

# Index

## **ABSTENTION**

Federal preemption, § 19:9

## **ACCELERATION OF BENEFITS**

Workers' compensation, § 9:43

## **ACCESS TO PERSONNEL RECORDS**

Generally, §§ 16:49 to 16:55

For detailed treatment see index heading PERSONNEL RECORDS

## **ACCURACY**

Information about applicants and employees, § 2:1

Personnel records, § 16:26

## **ACKNOWLEDGMENTS**

Information about applicants and employees, shifting of expense, § 2:70

## **ACTORS DE IN REM VERSO**

Distinguished, § 1:10

## **ADMINISTRATIVE APPEALS**

Safety, § 8:25

## **ADVERTISEMENTS**

Pre-employment screening, § 2:4

## **AFFIRMATIVE ACTION**

Generally, §§ 7:99 to 7:102

For detailed treatment see index heading DISCRIMINATION

## **AFFIRMATIVE DEFENSES**

Workers' compensation, § 9:31

## **AFFORDABLE CARE ACT**

See index heading PATIENT PROTECTION AND AFFORDABLE CARE ACT (OBAMACARE)

## **AFTER ACQUIRED EVIDENCE**

Discrimination, evidence warranting termination, § 22:11

## **AGE**

Age Discrimination in Employment Act (federal)

generally, §§ 7:70 to 7:75

for detailed treatment see index heading AGE DISCRIMINATION IN EMPLOYMENT

ACT (FEDERAL)

Age Discrimination in Employment Act (state)

generally, §§ 7:76 to 7:80

for detailed treatment see index heading AGE DISCRIMINATION IN EMPLOYMENT

ACT (STATE)

**AGE—Cont'd**

Children and minors

generally, §§ 17:1 to 17:8

for detailed treatment see index heading CHILDREN AND MINORS

Information about applicants and employees, proof of age, § 2:31

Louisiana Unfair Trade Practices Act (LUTPA), protection of old and disabled employees, § 7:139

**AGE DISCRIMINATION IN EMPLOYMENT ACT (FEDERAL)**

Generally, §§ 7:70 to 7:75

Covered employers, § 7:71

Early retirement, §§ 7:74, 12:22 to 12:24

Enforcement procedures, § 7:75

Proscribed and prescribed acts, § 7:72

Protected groups, § 7:70

Remedies, § 7:73

Retirement. See index heading RETIREMENT

Settlement of employee claims. See index heading SETTLEMENT OF EMPLOYEE CLAIMS

**AGE DISCRIMINATION IN EMPLOYMENT ACT (STATE)**

Generally, §§ 7:76 to 7:80

Covered employers, § 7:77

Enforcement procedures, § 7:80

Prohibited acts, § 7:78

Protected groups, § 7:76

Remedies, § 7:79

Retirement, § 12:26

**AGENCY FILES**

Evidentiary and discovery issues in employment litigation, § 22:17

**AGENTS**

Distinguished, § 1:6

Employment agencies

generally, §§ 18:7 to 18:9

for detailed treatment see index heading EMPLOYMENT AGENCIES

Liabilities related to employment

generally, §§ 14:27 to 14:30

for detailed treatment see index heading LIABILITIES RELATED TO EMPLOYMENT

**ALCOHOLIC BEVERAGES**

Generally, § 17:23

Coordination of leave benefits, § 6:37

Minors, employers that serve alcohol, § 17:4

Testing

generally, §§ 2:53 to 2:62

for detailed treatment see index heading DRUG AND ALCOHOL TESTING

Workers' compensation. See index heading WORKERS' COMPENSATION

**ALIENS**

Discrimination, immigration, § 7:107

## INDEX

### **ALIENS—Cont'd**

Undocumented workers. See index heading UNDOCUMENTED WORKERS

Visas, §§ 2:63 to 2:66

### **ALTER-EGO LIABILITY**

Joint employers, § 18:6

### **AMBULANCE PERSONNEL**

Generally, § 17:35

### **AMERICAN INDIANS**

Special employees, § 17:40

### **AMERICANS WITH DISABILITIES ACT (ADA)**

Generally, §§ 7:52 to 7:57

Covered employers, § 7:53

Enforcement procedures, § 7:56

Family and Medical Leave Act, reconciliation with, § 7:57

Joint employers, § 18:17

Proscribed and prescribed acts, § 7:54

Protected groups, § 7:52

Remedies, § 7:55

Settlement of employee claims, release of claim, § 20:10

Workers' compensation, reconciliation with, § 7:57

### **ANATOMICAL GIFTS**

Bone marrow donation, leaves of absence, § 6:51

### **ANSWERS**

Safety, § 8:20

### **ANTITRUST LAW**

Employment liability, §§ 14:13, 14:22

Labor disputes, § 11:39

### **APPEAL AND REVIEW**

Longshoremen's and Harbor Workers' Compensation Act, review of compensation orders, § 10:14

Safety

generally, §§ 8:25, 8:26

for detailed treatment see index heading SAFETY

Unemployment compensation. See index heading UNEMPLOYMENT COMPENSATION

Unfair labor practice case procedure, § 11:50

Workers' compensation, § 9:57

### **APPLICATIONS**

Pre-employment screening, § 2:5

### **APPRENTICES**

Generally, §§ 17:14 to 17:16

Discrimination, § 17:16

State apprenticeship law, § 17:14

Tax credits, § 4:58

**ARBITRATION**

- Generally, §§ 19:14 to 19:24
- Administrative action not precluded, § 19:23
- Collective bargaining agreements, § 19:18
- Contracts of employment, §§ 3:39, 3:52
- Enforceability of employment arbitration agreements, § 19:15
- Exclusivity of arbitration agreements, generally, §§ 19:14 to 19:24
- Federal Aviation Administration, § 19:17
- Interpretation of agreements on basis of federal law, § 19:24
- National Labor Relations Board (NLRB), § 11:25
- Preemption, state law applicable in absence of, § 19:20
- Res judicata and collateral estoppel, § 19:26
- Statutory claims, § 19:19
- Substantive rights
  - conformation of agreement to provide, § 19:22
  - rights not affected by arbitration, § 19:21
- United States Arbitration Act, § 11:45

**ASSIGNMENTS**

- Compensation and payment. See index heading COMPENSATION AND PAYMENT
- Contracts of employment, § 3:40

**ATHLETES**

- Unemployment compensation, § 13:18

**ATTORNEY-CLIENT PRIVILEGE**

- Generally, §§ 21:8 to 21:13
- Claim or defense exception, § 21:11
- Communication between attorney and client, § 21:8
- Employees of client, § 21:9
- Fiduciary exception, § 21:10
- Privilege log, § 21:13
- Work product, §§ 21:12, 22:18

**ATTORNEYS**

- Consulting, no adverse interference for, joint employers, § 21:19
- Ethics
  - generally, §§ 21:1 to 21:3
  - for detailed treatment see index heading ETHICS
- Fees. See index heading ATTORNEYS' FEES
- Privilege
  - generally, §§ 21:8 to 21:13
  - for detailed treatment see index heading ATTORNEY-CLIENT PRIVILEGE

**ATTORNEYS' FEES**

- Discrimination, §§ 7:167, 7:183, 7:187
- Liabilities related to employment, government responsibility, § 14:33
- Longshoremen's and Harbor Workers' Compensation Act, § 10:16
- Unemployment compensation, § 13:42
- Workers' compensation, §§ 9:60, 9:61

## INDEX

### **ATTRIBUTION**

Evidence, attributing remarks or conduct to employer, § **22:5**

### **AT-WILL EMPLOYMENT**

Generally, § **12:2**

Contracts of employment

generally, §§ **3:14, 3:15**

for detailed treatment see index heading **CONTRACTS OF EMPLOYMENT**

### **AUER DOCTRINE**

Choice of forum, § **19:10**

### **AUTOMOBILES**

See index heading **MOTOR VEHICLES**

### **BACK PAY**

Discrimination, damages, §§ **7:158, 7:173**

### **BACKGROUND CHECKS**

Information about applicants and employees, shifting of expense, § **2:72**

Pre-employment screening

generally, §§ **2:8 to 2:12**

for detailed treatment see index heading **PRE-EMPLOYMENT SCREENING**

### **BAD FAITH**

Fair Labor Standards Act (FLSA), reliance on defenses, § **4:14**

### **BANKRUPTCY**

Discrimination, § **7:106**

Labor disputes, § **11:40**

### **BENEFITS**

Generally, §§ **5:1 to 5:48**

Armed service, leave for, § **5:36**

Compensation and payment

generally, §§ **5:1 to 5:48**

for detailed treatment see index heading **COMPENSATION AND PAYMENT**

Competing claimants for benefits, § **5:42**

Death benefits, § **5:33**

Disability benefits, § **5:32**

Discrimination laws applicable to benefits, § **5:45**

Employee Retirement Income Security Act

generally, §§ **5:2 to 5:12**

for detailed treatment see index heading **EMPLOYEE RETIREMENT INCOME SECURITY ACT**

Escheat, § **5:44**

Forfeiture of benefits. See index heading **FORFEITURE OF BENEFITS**

Health benefits

generally, §§ **5:13 to 5:28**

for detailed treatment see index heading **HEALTH BENEFITS**

Holidays, § **5:30**

Insurance, employee benefits liability coverage, § **15:12**

**BENEFITS—Cont'd**

Leaves of absence

generally, §§ 6:1 to 6:59

for detailed treatment see index heading LEAVES OF ABSENCE

Life insurance, § 5:40

Loans to employees, § 5:35

Longshoremen's and Harbor Workers' Compensation Act

generally, §§ 10:5 to 10:8

for detailed treatment see index heading LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT

Louisiana Unfair Trade Practices Act (LUTPA), protection under, § 5:48

Public policy prohibiting forfeiture of benefits, § 5:43

Reimbursement of employees, § 5:46

Retirement benefits, § 5:37

Seizure of benefits, § 5:47

Social Security benefits, § 5:38

Tax exempt fringe benefits, § 5:39

Trusts, § 5:34

Unemployment compensation

generally, §§ 13:24 to 13:30

for detailed treatment see index heading UNEMPLOYMENT COMPENSATION

Vacation, § 5:29

Wellness plans, § 5:41

Workers' compensation, § 5:31

generally, §§ 5:31, 9:32 to 9:44

for detailed treatment see index heading WORKERS' COMPENSATION

**BEREAVEMENT LEAVE**

Absence, leaves of, § 6:53

**BIOMETRIC DATA**

Workers' compensation, § 2:21

**BONE MARROW DONATION**

Leaves of absence, § 6:51

**BORROWED EMPLOYEES**

Generally, §§ 17:9 to 17:12

Effect of borrowed status, § 17:12

Presumption, § 17:10

Test for borrowed employee, § 17:11

**BREASTFEEDING**

Generally, § 17:36

Discrimination, § 7:148

**BURDEN OF PROOF**

Discrimination, § 22:31

Plant closings and mass layoffs, § 12:18

Safety, § 8:21

Unemployment compensation, § 13:10

## INDEX

### **CAFETERIA PLANS**

Health benefits, § 5:22

### **CAPACITY**

Contracts of employment, § 3:16

### **CERTIFICATES AND CERTIFICATION**

Family and Medical Leave Act (FMLA), certification of health care provider,  
§ 6:58

Labor disputes. See index heading LABOR DISPUTES

Minors, state certificate requirements on employers employing minors, § 17:3

### **CHANGE IN CIRCUMSTANCES**

Workers' compensation, modification of award, § 9:59

### **CHECKS**

Settlement of employee claims, negotiated checks as evidence, § 20:14

### **CHILDBIRTH DISCRIMINATION (STATE)**

Generally, §§ 6:26, 7:47 to 7:51

For detailed treatment see index heading PREGNANCY AND CHILDBIRTH DISCRIMINATION  
(STATE)

### **CHILDREN AND MINORS**

Generally, §§ 17:1 to 17:8

Alcohol, employers that serve, § 17:4

Contracts of employment, § 3:47

Federal child labor standards, § 17:1

Incentives to hire youth, § 17:8

Personnel records, notices, § 16:14

Pre-employment screening of child care providers, § 2:15

State certificate requirements on employers employing minors, § 17:3

State restrictions on employment of minors, § 17:2

State sanctions, § 17:5

Unemployment compensation, § 17:7

Workers' compensation, § 17:6

### **CHOICE OF FORUM**

Generally, §§ 19:1 to 19:30

Arbitration

generally, §§ 19:14 to 19:24

for detailed treatment see index heading ARBITRATION

Auer doctrine, § 19:10

Civilian method, § 19:30

Class Action Fairness Act, supplemental jurisdiction, § 19:28

Collateral estoppel, §§ 19:25, 19:26

Conflict of law, § 19:29

Discrimination claims, res judicata and collateral estoppel, § 19:25

Exclusivity of state law, §§ 19:11 to 19:13

Federal preemption

generally, §§ 19:1 to 19:10

**CHOICE OF FORUM—Cont'd**

- Federal preemption—Cont'd
  - for detailed treatment see index heading FEDERAL PREEMPTION
- Forum selection clauses, § **19:27**
- Louisiana Employment Security Law (LESL), exclusivity, § **19:12**
- Res judicata, §§ **19:25, 19:26**
- Workers' compensation, exclusivity of state law, § **19:11**

**CHOICE OF LAW**

- Contracts of employment, § **3:8**
- Safety, § **8:36**

**CIGARETTES**

- Discrimination, § **7:132**

**CIRCUMSTANTIAL EVIDENCE**

- Generally, § **22:2**

**CITIZENSHIP**

- Aliens. See index heading UNDOCUMENTED WORKERS
- Information about applicants and employees, proof of citizenship, § **2:32**

**CIVIL RIGHTS**

- Generally, §§ **7:1 to 7:187**
- For detailed treatment see index heading DISCRIMINATION

**CIVIL RIGHTS ACT OF 1991 (FEDERAL)**

- Generally, § **7:24**

**CIVIL SERVICE**

- Termination of employment, § **12:9**

**CIVILIAN METHOD**

- Choice of forum, § **19:30**

**CLASS ACTION FAIRNESS ACT**

- Supplemental jurisdiction, § **19:28**

**CLOSED SHOPS**

- Labor disputes, § **11:31**

**COLLATERAL ESTOPPEL**

- Arbitration, § **19:26**
- Choice of forum, §§ **19:25, 19:26**

**COLLATERAL SOURCE RULE**

- Discrimination, damages, § **7:165**

**COLLECTIVE ACTIONS**

- Fair Labor Standards Act (FLSA), § **4:18**

**COLLECTIVE BARGAINING**

- Arbitration agreements, § **19:18**
- Labor disputes, § **11:10**



## INDEX

### COMMISSION ON HUMAN RIGHTS

Discrimination, § 7:133

### COMPARATORS

Evidentiary and discovery issues in employment litigation, § 22:4

### COMPENSATION AND PAYMENT

Generally, §§ 4:1 to 4:64

Agreement to repay employer, deductions from compensation, § 4:41

Amount to be paid, § 4:26

Apprenticeship tax credits, § 4:58

Armed services, employees leaving for, § 4:27

Assignments

claims against employer, § 4:37

wages, § 4:43

Attorneys' fees. See index heading ATTORNEYS' FEES

Back pay, discrimination, §§ 7:158, 7:173

Benefits

generally, §§ 5:1 to 5:48

for detailed treatment see index heading BENEFITS

Claims against employers for compensation, § 4:36

Confidentiality of records and privacy, § 16:45

Credits, taxes on wages, §§ 4:57 to 4:60

Criminal penalties, taxes on wages, § 4:53

Current employees, payment of, § 4:23

Deceased employees, § 4:34

Deductions from compensation

generally, §§ 4:39 to 4:42

agreement to repay employer, § 4:41

allowable deductions, § 4:39

garnishment, § 4:40

unlawful deductions, § 4:42

Delinquent taxes, collection of, § 4:52

Deposit, taxes on wages, § 4:47

Disabled worker tax credit, § 4:60

Discrimination through compensation, § 4:62

Discussions of salary, employer rules against, § 4:63

Earned income credit, § 4:54

Enjoining payment, § 4:25

Equal Pay Act (federal)

generally, § 4:62

for detailed treatment see index heading EQUAL PAY ACT (FEDERAL)

Equal Pay for Women Act (state)

generally, §§ 7:36 to 7:40

for detailed treatment see index heading EQUAL PAY FOR WOMEN ACT (STATE)

Fair Labor Standards Act (FLSA)

generally, §§ 4:4 to 4:22

for detailed treatment see index heading FAIR LABOR STANDARDS ACT (FLSA)

**COMPENSATION AND PAYMENT—Cont'd**

- Federal statutes regulating compensation and payment, §§ 4:1, 4:2
- Front pay, discrimination, §§ 7:159, 7:174
- Garnishment, § 4:40
- Inclement weather closures, pay obligations during, § 4:28
- Interplay between federal and state law, § 4:2
- Joint employers, § 18:24
- Liens, § 4:33
- Loans by employer to employees, § 4:61
- Local employment taxes, § 4:55
- Logistics of payment, § 4:24
- Negotiorum gestio, § 4:38
- New hire reporting, taxes on wages, § 4:44
- Overtime. See index heading OVERTIME PAY
- Payment, generally, §§ 4:23 to 4:38
- Personal liability for employment taxes, § 4:56
- Personnel records. See index heading PERSONNEL RECORDS
- Prevailing wages, § 4:64
- Privileges, § 4:33
- Salary, generally, § 4:31
- State statutes regulating compensation and payment, §§ 4:1, 4:2
- Subsequent employer, payment by, § 4:35
- Taxes on wages
  - generally, §§ 4:44 to 4:60
  - apprenticeship tax credits, § 4:58
  - credits, §§ 4:57 to 4:60
  - criminal penalties, § 4:53
  - delinquent taxes, collection of, § 4:52
  - disabled worker tax credit, § 4:60
  - earned income credit, § 4:54
  - employee tax information, obtaining of, § 4:46
  - employer tax account, § 4:48
  - local employment taxes, § 4:55
  - new hire reporting, § 4:44
  - personal liability for employment taxes, § 4:56
  - supplying tax information to employees, § 4:51
  - tax returns, § 4:50
  - trust fund penalty, § 4:49
  - wages subject to taxation, § 4:45
  - welfare-to-work tax credit, § 4:59
  - withholding and deposit, § 4:47
  - work opportunity tax credit, § 4:57
- Tender upon refusal to accept compensation, § 4:29
- Termination of employment, payments due to, §§ 4:32, 12:28
- Trust fund penalty, taxes on wages, § 4:49
- Unemployment compensation. See index heading UNEMPLOYMENT COMPENSATION
- Unjust enrichment, § 4:38

## INDEX

### **COMPENSATION AND PAYMENT—Cont'd**

- Unregulated matters, § 4:3
- Wages, generally, § 4:30
- Weather, pay obligations during inclement weather closures, § 4:28
- Welfare-to-work tax credit, § 4:59
- Withholding, taxes on wages, § 4:47
- Work opportunity tax credit, § 4:57
- Workers' compensation. See index heading WORKERS' COMPENSATION

### **COMPLAINT**

- Safety, § 8:19

### **COMPREHENSIVE GENERAL LIABILITY INSURANCE**

- Generally, § 15:4

### **COMPUTER RECORDS**

- Personnel records, liability for exceeding authorized access to, § 16:53

### **CONCURRENT JURISDICTION**

- Federal preemption, § 19:3
- Labor disputes, § 11:19

### **CONFIDENTIALITY OF RECORDS AND PRIVACY**

- Generally, §§ 16:29 to 16:48
- Attorney-client privilege
  - generally, §§ 21:8 to 21:11
  - for detailed treatment see index heading ATTORNEY-CLIENT PRIVILEGE
- Compensation of employees, § 16:45
- Contracts of employment, § 3:50
- Conversations and activities of employees, monitoring, § 16:38
- Criminal history records, § 16:41
- Disability records, § 16:35
- Driving records, § 16:40
- Drug and alcohol testing, §§ 2:59, 16:47
- Electronic activities of employees, monitoring, § 16:37
- Employer privacy policy, § 16:44
- Genetic records, § 16:33
- Investigations of applicants and employees, § 2:47
- Medical records of employees, § 16:31
- Nondisclosure provisions, § 16:48
- Non-profit employer, confidentiality of involvement with, § 16:55
- Online account information, § 16:39
- Privacy Act claims, § 16:30
- Public employees, § 16:43
- Recording of employer, employee's right to, § 16:46
- Settlement agreement and release, § 20:22
- Unemployment records, § 16:34
- Vaccination records, § 16:32
- Work authorization records, federal verification systems, § 16:42
- Workers' compensation records, § 16:36

**CONFLICT OF LAW**

Choice of forum, § 19:29

**CONSENT**

Contracts of employment, § 3:17

**CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT (COBRA)**

Health benefits, § 5:14

Termination of employment, §§ 12:30, 12:31, 12:39 to 12:42

**CONSPIRACY**

Liabilities related to employment, civil conspiracies, § 14:25

Section 1985, discrimination, § 7:128

**CONSTITUTIONAL LAW**

Discrimination, § 7:149

Section 1983, immunity from official capacity suits, § 7:28

Termination of public employment, § 12:8

**CONSTRUCTION AND INTERPRETATION**

Arbitration agreements, interpretation on basis of federal law, § 19:24

Contracts of employment, § 3:7

Insurance, § 15:2

Noncompetition agreements, § 3:28

**CONSTRUCTIVE DISCHARGE**

Discrimination, § 7:5

Termination of employment, § 12:4

**CONSUMER REPORTS**

Pre-employment screening, background checks, § 2:12

**CONTINUATION OF BENEFITS**

Family and Medical Leave Act (FMLA), § 6:17

**CONTINUATION OF EMPLOYMENT**

Contracts of employment, § 3:18

**CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

Fair Labor Standards Act (FLSA), § 4:21

**CONTRACTS OF EMPLOYMENT**

Generally, §§ 3:1 to 3:53

Action on employment agreement

generally, §§ 3:41 to 3:45

damages for breach, § 3:42

dissolution of employment contract, § 3:44

prescription, § 3:45

restraint, § 3:43

Adhesive nature of employment contracts, § 3:2

Agreements, § 3:53

Arbitration of disputes, §§ 3:39, 3:52

Assignment, § 3:40

## INDEX

### CONTRACTS OF EMPLOYMENT—Cont'd

- At-will employment doctrine
  - generally, §§ **3:14, 3:15**
  - contract terminable at-will, § **3:10**
  - definition, § **3:14**
  - exceptions, § **3:15**
- Capacity, § **3:16**
- Choice of law, § **3:8**
- Classification by duration
  - generally, §§ **3:9 to 3:13**
  - good cause for termination of limited duration or fixed-term contracts, § **3:13**
  - lifetime contracts, § **3:12**
  - limited duration or “fixed-term,” §§ **3:11, 3:13, 3:51**
  - terminable at-will, § **3:10**
- Confidentiality agreement, § **3:50**
- Consent, § **3:17**
- Continuation of employment, § **3:18**
- Damages for breach, action on employment agreement, § **3:42**
- Definition, § **3:1**
- Dissolution of employment contract, action on employment agreement, § **3:44**
- Distinction, § **3:3**
- Duration. Classification by duration, above
- Duties owed, § **3:5**
- Effectuation of contracts
  - generally, §§ **3:16 to 3:18**
  - capacity, § **3:16**
  - consent, § **3:17**
  - continuation of employment, § **3:18**
- Evidence of contract
  - generally, §§ **3:6 to 3:8**
  - choice of law, § **3:8**
  - interpretation of contract, § **3:7**
- “Fixed-term” contracts, §§ **3:11, 3:13, 3:51**
- Forms
  - generally, §§ **3:48 to 3:53**
  - fixed-term, agreement for, § **3:51**
  - inventions, agreement regarding, § **3:48**
  - mediation and arbitration of disputes, § **3:52**
  - noncompetition and confidentiality agreement, § **3:50**
  - proprietary information, restriction of use of, § **3:49**
- Good cause for termination of limited duration or fixed-term contracts, § **3:13**
- Implied terms, §§ **3:20, 3:21**
- Inherently adhesive nature of employment contracts, § **3:2**
- Intellectual property, § **3:23**
- Interpretation of contract, § **3:7**
- Inventions, agreement regarding, § **3:48**
- Liabilities related to employment. See index heading **LIABILITIES RELATED TO EMPLOYMENT**

**CONTRACTS OF EMPLOYMENT—Cont'd**

- Lifetime contracts, § 3:12
- Limited duration contracts, §§ 3:11, 3:13
- Mediation of disputes, § 3:52
- Minors, hiring of, § 3:47
- Modification of terms during employment, § 3:24
- Nature, generally, §§ 3:1 to 3:5
- Noncompetition agreements
  - generally, §§ 3:26 to 3:38
  - for detailed treatment see index heading NONCOMPETITION AGREEMENTS
- Parties to contract, § 3:4
- Prescription, action on employment agreement, § 3:45
- Proprietary information, restriction of use of, § 3:49
- Restraint, action on employment agreement, § 3:43
- Stated terms, § 3:19
- Subcontracting, § 3:40
- Substituting employers and employees, § 3:40
- Termination of employment, § 12:7
- Terms of contracts, generally, §§ 3:19 to 3:25
- Undocumented workers, hiring of, § 3:46
- Unlawful terms, § 3:25
- Vacation, § 3:22

**CONTRIBUTION**

- Liabilities related to employment, § 14:19

**COORDINATION OF LEAVE BENEFITS**

- Generally, §§ 6:30 to 6:38
- For detailed treatment see index heading LEAVES OF ABSENCE

**COST SHIFTING**

- Discovery, § 22:24

**COUNSEL**

- See index heading ATTORNEYS

**CREDIT RECORDS**

- Pre-employment screening, background checks, § 2:11

**CREDITS**

- Taxes on wages, §§ 4:57 to 4:60
- Workers' compensation benefits, § 9:40

**CRIMINAL LAW**

- Confidentiality of records and privacy, criminal history, § 16:41
- Embezzlement. See index heading EMBEZZLEMENT
- Labor disputes, § 11:34
- Pre-employment screening, background checks, § 2:10
- Taxes on wages, § 4:53
- Workers' compensation, violations, § 9:65

## INDEX

### **CULTURE OF EMPLOYER**

Evidentiary and discovery issues in employment litigation, § 22:8

### **DAMAGES**

Contracts of employment, actions on, § 3:42

Discrimination. See index heading **DISCRIMINATION**

Family and Medical Leave Act (FMLA), § 6:21

Punitive damages. See index heading **PUNITIVE DAMAGES**

### **DEAF PERSONS**

Discrimination, accommodations, § 7:131

### **DEATH BENEFITS**

Generally, § 5:33

Workers' compensation, § 9:42

### **DECEASED EMPLOYEES**

Compensation and payment, § 4:34

### **DEDUCTIONS**

Compensation and payment

generally, §§ 4:39 to 4:42

for detailed treatment see index heading **COMPENSATION AND PAYMENT**

Unemployment compensation benefits, § 13:29

Workers' compensation benefits, § 9:40

### **DEFAMATION**

Insurance, § 15:13

Investigations of applicants and employees, § 2:43

### **DEFENSE BASE ACT**

Workers' compensation, § 10:18

### **DEFENSES**

Non-competition agreements, defenses to enforcement of, § 3:32

Safety, § 8:20

Workers' compensation

generally, §§ 9:13 to 9:31

for detailed treatment see index heading **WORKERS' COMPENSATION**

### **DEFERENCE**

Labor disputes, National Labor Relations Board (NLRB), § 11:21

### **DELINQUENT TAXES**

Compensation, collection of, § 4:52

### **DEPOSITS**

Taxes on wages, § 4:47

### **DIRECTORS AND OFFICERS LIABILITY INSURANCE**

Generally, § 15:6

### **DISABILITY DISCRIMINATION**

Generally, §§ 7:52 to 7:69

**DISABILITY DISCRIMINATION—Cont'd**

Americans with Disabilities Act (ADA)

generally, §§ 7:52 to 7:57

for detailed treatment see index heading AMERICANS WITH DISABILITIES ACT (ADA)

Armed services, disabled workers returning from, § 7:68

Covered employers, § 7:64

Enforcement procedures, § 7:67

Louisiana Unfair Trade Practices Act (LUTPA), protection of old and disabled employees, § 7:139

Proscribed and prescribed acts, § 7:65

Protected groups, § 7:63

Rehabilitation Act of 1973 (federal)

generally, §§ 7:58 to 7:62

for detailed treatment see index heading REHABILITATION ACT OF 1973 (FEDERAL)

Remedies, § 7:66

White Cane Law, § 7:69

**DISABLED PERSONS**

Benefits, § 5:32

Confidentiality of records and privacy, disability records, § 16:35

Credits, disabled worker tax credit, § 4:60

Discrimination

generally, §§ 7:52 to 7:69

for detailed treatment see index heading DISABILITY DISCRIMINATION

Drug and alcohol testing, § 2:61

Information about applicants and employees, § 2:51

Special employees, disabled persons as, § 17:39

Workers' compensation, disability benefits, § 9:35

**DISADVANTAGED PERSONS**

Generally, § 17:31

**DISASTER BENEFITS**

Unemployment compensation, § 13:26

**DISCIPLINE**

Termination of employment, § 12:1

**DISCLOSURE**

Confidentiality of records and privacy, nondisclosure provisions, § 16:48

Employee Retirement Income Security Act, § 5:8

Settlement of employee claims, nondisclosure provisions, § 20:2

**DISCOVERY**

See also index heading EVIDENCE

Cost shifting in discovery, § 22:24

Ethics, §§ 21:14, 21:15

Litigation issues, generally, §§ 22:1 to 22:31

Privilege. See index heading PRIVILEGE

Safety, § 8:22



## INDEX

### **DISCOVERY—Cont'd**

Statements or investigative reports regarding current employees, § **2:45**

### **DISCRIMINATION**

Generally, §§ **7:1 to 7:187**

Affirmative action

generally, §§ **7:99 to 7:102**

mandatory plans under federal law, § **7:101**

state law, § **7:102**

voluntary plans, § **7:100**

Age Discrimination in Employment Act (federal)

generally, §§ **7:70 to 7:75**

for detailed treatment see index heading AGE DISCRIMINATION IN EMPLOYMENT  
ACT (FEDERAL)

Age Discrimination in Employment Act (state)

generally, §§ **7:76 to 7:80**

for detailed treatment see index heading AGE DISCRIMINATION IN EMPLOYMENT  
ACT (STATE)

Americans with Disabilities Act (ADA)

generally, §§ **7:52 to 7:57**

for detailed treatment see index heading AMERICANS WITH DISABILITIES ACT  
(ADA)

Apprentices, § **17:16**

Armed services, § **7:129**

Attorneys' fees, taxation of employment damages, §§ **7:183, 7:187**

Bankruptcy law, § **7:106**

Benefits, § **5:45**

Breastfeeding, § **7:148**

Burden of proof, § **22:31**

Checklist, termination of employment, § **12:45**

Choice of forum, res judicata and collateral estoppel, § **19:25**

Civil Rights Act of 1991 (federal), § **7:24**

Collateral estoppel, § **19:25**

Compensation, § **4:62**

Constitution of state, § **7:149**

Constructive discharge, § **7:5**

Damages

generally, §§ **7:157 to 7:167**

attorney's fees, § **7:167**

back pay, § **7:158**

collateral source rule, § **7:165**

emotional distress, § **7:160**

front pay, § **7:159**

liquidated damages, § **7:161**

mitigation, § **7:163**

promotion, § **7:164**

punitive damages, § **7:162**

reinstatement, § **7:164**

**DISCRIMINATION—Cont'd**

Damages—Cont'd

setoff or compensation, § **7:166**

taxation of employment damages, below

Deaf persons, accommodations for, § **7:131**

Defend Trade Secrets Act, § **7:124**

Disability discrimination

generally, §§ **7:52 to 7:69**

for detailed treatment see index heading **DISABILITY DISCRIMINATION**

Disparate treatment and disparate impact discrimination, § **7:4**

Dodd-Frank Act, § **7:127**

Economic pressure to “deal with,” § **7:140**

Employee Retirement Income Security Act (ERISA), § **7:116**

Equal Pay Act (federal)

generally, §§ **7:31 to 7:35**

for detailed treatment see index heading **EQUAL PAY ACT (FEDERAL)**

Equal Pay for Women Act (state)

generally, §§ **7:36 to 7:40**

for detailed treatment see index heading **EQUAL PAY FOR WOMEN ACT (STATE)**

Executive Order No. JBE2016-11, § **7:152**

Executive Orders, §§ **7:10, 7:117, 7:142**

Facilities, § **7:119**

Fair Housing Act, § **7:126**

Fair Labor Standards Act (FLSA), § **7:109**

False Claims Act, § **7:123**

Family and Medical Leave Act (FMLA), § **6:18**

Federal funds recipients, § **7:118**

Federal preemption, § **19:8**

Fines and penalties, taxation of employment damages, § **7:185**

Garnishment, §§ **7:110, 7:138**

Genetic information and privacy

generally, §§ **7:90 to 7:94**

for detailed treatment see index heading **GENETIC INFORMATION AND PRIVACY**

Health Insurance Portability and Accountability Act (HIPAA), § **7:105**

Immigration law, § **7:107**

Insurance, § **7:137**

Joint employers, § **18:22**

Jury duty, §§ **7:121, 7:144**

Jury instructions, taxation of employment damages, §§ **7:186, 7:187**

Labor, § **7:143**

Labor disputes, §§ **11:35, 11:44**

Local ordinances, § **7:147**

Longshoremen's and Harbor Workers' Compensation Act (LHCWA), § **7:111**

Louisiana Commission on Human Rights, § **7:133**

Louisiana Employment Discrimination Law (LEDL)

generally, §§ **7:13 to 7:18**

covered employers, § **7:15**

## INDEX

### **DISCRIMINATION—Cont'd**

- Louisiana Employment Discrimination Law (LEDL)—Cont'd
  - enforcement procedures, § 7:18
  - prohibited acts, § 7:16
  - protected groups, § 7:14
  - remedies, § 7:17
- Louisiana Environmental Quality Act, § 7:136
- Louisiana Unfair Trade Practices Act (LUTPA), protection of old and disabled employees, § 7:139
- National Guard and Reserves, § 7:130
- National Labor Relations Act (NLRA), § 7:112
- Occupational Safety and Health Act (OSHA), § 7:104
- Personal Online Account Privacy Protection Act, § 7:151
- Political opinions, § 7:141
- Polygraphs, § 7:114
- Pregnancy and childbirth discrimination (state)
  - generally, §§ 7:47 to 7:51
  - for detailed treatment see index heading PREGNANCY AND CHILDBIRTH DISCRIMINATION (STATE)
- Pregnancy Discrimination Act (federal)
  - generally, §§ 7:41 to 7:46
  - for detailed treatment see index heading PREGNANCY DISCRIMINATION ACT (FEDERAL)
- Preservation of Religious Freedom Act, § 7:153
- Protected classifications and activities, §§ 7:2, 7:3
- Purpose of statutes, § 7:1
- Rehabilitation Act of 1973 (federal)
  - generally, §§ 7:58 to 7:62
  - for detailed treatment see index heading REHABILITATION ACT OF 1973 (FEDERAL)
- Religion, generally, §§ 7:6, 7:13 to 7:18, 7:125, 7:153
- Religious Freedom Restoration Act, § 7:125
- Res judicata, § 19:25
- Retaliation and reprisal
  - generally, §§ 7:95 to 7:98
  - covered employers, § 7:96
  - prohibited acts, § 7:97
  - protected groups, § 7:95
  - remedies, § 7:98
- Safety, § 7:146
- Sarbanes-Oxley Act, § 7:115
- Section 1981 (federal)
  - generally, §§ 7:19 to 7:23
  - for detailed treatment see index heading SECTION 1981 (FEDERAL)
- Section 1983 (federal)
  - generally, §§ 7:25 to 7:30
  - for detailed treatment see index heading SECTION 1983 (FEDERAL)
- Section 1985 Conspiracy, § 7:128
- Severance pay, taxation of employment damages, § 7:175

**DISCRIMINATION—Cont'd**

Sexual

assault, protection from, § 7:154

harassment, state agency, § 7:155

Sickle cell trait discrimination

generally, §§ 7:81 to 7:85

for detailed treatment see index heading SICKLE CELL TRAIT DISCRIMINATION

Stalking, protection from, § 7:154

Taxation

damages. See index heading TAXATION OF EMPLOYMENT DAMAGES

federal statutes prohibiting discrimination or retaliation, § 7:113

Taxation of employment damages

generally, §§ 7:168 to 7:187

attorney's fees, §§ 7:183, 7:187

back pay, § 7:173

business damages, § 7:182

compensatory or general damages, § 7:171

deductibility of employer's own damages, § 7:181

deductibility of payments, § 7:180

finances and penalties, § 7:185

front pay, § 7:174

gross income and personal injuries, § 7:172

hybrid and multiple claims, § 7:179

interest, § 7:178

jury instructions, §§ 7:186, 7:187

liquidated damages, § 7:176

lost profits, § 7:182

Make-Whole statutory mandates, § 7:184

origin of the claim test, § 7:169

overtime, § 7:173

punitive damages, § 7:177

settlements and judgments, generally, § 7:168

severance pay, § 7:175

wages, § 7:170

Title I participants, § 7:108

Title VII (federal)

generally, §§ 7:7 to 7:12

for detailed treatment see index heading TITLE VII (FEDERAL)

Tobacco use, § 7:132

Trade secrets, Defend Trade Secrets Act, § 7:124

Unemployment benefits, § 7:134

Uniformed Services Employment and Reemployment Rights Act (USERRA),  
§ 7:103

Unprotected classifications and activities, § 7:3

Voluntary affirmative action plans, § 7:100

Volunteer firefighters, § 7:150

Waiver of claims, requirements for valid waiver, § 7:156

Whistleblowers, §§ 7:122, 7:145

## INDEX

### **DISCRIMINATION—Cont'd**

Workers' compensation, §§ 7:135, 9:62

### **DISPARATE TREATMENT AND DISPARATE IMPACT**

Discrimination, § 7:4

### **DISTINCTIONS FROM OTHER RELATIONSHIPS**

Generally, §§ 1:3 to 1:24

Actors de in rem verso, § 1:10

Agents, § 1:6

Discrimination/retaliation test, § 1:19

Economic realities test, § 1:16

Emergency managers, § 1:9

Employees, § 1:11

Franchisees, § 1:8

Gestors, § 1:9

Independent contractors

generally, § 1:7

tests for distinguishing employment from other relationships, below

IRS 20-factor test, § 1:14

Joint venturers, § 1:5

Mandataries, § 1:6

Nationwide test, § 1:15

Partners, § 1:5

Proprietors, § 1:5

Representatives, § 1:6

Restatement of Agency test, § 1:20

Tests for distinguishing employment from other relationships

generally, §§ 1:13 to 1:24

discrimination/retaliation test, § 1:19

economic realities test, § 1:16

independent contractors, generally, § 1:14 et seq.

IRS 20-factor test, § 1:14

Nationwide test, § 1:15

nature of work test, Longshoremen's and Harbor Workers' Compensation Act  
benefits, § 1:24

Restatement of Agency test, § 1:20

trainee test, § 1:22

unemployment compensation test, § 1:18

volunteer test, § 1:23

wage penalty test, § 1:21

workers' compensation test, § 1:17

Trainees, §§ 1:12, 1:22

Unemployment compensation test, § 1:18

Volunteers, §§ 1:4, 1:23

Wage penalty test, § 1:21

Workers' compensation test, § 1:17

**DOCTORS**

Generally, § 17:27

**DODD-FRANK ACT**

Discrimination, § 7:127

**DOMESTIC VIOLENCE VICTIMS**

Unemployment compensation, lost wage benefits, § 13:27

**DRIVING RECORDS**

Confidentiality of records and privacy, § 16:40

Pre-employment screening, § 2:17

**DRUG ABUSE**

Generally, § 17:23

Coordination of leave benefits, § 6:37

Testing

Generally, §§ 2:53 to 2:62

for detailed treatment see index heading DRUG AND ALCOHOL TESTING

Workers' compensation, request for alcohol and drug information, § 2:50

**DRUG AND ALCOHOL TESTING**

Generally, §§ 2:53 to 2:62

Confidentiality of tests and records, §§ 2:59, 16:47

Disability considerations involving testing, § 2:61

Government employees, § 2:54

Justification, § 2:55

Negligent testing, § 2:62

Shifting of expense, § 2:68

Statutory requirements, §§ 2:56 to 2:58

Transportation employees, § 2:60

Unemployment compensation, § 2:58

Workers' compensation, § 2:57

**DUAL EMPLOYMENT DOCTRINE**

Workers' compensation, § 9:30

**DUAL REPRESENTATION**

Ethics, attorney for employer dealing with employees, § 21:1

**EARLY RETIREMENT**

Generally, §§ 7:74, 12:25

**EARNED INCOME CREDIT**

Compensation and payment, § 4:54

**EAVESDROPPING**

Investigations of applicants and employees, § 2:38

**ECONOMIC REALITIES TEST**

Distinctions from other relationships, § 1:16

**EDUCATION**

See index heading SCHOOLS AND EDUCATION

## INDEX

### **ELECTRONIC ACTIVITIES OF EMPLOYEES**

Monitoring by employer, privacy issues, § 16:37

### **ELECTRONIC EVIDENCE**

Generally, § 22:22

### **ELEVENTH AMENDMENT**

Section 1983, immunity from official capacity suits, § 7:28

### **EMBEZZLEMENT**

Insurance, § 15:22

Liabilities related to employment, § 14:17

### **EMERGENCY MANAGERS**

Distinguished, § 1:9

### **EMOTIONAL DISTRESS**

Discrimination, damages, § 7:160

Evidentiary and discovery issues in employment litigation, § 22:12

Insurance, § 15:15

Investigations of applicants and employees, § 2:41

### **EMPLOYEE BENEFITS LIABILITY COVERAGE**

Insurance, § 15:12

### **EMPLOYEE RETIREMENT INCOME SECURITY ACT (ERISA)**

Generally, §§ 5:2 to 5:12

Cast, § 5:7

Disclosure obligations, § 5:8

Discrimination, § 7:116

Employee benefit plans, § 5:6

Employees covered, § 5:5

Employers covered, § 5:4

Federal preemption, § 19:6

Fiduciary duties, § 5:10

Fiduciary status, § 5:9

Genetic information, § 5:12

Labor disputes, § 11:42

Litigation, § 5:11

Penalties, § 5:11

Plans covered, § 5:3

Prosecution, § 5:11

Reporting obligations, § 5:8

Wrongful discharge, § 12:27

### **EMPLOYMENT AGENCIES**

Generally, §§ 18:7 to 18:9

Charges by agencies, § 18:8

Prohibited actions, § 18:9

### **ENVIRONMENTAL PROTECTION ACT (EPA)**

Settlement of employee claims, release of claim, § 20:10

**ENVIRONMENTAL QUALITY ACT**

Discrimination, § 7:136

**ENVIRONMENTAL REASONS**

Displaced workers, § 17:34

**EQUAL ACCESS TO JUSTICE ACT**

Safety, § 8:28

**EQUAL PAY ACT (FEDERAL)**

Generally, §§ 4:62, 7:32 to 7:35

Covered entities, § 7:32

Enforcement procedures, § 7:35

Prohibited acts, § 7:33

Protected groups, § 7:31

Remedies, § 7:34

**EQUAL PAY FOR WOMEN ACT (STATE)**

Generally, §§ 7:36 to 7:40

Covered employers, § 7:37

Enforcement procedures, § 7:40

Prohibited acts, § 7:38

Protected groups, § 7:36

Remedies, § 7:39

**ERRORS AND OMISSIONS COVERAGE**

Insurance, § 15:11

**ESCHEAT**

Benefits, § 5:44

**ETHICS**

Generally, §§ 21:1 to 21:19

Adverse party, discovery by, § 21:15

Attorney for employer dealing with employees

generally, §§ 21:1 to 21:3

dual representation, § 21:1

payment for employee attorney fees by employer, § 21:3

presentation of papers for signature by employee, § 21:2

Attorney-client privilege

generally, §§ 21:8 to 21:11

for detailed treatment see index heading ATTORNEY-CLIENT PRIVILEGE

Consulting attorney, no adverse interference for, § 21:19

Discovery by adverse party, § 21:15

Discovery directed at former employees, § 21:14

Dual representation, attorney for employer dealing with employees, § 21:1

Employees of attorney, rules of professional conduct, § 21:7

Investigations of employer, §§ 21:4 to 21:6

Payment for employee attorney fees by employer, § 21:3

Presentation of papers for signature by employee, § 21:2

Recording conversations, § 21:17



## INDEX

### **ETHICS—Cont’d**

- Response to unlawful activity, attorney, § 21:16
- Rules of professional conduct, § 21:7
- Sarbanes-Oxley Act, investigations of employer, § 21:6
- Settlement negotiations, § 21:18

### **EVICTION**

- Termination of employment, § 12:5

### **EVIDENCE**

- See also index heading **DISCOVERY**
- Agency files, § 22:17
- Attributing remarks or conduct to employer, § 22:5
- Burden of proof, discrimination, § 22:31
- Burden of proof. See index heading **BURDEN OF PROOF**
- Circumstantial evidence, § 22:2
- Comparators, § 22:4
- Contracts of employment
  - generally, §§ 3:6 to 3:8
  - for detailed treatment see index heading **CONTRACTS OF EMPLOYMENT**
- Culture of employer, § 22:8
- Direct evidence, generally, § 22:2
- Discrimination, §§ 22:5, 22:16
- Discrimination, burden of proof, § 22:31
- Electronic evidence, § 22:22
- Emotional distress of employee, § 22:12
- Expert witnesses, § 22:19
- Harassment, § 22:9
- Hearsay, § 22:13
- Investigating agencies, determinations by, § 22:15
- Lay opinion testimony, § 22:20
- Litigation issues, generally, §§ 22:1 to 22:31
- “Me too” evidence, § 22:6
- “Not me too” evidence, § 22:7
- Other accidents, § 22:26
- Parol evidence, § 22:30
- Polygraph test, § 22:27
- Preservation of evidence, § 22:23
- Privilege. See index heading **PRIVILEGE**
- Records of employer, § 22:14
- Remote evidence, § 22:3
- Settlement of employee claims. See index heading **SETTLEMENT OF EMPLOYEE CLAIMS**
- Spoliation, § 22:23
- Statistical evidence, § 22:21
- Subsequent remedial measure, § 22:29
- Termination from employment, after acquired evidence warranting, § 22:11
- Vanishing or bursting bubble theory of presumption, § 22:28
- Victim’s conduct, § 22:10

**EVIDENCE—Cont'd**

Work product, §§ 21:12, 22:18

Worker's compensation payments, § 22:25

**EXCLUSIVITY**

Arbitration. See index heading ARBITRATION

Choice of forum. See index heading CHOICE OF FORUM

Longshoremen's and Harbor Workers' Compensation Act (LHCWA), § 10:9

National Labor Relations Board (NLRB), § 11:20

Workers' compensation  
generally, §§ 9:9, 9:10

for detailed treatment see index heading WORKERS' COMPENSATION

**EXECUTIVE ORDERS**

Discrimination, §§ 7:10, 7:117, 7:142, 7:152

Personnel records and privacy, § 16:21

**EXEMPLARY DAMAGES**

See index heading PUNITIVE DAMAGES

**EXPERT WITNESSES**

Evidentiary and discovery issues in employment litigation, § 22:19

**FACILITIES**

Discrimination, § 7:119

**FAIR CREDIT REPORTING ACT**

Investigations of applicants and employees, § 2:35

Pre-employment screening, background checks, § 2:12

Summary of rights, § 2:71

**FAIR HOUSING ACT**

Discrimination, § 7:126

**FAIR LABOR STANDARDS ACT (FLSA)**

Generally, §§ 4:4 to 4:22

Avoidance of unauthorized overtime, § 4:13

Collective actions, § 4:18

Contract Work Hours and Safety Standards Act, § 4:21

Discrimination, § 7:109

Enforcement regarding wages and hours, § 4:16

Exemptions, §§ 4:5 to 4:8

Federal preemption, § 19:7

Good faith reliance on defenses, § 4:14

Individual liability, § 4:19

Joint employers, § 18:16

Labor disputes, § 11:47

Minimum wage requirements, §§ 4:7, 4:9 to 4:11

Overtime pay, §§ 4:7, 4:8, 4:10, 4:12, 4:13

Prescriptive periods for enforcement proceedings, § 4:20

Private enforcement by employees, § 4:17

Recordkeeping, § 4:22

## INDEX

### **FAIR LABOR STANDARDS ACT (FLSA)—Cont'd**

- Self-reporting payroll audit independent determination, § 4:15
- Settlement of employee claims, release of claim, § 20:8
- “White-collar” exemption, § 4:6
- Working time for purposes of minimum wage and overtime, § 4:10

### **FALSE CLAIMS**

- Discrimination, False Claims Act, § 7:123
- Workers’ compensation, § 9:24

### **FALSE IMPRISONMENT**

- Investigations of applicants and employees, § 2:42

### **FALSE STATEMENTS**

- Unemployment compensation, § 13:16

### **FAMILY AND MEDICAL LEAVE ACT (FMLA)**

- Generally, §§ 6:2 to 6:23
- Americans with Disabilities Act (ADEA), reconciliation, § 7:57
- Calculation of 12 weeks, § 6:13
- Certification of health care provider, § 6:58
- Continuation of benefits during leave, § 6:17
- Covered employers, § 6:4
- Damages, § 6:21
- Discrimination, § 6:18
- Eligible employees, § 6:5
- Enforcement, § 6:20
- Entitlements, § 6:2
- Fitness for duty form, § 6:55
- Forms
  - certification of health care provider, § 6:58
  - family and medical leave policy, § 6:54
  - family or medical leave request, § 6:56
  - family/medical leave fitness for duty form, § 6:55
  - response by employer to family, medical or military related leave request, § 6:57
- Health benefits, § 5:20
- Intermittent leaves
  - generally, § 6:14
  - transfer of employee to accommodate, § 6:15
- Joint employers, § 18:23
- Leaves of absence, coordination of benefits, §§ 6:34, 6:35, 6:38
- Medical and qualifying exigency certification
  - generally, § 6:10
  - recertification, § 6:11
- Notice
  - generally, §§ 6:3, 6:7
  - employer notice when leave is requested, § 6:8
- Purposes for which leave is provided, § 6:6
- Recertification, medical and qualifying exigency, § 6:11

**FAMILY AND MEDICAL LEAVE ACT (FMLA)—Cont'd**

- Records, § 6:19
- Reinstatement obligation, § 6:16
- Request for leave, § 6:56
- Response by employer to request for leave, §§ 6:9, 6:57
- Retaliation, § 6:18
- Return certification, § 6:12
- Settlement of employee claims, release of claim, § 20:9
- Tax credit for FMLA and FMLA-like leave, § 6:23
- Transfer of employee to accommodate intermittent leaves, § 6:15
- Waiver, § 6:22

**FAMILY CARE BENEFITS**

- Health benefits, § 5:24

**FEDERAL AVIATION ADMINISTRATION**

- Arbitration, § 19:17

**FEDERAL EMPLOYERS LIABILITY ACT**

- Workers' compensation, § 10:17

**FEDERAL PREEMPTION**

- Generally, §§ 19:1 to 19:10
- Abstention, § 19:9
- Arbitration, § 19:20
- Concurrent jurisdiction, § 19:3
- Employee Retirement Income Security Act (ERISA) preemption, § 19:6
- Fair Labor Standards Act (FLSA) preemption, § 19:7
- Federal employment discrimination laws, § 19:8
- Federal question removal, § 19:2
- Labor disputes, § 11:15
- Labor law preemption, § 19:5
- Supplemental jurisdiction of federal court, § 19:4

**FEDERAL QUESTION REMOVAL**

- Federal preemption, § 19:2

**FEDERAL TORT CLAIMS ACT**

- Liabilities related to employment, § 14:34

**FELONS**

- Generally, § 17:24

**FIDELITY BONDS**

- Insurance, § 15:9

**FIDUCIARIES**

- Attorney-client privilege, exception, § 21:10
- Employee Retirement Income Security Act, §§ 5:9, 5:10
- Insurance, fiduciary liability coverage, § 15:10

**FIREARMS**

- Safety, § 8:39

## INDEX

### **FIREFIGHTERS**

Generally, § 17:25

Volunteer firefighters, discrimination, § 7:150

### **FIRST RESPONDERS**

Generally, § 17:25

### **“FIXED-TERM” CONTRACTS**

Contracts of employment, §§ 3:11, 3:13, 3:51

### **FORFEITURE OF BENEFITS**

Prohibition, § 5:43

Workers' compensation, § 9:39

### **FORMS**

Contracts of employment

generally, §§ 3:48 to 3:53

for detailed treatment see index heading CONTRACTS OF EMPLOYMENT

Family and Medical Leave Act (FMLA). See index heading FAMILY AND MEDICAL  
LEAVE ACT (FMLA)

Leaves of absence

generally, §§ 6:54 to 6:59

for detailed treatment see index heading LEAVES OF ABSENCE

Military leave. See index heading MILITARY LEAVE

Noncompetition agreement, § 3:50

Professional employer organizations, services agreements, § 18:29

Termination of employment

generally, §§ 12:39 to 12:45

for detailed treatment see index heading TERMINATION OF EMPLOYMENT

Unpaid internship agreement, § 17:45

### **FRANCHISORS AND FRANCHISEES**

Distinctions from other relationships, § 1:8

Joint employers, § 18:27

### **FRONT PAY**

Discrimination, damages, §§ 7:159, 7:174

### **FUNDAMENTAL NATURE OF EMPLOYMENT**

Generally, § 1:2

### **GARDEN LEAVE**

Noncompetition agreements, § 3:37

### **GARNISHMENT**

Compensation, § 4:40

Discrimination, §§ 7:110, 7:138

### **GENETIC INFORMATION AND PRIVACY**

Generally, §§ 7:86 to 7:94

Confidentiality of records and privacy, § 16:33

Covered employers, § 7:91

Employee Retirement Income Security Act, § 5:12

**GENETIC INFORMATION AND PRIVACY—Cont'd**

Enforcement procedures, § 7:94

Genetic Information Nondiscrimination Act (federal)

generally, §§ 7:86 to 7:89

for detailed treatment see index heading GENETIC INFORMATION NONDISCRIMINATION ACT (FEDERAL)

Personnel records, notices, § 16:15

Pre-employment screening, § 2:25

Proscribed and prescribed acts, § 7:92

Protected groups, § 7:90

Remedies, § 7:93

**GENETIC INFORMATION NONDISCRIMINATION ACT (FEDERAL)**

Generally, §§ 7:86 to 7:89, 7:120

Covered employer's, § 7:87

Proscribed and prescribed acts, § 7:88

Protected groups, § 7:86

Remedies, § 7:89

**GESTORS**

Distinctions from other relationships, § 1:9

**GOOD CAUSE**

Contracts of employment, termination of limited duration or fixed-term contracts, § 3:13

**GOOD FAITH**

Fair Labor Standards Act (FLSA), reliance on defenses, § 4:14

**GOVERNMENT**

Drug and alcohol testing, § 2:54

Labor disputes, § 11:36

Liabilities related to employment. See index heading LIABILITIES RELATED TO EMPLOYMENT

**GROUP HEALTH INSURANCE CONTINUATION ACT**

Generally, § 5:15

**HANDICAPPED PERSONS**

See index heading DISABLED PERSONS

**HARASSMENT**

Evidentiary and discovery issues in employment litigation, § 22:9

Insurance, § 15:19

Sexual, §§ 7:155, 17:43

**HEALTH BENEFITS**

Generally, §§ 5:13 to 5:28

Alternatives, § 5:26

Cafeteria plans, § 5:22

Consolidated Omnibus Budget Reconciliation Act (COBRA), § 5:14

Family and Medical Leave Act (FMLA), § 5:20

## INDEX

### **HEALTH BENEFITS—Cont'd**

- Family care benefits, § 5:24
- Health Insurance Portability and Accountability Act (HIPAA), § 5:16
- Health screenings as a prerequisite to receiving employer-provided health insurance coverage, § 5:28
- Louisiana Group Health Insurance Continuation Act, § 5:15
- Louisiana Newborns' and Mothers' Health Protection Act (NMHPA), § 5:18
- Maternity leave, § 5:23
- Mental Health Parity Act, § 5:21
- Newborns' and Mothers' Health Protection Act (NMHPA), §§ 5:17, 5:18
- Patient Protection and Affordable Care Act (Obamacare), § 5:27
- Women's Health and Cancer Rights Act (WHCRA) and Louisiana WHCRA, § 5:19

### **HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)**

- Generally, § 5:16
- Discrimination, § 7:105
- Termination of employment, § 12:32

### **HEARINGS**

- Safety, § 8:24

### **HEARSAY**

- Evidentiary and discovery issues in employment litigation, § 22:13

### **HEIGHT REQUIREMENTS**

- Pre-employment screening, § 2:26

### **HOLIDAYS**

- Benefits, § 5:30

### **HOME HEALTH PERSONNEL**

- Generally, § 17:35

### **HOMEOWNERS INSURANCE**

- Generally, § 15:7

### **HORSEPLAY**

- Workers' compensation, § 9:19

### **ILLEGAL ALIENS**

- See index heading UNDOCUMENTED WORKERS

### **IMMIGRATION**

- See index heading ALIENS

### **IMMUNITY**

- Liabilities related to employment, § 14:18
- Section 1983 (federal), §§ 7:27, 7:28

### **IMPLIED TERMS**

- Contracts of employment, §§ 3:20, 3:21

**INCARCERATED CLAIMANTS**

Workers' compensation, § 9:25

**INCUMBENT WORKER TRAINING PROGRAMS**

Trainees, § 17:20

**INDEMNITY**

Liabilities related to employment, § 14:19

**INDEPENDENT CONTRACTORS**

Generally, § 17:44

Distinctions from other relationships  
generally, § 1:7

for detailed treatment see index heading DISTINCTIONS FROM OTHER RELATIONSHIPS

Unemployment compensation, § 13:5

Workers' compensation, liability of principal, § 9:3

**INFANTS**

Generally, §§ 17:1 to 17:8

For detailed treatment see index heading CHILDREN AND MINORS

**INFORMATION ABOUT APPLICANTS AND EMPLOYEES**

Generally, §§ 2:1 to 2:72

Accuracy of information, § 2:1

Acknowledgment by employee, shifting of expense, § 2:70

Age, proof of, § 2:31

Background checks, shifting of expense, § 2:72

Citizenship, proof of, § 2:32

Classes protected by state and federal law, § 2:2

Disability, inquiry regarding, § 2:51

Drug and alcohol testing

generally, §§ 2:53 to 2:62

for detailed treatment see index heading DRUG AND ALCOHOL TESTING

Employment visas, §§ 2:63 to 2:66

Fair Credit Reporting Act, summary of rights under, § 2:71

Illness, inquiry regarding, § 2:51

Investigations of applicants and employees

generally, §§ 2:35 to 2:47

for detailed treatment see index heading INVESTIGATIONS OF APPLICANTS AND  
EMPLOYEES

Pre-employment screening

generally, §§ 2:3 to 2:30

for detailed treatment see index heading PRE-EMPLOYMENT SCREENING

Pregnant employees, inquiries of, § 2:52

Protected classes, § 2:2

Release by employee, shifting of expense, §§ 2:70, 2:72

Required information, generally, §§ 2:31 to 2:34

Shifting of expense

generally, §§ 2:67 to 2:72

acknowledgment and release by employee, § 2:70



## INDEX

### **INFORMATION ABOUT APPLICANTS AND EMPLOYEES—Cont'd**

- Shifting of expense—Cont'd
  - background checks, § 2:72
  - employer substance abuse policy, § 2:68
  - Fair Credit Reporting Act, summary of rights under, § 2:71
  - pre-employment authorization and release, § 2:69
- Social Security number, § 2:33
- Visas, §§ 2:63 to 2:66
- Workers' compensation
  - generally, §§ 2:48 to 2:50
  - for detailed treatment see index heading WORKERS' COMPENSATION

### **INITIAL CONFERENCE**

- Safety, inspections, § 8:13

### **INJUNCTIONS**

- Compensation and payment, § 4:25
- Labor disputes, § 11:13

### **INJURY LOGS**

- Safety, § 8:8

### **INSPECTIONS**

- Generally, §§ 8:12 to 8:14
- For detailed treatment see index heading SAFETY

### **INSURANCE**

- Generally, §§ 15:1 to 15:26
- Breach of contract, § 15:14
- Claims covered by insurance, generally, §§ 15:13 to 15:24
- Comprehensive general liability insurance, § 15:4
- Contract and exclusions, generally, § 15:1
- Coverage, policies according, generally, §§ 15:4 to 15:12
- Defamation, § 15:13
- Defense of employer, duty of insurer, § 15:3
- Directors and officers liability insurance, § 15:6
- Discrimination, § 7:137
- Embezzlement, § 15:22
- Emotional distress, infliction of, § 15:15
- Employee benefits liability coverage, § 15:12
- Employee fidelity bonds, § 15:9
- Employment practices liability coverage, § 15:8
- Errors and omissions coverage, § 15:11
- Exclusions, § 15:1
- Fiduciary liability coverage, § 15:10
- Homeowners insurance, § 15:7
- Infliction of emotional distress, § 15:15
- Intentional acts, § 15:23
- Interpretation of contracts, § 15:2
- Invasion of privacy, § 15:17

**INSURANCE—Cont'd**

- Negligent hiring, supervision and retention, § 15:20
- Owner/employee, claims against, § 15:21
- Privacy, invasion of, § 15:17
- Punitive damages, § 15:24
- Representation of employers in insurance disputes, § 15:26
- Sexual harassment, § 15:19
- Tender, obligation to give notice to ensure, § 15:25
- Workers' compensation, §§ 9:50, 15:5
- Wrongful discharge, § 15:18

**INTELLECTUAL PROPERTY**

- Contracts of employment, § 3:23

**INTENTIONAL ACTS**

- Insurance, § 15:23
- Workers' compensation, willful intent to injure, § 9:22

**INTEREST ON MONEY**

- Discrimination, taxation of employment damages, § 7:178

**INTERFERENCE**

- Doctrine, § 18:28
- Joint employers, §§ 18:4, 18:28
- Labor disputes, § 11:38
- Theory, § 18:4
- Tortious interference with
  - business relationship, § 14:20
  - contract, § 14:21

**INTERMITTENT LEAVES**

- Family and Medical Leave Act (FMLA)
  - generally, § 6:14
  - for detailed treatment see index heading FAMILY AND MEDICAL LEAVE ACT (FMLA)

**INTERNET**

- Online account information. See index heading ONLINE ACCOUNT INFORMATION

**INTERNS**

- Trainees, § 17:18
- Unpaid internship agreement, form, § 17:45

**INTERVIEWS**

- Pre-employment screening, § 2:5

**INTOXICATING LIQUORS**

- See index heading ALCOHOLIC BEVERAGES

**INVENTIONS**

- Contracts of employment, § 3:48

## INDEX

### INVESTIGATIONS OF APPLICANTS AND EMPLOYEES

- Generally, §§ 2:35 to 2:47
- Assistance, right to, § 2:36
- Compelling information from employees, § 2:46
- Confidentiality of workplace investigations, § 2:47
- Current employees, §§ 2:44 to 2:46
- Defamation, § 2:43
- Discovery of statements or investigative reports regarding current employees, § 2:45
- Eavesdropping, § 2:38
- Emotional distress, intentional infliction of, § 2:41
- Ethics, §§ 21:4 to 21:6
- Evaluations of current employees, §§ 2:44 to 2:46
- Fair Credit Reporting Act, § 2:35
- False imprisonment, § 2:42
- Intentional infliction of emotional distress, § 2:41
- Invasion of privacy, § 2:40
- Online account privacy, § 2:39
- Privacy, §§ 2:39, 2:40
- Searches, § 2:37
- Testing of current employees, §§ 2:44 to 2:46

### JOINT EMPLOYERS

- Generally, §§ 18:1 to 18:29
- Aliens, hiring of illegal, § 18:25
- Alter-ego liability, § 18:6
- Americans with Disabilities Act (ADA), § 18:17
- Compensation, § 18:24
- Discrimination, § 18:22
- Effect of joint employer status, generally, §§ 18:14 to 18:27
- Employment agencies
  - generally, §§ 18:7 to 18:9
  - for detailed treatment see index heading EMPLOYMENT AGENCIES
- Fair Labor Standards Act (FLSA), § 18:16
- Family and Medical Leave Act (FMLA), § 18:23
- Franchisors as joint employers with franchisees, § 18:27
- Interference
  - doctrine, § 18:28
  - theory, § 18:4
- Liabilities, generally, §§ 18:14 to 18:27
- Liability to employees, § 14:8
- Obligations, generally, §§ 18:14 to 18:27
- Professional employer organizations
  - generally, §§ 18:10 to 18:12
  - for detailed treatment see index heading PROFESSIONAL EMPLOYER ORGANIZATIONS
- Staffing services, § 18:13
- Successor federal contractors, § 18:26
- Successor liability, § 18:3

**JOINT EMPLOYERS—Cont'd**

- Tax liability, § 18:20
- Test for status, § 18:2
- Tort liability, § 18:18
- Unemployment compensation, § 18:15
- Unfair labor practices, § 18:19
- Workers' compensation, § 18:21

**JOINT VENTURERS**

- Distinguished, § 1:5

**JURY DUTY**

- Discrimination, §§ 7:121, 7:144
- Leaves of absence, generally, § 6:39

**JURY INSTRUCTIONS**

- Discrimination, §§ 7:186, 7:187

**JUSTIFICATION**

- Drug and alcohol testing, § 2:55

**LABOR DISPUTES**

- Generally, §§ 11:1 to 11:51
- Antitrust law, § 11:39
- Appeal, unfair labor practice case procedure, § 11:50
- Applicability of federal labor laws, generally, §§ 11:4 to 11:14
- Arbitration, National Labor Relations Board (NLRB), § 11:25
- Bankruptcy law, § 11:40
- Certification
  - employee representatives, § 11:26
  - persuader rule, § 11:28
  - representation elections and certification petitions, § 11:27
- Civil rights laws, § 11:44
- Closed shops, § 11:31
- Collective bargaining and representation of employees, § 11:10
- Concurrent jurisdiction, § 11:19
- Covered employers, § 11:4
- Criminal laws, § 11:34
- Damage caused by prohibited acts, National Labor Relations Board (NLRB), § 11:24
- Deference to National Labor Relations Board (NLRB), § 11:21
- Discrimination, § 11:35
- Effect of federal labor laws on state law
  - generally, §§ 11:15 to 11:19
  - concurrent jurisdiction, § 11:19
  - federal preemption, § 11:15
  - matters of overriding state concern, § 11:17
  - particular industries, § 11:16
  - right-to-work, § 11:18
- Employee Retirement Income Security Act (ERISA), § 11:42

## INDEX

### **LABOR DISPUTES—Cont'd**

- Employee suit to enforce collective bargaining agreement, § 11:23
- Employees, § 11:5
- Exclusive power, National Labor Relations Board (NLRB), § 11:20
- Fair Labor Standards Act, § 11:47
- Federal labor laws, applicability, generally, §§ 11:4 to 11:14
- Federal preemption, § 11:15
- Government employers, § 11:36
- Injunctions, § 11:13
- Interference, § 11:38
- Labor Management Relations Act (LMRA), § 11:2
- Labor organizations and unions, generally, §§ 11:6, 11:7
- Labor-Management Reporting and Disclosure Act (LMRDA), § 11:3
- National Labor Relations Act (NLRA), § 11:1
- National Labor Relations Board (NLRB)
  - generally, §§ 11:1, 11:20 to 11:25
  - arbitration, § 11:25
  - breach of bargaining agreement, § 11:22
  - damage caused by prohibited acts, § 11:24
  - deference to Board, § 11:21
  - Employee suit to enforce collective bargaining agreement, § 11:23
  - exclusive power, § 11:20
- Occupational Safety and Health Act (OSHA), § 11:41
- Persuader rule, § 11:28
- Protected rights, § 11:8
- Refusal to bargain, § 11:12
- Representation elections and certification petitions, § 11:27
- Retaliation, § 11:35
- Review, unfair labor practice case procedure, § 11:50
- Right-to-work, §§ 11:18, 11:32
- Special agents, use of, § 11:37
- State labor laws, generally, §§ 11:29 to 11:38
- Strikebreakers, § 11:33
- Trial, unfair labor practice case procedure, § 11:49
- Unfair labor practices
  - generally, §§ 11:11, 11:47 to 11:51
  - case procedure, generally, §§ 11:47 to 11:51
  - enforcement and review, § 11:50
  - initiation, § 11:48
  - recovery, § 11:51
  - trial, § 11:49
- Unions, generally, §§ 11:6, 11:7
- United States Arbitration Act, § 11:45
- Unlawful work rules, § 11:9
- Veterans benefit laws, § 11:43
- WARN Act, § 11:46
- Weingarten rights, § 11:14

**LABOR DISPUTES—Cont'd**

“Yellow dog” contracts, § 11:30

**LABOR MANAGEMENT RELATIONS ACT (LMRA)**

Generally, § 11:2

**LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT  
(LMRDA)**

Generally, § 11:3

**LAWYERS**

See index heading ATTORNEYS

**LAYOFFS**

Generally, § 12:6

**LEAVES OF ABSENCE**

Generally, §§ 6:1 to 6:59

Americans with Disabilities Act (ADA), §§ 6:27, 6:33, 6:34, 6:36

Bereavement leave, § 6:53

Bone marrow donation leave, § 6:51

Breaks, § 6:50

Coordination of leave benefits

generally, §§ 6:30 to 6:38

Americans with Disabilities Act (ADA), §§ 6:33, 6:34, 6:36

benefits accorded by leave statutes, § 6:31

common elements of leave statutes, § 6:32

Family and Medical Leave Act (FMLA), §§ 6:34, 6:35, 6:38

interplay among leave statutes, § 6:30

Social Security Act, § 6:36

substance abuse, § 6:37

Uniformed Services Employment and Reemployment Rights Act (USERRA),  
§ 6:38

workers' compensation, § 6:33

Disability leave, §§ 6:27, 6:28

Emergency personnel, § 6:48

Family and Medical Leave Act (FMLA)

generally, §§ 6:2 to 6:23

for detailed treatment see index heading FAMILY AND MEDICAL LEAVE ACT  
(FMLA)

Federal contractors, §§ 6:52, 6:53

Forms

generally, §§ 6:54 to 6:59

Family and Medical Leave Act. See index heading FAMILY AND MEDICAL LEAVE  
ACT (FMLA)

military leave. See index heading MILITARY LEAVE

Holidays, § 6:46

Interplay among leave statutes, § 6:30

Jury duty. See index heading JURY DUTY

## INDEX

### LEAVES OF ABSENCE—Cont'd

#### Military leave

generally, §§ 6:40 to 6:45

for detailed treatment see index heading MILITARY LEAVE

#### Pregnancy and childbirth discrimination (state)

generally, §§ 6:26, 7:47 to 7:51

for detailed treatment see index heading PREGNANCY AND CHILDBIRTH DISCRIMINATION (STATE)

#### Pregnancy Discrimination Act (federal)

generally, §§ 6:25, 7:41 to 7:46

for detailed treatment see index heading PREGNANCY DISCRIMINATION ACT (FEDERAL)

#### Religious leave, § 6:24

#### School functions, § 6:47

#### Sick leave, § 6:52

#### Social Security Act, coordination of leave benefits, § 6:36

#### Substance abuse, coordination of leave benefits, § 6:37

#### Uniformed Services Employment and Reemployment Rights Act (USERRA), coordination of leave benefits, § 6:38

#### Voting, § 6:49

#### Workers' compensation, §§ 6:29, 6:33

### LIABILITIES RELATED TO EMPLOYMENT

#### Generally, §§ 14:1 to 14:34

##### Agents

generally, §§ 14:27 to 14:30

contractual liability, §§ 14:29, 14:30

principals, liability to, §§ 14:28, 14:30

third persons, liability to, §§ 14:27, 14:29

tort liability, §§ 14:27, 14:28

#### Allocation of immune employer's fault in action by employee, § 14:7

#### Attorneys' fees, government responsibility for, § 14:33

#### Conspiracy, civil conspiracies, § 14:25

##### Contracts

agents, liability of, §§ 14:29, 14:30

employers, liability to employees, § 14:6

#### Contribution, employees, § 14:19

#### Embezzlement, employees, § 14:17

##### Employees

generally, §§ 14:15 to 14:25

civil conspiracies, § 14:25

contracts, combinations and conspiracies in restraint of trade, § 14:22

embezzlement, § 14:17

employer, liability to, § 14:16

immunity, § 14:18

indemnity and contribution, § 14:19

RICO, § 14:24

sexual assault, § 14:26

**LIABILITIES RELATED TO EMPLOYMENT—Cont'd**

Employees—Cont'd

- stolen property, § 14:23
- third persons, liability to, § 14:15
- tortious interference with business relationship, § 14:20
- tortious interference with contract, § 14:21

Employees, liability of employers to

- generally, §§ 14:4 to 14:11
- allocation of immune employer's fault in action by employee, § 14:7
- contract, breach of, § 14:6
- joint employers, § 14:8
- prescriptive periods, § 14:11
- single-employer doctrine, § 14:10
- successive employers, § 14:9
- torts, § 14:5
- workers' compensation, § 14:4

Government

- liability of employer, §§ 14:12 to 14:14
- liability to employer, § 14:33

Immunity, employees, § 14:18

Indemnity, employees, § 14:19

Joint employers, liability to employees, § 14:8

Officers, liability of responsible officers of employer to government, § 14:14

Prescriptive periods, liability of employers to employees, § 14:11

Principals, liability of agents to, §§ 14:28, 14:30

Respondeat superior, vicarious liability of employers to third persons under, § 14:3

RICO, § 14:24

Sexual assault, § 14:26

Single-employer doctrine, liability of employers to employees, § 14:10

Stolen property, liability of employees, § 14:23

Successive employers, liability to employees, § 14:9

Third persons, liability of agents to, §§ 14:27, 14:29

Third persons, liability of employees to, § 14:15

Third persons, liability of employers to

- direct liability, § 14:2
- vicarious liability under respondeat superior theory, § 14:3

Third persons, liability to employer for injury to employee, §§ 14:31, 14:32

Torts

- agents, liability of, §§ 14:27, 14:28
- employees, liability of employers to, § 14:5
- Federal Tort Claims Act, § 14:34
- interference with business relationship, § 14:20
- interference with contract, § 14:21

Vicarious liability of employers to third persons under respondeat superior theory, § 14:3

Workers' compensation

- employers, liability to employees, § 14:4



## INDEX

### **LIABILITIES RELATED TO EMPLOYMENT—Cont'd**

Workers' compensation—Cont'd  
reimbursement of benefits by third persons, § 14:31

### **LIBEL**

See index heading DEFAMATION

### **LIE DETECTORS**

Polygraphs. See index heading POLYGRAPHS

### **LIENS**

Compensation and payment, § 4:33

### **LIFE INSURANCE**

Benefits, § 5:40

### **LIFETIME CONTRACTS**

Contracts of employment, § 3:12

### **LIMITATION OF ACTIONS**

See index heading PRESCRIPTIVE PERIODS

### **LIMITED DURATION CONTRACTS**

Contracts of employment, §§ 3:11, 3:13

### **LIQUIDATED DAMAGES**

Discrimination, §§ 7:161, 7:176

### **LOANS TO EMPLOYEES**

Benefits, § 5:35

Compensation, § 4:61

### **LOCAL ORDINANCES**

Discrimination, § 7:147

### **LOGISTICS**

Compensation and payment, § 4:24

### **LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT (LHCWA)**

Generally, §§ 10:1 to 10:16

Attorneys' fees, § 10:16

Benefits

generally, §§ 10:5 to 10:8

interplay with state workers' compensation benefits, § 10:7

medical treatment, § 10:6

schedule of benefits, § 10:5

timing of payment of benefits, § 10:8

Claim for failure to pay benefits

generally, §§ 10:10 to 10:16

attorneys' fees, § 10:16

procedure, § 10:13

review of compensation orders, § 10:14

settlement, § 10:15

**LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT  
(LHCWA)—Cont'd**

- Claim for failure to pay benefits—Cont'd
  - time for filing claim, § 10:11
  - time for response to claim, § 10:12
- Covered employers and employees, §§ 10:3, 10:4
- Discrimination, § 7:111
- Exclusive remedy, § 10:9
- Interplay with state workers' compensation benefits, § 10:7
- Medical treatment, § 10:6
- Nature of work test, § 1:24
- Navigable waters, § 10:2
- Review of compensation orders, § 10:14
- Schedule of benefits, § 10:5
- Settlement, §§ 10:15, 20:3
- Time
  - filing of claim, § 10:11
  - payment of benefits, § 10:8
  - response to claim, § 10:12

**LOST PROFITS**

- Taxation of employment damages, § 7:182

**LOUISIANA COMMISSION ON HUMAN RIGHTS**

- Discrimination, § 7:133

**LOUISIANA EMPLOYMENT DISCRIMINATION LAW (LEDL)**

- Generally, §§ 7:13 to 7:18
- For detailed treatment see index heading DISCRIMINATION

**LOUISIANA EMPLOYMENT SECURITY LAW (LESL)**

- Choice of forum, exclusivity, § 19:12
- Plant closings and mass layoffs, notice requirements, § 12:21

**LOUISIANA ENVIRONMENTAL QUALITY ACT**

- Discrimination, § 7:136

**LOUISIANA GROUP HEALTH INSURANCE CONTINUATION ACT**

- Generally, § 5:15

**LOUISIANA NEWBORNS' AND MOTHERS' HEALTH PROTECTION  
ACT (NMHPA)**

- Generally, § 5:18

**LOUISIANA SERVICEMEMBERS CIVIL RELIEF AND CONSUMER  
RIGHTS ACT (SCRACRA)**

- Military leave, § 6:44

**LOUISIANA UNFAIR TRADE PRACTICES ACT (LUTPA)**

- Benefits, protection of, § 5:48
- Discrimination, protection of old and disabled employees, § 7:139
- Noncompetition agreements, § 3:36

## INDEX

### **LOUISIANA UNFAIR TRADE PRACTICES ACT (LUTPA)—Cont'd**

Retirement, § 12:26

### **LOUISIANA WOMEN'S HEALTH AND CANCER RIGHTS ACT (WHCRA)**

Generally, § 5:19

### **MALODOROUS EMPLOYEES**

Special employees, § 17:41

### **MANDATARIES**

Distinctions from other relationships, § 1:6

### **MASS LAYOFFS**

Generally, §§ 12:10 to 12:21

For detailed treatment see index heading PLANT CLOSINGS AND MASS LAYOFFS

### **MATERNITY LEAVE**

Health benefits, § 5:23

### **MEDIATION**

Contracts of employment, § 3:52

### **MEDICAL EXAMINATIONS AND TREATMENT**

Confidentiality of records and privacy, § 16:31

Longshoremen's and Harbor Workers' Compensation Act, § 10:6

Pre-employment screening, medical testing, § 2:20

Workers' compensation

generally, §§ 9:45 to 9:49

for detailed treatment see index heading WORKERS' COMPENSATION

### **MEDICAL LEAVE**

Generally, §§ 6:2 to 6:23

For detailed treatment see index heading FAMILY AND MEDICAL LEAVE ACT (FMLA)

### **MENTAL HEALTH PARITY ACT**

Generally, § 5:21

### **MILITARY LEAVE**

Generally, §§ 6:40 to 6:45

Forms

military related leave request, § 6:59

response by employer to family, medical or military related leave request,  
§ 6:57

Louisiana Servicemembers Civil Relief and Consumer Rights Act (SCRACRA),  
§ 6:44

Military Service Relief Act (MSRA), § 6:41

National Guard and Reserve law, § 6:42

Servicemembers' Civil Relief Act, § 6:43

Uniformed Services Employment and Reemployment Rights Act (USERRA),  
§ 6:40

Veteran discrimination, § 6:45

**MILITARY SERVICE**

Generally, § 17:29

Benefits, leave for service, § 5:36

Compensation and payment, employees leaving for service, § 4:27

Discrimination, §§ 7:68, 7:129

Louisiana Servicemembers Civil Relief and Consumer Rights Act (SCRACRA),  
§ 6:44

Military leave

generally, §§ 6:40 to 6:45

for detailed treatment see index heading MILITARY LEAVE

National Guard and Reserve. See index heading NATIONAL GUARD AND RESERVE

Pre-employment screening, military records, § 2:16

Uniformed Services Employment and Reemployment Rights Act (USERRA).

See index heading UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT  
RIGHTS ACT (USERRA)

Veterans. See index heading VETERANS

**MILITARY SERVICE RELIEF ACT (MSRA)**

Military leave, § 6:41

Personnel records, notices, § 16:20

**MINIMUM WAGES**

Fair Labor Standards Act (FLSA), §§ 4:7, 4:9 to 4:11

**MINISTERS**

Generally, § 17:37

**MINORS**

Generally, §§ 17:1 to 17:8

For detailed treatment see index heading CHILDREN AND MINORS

**MITIGATION OF DAMAGES**

Discrimination, § 7:163

**MOTOR VEHICLES**

Driving records, confidentiality of records and privacy, § 16:40

Personnel records, vehicle registration, § 16:17

**NATIONAL GUARD AND RESERVE**

Discrimination, § 7:130

Military leave, § 6:42

**NATIONAL LABOR RELATIONS ACT (NLRA)**

Discrimination, § 7:112

Labor disputes, § 11:1

Settlement of employee claims, release of claim, § 20:11

**NATIONAL LABOR RELATIONS BOARD (NLRB)**

Generally, §§ 11:1, 11:20 to 11:25

For detailed treatment see index heading LABOR DISPUTES

**NAVIGABLE WATERS**

Longshoremen's and Harbor Workers' Compensation Act, § 10:2

## INDEX

### NEGLIGENCE

- Drug and alcohol testing, § 2:62
- Insurance, negligent hiring, supervision and retention, § 15:20
- Pre-employment screening, polygraphing, § 2:19

### NEGOTIATIONS

- Ethics, settlement, § 21:18
- Settlement of employee claims, evidence, § 20:13

### NEGOTIORUM GESTIO

- Compensation and payment, § 4:38

### NEPOTISM

- Generally, § 17:28
- Pre-employment screening, § 2:27

### NEW HIRES

- Personnel records, registrations, reports and plans, § 16:6
- Reporting, taxes on wages, § 4:44

### NEWBORNS' AND MOTHERS' HEALTH PROTECTION ACT (NMHPA)

- Generally, §§ 5:17, 5:18

### NONCOMPETITION AGREEMENTS

- Generally, §§ 3:26 to 3:38
- August 15, 2003, agreements before, § 3:35
- Danger in enforcement, § 3:33
- Danger in hiring employees subject to such agreement, § 3:34
- Defenses to enforcement of non-competition agreements, § 3:32
- Form, § 3:50
- Garden leave, § 3:37
- Louisiana Unfair Trade Practices Act, proscription of unfair competition under, § 3:36
- Poaching, § 3:38
- Public policy, § 3:26
- Reformation, § 3:30
- Remedy for breach of covenant, § 3:31
- Remedy for non-conforming non-competition agreement, § 3:29
- Statutory requirements, § 3:27
- Strict construction, § 3:28

### NONCONFORMING EMPLOYEES

- Special employees, § 17:41

### NOTICE

- Family and Medical Leave Act (FMLA)
  - generally, §§ 6:3, 6:7
  - for detailed treatment see index heading FAMILY AND MEDICAL LEAVE ACT (FMLA)
- Personnel records
  - generally, §§ 16:12 to 16:23
  - for detailed treatment see index heading PERSONNEL RECORDS

**NOTICE—Cont'd**

- Plant closings and mass layoffs, §§ 12:12, 12:13, 12:17, 12:18, 12:21
- Unemployment compensation. See index heading UNEMPLOYMENT COMPENSATION
- Workers' compensation, § 9:53

**NURSING HOME PERSONNEL**

- Generally, § 17:35

**NURSING MOTHERS**

- Generally, § 17:36
- Discrimination, § 7:148

**OBAMACARE**

- See index heading PATIENT PROTECTION AND AFFORDABLE CARE ACT (OBAMACARE)

**OCCUPATIONAL SAFETY AND HEALTH ACT**

- Generally, §§ 8:1 to 8:39
- For detailed treatment see index heading SAFETY

**OFFICE OF WORKERS' COMPENSATION ADMINISTRATION**

- Workers' compensation, § 9:52

**OLDER WORKERS BENEFIT PROTECTION ACT (OWBPA)**

- Settlement of employee claims, tax implication of release, § 20:21

**ONLINE ACCOUNT INFORMATION**

- Confidentiality of records and privacy, § 16:39
- Investigations of applicants and employees, § 2:39
- Personal Online Account Privacy Protection Act, discrimination, § 7:151
- Pre-employment screening, § 2:29

**OUTER CONTINENTAL SHELF LANDS ACT**

- Workers' compensation, § 10:19

**OVERTIME PAY**

- Discrimination, taxation of employment damages, § 7:173
- Fair Labor Standards Act (FLSA), §§ 4:7, 4:8, 4:10, 4:12, 4:13

**PAROL EVIDENCE**

- Generally, § 22:30

**PARTIES**

- Contracts of employment, § 3:4

**PARTNERS**

- Distinctions from other relationships, § 1:5

**PATIENT PROTECTION AND AFFORDABLE CARE ACT  
(OBAMACARE)**

- Generally, § 5:27
- Personnel records, registrations, reports and plans, § 16:11

**PAYMENT**

- Generally, §§ 4:1 to 4:64
- For detailed treatment see index heading COMPENSATION AND PAYMENT

## INDEX

### **PENALTIES**

- Discrimination, § 7:185
- Employee Retirement Income Security Act, § 5:11
- False filing, personnel records, § 16:5
- Minors, state sanctions, § 17:5
- Workers' compensation, § 9:60

### **PERSONAL ONLINE ACCOUNT PRIVACY PROTECTION ACT**

- Discrimination, § 7:151

### **PERSONNEL RECORDS**

- Generally, §§ 16:1 to 16:57
- Access to records
  - generally, §§ 16:49 to 16:55
  - computer records, liability for exceeding authorized access to, § 16:53
  - confidentiality of involvement, non-profit employer, § 16:55
  - employee access to own personnel records, § 16:49
  - government obligation to disclose government records, § 16:52
  - safety records, § 16:50
  - security breach of database, § 16:54
  - third persons, access by, § 16:51
- Accuracy of records, § 16:26
- Affordable Care Act, registrations, reports and plans, § 16:11
- Applicants, records of, § 16:2
- Checklist, § 16:4
- Computer records, liability for exceeding authorized access to, § 16:53
- Confidentiality of involvement, non-profit employer, § 16:55
- Confidentiality of records and privacy
  - generally, §§ 16:29 to 16:48
  - for detailed treatment see index heading CONFIDENTIALITY OF RECORDS AND PRIVACY
- Disposal of records, § 16:56
- Employees, records of, § 16:3
- Employer records, § 16:1
- Erroneous reports, liability to employees for, § 16:9
- Evidentiary and discovery issues in employment litigation, § 22:14
- False filing, penalty for, § 16:5
- Genetic information, notices, § 16:15
- Government obligation to disclose government records, § 16:52
- Injured employees, registrations, reports and plans, § 16:8
- Maintenance of records, §§ 16:24 to 16:28
- Military Service Relief Act, notices, § 16:20
- Minors, notices, § 16:14
- New hires, registrations, reports and plans, § 16:6
- Notices
  - generally, §§ 16:12 to 16:23
  - Executive Order 13665, § 16:21
  - genetic information, § 16:15
  - Military Service Relief Act, § 16:20

**PERSONNEL RECORDS—Cont'd**

Notices—Cont'd

minors, § 16:14

Occupational Safety and Health Act, § 16:16

payment, method and manner of, § 16:18

remote workplaces, § 16:23

safety, § 16:16

smoking, § 16:19

unemployment benefits, § 16:13

vehicle registration, § 16:17

workers' compensation, § 16:12

Occupational Safety and Health Act, notices, § 16:16

Officers and directors, liability concerning registrations, reports and plans,  
§ 16:10

Payment

employment records, § 16:57

method and manner, notice, § 16:18

Penalty, false filing, § 16:5

Personal information, maintaining, § 16:28

Plans. Registrations, reports and plans, below

Prescriptive periods on employment claims, § 16:25

Registrations, reports and plans

generally, §§ 16:6 to 16:11

Affordable Care Act, § 16:11

employer registrations and reports, § 16:7

erroneous reports, liability to employees for, § 16:9

injured employees, § 16:8

new hires, § 16:6

officers and directors, liability of, § 16:10

Remote workplaces, notices, § 16:23

Reports. Registrations, reports and plans, above

Required records, generally, §§ 16:1 to 16:23

Retention of records, § 16:24

Safety records

access, § 16:50

notices, § 16:16

Security breach of database, § 16:54

Smoking, notices, § 16:19

Spoilation, § 16:27

Third persons, access to records by, § 16:51

Unemployment benefits, notices, § 16:13

Vehicle registration, notices, § 16:17

Workers' compensation, notices, § 16:12

**PHYSICIANS**

Generally, § 17:27



## INDEX

### PLANS

- Personnel records
  - generally, §§ 16:6 to 16:11
  - for detailed treatment see index heading PERSONNEL RECORDS

### PLANT CLOSINGS AND MASS LAYOFFS

- Generally, §§ 12:10 to 12:21
- Burden on employer to show exemption, § 12:18
- Covered employees, § 12:12
- Covered employers, § 12:11
- Exemptions from notice requirements, §§ 12:17, 12:18
- Labor disputes, § 11:46
- Liability of employer to employees, § 12:19
- Loss of employment, § 12:16
- Louisiana Employment Security Law (LESL) notice requirements, § 12:21
- Notice requirements, §§ 12:12, 12:13, 12:17, 12:18, 12:21
- Remedies, § 12:20
- Settlement of employee claims, release of claim, § 20:7
- WARN Act, generally, § 12:10 et seq.

### POACHING

- Noncompetition agreements, § 3:38

### POLITICAL OPINIONS

- Discrimination, § 7:141

### POLYGRAPHS

- Discrimination, § 7:114
- Evidence and discovery issues, § 22:27
- Pre-employment screening, §§ 2:18, 2:19

### PRE-EMPLOYMENT SCREENING

- Generally, §§ 2:3 to 2:30
- Applications and interviews, § 2:5
- Background checks
  - generally, §§ 2:8 to 2:12
  - consumer reports and Fair Credit Reporting Act, § 2:12
  - credit records, § 2:11
  - criminal records, § 2:10
  - transportation employees, § 2:9
- Biometric data, § 2:21
- Child care providers, § 2:15
- Consumer reports, background checks, § 2:12
- Credit records, background checks, § 2:11
- Criminal records, background checks, § 2:10
- Driving records, § 2:17
- Fair Credit Reporting Act, background checks, § 2:12
- Genetic testing, § 2:25
- Height requirements, § 2:26
- Interviews and applications, § 2:5

**PRE-EMPLOYMENT SCREENING—Cont'd**

- Job advertisement, § 2:4
- Job-related standards testing, § 2:22
- Mandatory vaccines, § 2:30
- Medical testing, § 2:20
- Military records, § 2:16
- Negligent polygraphing, § 2:19
- Nepotism, § 2:27
- Personal online accounts, § 2:29
- Polygraphs, §§ 2:18, 2:19
- Professionally developed scored tests, § 2:24
- Profiling, § 2:13
- Reading tests, § 2:23
- Reasons to screen, § 2:3
- References, requests for, §§ 2:6, 2:7
- Response to request for references, § 2:7
- Second injury questionnaires, § 2:28
- Shifting of expense, authorization and release, § 2:69
- Standards testing, § 2:22
- Transportation employees, background checks, § 2:9
- Undocumented workers, screening for, § 2:14
- Weight requirements, § 2:26

**PREEMPTION**

- Generally, §§ 19:1 to 19:10
- For detailed treatment see index heading FEDERAL PREEMPTION

**PREGNANCY AND CHILDBIRTH DISCRIMINATION (STATE)**

- Generally, §§ 6:26, 7:47 to 7:51
- Covered employers, § 7:48
- Enforcement procedures, § 7:51
- Information about applicants and employees, § 2:52
- Proscribed and prescribed acts, § 7:49
- Protected groups, § 7:47
- Remedies, § 7:50

**PREGNANCY DISCRIMINATION ACT (FEDERAL)**

- Generally, §§ 6:25, 7:41 to 7:46
- Covered entities, § 7:42
- Enforcement procedures, § 7:45
- Other disability and leave laws, § 7:46
- Prohibited acts, § 7:43
- Protected groups, § 7:41
- Remedies, § 7:44

**PRESCRIPTION**

- Contracts of employment, action on, § 3:45

**PRESCRIPTIVE PERIODS**

- Fair Labor Standards Act (FLSA), enforcement proceedings, § 4:20

## INDEX

### **PRESCRIPTIVE PERIODS—Cont'd**

- Liability of employers to employees, § 14:11
- Personnel records, employment claims, § 16:25

### **PRESERVATION OF EVIDENCE**

- Evidentiary and discovery issues in employment litigation, § 22:23

### **PRESUMPTIONS**

- Borrowed employees, § 17:10
- Vanishing or bursting bubble theory, § 22:28

### **PREVAILING WAGES**

- Generally, § 4:64

### **PRINCIPAL AND AGENT**

- See index heading AGENTS

### **PRISON**

- Workers' compensation, incarcerated claimants, § 9:25

### **PRIVACY**

- Confidentiality of records and privacy
  - generally, §§ 16:29 to 16:48
  - for detailed treatment see index heading CONFIDENTIALITY OF RECORDS AND PRIVACY
- Insurance, § 15:17
- Investigations of applicants and employees, §§ 2:39, 2:40
- Online account information. See index heading ONLINE ACCOUNT INFORMATION
- Safety, records and reports, § 8:7

### **PRIVATE RIGHT OF ACTION**

- Safety, § 8:27

### **PRIVILEGE**

- Attorney-client privilege
  - generally, §§ 21:8 to 21:11
  - for detailed treatment see index heading ATTORNEY-CLIENT PRIVILEGE
- Compensation and payment, § 4:33
- Evidentiary and discovery issues in employment litigation, generally, § 22:18

### **PROFESSIONAL EMPLOYER ORGANIZATIONS**

- Generally, §§ 18:10 to 18:12
- Form, services agreements, § 18:29
- Liability, § 18:12
- Services agreements, §§ 18:11, 18:29

### **PROFESSIONALS**

- Generally, § 17:26

### **PROFILING**

- Pre-employment screening, § 2:13

### **PROMOTION**

- Discrimination, damages, § 7:164

**PROPRIETARY INFORMATION**

Contracts of employment, restriction of use of information, § 3:49

**PROPRIETORS**

Distinctions from other relationships, § 1:5

**PROTESTS**

Unemployment compensation claims, § 13:35

**PUBLIC EMPLOYMENT**

Confidentiality of records and privacy, § 16:43

Termination of employment. See index heading TERMINATION OF EMPLOYMENT

**PUBLIC POLICY**

Forfeiture of benefits, § 5:43

Noncompetition agreements, § 3:26

Settlement of employee claims, waiver of statutory claims, § 20:16

**PUNITIVE DAMAGES**

Discrimination, §§ 7:162, 7:177

Insurance, § 15:24

**QUASI-CONTRACTS**

Termination of employment, § 12:7

**READING TESTS**

Pre-employment screening, § 2:23

**RECERTIFICATION**

Family and Medical Leave Act (FMLA), medical and qualifying exigency,  
§ 6:11

**RECONSIDERATION**

Unemployment compensation, eligibility for benefits, § 13:34

**RECORDS AND REPORTS**

Confidentiality of records and privacy

generally, §§ 16:29 to 16:48

for detailed treatment see index heading CONFIDENTIALITY OF RECORDS AND PRIVACY

Employee Retirement Income Security Act, § 5:8

Evidentiary and discovery issues in employment litigation, § 22:14

Fair Labor Standards Act (FLSA), § 4:22

Family and Medical Leave Act (FMLA), § 6:19

Personnel records

generally, §§ 16:1 to 16:57

for detailed treatment see index heading PERSONNEL RECORDS

Privacy. See index heading PRIVACY

Safety

generally, §§ 8:6 to 8:10

for detailed treatment see index heading SAFETY

Termination of employment, § 12:37

Unemployment compensation, § 13:41

Workers' compensation. See index heading WORKERS' COMPENSATION

## INDEX

### **RECOUPMENT**

Unemployment compensation benefits received improperly, § 13:40

### **REDUCTIONS**

Workers' compensation benefits, § 9:40

### **REFERENCES**

Pre-employment screening, §§ 2:6, 2:7

### **REFORMATION**

Noncompetition agreements, § 3:30

### **REGISTRATION**

Personnel records

generally, §§ 16:6 to 16:11

for detailed treatment see index heading PERSONNEL RECORDS

### **REHABILITATION**

Rehabilitation Act of 1973 (federal)

generally, §§ 7:58 to 7:62

for detailed treatment see index heading REHABILITATION ACT OF 1973 (FEDERAL)

Workers' compensation benefits, § 9:44

### **REHABILITATION ACT OF 1973 (FEDERAL)**

Generally, §§ 7:58 to 7:62

Covered employers, § 7:59

Enforcement procedures, § 7:62

Prohibited acts, § 7:60

Protected groups, § 7:58

Remedies, § 7:61

### **REIMBURSEMENT OF EMPLOYEES**

Benefits, § 5:46

### **REINSTATEMENT**

Discrimination, damages, § 7:164

Family and Medical Leave Act (FMLA), § 6:16

### **RELATIVES**

Generally, § 17:28

### **RELEASES**

Information about applicants and employees, shifting of expense, § 2:72

Settlement of employee claims

generally, §§ 20:5 to 20:12

for detailed treatment see index heading SETTLEMENT OF EMPLOYEE CLAIMS

### **RELIGION**

Discrimination laws

generally, §§ 7:6, 7:13 to 7:18, 7:125, 7:153

for detailed treatment see index heading DISCRIMINATION

Leaves of absence, § 6:24

**REMOTE EVIDENCE**

Generally, § 22:3

**REMOTE WORKPLACES**

Personnel records, notices, § 16:23

**REPORTS**

See index heading RECORDS AND REPORTS

**REPRESENTATIVES**

Distinctions from other relationships, § 1:6

**REPRISAL**

Generally, §§ 7:95 to 7:98

For detailed treatment see index heading DISCRIMINATION

**RES JUDICATA**

Arbitration, § 19:26

Choice of forum, §§ 19:25, 19:26

Workers' compensation, res judicata of LWCA claims, § 9:58

**RESPONDEAT SUPERIOR**

Vicarious liability of employers to third persons, § 14:3

**RESTATEMENT OF AGENCY TEST**

Distinctions from other relationships, § 1:20

**RESTRAINT**

Contracts of employment, action on, § 3:43

**RESTRAINT OF TRADE**

See index heading ANTITRUST LAW

**RETALIATION**

Discrimination

generally, §§ 7:95 to 7:98

for detailed treatment see index heading DISCRIMINATION

Family and Medical Leave Act (FMLA), § 6:18

Labor disputes, § 11:35

Workers' compensation, § 9:62

**RETIREMENT**

Generally, §§ 12:22 to 12:27

Age Discrimination in Employment Act (ADEA), generally, §§ 7:74, 12:22 to 12:24

Benefits, § 5:37

Early retirement programs, §§ 7:74, 12:25

Employee Retirement Income Security Act (ERISA)

generally, §§ 5:2 to 5:12

for detailed treatment see index heading EMPLOYEE RETIREMENT INCOME SECURITY ACT (ERISA)

ERISA wrongful discharge, § 12:27

Louisiana Age Discrimination in Employment Act (LADEA), § 12:26

## INDEX

### **RETIREMENT—Cont'd**

Louisiana Unfair Trade Practices Act (LUTPA), § 12:26

Mandatory retirement prohibited, §§ 12:22 to 12:24

### **REVIEW**

See index heading APPEAL AND REVIEW

### **RICO**

Liabilities related to employment, § 14:24

### **RIGHT-TO-KNOW REGULATIONS**

Safety, § 8:10

### **RIGHT-TO-WORK**

Labor disputes, §§ 11:18, 11:32

### **RULES OF PROFESSIONAL CONDUCT**

Ethics, § 21:7

### **SAFETY**

Generally, §§ 8:1 to 8:39

Absence of Louisiana plan, § 8:2

Administrative appeals, § 8:25

Agencies involved in enforcement, § 8:11

Answer and defenses, § 8:20

Appeals

generally, §§ 8:25, 8:26

violations, § 8:17

Applicability, § 8:1

Burden of proof, § 8:21

Choice of law, § 8:36

Citations

generally, § 8:18

violations, § 8:15

Complaint, § 8:19

Covered employers, § 8:4

Defenses, § 8:20

Degrees of violations and penalties, § 8:16

Discovery, § 8:22

Discrimination, §§ 7:104, 7:146

Enforcement, § 8:11

Equal Access to Justice Act, § 8:28

Exceptions for specific industries, § 8:3

Firearms, § 8:39

Hearings, § 8:24

Initial conference, inspections, § 8:13

Injury logs and other records, § 8:8

Inspections

generally, §§ 8:12 to 8:14

initial conference and walk-around, § 8:13

subpoenas, § 8:14

**SAFETY—Cont'd**

Inspections—Cont'd

warrants, § 8:12

Judicial appeals, § 8:26

Labor disputes, § 11:41

Litigation under act

generally, §§ 8:18 to 8:28

administrative appeals, § 8:25

answer and defenses, § 8:20

appeals, §§ 8:25, 8:26

burden of proof, § 8:21

citation, § 8:18

complaint, § 8:19

discovery, § 8:22

Equal Access to Justice Act, § 8:28

hearings, § 8:24

judicial appeals, § 8:26

private right of action, § 8:27

settlement, § 8:23

OSHA, generally, §§ 8:1 to 8:31

Partially exempt employers, recordkeeping and reporting, § 8:6

Personnel records. See index heading PERSONNEL RECORDS

Posted notices, § 8:9

Privacy of records and reports, § 8:7

Private right of action, § 8:27

Recordkeeping and reporting

generally, §§ 8:6 to 8:10

injury logs and other records, § 8:8

partially exempt employers, § 8:6

posted notice, § 8:9

privacy, § 8:7

right-to-know regulations, § 8:10

state workplace safety laws, § 8:34

Refusal to work for safety reasons, § 8:29

Reporting. Recordkeeping and reporting, above

Right-to-know regulations, § 8:10

Settlement, § 8:23

Smoking, § 8:38

Standards, § 8:5

State workplace safety laws

generally, §§ 8:32 to 8:34

duty of employer to provide safe workplace, § 8:32

enforcement, § 8:33

reporting, § 8:34

Subpoenas, inspections, § 8:14

Violations

generally, §§ 8:15 to 8:17



## INDEX

### **SAFETY—Cont'd**

- Violations—Cont'd
  - appeals, § 8:17
  - citations, § 8:15
  - degrees of violations and penalties, § 8:16
- Violence in workplace, § 8:31
- Walk-around, inspections, § 8:13
- Warrants, inspections, § 8:12
- Workers' compensation, §§ 8:35, 9:26, 9:64
- Workplace violence, § 8:31

### **SALARIES**

- Generally, §§ 4:1 to 4:64
- For detailed treatment see index heading COMPENSATION AND PAYMENT

### **SANCTIONS**

- See index heading PENALTIES

### **SARBANES-OXLEY ACT**

- Discrimination, § 7:115
- Ethics, investigations of employer, § 21:6

### **SCHOOLS AND EDUCATION**

- Leaves of absence, § 6:47
- Special employees, teachers as, § 17:38
- Unemployment compensation, § 13:18

### **SCREENING**

- Generally, §§ 2:3 to 2:30
- For detailed treatment see index heading PRE-EMPLOYMENT SCREENING

### **SEARCHES**

- Investigations of applicants and employees, § 2:37

### **SECOND INJURY FUND**

- Workers' compensation, § 9:63

### **SECOND INJURY QUESTIONNAIRES**

- Pre-employment screening, § 2:28

### **SECTION 1981 (FEDERAL)**

- Generally, §§ 7:19 to 7:23
- Covered employers, § 7:20
- Enforcement procedures, § 7:23
- Prohibited acts, § 7:21
- Protected groups, § 7:19
- Remedies, § 7:22
- Settlement of employee claims, release of claim, § 20:10

### **SECTION 1983 (FEDERAL)**

- Generally, §§ 7:25 to 7:30
- Covered employers, § 7:26
- Eleventh Amendment immunity from official capacity suits, § 7:28

**SECTION 1983 (FEDERAL)—Cont'd**

Enforcement, § 7:30  
Immunity, §§ 7:27, 7:28  
Protected groups, § 7:25  
Remedies, § 7:29

**SECTION 1985 (FEDERAL)**

Conspiracy, § 7:128

**SECURITY BREACH OF DATABASES**

Personnel records, privacy, § 16:54

**SEIZURE**

Benefits, § 5:47

**SERVICEMEMBERS' CIVIL RELIEF ACT**

Military leave, § 6:43

**SETTLEMENT OF EMPLOYEE CLAIMS**

Generally, §§ 20:1 to 20:22  
Age Discrimination in Employment Act (ADEA)  
    release of claim, § 20:6  
    tax implication of release, § 20:21  
Americans with Disabilities Act (ADA), release of claim under, § 20:10  
Checks, negotiated checks as evidence, § 20:14  
Discrimination, generally, § 7:168  
Environmental Protection Act (EPA), release of claim under, § 20:10  
Evidence  
    negotiated checks as evidence, § 20:14  
    negotiations as evidence, § 20:13  
Fair Labor Standards Act (FLSA), release of claim under, § 20:8  
Family and Medical Leave Act (FMLA), release of claim under, § 20:9  
Longshoremen's and Harbor Workers' Compensation Act, §§ 10:15, 20:3  
National Labor Relations Act (NLRA), release of claim under, § 20:11  
Negotiated checks as evidence, § 20:14  
Negotiations as evidence, § 20:13  
Nondisclosure provisions, § 20:2  
Older Workers Benefit Protection Act, tax implication of release, § 20:21  
Releases of federal law employment claims  
    generally, §§ 20:5 to 20:12  
    Age Discrimination in Employment Act (ADEA), § 20:6  
    Americans with Disabilities Act (ADA), § 20:10  
    Environmental Protection Act (EPA), § 20:10  
    Fair Labor Standards Act (FLSA), § 20:8  
    Family and Medical Leave Act (FMLA), § 20:9  
    National Labor Relations Act (NLRA), § 20:11  
Section 1981, § 20:10  
Title VII, § 20:10  
Uniformed Services Employment and Reemployment Rights Act (USERRA),  
    § 20:12

## INDEX

### **SETTLEMENT OF EMPLOYEE CLAIMS—Cont'd**

Releases of federal law employment claims—Cont'd

WARN Act, § 20:7

Requirements for validity of compromise, § 20:1

Safety, § 8:23

Section 1981, release of claim under, § 20:10

Tax implications

generally, §§ 20:17 to 20:22

Age Discrimination in Employment Act/Older Workers Benefit Protection Act

release, § 20:21

confidential settlement and release agreement, § 20:22

settlement agreement

drafting, § 20:18

testing, § 20:19

severance letter, use with release, § 20:20

Title VII, release of claim under, § 20:10

Unemployment compensation, §§ 13:43, 20:4

Uniformed Services Employment and Reemployment Rights Act (USERRA),

release of claim under, § 20:12

Waiver of statutory claims, §§ 20:15, 20:16

WARN Act, release of claim under, § 20:7

Workers' compensation, §§ 9:51, 20:3

### **SEVERANCE PAY**

Generally, §§ 12:29, 12:43

### **SEXUAL ASSAULT**

Liabilities related to employment, § 14:26

Protection from, discrimination, § 7:154

### **SEXUAL HARASSMENT**

Insurance, § 15:19

Public employees, § 17:43

State agency, discrimination, § 7:155

### **SHIFTING OF EXPENSES**

Information about applicants and employees

generally, §§ 2:67 to 2:72

for detailed treatment see index heading INFORMATION ABOUT APPLICANTS AND

EMPLOYEES

Pre-employment screening, authorization and release, § 2:69

### **SICKLE CELL TRAIT DISCRIMINATION**

Generally, §§ 7:81 to 7:85

Covered employers, § 7:82

Enforcement procedures, § 7:85

Proscribed and prescribed acts, § 7:83

Protected groups, § 7:81

Remedies, § 7:84

**SINGLE-EMPLOYER DOCTRINE**

Liability of employers to employees, § 14:10

**SLANDER**

See index heading DEFAMATION

**SMOKING**

Personnel records, notices, § 16:19

Safety, § 8:38

**SOCIAL SECURITY**

Benefits, § 5:38

Information about applicants and employees, § 2:33

Leaves of absence, coordination of leave benefits, § 6:36

**SPECIAL AGENTS**

Labor disputes, § 11:37

**SPECIAL EMPLOYEES**

Generally, §§ 17:1 to 17:45

Alcohol problems, employees with, § 17:23

Ambulance personnel, § 17:35

American Indians, § 17:40

Apprentices

generally, §§ 17:14 to 17:16

for detailed treatment see index heading APPRENTICES

Basic skills, employees without, § 17:22

Borrowed employees

generally, §§ 17:9 to 17:12

for detailed treatment see index heading BORROWED EMPLOYEES

Children and minors

generally, §§ 17:1 to 17:8

for detailed treatment see index heading CHILDREN AND MINORS

Competitor's employees, § 17:21

Disabled employees, § 17:39

Disadvantaged persons, § 17:31

Drug problems, employees with, § 17:23

Environmental reasons, workers displaced for, § 17:34

Felons, § 17:24

Firefighters, § 17:25

First responders, § 17:25

Home health personnel, § 17:35

Independent contractors, § 17:44

Malodorous employees, § 17:41

Military, employees in, § 17:29

Ministers, § 17:37

Nepotism, § 17:28

Nonconforming employees, § 17:41

Nursing home personnel, § 17:35

Nursing mothers, § 17:36

## INDEX

### **SPECIAL EMPLOYEES—Cont'd**

- Physicians, § 17:27
- Professionals, § 17:26
- Public employees and sexual harassment, § 17:43
- Relatives, § 17:28
- Sexual harassment and public employees, § 17:43
- Sexually-oriented business employees, § 17:42
- Teachers, § 17:38
- Temporary employees, § 17:13
- Trainees
  - generally, §§ 17:17 to 17:20
  - for detailed treatment see index heading **TRAINEES**
- Undocumented workers, § 17:32
- Unemployed persons, § 17:33
- Unkempt employees, § 17:41
- Unpaid internship agreement, form, § 17:45
- Welfare recipients, § 17:30
- Work opportunity tax credit, § 17:31

### **SPOLIATION**

- Evidentiary and discovery issues in employment litigation, § 22:23
- Personnel records, § 16:27

### **STAFFING SERVICES**

- Joint employers, § 18:13

### **STALKING**

- Protection from, discrimination, § 7:154

### **STANDARDS TESTING**

- Pre-employment screening, § 2:22

### **STATISTICAL EVIDENCE**

- Evidentiary and discovery issues in employment litigation, § 22:21

### **STATUTES OF LIMITATION**

- See index heading **PRESCRIPTIVE PERIODS**

### **STOLEN PROPERTY**

- Liability of employees for use of, § 14:23

### **STRICT CONSTRUCTION**

- Noncompetition agreements, § 3:28

### **STRIKEBREAKERS**

- Labor disputes, § 11:33

### **SUBCONTRACTING**

- Contracts of employment, § 3:40

### **SUBPOENAS**

- Safety, inspections, § 8:14

**SUBSTITUTION**

Contracts of employment, § 3:40

**SUCCESSORS**

Joint employers, § 18:3

Liability to employees, § 14:9

**SUPPLEMENTAL JURISDICTION**

Federal preemption, § 19:4

**SUSPENSION OF BENEFITS**

Workers' compensation, § 9:41

**TAXATION**

Benefits, tax exempt fringe benefits, § 5:39

Compensation and payment

generally, §§ 4:44 to 4:60

for detailed treatment see index heading COMPENSATION AND PAYMENT

Discrimination. See index heading DISCRIMINATION

Distinctions from other relationships, IRS 20-factor test, § 1:14

Family and Medical Leave Act, tax credit for FMLA and FMLA-like leave,  
§ 6:23

Joint employers, § 18:20

Settlement of employee claims

generally, §§ 20:17 to 20:22

for detailed treatment see index heading SETTLEMENT OF EMPLOYEE CLAIMS

Unemployment compensation, payment of taxes, § 13:9

Work opportunity tax credit, § 17:31

Worker cooperatives, § 23:3

**TEACHERS**

Special employees, § 17:38

**TEMPORARY EMPLOYEES**

Generally, § 17:13

**TENDER**

Compensation, refusal to accept, § 4:29

Insurance, obligation to give notice to ensure tender, § 15:25

**TERMINATION OF BENEFITS**

Workers' compensation, § 9:38

**TERMINATION OF EMPLOYMENT**

Generally, §§ 12:1 to 12:45

Agreement for termination, § 12:38

At will employment, § 12:2

Checklist, § 12:45

Civil service, § 12:9

Compensation, payment of, §§ 4:32, 12:28

Consolidated Omnibus Budget Reconciliation Act (COBRA), §§ 12:30, 12:31,  
12:39 to 12:42

## INDEX

### TERMINATION OF EMPLOYMENT—Cont'd

- Constitutional limitations, public employment, § 12:8
- Constructive discharge. See index heading CONSTRUCTIVE DISCHARGE
- Continuation of benefits, §§ 12:30 to 12:32
- Contracts and quasi-contracts, § 12:7
- Disassociation, § 12:35
- Discipline as adverse employment action, § 12:1
- Eviction, § 12:5
- Forms
  - generally, §§ 12:39 to 12:45
  - checklist, § 12:45
  - COBRA continuation coverage election notice, § 12:40
  - COBRA continuation coverage waiver form, § 12:41
  - general notice of COBRA continuation coverage rights, § 12:39
  - revocation of waiver for date of notice COBRA continuation coverage, § 12:42
  - salary continuation over 12 month period, nondisclosure covenant and general release, termination agreement, § 12:44
  - severance pay/confidentiality/release clause, termination agreement, § 12:43
  - termination agreements, §§ 12:43, 12:44
- Health Insurance Portability and Accountability Act (HIPAA), § 12:32
- Layoffs, § 12:6
- Limitations on discharge
  - generally, §§ 12:2 to 12:7
  - at will employment, § 12:2
  - constructive discharge, § 12:4
  - contracts and quasi-contracts, § 12:7
  - eviction, § 12:5
  - historical overview, § 12:2
  - layoffs, § 12:6
  - statutory limitations, § 12:3
- Mass layoffs
  - generally, §§ 12:10 to 12:21
  - for detailed treatment see index heading PLANT CLOSINGS AND MASS LAYOFFS
- Payment of amounts due to terminated employees, § 12:28
- Plant closings
  - generally, §§ 12:10 to 12:21
  - for detailed treatment see index heading PLANT CLOSINGS AND MASS LAYOFFS
- Process for discharge, § 12:34
- Process of quitting, § 12:36
- Public employment
  - civil service, § 12:9
  - constitutional limitations, § 12:8
- Quasi-contracts, § 12:7
- Records, § 12:37
- Retirement
  - generally, §§ 12:22 to 12:27
  - for detailed treatment see index heading RETIREMENT

**TERMINATION OF EMPLOYMENT—Cont'd**

Retirement—Cont'd

ERISA wrongful discharge, § 12:27

Salary continuation over 12 month period, nondisclosure covenant and general release, termination agreement, § 12:44

Severance pay, §§ 12:29, 12:43

Unemployment compensation, § 12:33

Workers' compensation, § 9:37

**THIRD PERSONS**

Liabilities related to employment. See index heading LIABILITIES RELATED TO EMPLOYMENT

Personnel records, access to, § 16:51

Workers' compensation, rights against responsible third persons, §§ 9:11, 9:12

**TIME**

Longshoremen's and Harbor Workers' Compensation Act. See index heading LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT

Prescriptive periods. See index heading PRESCRIPTIVE PERIODS

**TITLE I PARTICIPANTS**

Discrimination, § 7:108

**TITLE VII (FEDERAL)**

Generally, §§ 7:7 to 7:12

Covered employers, § 7:8

Enforcement procedures, § 7:12

Executive orders, § 7:10

Prohibited acts, § 7:9

Protected groups, § 7:7

Remedies, § 7:11

Settlement of employee claims, release of claim, § 20:10

**TOBACCO**

Discrimination, § 7:132

**TORTS**

Joint employers, liability of, § 18:18

Liabilities related to employment. See index heading LIABILITIES RELATED TO EMPLOYMENT

**TRADE ASSISTANCE BENEFITS**

Unemployment compensation, § 13:28

**TRADE SECRETS**

Discrimination, Defend Trade Secrets Act, § 7:124

**TRAINEES**

Generally, §§ 17:17 to 17:20

Distinguished, §§ 1:12, 1:22

Incumbent worker training programs, § 17:20

Interns, § 17:18

Volunteers, § 17:19



## INDEX

### **TRANSPORTATION EMPLOYEES**

Drug and alcohol testing, § 2:60

Pre-employment screening, background checks, § 2:9

### **TRIAL**

Unfair labor practice case procedure, § 11:49

### **TRUST FUND PENALTY**

Taxes on wages, § 4:49

### **TRUSTS**

Benefits, § 5:34

### **“TWO MASTER” RULE**

Workers’ compensation, § 9:30

### **UNDOCUMENTED WORKERS**

Generally, § 17:32

Contracts of employment, hiring of illegal aliens, § 3:46

Joint employers, liability for hiring undocumented workers, § 18:25

Pre-employment screening, § 2:14

### **UNEMPLOYED PERSONS**

Generally, § 17:33

### **UNEMPLOYMENT COMPENSATION**

Generally, §§ 13:1 to 13:43

#### Appeals

board, second appeal to, § 13:37

determination of eligibility or ineligibility, § 13:36

District Court, review by and appeal thereof, § 13:38

Attorneys’ fees, § 13:42

#### Benefits

generally, §§ 13:24 to 13:30

deductions, § 13:29

disaster benefits, § 13:26

domestic violence victims, lost wage benefits, § 13:27

extended benefits, § 13:25

trade assistance benefits, § 13:28

weekly benefits, § 13:24

Burden of proof, § 13:10

Children and minors, § 17:7

Claim for benefits, §§ 13:12, 13:32

Compliance by employer, § 13:8

Confidentiality of records and privacy, § 16:34

#### Covered

employees, § 13:3

employers

generally, §§ 13:2 to 13:6

covered employees, § 13:3

exclusions, § 13:4

**UNEMPLOYMENT COMPENSATION—Cont'd**

- Covered—Cont'd
  - employers—Cont'd
    - independent contractors, § 13:5
    - reimbursable employers, § 13:6
- Deductions, benefits, § 13:29
- Disaster benefits, § 13:26
- Discrimination, § 7:134
- Disqualification
  - generally, §§ 13:19 to 13:23
  - failure to work, § 13:22
  - misconduct, § 13:21
  - notice of separation under disqualifying circumstances, § 13:31
  - voluntarily quit, § 13:20
- Distinctions from other relationships, § 1:18
- District Court, review by and appeal thereof, § 13:38
- Domestic violence victims, lost wage benefits, § 13:27
- Drug and alcohol testing, § 2:58
- Duties of employers, § 13:8
- Educational employees and athletes, § 13:18
- Eligibility for benefits
  - generally, §§ 13:10 to 13:18
  - burden of proof, § 13:10
  - claim for benefits, § 13:12
  - determination of eligibility, § 13:33
  - educational employees and athletes, § 13:18
  - false statements, § 13:16
  - ineligible employees, § 13:17
  - notice of eligibility, § 13:11
  - reconsideration by administrator, § 13:34
  - suitable work and search for work, § 13:14
  - unemployment, § 13:13
  - waiver of benefits unlawful, § 13:15
- Extended benefits, § 13:25
- Failure to work, disqualification, § 13:22
- False statements, § 13:16
- Independent contractors, § 13:5
- Joint employers, § 18:15
- Misconduct, disqualification, § 13:21
- Notice
  - eligibility, § 13:11
  - separation under disqualifying circumstances, § 13:31
- Payment of taxes, § 13:9
- Personnel records, notices, § 16:13
- Prohibitions, § 13:8
- Prompt payment of claims, § 13:39
- Protest of claim, § 13:35
- Reconsideration by administrator, eligibility for benefits, § 13:34

## INDEX

### **UNEMPLOYMENT COMPENSATION—Cont'd**

- Records, § 13:41
- Recoupment of benefits received improperly, § 13:40
- Reimbursable employers, § 13:6
- Response by employer to claim, § 13:35
- Settlement of claims, § 13:43
- Settlement of employee claims, § 20:4
- Suitable work and search for work, § 13:14
- Termination of employment, § 12:33
- Trade assistance benefits, § 13:28
- Voluntarily quit, disqualification, § 13:20
- Wages subject to reporting, § 13:7
- Waiver of benefits unlawful, § 13:15
- Weekly benefits, § 13:24

### **UNFAIR LABOR PRACTICES**

- Joint employers, § 18:19
- Labor disputes
  - generally, §§ 11:11, 11:47 to 11:51
  - for detailed treatment see index heading LABOR DISPUTES

### **UNFAIR TRADE PRACTICES**

- See index heading LOUISIANA UNFAIR TRADE PRACTICES ACT (LUTPA)

### **UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT (USERRA)**

- Coordination of leave benefits, § 6:38
- Discrimination, § 7:103
- Military leave, § 6:40
- Settlement of employee claims, release of claim, § 20:12

### **UNIONS**

- Generally, §§ 11:6, 11:7
- For detailed treatment see index heading LABOR DISPUTES

### **UNITED STATES ARBITRATION ACT**

- Labor disputes, § 11:45

### **UNJUST ENRICHMENT**

- Compensation and payment, § 4:38

### **UNKEMPT EMPLOYEES**

- Special employees, § 17:41

### **VACATION**

- Benefits, § 5:29
- Contracts of employment, § 3:22

### **VACCINATION RECORDS**

- Confidentiality of records and privacy, § 16:32

### **VACCINES**

- Mandatory, pre-employment screening, § 2:30

**VEHICLES**

See index heading MOTOR VEHICLES

**VETERANS**

Labor disputes, § 11:43  
Military leave, discrimination, § 6:45

**VICARIOUS LIABILITY**

Liability of employers to third persons under respondeat superior theory, § 14:3

**VICTIM'S CONDUCT**

Evidentiary and discovery issues in employment litigation, § 22:10

**VIOLENCE IN WORKPLACE**

Safety, § 8:31

**VISAS**

Information about applicants and employees, §§ 2:63 to 2:66

**VOLUNTARY AFFIRMATIVE ACTION**

Discrimination, § 7:100

**VOLUNTEERS**

Discrimination, volunteer firefighters, § 7:150  
Distinctions from other relationships, §§ 1:4, 1:23  
Trainees, § 17:19

**VOTING**

Leaves of absence, § 6:49

**WAGES**

Generally, §§ 4:1 to 4:64  
For detailed treatment see index heading COMPENSATION AND PAYMENT

**WAIVER**

Discrimination, waiver of claims, § 7:156  
Family and Medical Leave Act (FMLA), § 6:22  
Settlement of employee claims, statutory claims, §§ 20:15, 20:16  
Unemployment compensation benefits, § 13:15

**WALK-AROUND**

Safety, inspections, § 8:13

**WARN ACT**

Generally, §§ 12:10 to 12:21  
For detailed treatment see index heading PLANT CLOSINGS AND MASS LAYOFFS

**WARRANTS**

Safety, inspections, § 8:12

**WEAPONS**

Safety, § 8:39

**WEATHER**

Pay obligations during inclement weather closures, § 4:28

## INDEX

### **WEIGHT REQUIREMENTS**

Pre-employment screening, § 2:26

### **WEINGARTEN RIGHTS**

Labor disputes, § 11:14

### **WELFARE RECIPIENTS**

Generally, § 17:30

### **WELFARE-TO-WORK TAX CREDIT**

Compensation and payment, § 4:59

### **WELLNESS PLANS**

Benefits, § 5:41

### **WHISTLEBLOWERS**

Discrimination, §§ 7:122, 7:145

### **WHITE CANE LAW**

Disability discrimination, § 7:69

### **“WHITE-COLLAR” EXEMPTION**

Fair Labor Standards Act (FLSA), § 4:6

### **WITHHOLDING**

Taxes on wages, § 4:47

### **WOMEN’S HEALTH AND CANCER RIGHTS ACT (WHCRA)**

Generally, § 5:19

### **WORK OPPORTUNITY TAX CREDIT**

Generally, § 17:31

Compensation and payment, § 4:57

### **WORK PRODUCT**

Privilege, §§ 21:12, 22:18

### **WORKER COOPERATIVES**

Generally, § 23:1

Characteristics, § 23:2

Taxation, § 23:3

### **WORKERS’ COMPENSATION**

Generally, §§ 9:1 to 9:65

Ability to work, § 9:29

Acceleration of benefits, § 9:43

Accident, injury not resulting from, § 9:16

Accidents and workplace, § 9:8

Administration of claims, generally, §§ 9:52 to 9:60

Alcoholic beverages

intoxication, § 9:23

request for alcohol and drug information, § 2:50

Americans with Disabilities Act (ADEA), reconciliation, § 7:57

Appeals, § 9:57

**WORKERS' COMPENSATION—Cont'd**

Arising out of employment, absence of, § 9:18

Attorneys' fees, §§ 9:60, 9:61

**Benefits**

generally, §§ 5:31, 9:32 to 9:44

acceleration of benefits, § 9:43

calculation and payment, § 9:33

credits, reductions and deductions, § 9:40

death benefits, § 9:42

disability benefits, § 9:35

failure to pay, § 9:34

forfeiture of benefits and claims for reimbursement, § 9:39

medical benefits and weekly indemnity benefits, § 9:32

modification of benefits, §§ 9:36, 9:59

rehabilitation, § 9:44

suspension of benefits, § 9:41

termination of benefits, § 9:38

termination of employment, § 9:37

Calculation of benefits, § 9:33

Change in circumstances, modification of award due to, § 9:59

Children and minors, § 17:6

Choice of forum, exclusivity of state law, § 19:11

Claims, generally, § 9:55

Confidentiality of records and privacy, § 16:36

Course of employment, injury not occurring during, § 9:17

Covered employees, § 9:5

Covered employers, § 9:2

Credits, benefits, § 9:40

Criminal liability for violations, § 9:65

Death benefits, § 9:42

Deductions, benefits, § 9:40

Defense Base Act, § 10:18

**Defenses**

generally, §§ 9:13 to 9:31

ability to work, § 9:29

accident, injury not resulting from, § 9:16

affirmative defenses, § 9:31

arising out of employment, absence of, § 9:18

course of employment, injury not occurring during, § 9:17

dispute unrelated to employer's business, § 9:21

dual employment doctrine, § 9:30

false claims, § 9:24

false questionnaire responses, § 9:20

horseplay, § 9:19

incarcerated claimants, § 9:25

initial physical aggressor, § 9:27

intoxication, § 9:23

## INDEX

### WORKERS' COMPENSATION—Cont'd

#### Defenses—Cont'd

- post-accident conduct of employee, § 9:28
- safety device, failure to use, § 9:26
- status as employee, absence of, § 9:13
- status as employer, absence of, § 9:14
- statutory employer, § 9:15
- “two master” rule, § 9:30
- willful intent to injure, § 9:22

#### Disability benefits, § 9:35

#### Discrimination, §§ 7:135, 9:62

#### Distinctions from other relationships, § 1:17

#### Drug and alcohol testing, § 2:57

#### Dual employment doctrine, § 9:30

#### Evidentiary and discovery issues in employment litigation, § 22:25

#### Excluded employees, § 9:6

#### Exclusivity of remedy

- generally, §§ 9:9, 9:10
- right of action of employee, § 9:9

#### Exempt employers, § 9:4

#### Failure to pay benefits, § 9:34

#### False claims, § 9:24

#### False questionnaire responses, § 9:20

#### Federal Employers Liability Act, § 10:17

#### Federal statutes

##### Defense Base Act, § 10:18

##### Federal Employers Liability Act, § 10:17

##### Longshoremen's and Harbor Workers' Compensation Act (LHCWA)

###### generally, §§ 10:1 to 10:19

###### for detailed treatment see index heading LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT (LHCWA)

##### Outer Continental Shelf Lands Act, § 10:19

#### Forfeiture of benefits and claims for reimbursement, § 9:39

#### Horseplay, § 9:19

#### Incarcerated claimants, § 9:25

#### Independent contractors, liability of principal to, § 9:3

#### Information related to injuries or illness, request for

- generally, §§ 2:48 to 2:50
- accidents, § 2:48
- alcohol and drug information, § 2:50
- medical information, § 2:49

#### Initial physical aggressor, § 9:27

#### Insurance, §§ 9:50, 15:5

#### Intoxication, § 9:23

#### Joint employers, § 18:21

#### Leaves of absence, §§ 6:29, 6:33

#### Liabilities related to employment. See index heading LIABILITIES RELATED TO EMPLOYMENT

**WORKERS' COMPENSATION—Cont'd**

- Limitations of liability, prohibition against contracts including, § 9:7
- Longshoremen's and Harbor Workers' Compensation Act (LHCWA)
  - generally, §§ 10:1 to 10:19
  - for detailed treatment see index heading LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT (LHCWA)
- Malingering, § 9:49
- Medical benefits and weekly indemnity benefits, § 9:32
- Medical examinations and treatment
  - generally, §§ 9:45 to 9:49
  - disputes as to physical condition of employee or capacity to work, § 9:47
  - malingering, § 9:49
  - recommended care pursuant to medical treatment schedule, § 9:54
  - records and reports, § 9:48
- Medical information, request for, § 2:49
- Modification of award, §§ 9:36, 9:59
- Notice of injury, § 9:53
- Office of Workers' Compensation Administration, § 9:52
- Outer Continental Shelf Lands Act, § 10:19
- Payment of benefits, § 9:33
- Penalties, § 9:60
- Personnel records, notices, § 16:12
- Post-accident conduct of employee, § 9:28
- Recommended care pursuant to medical treatment schedule, § 9:54
- Records and reports
  - information related to injuries or illness, request for, above
  - medical examinations and treatment, § 9:48
- Reductions, benefits, § 9:40
- Rehabilitation, benefits, § 9:44
- Reports. Records and reports, above
- Res judicata of LWCA claims, § 9:58
- Resolution of claims, generally, § 9:56
- Retaliation, § 9:62
- Safety, generally, § 8:35
- Safety device, failure to use, § 9:26
- Safety plan, § 9:64
- Second Injury Fund, § 9:63
- Settlement of employee claims, §§ 9:51, 20:3
- Statutory employer, § 9:15
- Suspension of benefits, § 9:41
- Termination of benefits, § 9:38
- Termination of employment, § 9:37
- Third persons, rights against responsible, §§ 9:11, 9:12
- "Two master" rule, § 9:30
- Weekly indemnity benefits, § 9:32
- Willful intent to injure, § 9:22



INDEX

**WRONGFUL DISCHARGE**

ERISA, § 12:27

Insurance, § 15:18

**“YELLOW DOG” CONTRACTS**

Labor disputes, § 11:30