONTO L.J. 357 (2002).

Cynthia L. Estlund, *The Ossification Of American Labor Law*, 102 COLUM. L. REV. 1527 (2002).

Lindsay Ferguson, *Comment: Constructing and Containing the Chinese Male: Quong Wing v. The King and the Saskatchewan Act to Prevent the Employment of Female Labour*, 65 SASK. L. REV. 549 (2002).

Harry Krashinsky, *Evidence on Adverse Selection and Establishment Size in the Labor Market*, 56 IND. & LAB. REL. REV. 84 (Oct. 2002).

Mark J. Russo, *NAALC: A Tex-Mex Requiem For Labor Protection* 34 U. MIAMI INTER-AM. L. REV. 51 (Winter 2002).

GLOBALIZATION

Robert W. Ashmore, *Book Review: Can 1930s Tactics Solve Current Labor Problems Related to Globalization? Three Strikes: Labor's Heartland Losses And What They Mean For Working Americans*, by Stephen Franklin, 23 BERKELEY J. EMP. & LAB. L. 187 (2002).

Joel W. Rogers and Joseph P. Whitlock, *Is Section 337 Consistent with the GATT and the TRIPs Agreement?*, 17 AM. U. INT'L L. REV. 459 (2002).

PRIVACY

Paul Ehrlich, *Cyberlaw: Communications Decency Act § 230*, 17 BERKELEY TECH. L.J. 401 (2002).

Christine Neylon O'Brien & Margo E. K. Reder, *Comment: Corporate Cybersmear: Employers File John Doe Defamation Lawsuits Seeking The Identity Of Anonymous Employee Internet Posters*, 8 MICH. TELECOMM. TECH. L. REV. 195 (2001 / 2002).

SEXUAL HARASSMENT

Lea B. Vaughn, *The Customer Is Always Right . . . Not! Employer Liability For Third Party Sexual Harassment*, 9 MICH. J. GENDER & L. 1 (2002).

Roy Whitehead, Jr. & Walter Block, *Sexual Harassment in the Workplace: A Property Rights Perspective*, 4 J. L. FAM. STUD. 229 (2002).