

Index

ADMINISTRATIVE LAW

Res judicata and collateral estoppel, successive agency proceedings, 18:44

ADVERTISING

Job advertisements, 1:12

AFFIRMATIVE ACTION

Generally, 10:31 et seq.
Class actions and employment, 10:40
Plan requirements under state and federal law, 10:36
Reference guides
State and federal statutes, 10:35
Written plan requirements under state and federal law, 10:36
Sample affirmative action plan, 10:37
State and federal statutes, 10:35

AFTER-ACQUIRED EVIDENCE

Employee misconduct. See Employment

AGE DISCRIMINATION

Generally, 11:26 et seq.
Age Discrimination in Employment Act
Generally, 11:28
Ending employment relationship and ban on mandatory retirement, 16:15, 16:16
Remedies, 11:29
Settlements and releases, ADEA requirements, 19:4
Disparate treatment and disparate impact. See Civil Rights and Discrimination
Minnesota Human Rights Act and related state laws, 11:27
Retirement and pensions
Early retirement programs, 16:17
Ending employment relationship and prohibition on mandatory retirement, 16:14-16:16

ALCOHOL

Lawful Consumable Products Act, 2:32

ALCOHOL TESTING

Drug and alcohol testing. See Employment

AMERICANS WITH DISABILITIES ACT

Drug and alcohol testing, 2:43
Family and medical leaves, 6:16

ANATOMICAL GIFTS

Bone marrow donors, leave of absence, 6:31

APPELLATE REVIEW

OSHA. See Occupational Safety and Health
Unemployment compensation. See Unemployment Compensation

APPLICANTS AND APPLICATIONS

Screening applicants for employment. See Employment

ARBITRATION AND AWARD

Collective bargaining agreement, preclusive effect of arbitration under, 18:32
Document production, 18:37
Due process issues, agreements to arbitrate statutory claims, 18:34
ERISA, enforceability of arbitration provisions, 7:27
Exclusivity and arbitration agreements
Generally, 18:31 et seq.
Collective bargaining agreements, preclusive effect of arbitration, 18:32
Document production, 18:37

ARBITRATION AND AWARD

—Cont'd

- Exclusivity and arbitration agreements—Cont'd
- Statutory claims, agreements to arbitrate
 - Generally, 18:33
 - Due process issues, 18:34
- Statutory claims, agreements to arbitrate, 18:33, 18:34

ASSAULT AND BATTERY

- Insurance coverage for employment claims, 20:46
- Workers' compensation, assault exception to exclusivity, 18:25

ATTORNEY-CLIENT PRIVILEGE

- ERISA, benefit plans and privilege, 7:32

ATTORNEYS' FEES

- ERISA, fee awards under, 7:33
- Public sector employees, Section 1983 claim, 14:20
- Tort claims, 13:16

AUTOMOBILE INSURANCE

- Insurance coverage for employment claims, 20:22

BONA FIDE OCCUPATIONAL QUALIFICATION

- Defense to disparate treatment claim, 10:23

BONE MARROW TRANSPLANTS

- Leave of absence, 6:31

CERTIORARI

- Public sector employees, review of discharge, 14:52

CHILD LABOR STANDARDS

- Generally, 5:61 et seq.
- FLSA enforcement, 5:67
- FLSA exemptions, 5:66
- FLSA minimum age standards
 - Generally, 5:62
 - Eighteen-year minimum age, 5:63
 - Fourteen-year minimum age, 5:65
 - Sixteen-year minimum age, 5:64

CHILD LABOR STANDARDS

—Cont'd

- Minnesota Child Labor Standards Act, 5:68

CHOICE OF FORUM

- Generally, 18:1 et seq.
- Arbitration agreements, exclusivity and. See Arbitration and Award
- Federal preemption. See Preemption
- Minnesota Human Rights Act, 18:21
- Workers' compensation. See Workers' Compensation

CITATIONS

- See Occupational Safety and Health

CIVIL AIR PATROL

- Leaves of absence, 6:35

CIVIL RIGHTS ACT OF 1991

- Generally, 10:7

CIVIL RIGHTS AND DISCRIMINATION

- Generally, 10:1 et seq.
- See also, Minnesota Human Rights Act; Title VII of the Civil Rights Act of 1964
- Affirmative action. See Affirmative Action
- Age discrimination. See Age Discrimination
- Bona fide occupational qualification, 10:23
- Business necessity defense, 10:25
- Civil Rights Act of 1991, 10:7
- Classes protected under anti-discrimination statutes, 11:1 et seq.
- Comparison of state and federal statutes, 10:35
- Disability discrimination. See Disability Discrimination
- Disparate treatment and disparate impact
 - Generally, 10:20 et seq.
 - Bona fide occupational qualification, 10:23
 - Business necessity defense, 10:25
 - Claims and defenses, 10:20

INDEX

CIVIL RIGHTS AND DISCRIMINATION—Cont'd

- Disparate treatment and disparate impact—Cont'd
 - Conflict between disparate treatment and disparate impact, 10:26
 - Defenses
 - generally, 10:20
 - bona fide occupational qualification, 10:23
 - business necessity, 10:25
 - Disparate impact, generally, 10:24
 - McDonnell Douglas test, 10:21
 - Mixed motive, 10:22
 - Religious discrimination, 11:22
- Family status, 11:13
- Gender discrimination. See Gender Discrimination
- Gender identity, 11:14-11:16
- Insurance coverage for employment claims, 20:44
- Marital status, 11:12
- Mixed motives, 10:22
- National origin discrimination, 11:30
- Offensive behavior, sample policies, 11:32
- OSHA discrimination laws, 8:92-8:94
- Preemption by federal statutes, 18:12
- Proof constructs. Disparate treatment and disparate impact, above
- Protected classes under anti-discrimination statutes, 11:1 et seq.
- Public sector employees, limitations on discharge. See Public Sector Employment
- Race discrimination. See Race Discrimination
- Res judicata and collateral estoppel, discrimination claims, 18:45
- Sample policies, sexual harassment and offensive behavior, 11:32
- Section 1983 claims. See Public Sector Employment
- Sex discrimination. See Gender Discrimination
- Sexual orientation. See Sexual Orientation, this index

CIVIL RIGHTS AND DISCRIMINATION—Cont'd

- Tax consequences of employment claims, 19:19
- Title VII. See Title VII of Civil Rights Act of 1964

CLASS ACTIONS OR PROCEEDINGS

- Affirmative action and employment, 10:40

COBRA

- Health benefit plan continuation, 16:21

COLLATERAL ESTOPPEL

- Generally, 18:41 et seq.
- Administrative agency proceedings, successive, 18:44
- Discrimination claims, 18:45
- Teacher termination decisions, 18:42
- Unemployment compensation, 18:43

COMPENSATION AND SALARIES

- Generally, 5:1 et seq.
- See also Fair Labor Standards Act; Minnesota Fair Labor Standards Act
- Current employees, payment of wages, 5:71
- Deductions from wages, 5:73
- Federal and state legislation
 - Generally, 5:1
 - Relationship between, 5:2
- FLSA. See Fair Labor Standards Act; Minnesota Fair Labor Standards Act
- Minimum wages. See Fair Labor Standards Act
- Minnesota wage notice, 5:75
- Overtime compensation. See Fair Labor Standards Act
- Payment
 - Generally, 5:71 et seq.
 - Current employees, 5:71
 - Deductions from wages, 5:73
 - Minnesota wage notice, 5:75
 - Terminating employees, 5:72
 - Wage disclosure protection, 5:74

COMPENSATION AND SALARIES
—Cont'd

- Terminating employees, payment of wages, 5:72
- Wage disclosure protection, 5:74

COMPROMISE AND SETTLEMENT

- Employment-related settlements and releases, generally. See Employment, this index
- ERISA, settlement agreements, 7:34
- OSHA settlements, 8:83

COMPUTERS

- Fair Labor Standards Act, exemption for computer employees, 5:15

CONSIDERATION

- Noncompete clause, 15:10

CONSTITUTIONAL LAW

- Employees, privacy interests in avoiding disclosure of personal matters, 1:36
- Public sector employees. See Public Sector Employment

CONTRACTORS

- OSHA, general contractor responsibility, 8:61

CONTRACTS AND AGREEMENTS

- Breach of contract claims, insurance coverage, 20:43
- Employment contracts. See Employment Contracts
- Noncompete clauses. See Employment Contracts
- Tortious interference with contract, limitations on discharge of employee, 13:11

COVID-19

- Families First Coronavirus Response Act, 6:12
- Medical inquiries and tests, 12:30
- OSHA guidance, 8:96
- WARN Act, 16:9

CREDIT

- Employment, applicant for, screening credit records, 1:16

CRIMINAL BACKGROUND CHECKS

- Employment, applicant screening, 1:15

CRIMINAL PENALTIES

- ERISA, 7:28
- OSHA, 8:73

DAMAGES

- Noncompete clause, breach of, 15:15

DATA PRACTICES

- See Minnesota Government Data Practices Act

DEFAMATION

- Common law limitations, 1:44
- Discharge, limitations on, 13:10
- Government Data Practices Act, 4:32
- Immunity, discharge of public sector employee, 14:56
- Insurance coverage for employment claims, 20:41
- Public sector employees, defamation immunity, 14:56

DESTRUCTION OF EVIDENCE

- Employment records, document destruction and potential litigation, 4:44

DIRECTORS

- Insurance coverage for wrongful acts, 20:26

DISABILITY DISCRIMINATION

- Generally, 12:1 et seq.
- Accommodation. Reasonable accommodation requirement, below
- Causation, proving, 12:17
- Covered entities, 12:2
- COVID-19 pandemic, medical inquiries and tests, 12:30
- Defenses
 - Accommodation claims, undue hardship, 12:21
 - Discrimination claims, 12:16
- Disclosure of use of medical information, 12:29
- Drug and alcohol testing, 2:42-2:44

INDEX

DISABILITY DISCRIMINATION

—Cont'd

- Employees, medical inquiries and examinations, 12:27
- Enforcement, 12:35
- Exclusions, 12:9
- Health plan benefits, 12:33
- Maintenance of medical information on applicants and employees, 12:28
- Major life activities, physical or mental impairment that limits, 12:4
- Medical inquiries and information
 - COVID-19 pandemic, inquiries and tests, 12:30
 - Disclosure of use of medical information, 12:29
 - Employee inquiries and examinations, 12:27
 - Maintaining medical information on applicants and employees, 12:28
 - Pre-employment inquiries and examinations, 12:26
- Minnesota Human Rights Act, 12:8
- Other related state laws, 12:34
- Physical or mental impairment
 - Individuals with record of, 12:5
 - Major life activities, limiting, 12:4
- Pre-employment
 - Medical inquiries and examinations, 12:26
 - Tests, 12:25
- Prohibited discrimination
 - Generally, 12:15
 - Employer defenses, 12:16
 - Proving causation, 12:17
- Protected individuals, 12:3 et seq.
- Qualified individuals, 12:7
- Reasonable accommodation requirement
 - Generally, 12:20
 - Undue hardship defense, 12:21
- Record of physical or mental impairment, 12:5
- Regarded as having physical or mental impairment, 12:6
- Remedies, 12:35

DISABILITY DISCRIMINATION

—Cont'd

- Undue hardship defense, 12:21

DISCIPLINARY INTERVIEW

- Co-worker presence, 1:35

DISCOVERY

- Personnel records, electronic discovery rules, 4:45

DISPARATE TREATMENT AND DISPARATE IMPACT

- See Civil Rights and Discrimination

DOMESTIC VIOLENCE AND ABUSE

- Leave of absence relating to, 6:36

DRUG AND ALCOHOL TESTING

- Commercial drivers license holders, mandatory testing, 2:54
- Employee testing. See Employment Transportation workers, mandatory testing, 2:52

DRUG FREE WORKPLACE ACT OF 1988

- Generally, 2:53

DUE PROCESS OF LAW

- Arbitration of statutory claims, due process issues, 18:34
- Public sector employees, limitations on discharge. See Public Sector Employment

DUTY OF LOYALTY

- See Loyalty, Duty of

EMPLOYEE RETIREMENT INCOME SECURITY ACT (ERISA)

- Generally, 7:1 et seq.
- Arbitration provisions, enforceability, 7:27
- Attorney-client privilege, 7:32
- Attorneys' fee awards, 7:33
- Background, 7:2
- Civil liability and penalties, 7:26
- COBRA coverage, 7:11
- Criminal penalties, 7:28

**EMPLOYEE RETIREMENT
INCOME SECURITY ACT
(ERISA)—Cont'd**

Domestic partners, employer-provided benefits, 7:14
 Duties and obligations, 7:20 et seq.
 Employee benefit plans, 7:9 et seq.
 Enactment, 7:2
 Federal preemption, 18:9-18:11
 Fiduciary duties and obligations, 7:21-7:23
 Governmental reporting obligations, 7:17
 HIPAA, 7:12
 Jurisdictional scope, 7:6
 Organization, 7:3
 Pension plans, 7:13
 Plan sponsor, duties and obligations, 7:20
 Policy, 7:2
 Preemption of state law, 18:9-18:11
 Release of claims, 7:34
 Reporting and disclosure obligations, 7:16, 7:17
 Same-sex spouses, employer-provided benefits, 7:14
 Settlement agreements, 7:34
 Sponsor of plan, duties and obligations, 7:20
 Status as worker, tests for determining, 3:13
 Tax penalties and liability, 7:29
 Welfare benefit plans, 7:10
 Written disclosures to plan participants, 7:16

EMPLOYMENT

Advertisements for jobs, 1:12
 Affirmative action. See Affirmative Action
 After-acquired evidence of misconduct. Employee misconduct, below
 Age. See Age Discrimination
 Alcohol
 Drug and alcohol testing, below
 Lawful Consumable Products Act, 2:32

EMPLOYMENT—Cont'd

Americans with Disabilities Act
 Drug and alcohol testing, 2:43
 Family and medical leaves, 6:16
 Applicant screening
 Generally, 1:1 et seq.
 Advertisements for jobs, 1:12
 Common law limitations, below
 Credit records, 1:16
 Criminal records, 1:15
 Disability discrimination, pre-employment tests and inquiries, 12:25 et seq.
 Drug and alcohol testing
 flow chart, 2:19
 sample policy, 2:21
 Immigration records, 1:21
 Limitations, generally, 1:11
 Medical examinations, 1:18
 Personality tests, 1:19
 Polygraphs, 1:17
 Reasons to screen, 1:1
 References, 1:14
 Arbitration agreements, exclusivity and. See Arbitration and Award
 Attorney fees
 Tax consequences of employment claims, payments to attorneys, 19:21
 Tort and contract claims, 13:16
 At-will employment
 Generally, 13:1
 Disclaimer, sample provisions, 13:38
 Limitations on discharge, below
 Pay policies, other, sample policy, 13:39
 PTO, sample policy, 13:39
 State and federal laws limiting doctrine, 13:40
 Vacation, sample policy, 13:39
 Benefits, continuation of
 COBRA, 16:21
 HIPAA, 16:22
 Bone marrow donors, leave of absence, 6:31
 Choice of forum. See Choice of Forum

INDEX

EMPLOYMENT—Cont'd

- Civil Air Patrol service, leave for, 6:35
- Civil rights. See Civil Rights and Discrimination; Title VII
- COBRA, continuation of benefits, 16:21
- Collateral estoppel. Res judicata and collateral estoppel, below
- Common law limitations on screening and investigations
 - Generally, 1:41-1:45
 - Defamation, 1:44
 - False imprisonment, 1:43
 - Intentional infliction of emotional distress, 1:45
 - Invasion of privacy, 1:42
- Compensation. See Compensation and Salaries
- Constitutional privacy interest in avoiding disclosure of personal matters, 1:36
- Contracts
 - Noncompete clauses. See Employment Contracts
 - Tax consequences, recoveries for contract claims, 19:17
- Co-workers, presence at disciplinary interview, 1:35
- Current employees
 - Medical examinations, 1:32
 - Privacy interests, 1:36
 - Searches, 1:33
 - Specific inquiries regarding, limitations on, 1:31-1:36
 - Surveillance and monitoring, 1:34
- Damages, effect of after-acquired evidence of misconduct, 1:54
- Data practices. See Minnesota Government Data Practices Act
- Defamation
 - Common law limitations on screening and investigations, 1:44
 - Discharge, limitations on, 13:10
 - Government Data Practices Act, 4:32
- Defining employment relationship
 - Generally, 3:1 et seq.

EMPLOYMENT—Cont'd

- Defining employment relationship—Cont'd
 - Categories of relationships, relative merits, 3:2
 - Employer status, 3:19
 - Status of worker, tests for determining, below
- Disability discrimination. See Disability Discrimination
- Discharge
 - Limitations on discharge, below
 - Public sector employees. See Public Sector Employment
- Disciplinary proceedings
 - Co-worker presence at disciplinary interview, 1:35
 - Government Data Practices Act, final disciplinary action, 4:25
- Discrimination
 - See also Civil Rights and Discrimination; Title VII
 - Federal statutes and tests for determining worker status, 3:8
 - Tax consequences, recoveries for discrimination claims, 19:19
- Domestic abuse, leaves of absence relating to, 6:36
- Drug and alcohol testing
 - Generally, 2:1 et seq.
 - Americans with Disabilities Act, 2:43
 - Disability discrimination statutes, 2:42-2:44
 - Disciplinary actions, 2:16
 - Dissemination of test results, 2:17
 - Edible cannabinoid products, 2:15
 - Flow charts, applicant and employee testing, 2:19, 2:20
 - Job applicants, 2:19, 2:21
 - Minnesota Drug and Alcohol Testing in Workplace Act, below
 - Minnesota Human Rights Act, 2:44
 - Public sector testing and Fourth Amendment, 2:2
 - Reliability and fairness safeguards, 2:13
 - Remedies, 2:18

EMPLOYMENT—Cont'd

- Drug and alcohol testing—Cont'd
 - Sample policies, 2:21, 2:22
 - Use of test results, 2:17
 - Worker status, tests for determining, 3:12
- Drug Free Workplace Act of 1988, 2:54
- Edible cannabinoid products, 2:15
- Elections, leaves of absence, 6:30
- Emotional distress. See Infliction of Emotional Distress
- Employee misconduct
 - After-acquired evidence
 - Generally, 1:51-1:56
 - Competing doctrines, 1:52
 - Damages, effect of after-acquired evidence, 1:54
 - McKennon rule, 1:55, 1:56
 - Substantive claims, effect on, 1:53
 - Breach of duty of loyalty, 15:33
 - Unemployment compensation, 17:18, 17:19
- Employee status. Status of worker, tests for determining, below
- ERISA. See Employee Retirement Income Security Act (ERISA)
- False imprisonment, common law limitations on screening and investigations, 1:43
- Family leave. See Family and Medical Leave
- FLSA. See Fair Labor Standards Act
- Forum. See Choice of Forum
- Fraud and misrepresentation, limitations on discharge, 13:14
- Gender discrimination. See Gender Discrimination
- Genetic screening, preemployment, 1:20
- Harassment, leaves of absence relating to, 6:36
- HIPAA, continuation of benefits, 16:22
- Hiring, negligent, 9:12
- Human rights. See Minnesota Human Rights Act
- Indemnification of employees, 9:3

EMPLOYMENT—Cont'd

- Infliction of emotional distress. See Infliction of Emotional Distress
- Injunctions
 - Breach of noncompete clause, 15:14
 - Limitations on discharge, tort and contract claims, 13:16
- Insurance. See Insurance Coverage for Employment Claims, this index
- Interference
 - Tort action against new employer, breach of noncompete clause, 15:16
 - Tortious interference with contract, 13:11
- Intermittent family and medical leave, 6:6
- Internet
 - Electronic discovery rules, 4:45
 - Record retention requirements, Internet applicants, 4:43
- Invasion of privacy
 - Common law limitations, 1:42
 - Discharge, limitations on, 13:15
- Investigations. Common law limitations on screening and investigation, above
- Lawful Consumable Products Act, 2:32
- Leaves of absence. See Family and Medical Leaves; Leaves of Absence
- Liability insurance. See Insurance Coverage for Employment Claims, this index
- Liability of employer
 - Negligence, below
 - Third parties, employer liability to, below
- Limitations on discharge
 - Generally, 13:1 et seq.
 - Attorney fees, 13:16
 - Defamation, 13:10
 - Emotional distress, infliction of, 13:12, 13:13
 - Fraud and misrepresentation, 13:14

INDEX

EMPLOYMENT—Cont'd

- Limitations on discharge—Cont'd
 - Good faith and fair dealing, implied covenant, 13:5
 - Injunctive relief, 13:16
 - Invasion of privacy, 13:15
 - Model Employee Termination Act, 13:36
 - Oral contracts, 13:3
 - Promissory estoppel, 13:4
 - Public policy exception, 13:20
 - Public sector employees. See Public Sector Employment
 - Third-party beneficiaries, 13:6
 - Tort claims, 13:10 et seq.
 - Tortious interference with contract, 13:11
 - Whistleblower claims. See Whistleblowers
 - Written contracts, 13:2
- Limitations on specific inquiries regarding current employees, 1:31-1:36
- Loyalty. See Loyalty, Duty of
- Medical certification, family and medical leave, 6:8
- Medical examinations
 - Current employees, 1:32
 - Job applicants, 1:18
- Medical leave. See Family and Medical Leave
- Medical marijuana, 2:14
- Minnesota Drug and Alcohol Testing in Workplace Act
 - Generally, 2:11-2:21
 - Disciplinary actions, 2:16
 - Dissemination and use of test results, 2:17
 - Flow chart, applicants and employees, 2:19, 2:20
 - Medical marijuana, 2:14
 - Permissible testing under Act, 2:12
 - Reliability and fairness safeguards, 2:13
 - Remedies, 2:18
 - Sample policies for applicants and employees, 2:21, 2:22
 - Test results, dissemination and use, 2:17

EMPLOYMENT—Cont'd

- Minnesota Human Rights Act. See Minnesota Human Rights Act
- Minnesota Wage Theft Act, 4:2
- Misconduct. Employee misconduct, above
- Model Employee Termination Act, 13:36
- National Labor Relations Act
 - Preemption. See Preemption
 - Tests for determining worker status, 3:14
- National origin discrimination, 11:30
- Negligence of employer
 - Generally, 9:11
 - Hiring, 9:12
 - Religious employers, liability to third parties, 9:21
 - Retention, 9:13
 - Supervision, 9:14
- Noncompete clauses. See Employment Contracts
- Notice of family and medical leave, 6:7
- Notice of termination law
 - Generally, 13:21
 - Additional employer obligations, 13:28
- Nursing mothers, break time, 6:34
- Offensive behavior, sample policies, 11:32
- Ordinances, sick and safe leaves
 - Generally, 6:21
 - Challenges to, 6:22
- OSHA. See Occupational Safety and Health
- Personal matters, constitutional privacy interest in avoiding disclosure, 1:36
- Personnel records data
 - Generally, 4:1 et seq.
 - Document destruction and potential litigation, 4:44
 - Electronic discovery rules, 4:45
 - Internet applicants, 4:43
 - Minnesota personnel records statute, 4:11
 - Minnesota Wage Theft Act, 4:2

EMPLOYMENT—Cont'd

- Personnel records data—Cont'd
 - Private employment
 - Minnesota personnel records statute, 4:11
 - Social Security numbers, employer use, 4:12
 - Public sector employees. See Minnesota Government Data Practices Act
 - Record retention
 - Generally, 4:41-4:46
 - Document destruction and potential litigation, 4:44
 - Electronic discovery rules, 4:45
 - Internet applicants, 4:43
 - Mandatory requirements, 4:42
 - Statutes of limitation, 4:46
 - Social Security numbers, employer use, 4:12
 - Statutes of limitation, record retention, 4:46
 - Polygraph testing, applicants for employment, 1:17
 - Preemployment tests. Applicant screening, above
 - Privacy. See Privacy
 - Public sector employment. See Public Sector Employment
 - Race discrimination. See Race Discrimination
 - Releases. Settlements and releases, below
 - Religion
 - Discrimination. See Religious Discrimination
 - Religious employers, liability to third parties, 9:21
 - Remedies
 - Drug and alcohol testing, 2:18
 - Noncompete clauses, 15:13-15:15
 - Res judicata and collateral estoppel
 - Generally, 18:41 et seq.
 - Discrimination claims, 18:45
 - Successive administrative agency proceedings, 18:44
 - Teacher termination decisions, 18:42

EMPLOYMENT—Cont'd

- Res judicata and collateral estoppel—Cont'd
 - Unemployment compensation decisions, 18:43
- Respondeat superior, 9:2
- Retention
 - Negligent retention of employee, 9:13
 - Record retention. Personnel records data, above
- School conferences and activities, leave for, 6:18
- Screening. Applicant screening, above
- Settlements and releases
 - Generally, 19:1 et seq.
 - Age Discrimination in Employment Act, 19:4
 - Knowing and voluntary action, 19:2
 - Minnesota Human Rights Act claims, 19:3
 - Reference guide to release of claims, 19:7
 - Sample separation agreement and release with rescission provisions, 19:8
 - Statutory claims, additional restrictions on release of, 19:5
 - Tax consequences of employment claims, below
 - Tax Cuts and Jobs Act of 2017, deductibility of settlements under, 19:26
 - Unexecuted releases as evidence, 19:6
- Sex discrimination. See Gender Discrimination
- Sexual harassment
 - Generally, 11:9
 - Sample policies, 11:32
- Sexual orientation. See Sexual Orientation
- Sick and safe leaves
 - Generally, 6:21
 - Challenges to, 6:22
- Sick or injured child care leave, 6:18
- Status as employer, 3:19

INDEX

EMPLOYMENT—Cont'd

- Status of worker, tests for determining
 - Generally, 3:3 et seq.
 - Common law test, 3:4
 - Drug and alcohol testing, 3:12
 - Employee Retirement Income Security Act, 3:13
 - Fair Labor Standards Acts, 3:10
 - Family and Medical Leave Act, 3:11
 - Federal discrimination statutes, 3:8
 - Minnesota Human Rights Act, 3:9
 - National Labor Relations Act, 3:14
 - Specific statutes, 3:5 et seq.
 - State statutes defining worker status for specific industries, 3:15
 - Tax codes, 3:6
 - Workers' Compensation Act, 3:7
- Statute of limitations, record retention, 4:46
- Supervision of employee, negligent, 9:14
- Surveillance and monitoring current employees, 1:34
- Tax codes, tests for determining worker status, 3:6
- Tax consequences of employment claims
 - Generally, 19:15 et seq.
 - Apportioning settlement amounts, 19:20
 - Attorneys, payments to, 19:21
 - Basic principles, 19:16
 - Contract claims, 19:17
 - Discrimination claims, 19:19
 - Reference guide, 19:25
 - Tax Cuts and Jobs Act of 2017, deductibility of claims, 19:26
 - Tort claims, 19:18
- Tax Cuts and Jobs Act of 2017, deductibility of settlements under, 19:26
- Tennessee warning under MGDPA, 4:29
- Termination
 - Limitations on discharge, above

EMPLOYMENT—Cont'd

- Termination—Cont'd
 - Model Employee Termination Act, 13:36
- Tests and testing
 - Drug and alcohol testing, above
 - Genetic screening, preemployment, 1:20
 - Integrity and personality tests, pre-employment, 1:19
 - Polygraph tests for applicants, 1:17
- Third parties, employer liability to
 - Generally, 9:1 et seq.
 - Employee conduct, generally, 9:1
 - Indemnification of employee, 9:3
 - Negligence, above
 - Religious employer liability, 9:21
 - Respondeat superior, 9:2
 - Vicarious liability, 9:2-9:3
- Third-party beneficiaries, limitations on discharge, 13:6
- Title VII. See Title VII of Civil Rights Act
- Tort claims
 - Limitations on discharge, 13:10 et seq.
 - Tax consequences, 19:18
- Trade secrets. See Trade Secrets
- Unemployment benefits. See Unemployment Compensation
- Unfair competition, breach of duty of loyalty, 15:32
- Vicarious liability and respondeat superior, 9:2, 9:3
- Wage Theft Act, 4:2
- Whistleblower claims. See Whistleblowers

EMPLOYMENT CONTRACTS

- Confidential information, protection of, 15:6
- Consideration for noncompete clause, 15:10
- Damages, breach of noncompete clause, 15:15
- Discharge, limitations on, 13:2 et seq.
- Fair dealing, implied covenant, 13:5
- Good faith, implied covenant, 13:5
- Good will, protection of, 15:5

EMPLOYMENT CONTRACTS

—Cont'd

- Injunctive relief, breach of noncompete clause, 15:14
- Limitations on discharge, contracts and quasi-contracts, 13:2 et seq.
- Noncompete clauses
 - Generally, 15:1 et seq.
 - Bennett test, 15:3
 - Business interests which justify enforcement
 - Generally, 15:4
 - Confidential information, protecting, 15:6
 - Good will, protecting, 15:5
 - Confidential information, protecting, 15:6
 - Consideration, 15:10
 - Damages, 15:15
 - Disfavor, 15:2
 - Enforceability, 15:12
 - Geographic restrictions under reasonableness test, 15:9
 - Good will, protection of, 15:5
 - Injunctive relief, 15:14
 - Interference tort action against new employer, 15:16
 - Modification of unenforceable clause, 15:11
 - New employer, interference tort action against, 15:16
 - Reasonableness test
 - Generally, 15:7
 - Nature and character of employment, 15:8
 - Time and geographic restrictions, 15:9
 - Remedies, 15:13-15:15
 - Time and geographic restrictions under reasonableness test, 15:9
- Oral contracts, 13:3
- Personnel manuals and documents, 13:2
- Promissory estoppel, 13:4
- Trade secrets, protection of, 15:22

EQUAL PROTECTION

- Public sector employees, limitations on discharge. See Public Sector Employment

ERISA

- See Employee Retirement Income Security Act (ERISA)

EXCESS LIABILITY INSURANCE

- Employment claims, 20:24

EXCLUSIVITY

- Arbitration agreements and exclusivity. See Arbitration and Award
- Choice of forum. See Choice of Forum
- Minnesota Human Rights Act, exclusivity of state law claims, 18:21
- Workers' compensation. See Workers' Compensation

FAIR LABOR STANDARDS ACT

- Generally, 5:11 et seq.
- Child labor. See Child Labor Standards
- Compensable working time, 5:24
- Computer employees exemption, 5:15
- Coverage, 5:11
- Exemptions from coverage, generally, 5:13
- Living wages, 5:34
- Minimum wage requirements
 - Generally, 5:31-5:34
 - Living wages, 5:34
 - Noncash payments, 5:32
 - Tip credit, 5:33
 - Working time for minimum wage and overtime purposes, below
- Minnesota FLSA. See Minnesota Fair Labor Standards Act
- Miscellaneous exemptions, 5:18, 5:19
- Noncash payments, 5:32
- Noncompensable working time, 5:25
- Outside salesperson exemption, 5:16
- Overtime pay requirements
 - Generally, 5:41-5:43
 - Alternative overtime pay arrangements, 5:43
 - Regular rate of pay, 5:42
 - Working time for minimum wage and overtime purposes, below
- Principal activities, 5:23

INDEX

FAIR LABOR STANDARDS ACT

—Cont'd

- Recordkeeping requirements, 5:52
- Status as worker, tests for determining, 3:10
- Tip credit, 5:33
- Trainee exemption, 5:17
- Wage and hour enforcement
 - Generally, 5:51
 - Proceedings, 5:53
 - Recordkeeping requirements, 5:52
- White collar exemptions, 5:14
- Working time for minimum wage and overtime purposes
 - Generally, 5:22-5:26
 - Compensable working time, 5:24
 - Noncompensable working time, 5:25
 - Principal activities, 5:23

FALSE CLAIMS

- Minnesota False Claims Act, 13:31

FALSE IMPRISONMENT

- Common law limitations on screening and investigations, 1:43

FAMILY AND MEDICAL LEAVE

- Generally, 6:1 et seq.
- Americans with Disabilities Act, 6:16
- Comparison of state and federal law
 - Medical and family care leaves, 6:20
 - Parental leave, 6:19
- Coronavirus, Families First Response Act, 6:12
- Covered employers, 6:5
- Eligible employees, 6:4
- Employer obligations, 6:9, 6:11
- Enforcement, 6:10
- Families First Coronavirus Response Act, 6:12
- Family and Medical Leave Act, generally, 6:2 et seq.
- Intermittent leave, 6:6
- Medical certification, 6:8
- Military, relatives of mobilized members, 6:41
- Minnesota parenting leave law, 6:17
- Notice requirements, 6:7

FAMILY AND MEDICAL LEAVE

—Cont'd

- Other laws and employer obligations, effect on, 6:11
- Parenting leave law, 6:17
- Pregnancy Discrimination Act of 1978, 6:15
- Purposes for which leave provided, 6:3
- School conferences and activities, leave for, 6:18
- Sick or injured child care leave, 6:18
- Status as worker, tests for determining, 3:11

FAMILY STATUS

- Employment discrimination, 11:13

FEDERAL PREEMPTION

- See Preemption

FOURTEENTH AMENDMENT

- Public sector employees, limitations on discharge., 14:6-14:9.50

FREE SPEECH

- Public sector employees, limitations on discharge, 14:3-14:5

GENDER DISCRIMINATION

- Generally, 11:6 et seq.
- Bona fide occupational qualification defense, 10:23
- Disparate treatment and disparate impact. See Civil Rights and Discrimination
- Equal pay for equal work, 11:8
- Pregnancy and childbirth, 11:7
- Sexual harassment, 11:9, 11:32

GENDER IDENTITY

- Minnesota Human Rights Act, 11:15
- Title VII, 11:14, 11:16

GENETIC TESTS AND SCREENING

- Employment, applicants for, 1:20

GOOD FAITH AND FAIR DEALING

- Employment, implied covenant, 13:5

GOOD WILL

Noncompete clauses, protection of
good will, 15:5

**GOVERNMENT DATA
PRACTICES**

See Minnesota Government Data
Practices Act

HARASSMENT

Government data practices, harass-
ment data, 4:26
Leaves of absence relating to, 6:36
Sample policies, 11:32
Sexual harassment, 11:9

HEALTH AND SANITATION

See Occupational Safety and Health

**HEALTH BENEFIT PLANS FOR
EMPLOYEES**

Disability discrimination, 12:33

**HEALTH INSURANCE
PORTABILITY AND
ACCOUNTABILITY ACT OF
1996 (HIPAA)**

Generally, 16:22

HEARINGS

OSHA, contested case hearings, 8:85

HIRING

Negligent hiring, 9:12

HUMAN RIGHTS ACT

See Minnesota Human Rights Act

**IMMIGRANTS AND
IMMIGRATION**

Employment, applicants for, screen-
ing immigration records, 1:21

IMMUNITY

See Privilege or Immunity

**INDEMNITY AND
INDEMNIFICATION**

Vicarious liability for employee
conduct, 9:3

INDEPENDENT CONTRACTORS

Reference guide, application of inde-
pendent contractor tests under
specific statutes, 3:18

INDEPENDENT CONTRACTORS

—Cont'd

Sample agreement, 3:17
Setting up independent contractor
relationship, 3:16
Unemployment compensation, 17:8

**INFLICTION OF EMOTIONAL
DISTRESS**

Insurance coverage for employment
claims, 20:42
Intentional infliction, 1:45, 13:12
Negligent infliction, 13:13

INJUNCTIONS

Noncompete clause, breach of, 15:14
Tort and contract claims, 13:16

INSPECTION AND INSPECTORS

OSHA. See Occupational Safety and
Health

**INSURANCE COVERAGE FOR
EMPLOYMENT CLAIMS**

Generally, 20:1 et seq.
Assault and battery claims, 20:46
Automobile insurance, 20:22
Breach of contract claims, 20:43
Coverage analysis, 20:1-20:3
Defamation claims, 20:41
Directors and officers, coverage for
wrongful acts, 20:26
Discrimination claims, 20:44
Duty to defend, 20:3
Emotional distress claims, 20:42
Employer's liability insurance, 20:23
Excess liability insurance, 20:24
Invasion of privacy claims, 20:47
Liability insurance
Generally, 20:11-20:14
Exclusions, 20:14
ISO CGL, 20:12
Words and phrases, 20:13
Workers' compensation and
employer's liability insurance,
20:23

Litigation regarding coverage, 20:3
Management of covered claims, 20:3
Personal lines insurance, 20:31
Privacy, invasion of, 20:45

INDEX

INSURANCE COVERAGE FOR EMPLOYMENT CLAIMS—Cont'd

- Property insurance, 20:21
- Recommended steps in coverage analysis, 20:2
- Rules of policy interpretation, 20:1
- Settlement issues, 20:3
- Specialty coverages/EPLI, 20:25
- Umbrella insurance, 20:24
- Wrongful acts coverage, directors and officers, 20:26
- Wrongful discharge claims, 20:43
- Wrongful interference claims, 20:47

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

- Employment, limitations on discharge, 13:12

INTERVIEWS

- Co-worker presence at disciplinary interview, 1:35
- Employment, applicant screening, 1:13

INVESTIGATIONS AND INVESTIGATORS

- See Employment

JURISDICTION

- OSHA. See Occupational Safety and Health

JURY AND JURY TRIAL

- Leave of absence for jury service, 6:33

LAWFUL CONSUMABLE PRODUCTS ACT

- Generally, 2:32

LAYOFFS

- WARN Act. See Plant Closings

LEAVES OF ABSENCE

- Generally, 6:30 et seq.
- Bone marrow donations, 6:31
- Civil air patrol, 6:35
- Elections, leaves related to, 6:30
- Family and medical leave. See Family and Medical Leave
- Jury service, 6:33

LEAVES OF ABSENCE—Cont'd

- Medical leave. See Family and Medical Leave
- Military leaves, 6:40, 6:41
- Organ donation, 6:32
- Sick and safe leave ordinances
 - Generally, 6:21
 - Challenges to, 6:22
- Voting and elections, 6:30

LIMITATION OF ACTIONS

- Personnel data, record retention, 4:46
- Public sector employees, Section 1983 actions, 14:16
- Section 1983 actions, 14:16
- Whistleblower claims, 13:26

LOYALTY, DUTY OF

- Generally, 15:31
- Misconduct by employee, 15:33
- Unfair competition, 15:32

MARITAL STATUS

- Employment discrimination, 11:12

MEDICAL CANNABIS

- Minnesota Drug and Alcohol Testing in Workplace Act, 2:14

MEDICAL EXAMINATIONS

- Applicants for employment, 1:18
- Current employees, 1:32

MILITARY LEAVES OF ABSENCE

- Generally, 6:40
- Family members of mobilized military members, 6:41

MINIMUM WAGES

- See Fair Labor Standards Act

MINNESOTA DRUG AND ALCOHOL TESTING IN THE WORKPLACE ACT

- See Employment

MINNESOTA FAIR LABOR STANDARDS ACT

- Child labor standards, 5:68
- Coverage, 5:12
- Exemptions, 5:20
- Wage and hour enforcement proceedings, 5:54

**MINNESOTA FAIR LABOR
STANDARDS ACT—Cont'd**

Working time, 5:26

MINNESOTA FALSE CLAIMS ACT

Generally, 13:31

**MINNESOTA GOVERNMENT
DATA PRACTICES ACT**

Generally, 4:21

Complaint data, 4:24

Constitutionality, 4:33

Data access by nonemployees, 4:30

Data under act, 4:22

Defamation, 4:32

Disciplinary action data, 4:25

Employee rights, 4:28

Enforcement, 4:31

Harassment data, 4:26

Nonemployees, data access, 4:30

Open Meeting Law, 4:27

Public personnel data, 4:23

Tennessee Warning, 4:29

**MINNESOTA HUMAN RIGHTS
ACT**

Generally, 10:10 et seq.

Covered entities, 10:11, 10:13

Disability discrimination, 12:8

Drug and alcohol testing, 2:44

Enforcement procedures, 10:15

Exclusivity of state law claims, 18:21

Exemptions from coverage, 10:13

Gender identity and sexual orientation, 11:15

Preclusion of claims, 10:16

Prohibited acts, 10:12

Protected groups, 10:10

Race discrimination, generally, 11:3

Religious discrimination, 11:19

Remedies, 10:14

Settlements and releases, 19:3

Sexual orientation and gender identity, 11:15

Status of worker, tests for determining, 3:9

**MINNESOTA PARENTING LEAVE
LAW**

Family and medical leave, 6:17

**MINNESOTA PERSONNEL
RECORDS STATUTE**

Generally, 4:11

MINNESOTA WAGE THEFT ACT

Generally, 4:2

MOTIVE

Mixed motives, civil rights and discrimination, 10:22

**NATIONAL LABOR RELATIONS
ACT**

Preemption. See Preemption

Status of worker, tests for determining, 3:14

**NATIONAL ORIGIN
DISCRIMINATION**

Employment, 11:30

NEGLIGENCE

See Employment

NONCOMPETE CLAUSES

See Employment Contracts

NUISANCE

OSHA, employee rights and protection, 8:95

**OCCUPATIONAL SAFETY AND
HEALTH**

Generally, 8:1 et seq.

Abatement

Failure to abate citations, 8:59

Petition for modification of abatement date, 8:29

Accompaniment right for inspections, 8:45

Advance notice of inspection, prohibition, 8:36

Appeal and review

Post-inspection procedures, 8:86

Variances, 8:28

Applicable statutes and rules, 8:4

AWAIR Act, 8:24

Challenges to warrants, 8:43

Citations

Generally, 8:51 et seq.

Construction manager responsibility, 8:63

INDEX

OCCUPATIONAL SAFETY AND HEALTH—Cont'd

Citations—Cont'd
Contractor responsibility, 8:61, 8:62
Defenses to citations, 8:54
Failure to abate citations, 8:59
General duty clause, 8:53
Multi-employer workplace responsibility, 8:60
Principals, responsibility of, 8:64
Repeated citations, 8:57
Serious, nonserious and de minimis citations, 8:58
Specific standards, violations of, 8:52
Types of violations, 8:55
Willful violations, 8:56
Collection of evidence at inspection, 8:46
Construction managers, responsibility of, 8:63
Contested case
Appeals, 8:86
Employee rights, 8:84
Hearings, 8:85
Informal conferences, 8:82
Notice of contest, 8:81
Contractor responsibility, 8:61, 8:62
COVID-19 guidance, 8:96
Credentials, presentment at inspection, 8:45
Criminal penalties, 8:73
De minimis citations, 8:58
Defenses to citations, 8:54
Discrimination
Generally, 8:92
Protected activity, 8:93
Remedies, 8:94
Egregious violations, 8:72
Employee Right to Know Standards, 8:23
Employee rights and protections
Generally, 8:91-8:96
COVID-19 guidance, 8:96
Discrimination law, 8:92
Hazardous work refusal, 8:91
Post-inspection procedures, 8:84

OCCUPATIONAL SAFETY AND HEALTH—Cont'd

Employee rights and protections—Cont'd
Protected activity, 8:93
Public nuisance, 8:95
Remedies, 8:94
Evidence, collection in inspection, 8:46
Exceptions to warrant requirement, 8:42
Federal OSHA
Generally, 8:3
Preemption, 8:12
General contractor responsibility, 8:61
General duty clause
Generally, 8:22
Citations, 8:53
Hazardous work refusal, 8:91
Hearings in contested cases, 8:85
Incident reporting, 8:30
Inspection and inspectors
Generally, 8:44
Accompaniment right, 8:45
Administrative search warrants, 8:41-8:43
Advance notice prohibition, 8:36
Collection of evidence, 8:46
Presentment of credentials, 8:45
Programmed inspections, 8:35
Trade secrets protection, 8:47
Types and scheduling, 8:33
Unprogrammed inspections, 8:34
Jurisdiction
Preemption, 8:12
Scope, 8:11
Modification of abatement date, petition for, 8:29
Multi-employer workplace responsibility, 8:60
Nonserious citations, 8:58
Notice of contest, 8:81
Organization of MN OSHA, 8:2
Penalties
Civil penalties, 8:71
Criminal penalties, 8:73
Egregious violations, 8:72

OCCUPATIONAL SAFETY AND HEALTH—Cont'd

- Permanent variances, 8:26
- Post-inspection procedures
 - Generally, 8:81-8:86
 - Contested hearings, 8:85
 - Employee rights, 8:84
 - Informal conferences, 8:82
 - Notice of contest, 8:81
 - Settlements, 8:82
- Preemption, 8:12
- Presentment of credentials at inspection, 8:45
- Principals, responsibility of, 8:64
- Programmed inspections, 8:35
- Protected activity, employee rights, 8:93
- Public nuisances, 8:95
- Recordkeeping requirements, 8:31
- Regulatory structure, 8:1
- Relationship of state and federal laws, 8:3
- Remedies, employee rights and protection, 8:94
- Repeated citations, 8:57
- Reporting incidents to OSHA, 8:30
- Scheduling inspections, 8:33
- Search warrants
 - Generally, 8:41
 - Challenges to warrants, 8:43
 - Exceptions to warrant requirement, 8:42
- Serious, nonserious and de minimis citations, 8:58
- Settlements, 8:83
- Standards
 - Generally, 8:21 et seq.
 - Abatement date, petition for modification, 8:29
- AWAIR Act, 8:24
- Employee-right-to-know standards, 8:23
- General duty clause, 8:22
- Incident reporting, 8:30
- Recordkeeping requirements, 8:31
- Statutes and rules, applicable, 8:4
- Subcontractor responsibility, 8:62
- Temporary variances, 8:27

OCCUPATIONAL SAFETY AND HEALTH—Cont'd

- Trade secrets, 8:47
 - Types of violations, 8:55
 - Unprogrammed inspections, 8:34
 - Variances from standards
 - Generally, 8:25
 - Appeal rights, 8:28
 - Permanent variances, 8:26
 - Temporary variances, 8:27
 - Warrants. Search warrants, above
 - Willful violations, 8:56
- OFFICERS**
- Insurance coverage for wrongful acts, 20:26
- OPEN MEETING LAW**
- Government data protection and open meetings, 4:27
- ORAL CONTRACTS**
- Limitations on discharge, 13:3
- ORGAN DONATION**
- Leave of absence, 6:32
- OSHA**
- See Occupational Safety and Health
- OVERTIME**
- See Fair Labor Standards Act
- PAYMENT**
- Wages, payment of. See Compensation and Salaries
- PERSONAL LINES INSURANCE**
- Employment claims, 20:31
- PERSONNEL MANUALS AND DOCUMENTS**
- Acknowledgment of receipt of handbook, sample, 13:37
 - Limitations on discharge, 13:2
- PERSONNEL RECORDS**
- Generally. See Employment
 - Public sector employees. See Minnesota Government Data Practices Act
- PLANT CLOSINGS**
- Generally, 16:1 et seq.

INDEX

PLANT CLOSINGS—Cont'd

- Minnesota plant closing law, 16:10
- WARN Act
 - Generally, 16:2 et seq.
 - Affected employees, 16:5
 - Covered employers, 16:3
 - COVID-19, 16:9
 - Enforcement, 16:8
 - Excluded actions, 16:7
 - Mass layoffs, 16:4
 - Notice requirements, 16:6

POLYGRAPH TESTS AND EVIDENCE

- Employment, applicants for, 1:17

PREEMPTION

- Generally, 18:1 et seq.
- Employee Retirement Income Security Act
 - Generally, 18:9-18:11
 - Limitations on ERISA preemption, 18:11
 - Test for ERISA preemption, 18:10
- Employment discrimination, preemption by federal statutes, 18:12
- National Labor Relations Act
 - Generally, 18:2-18:8
 - Garmon preemption, 18:3
 - Machinists preemption, 18:4
 - Section 301 preemption
 - Generally, 18:5
 - claims generally not preempted, 18:8
 - claims generally preempted, 18:7
 - test for, 18:6
- Occupational safety and health, 8:12

PREGNANCY AND CHILDBIRTH

- Gender discrimination, 11:7
- Leave of absence, 6:15
- Pregnancy Discrimination Act of 1978, 6:15

PRESUMPTIONS AND BURDEN OF PROOF

- Public sector employees, burden of proof for equal protection claims, 14:13

PRIVACY

- Common law limitations on invasion of privacy, 1:42
- Discharge, limitations on, 13:15
- Insurance coverage for employment claims, 20:45
- Personal matters, constitutional privacy interest in avoiding disclosure, 1:36
- Public sector drug testing and Fourth Amendment, 2:2

PRIVILEGE OR IMMUNITY

- Defamation immunity, discharge of public sector employee, 14:56
- Eleventh amendment immunity, discharge of public sector employee, 14:21
- Section 1983 immunity, discharge of public sector employee, 14:18

PROMISSORY ESTOPPEL

- Employment contracts, 13:4

PROPERTY INSURANCE

- Employment claims, 20:21

PUBLIC SECTOR EMPLOYMENT

- Generally, 14:1 et seq.
- See also, Minnesota Government Data Practices Act
- Anti-discrimination and common law limitations on discharge
 - Generally, 14:51
 - Certiorari, review by, 14:52
- Immunity from tort liability
 - Generally, 14:53
 - Common law official immunity, 14:55
 - Defamation immunity, 14:56
 - Governmental immunity, 14:54
- Attorneys' fees, Section 1983 claims, 14:20
- Burden of proof, equal protection claims, 14:13
- Certiorari review of discharge, 14:52
- Civil Service Act, 14:31
- Common law. Anti-discrimination and common law limitations, above

PUBLIC SECTOR EMPLOYMENT
—Cont'd

Constitutional limitations on discharge
 Generally, 14:2 et seq.
 Due process
 Generally, 14:6-14:9.50
 Liberty interests, 14:8
 Procedural due process, 14:9
 Property interests, 14:7
 Substantive due process, 14:9.50
 Eleventh Amendment immunity, 14:21
 Equal protection
 Generally, 14:10-14:13
 Burden of proof, 14:13
 Employee's case, 14:11
 Employer's case, 14:12
 First Amendment rights, 14:3-14:5
 Free speech, 14:4
 Liberty interests, 14:8
 Political patronage under First Amendment, 14:5
 Procedural due process, 14:9
 Property interests, 14:7
 Section 1983 claims
 Generally, 14:14-14:20
 Attorneys' fees, 14:20
 Forum, 14:15
 Immunity from suit, 14:18
 Persons subject to suit, 14:17
 Remedies, 14:19
 Statute of limitations, 14:16
 State action, 14:2
 Substantive due process, 14:9.50
 Continuing Contract Act, 14:39
 Data practices. See Minnesota Government Data Practices Act
 Defamation immunity, 14:56
 Discharge, limitations on
 Anti-discrimination and common law limitations, above
 Constitutional limitations, above
 State law limitations, below
 Drug and alcohol testing, public sector testing and Fourth Amendment, 2:2

PUBLIC SECTOR EMPLOYMENT
—Cont'd

Due process. Constitutional limitations on discharge, above
 Equal protection. Constitutional limitations on discharge, above
 First Amendment rights, 14:3-14:5
 Forum for Section 1983 claims, 14:15
 Immunity
 Anti-discrimination and common law limitations, above
 Eleventh Amendment, 14:21
 Section 1983, 14:19
 Labor Relations Act, 14:31
 Liberty interests under Fourteenth Amendment, 14:8
 Personnel records. See Minnesota Government Data Practices Act
 Political patronage under First Amendment, 14:5
 Procedural due process, 14:9
 Property interests, 14:7
 Public school teachers, limitations on discharge
 Generally, 14:38
 Continuing Contract Act, 14:39
 Teacher Tenure Act, 14:40
 Remedies under Section 1983, 14:19
 Section 1983. Constitutional limitations on discharge, above
 State law limitations on discharge
 Generally, 14:31-14:40
 Civil Service Act, 14:31
 Labor Relations Act, 14:31
 Public school teachers, above
 Veterans. See Veterans Preference Act
 Statute of limitations, Section 1983 claims, 14:16
 Substantive due process, 14:9.50
 Teachers. Public school teachers, above
 Veterans. See Veterans Preference Act

RACE DISCRIMINATION

Generally, 11:2

INDEX

RACE DISCRIMINATION—Cont'd

See also Civil Rights and Discrimination; Title VII

Disparate treatment and disparate impact. See Civil Rights and Discrimination

Minnesota Human Rights Act, generally, 11:3

Section 1981 claims, 11:4

RECONSIDERATION

Unemployment compensation determination, 17:25

RECORD RETENTION

Generally, 4:41-4:46

Personnel records. See Employment

RELEASE OR DISCHARGE

Employment-related settlements and releases. See Employment, this index

ERISA, release of claims, 7:34

RELIGION AND RELIGIOUS SOCIETIES

Liability of religious employer to third parties, 9:21

RELIGIOUS DISCRIMINATION

Generally, 11:18 et seq.

Defenses, 11:23

Disparate treatment and disparate impact, 11:22

Minnesota Human Rights Act, 11:19

Reasonable accommodation, 11:21

Title VII, 11:20

REMEDIES

Minnesota Human Rights Act, 10:14

Noncompete clause, breach of, 15:13-15:15

Occupational safety and health, employee rights, 8:94

Whistleblower claims, 13:27

RES JUDICATA

Generally, 18:41-18:45

Administrative agency proceedings, successive, 18:44

Discrimination claims, 18:45

Teacher termination decisions, 18:42

RES JUDICATA—Cont'd

Unemployment insurance decisions, 18:43

RESPONDEAT SUPERIOR

Generally, 9:2

RETIREMENT AND PENSIONS

Early retirement, ending employment relationship, 16:17

ERISA. See Employee Retirement Income Security Act

Mandatory retirement

Age Discrimination in Employment Act, 16:15, 16:16

Prohibition, 16:14-16:16

SALESPERSONS

Fair Labor Standards Act, exemption for outside salespersons, 5:16

SCHOOLTEACHERS

Continuing Contract Act, 14:39

Discharge or demotion, state law limitations, 14:38-14:40

Res judicata and collateral estoppel, teacher termination decisions, 18:42

Teacher Tenure Act, 14:40

SCREENING

Applicant screening. See Employment

SEARCHES AND SEIZURES

Employees, 1:33

OSHA, administrative search warrants, 8:41-8:43

SECTION 1983

See Public Sector Employment

SEX DISCRIMINATION

See Gender Discrimination

SEXUAL HARASSMENT

Generally, 11:9

Sample policies, 11:32

SEXUAL ORIENTATION

Employment discrimination, 11:14-11:16

Minnesota Human Rights Act, 11:15

Title VII, 11:14, 11:16

SICK AND SAFE LEAVES

Generally, 6:21
Challenges to, 6:22

SICK OR INJURED CHILD CARE LEAVE

Generally, 6:18

SOCIAL SECURITY

Employer use of Social Security numbers, 4:12

STATE ACTION

Public sector employees, limitations on discharge, 14:2

STATUTES OF LIMITATION

See Limitation of Actions

SUBCONTRACTORS

OSHA, subcontractor responsibility, 8:62

SUPERVISION

Employer negligence, 9:14

TAX CUTS AND JOBS ACT OF 2017

Deductibility of settlements under, 19:26

TAXATION

Employment-related claims, tax consequences. See Employment, this index
ERISA, tax penalties and liability, 7:29

TERMINATION OF EMPLOYMENT

Continuation of benefits
COBRA, 16:21
HIPAA, 16:22
Limitations on discharge. See Employment
Model Employee Termination Act, 13:36
Whistleblower claims. See Whistleblowers

TESTS AND SCIENTIFIC EVIDENCE

Genetic screening, preemployment, 1:20

TESTS AND SCIENTIFIC EVIDENCE—Cont'd

Integrity tests, preemployment, 1:19
Personality tests, preemployment, 1:19
Polygraph tests, preemployment, 1:17

THIRD PERSONS

Employer liability to third persons.
See Employment

TIPS

Minimum wage requirements, tip credit, 5:33

TITLE VII OF CIVIL RIGHTS ACT OF 1964

Generally, 10:2 et seq.
Civil Rights Act of 1991, 10:7
Covered entities, 10:3
Disparate treatment and disparate impact. See Civil Rights and Discrimination
Enforcement procedures, 10:5
Gender identity, 11:14, 11:16
Prohibited acts, 10:4
Protected groups, 10:2
Race discrimination, generally, 11:3
Religious discrimination, 11:20
Remedies, 10:6
Sexual orientation, 11:14, 11:16

TORTS

Defamation, 13:10, 14:56
Emotional distress
Intentional infliction, 13:12
Negligent infliction, 13:13
Fraud and misrepresentation, 13:14
Limitations on discharge, 13:10 et seq.
Privacy, invasion of, 13:15
Tax consequences, recoveries for tort claims, 19:18
Tortious interference with contract, 13:11

TRADE SECRETS

Defend Trade Secrets Act of 2016, 15:28
Employer claims, 15:21-15:26
Misappropriation, 15:25

INDEX

TRADE SECRETS—Cont'd

- Noncompete clauses, 15:22
- Occupational safety and health, 8:47
- Remedies, 15:26
- Uniform Trade Secrets Act, 15:23-15:26

TRAINING

- Fair Labor Standards Act, exemption for trainees, 5:17

TRANSPORTATION

- Drug and alcohol testing for transportation workers, 2:52

UMBRELLA INSURANCE

- Employment claims, 20:24

UNEMPLOYMENT

COMPENSATION

- Generally, 17:1 et seq.
- Actively seeking work, 17:12
- Aggravated misconduct, 17:19
- Amounts, 17:3
- Appeal and review
 - Contesting department's determination, below
 - Timeline, 17:23
 - Unemployment law judge, appeal to, 17:24
- Benefits
 - Determinations, 17:2, 17:3
 - Process of benefit determination, 17:2
- Contesting department's determination
 - Generally, 17:23-17:27
 - Judicial review, 17:26
 - Other proceedings, impact of unemployment compensation hearing, 17:27
 - Reconsideration, request for, 17:25
 - Timeline for appeal, 17:23
 - Unemployment law judge, appeal to, 17:24
- Coordination with other payments, 17:30
- Covered employment
 - Generally, 17:6-17:8
 - Employees and independent contractors, 17:8

UNEMPLOYMENT

COMPENSATION—Cont'd

- Covered employment—Cont'd
 - Positions of non-covered employment, 17:7
- Disqualification from benefits
 - Generally, 17:16-17:20
 - Aggravated misconduct, 17:19
 - Good cause attributable to employer, 17:17
 - Misconduct, 17:18, 17:19
 - Other disqualification issues, 17:20
 - Voluntary quit, 17:17
- Eligibility
 - Generally, 17:11-17:13
 - Actively seeking employment, 17:12
 - Claimants not eligible, 17:13
- Independent contractors, 17:8
- Judicial review, 17:26
- Misconduct, 17:18, 17:19
- Noncovered employment, 17:7
- Offsetting other payments against benefits, 17:30
- Other payments, coordination with, 17:30
- Other proceedings, impact of unemployment compensation hearing, 17:27
- Reconsideration, request for, 17:25
- Res judicata and collateral estoppel, 18:43
- Timeline for appeal, 17:23
- Unemployment law judge, appeal to, 17:24
- Voluntary quit/good cause attributable to employer, 17:17

UNFAIR COMPETITION

- Duty of loyalty, breach of, 15:32

UNIFORM TRADE SECRETS ACT

- Generally, 15:23-15:26

VARIANCES

- See Occupational Safety and Health

VETERANS PREFERENCE ACT

- Generally, 14:32-14:37
- Covered employees, 14:34

VETERANS PREFERENCE ACT
—Cont'd

Covered employers, 14:33
Procedures for removal from office,
14:37
Removal from office, 14:35, 14:37
Substantive standard for removal,
14:36

VICARIOUS LIABILITY

Employee conduct, 9:2, 9:3

WAGE AND HOUR LAWS

FLSA. See Fair Labor Standards Act
Payment of wages. See Compensation and Salaries

WAGE THEFT ACT

Generally, 4:2

WARN ACT

See Plant Closings

WARRANTS

OSHA, administrative search warrants, 8:41-8:43

WHISTLEBLOWERS

Generally, 13:20 et seq.
Defenses, 13:25
Federal laws, 13:32
Minnesota False Claims Act, 13:31
Minnesota Notice of Termination Law
Generally, 13:21
Additional employer obligations, 13:28
Procedural issues, 13:23

WHISTLEBLOWERS—Cont'd

Public policy exception, termination of employment, 13:20
Remedies, 13:27
Retaliation, 13:20 et seq.
Statute of limitations, 13:26
Statutory exclusivity, 13:22
Substantive issues, 13:24

WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT

See WARN Act

WORKERS' COMPENSATION

Assault exception to exclusivity, 18:25
Exclusivity
Generally, 18:22 et seq.
Assault exception, 18:25
Gross negligence exception, 18:24
Intentional tort exception, 18:23
Statutory claims, exclusivity and, 18:26
Gross negligence exception to exclusivity, 18:24
Insurance coverage, 20:23
Intentional tort exception to exclusivity, 18:23
Status as worker, tests for determining, 3:7

WRONGFUL DISCHARGE
Insurance coverage, 20:43

WRONGFUL INTERFERENCE
Insurance coverage for employment claims, 20:47