

Table of Contents

CHAPTER 1. EMPLOYMENT-AT-WILL DOCTRINE

- § 1:1 Employment-at-will doctrine—Overview
- § 1:2 —Origins
- § 1:3 —Federal legislative erosion
- § 1:4 —State legislation erosion
- § 1:5 —Judicial erosion—Expanding exceptions
- § 1:6 — —Contract and/or estoppel exceptions
- § 1:7 — —Specific public policy exceptions
- § 1:8 — —Bad faith “abusive” discharge
- § 1:9 — —Traditional tort claims

CHAPTER 2. FEDERAL STATUTORY RESTRICTIONS ON EMPLOYMENT AT WILL

- § 2:1 Federal statutory restrictions
- § 2:2 National Labor Relations Act—Scope of NLRA
- § 2:3 —Unfair labor practices
- § 2:4 —Concerted activities
- § 2:5 —Anti-union animus
- § 2:6 —Jurisdiction
- § 2:7 —Finality of grievance procedures
- § 2:8 Federal civil rights and employment discrimination laws;
Statutory overview
- § 2:9 Title VII of the Civil Rights Act of 1964—Coverage
- § 2:10 —Discrimination generally prohibited
- § 2:11 —Sexual and other forms of harassment prohibited
- § 2:12 —Enforcement procedures
- § 2:13 —Prima facie case
- § 2:14 —Disparate treatment and disparate impact distinguished
- § 2:15 —Burdens of proof; Disparate treatment
- § 2:16 —Burden of proof; Disparate impact
- § 2:17 —Affirmative defenses
- § 2:18 —Retaliation prohibited
- § 2:19 Age Discrimination in Employment Act—Coverage
- § 2:20 —Substantive law compared with Title VII
- § 2:21 —Enforcement procedures
- § 2:22 Civil Rights Acts of 1866 and 1871—Vehicle for employment
discrimination claims
- § 2:23 —Coverage under § 1981
- § 2:24 —Color of state law under § 1983
- § 2:25 —Conspiracies covered under § 1985(3)
- § 2:26 —Scope of protection under § 1981
- § 2:27 —Scope of protection under § 1983
- § 2:28 —Scope of protection under § 1985(3)
- § 2:29 —Liability
- § 2:30 —Procedures and remedies

- § 2:31 —Attorney fees under 42 U.S.C.A. § 1988
- § 2:32 Americans with Disabilities Act—Types of discrimination prohibited
- § 2:33 —Coverage
- § 2:34 —Pre-employment inquiries and medical examinations
- § 2:35 —Medical examinations for current employees
- § 2:36 —Prohibited retaliation
- § 2:37 —Provisions relating to insurance
- § 2:38 —Persons entitled to “reasonable accommodation”
- § 2:39 —Determining who is a “qualified” individual with a disability
- § 2:40 —Exclusion of persons currently engaged in the illegal use of drugs
- § 2:41 —Determining the “essential functions” of the position
- § 2:42 —“Reasonable accommodation” obligation
- § 2:43 —Determining the appropriate accommodation
- § 2:44 —“Undue hardship” defense to a failure to accommodate
- § 2:45 Genetic Information Nondiscrimination Act of 2008
- § 2:46 Employment and reemployment rights of members of the uniformed services; unlawful discriminatory practices
- § 2:47 Employment and reemployment rights of members of the uniformed services—Scope
- § 2:48 —Just cause
- § 2:49 —Enforcement
- § 2:50 Family and Medical Leave Act
- § 2:51 —Coverage
- § 2:52 —Basic benefits
- § 2:53 —Relationship to paid leave
- § 2:54 —Foreseeable leave
- § 2:55 —Certified leaves for serious health conditions
- § 2:56 —Medical insurance and benefit coverage while on leave
- § 2:57 —Return from leave
- § 2:58 —Enforcement
- § 2:59 Rehabilitation Act of 1973—Title V generally
- § 2:60 —Affirmative action plans
- § 2:61 —Programs receiving federal funds
- § 2:62 —“Individual with a disability” defined
- § 2:63 —Reasonable accommodation
- § 2:64 —Section 503 enforcement and remedies
- § 2:65 —Section 504 enforcement and remedies
- § 2:66 Retaliatory discharge proscriptions—Statutory overview
- § 2:67 —Fair Labor Standards Act
- § 2:68 —Occupational Safety and Health Act
- § 2:69 —ERISA
- § 2:70 —Immigration Reform and Control Act
- § 2:71 Employee Polygraph Protection Act of 1988—Prohibitions
- § 2:72 —Lie detector defined
- § 2:73 —Exemptions
- § 2:74 —Rights of examinees
- § 2:75 — —Pretest phase
- § 2:76 — —Testing phase

TABLE OF CONTENTS

- § 2:77 — —Post-test phase
- § 2:78 —Examiners; Qualifications and duties
- § 2:79 —Disclosure of information—Confidentiality
- § 2:80 — —Notice required
- § 2:81 —Penalties and other remedies
- § 2:82 Whistleblower protections—The Sarbanes-Oxley Act
- § 2:83 Whistleblower protections—The Sarbanes-Oxley Act—
Protected activity
- § 2:84 Whistleblower protections—The American Recovery and
Reinvestment Act of 2009
- § 2:85 —Dodd-Frank Wall Street Reform and Consumer Protection
Act

CHAPTER 3. OHIO STATUTORY RESTRICTIONS ON EMPLOYMENT AT WILL

- § 3:1 Ohio statutory restrictions
- § 3:2 Ohio Civil Rights Act—Discriminatory practices broadly
prohibited
- § 3:3 —Definitions—Employer and employee
- § 3:4 — —Disability
- § 3:5 — —Age
- § 3:6 — —Based on sex
- § 3:7 —Federal definitions borrowed
- § 3:8 —Prohibitions—Statutory structure
- § 3:9 — —Employers
- § 3:10 — —Employment agencies and personnel placement
services
- § 3:11 — —Labor organizations
- § 3:12 — —Apprenticeship training programs
- § 3:13 — —Pre-employment unlawful acts
- § 3:14 — —Miscellaneous acts, retaliation, complicity
- § 3:15 —Exceptions—Shielded activities
- § 3:16 — —Disability: Increased hazard or substantial impairment
- § 3:17 — —Age discrimination exceptions
- § 3:18 —Age discrimination exceptions—Bona fide employment
qualifications
- § 3:19 — —Bona fide seniority system or benefit plans
- § 3:20 — —Executives or high policy-makers
- § 3:21 — —Apprenticeship programs
- § 3:22 —Administrative enforcement procedures—Filing charge of
discrimination, timeliness, preliminary investigation
- § 3:23 — —Conciliation
- § 3:24 — —Complaint and notice of hearing
- § 3:25 — —Hearing procedure
- § 3:26 —Determination by OCRC—Dismissal of complaint
- § 3:27 — —Notice of right to sue, remedies
- § 3:28 — —Appeal
- § 3:29 —Substantive Title VII case law borrowed
- § 3:30 —Res judicata
- § 3:31 —R.C. 4112.99 civil actions

- § 3:32 —Disability discrimination
- § 3:33 —R.C. 4112.14 age discrimination civil actions
- § 3:34 Ohio’s workers’ compensation nonretaliation provision—
Punitive action prohibited
- § 3:35 —Scope of protection
- § 3:36 —Limitations period
- § 3:37 —Independent action for wrongful termination of benefits
- § 3:38 —Evidentiary model
- § 3:39 —Absentee control policies
- § 3:40 —Equitable relief and attorney fees
- § 3:41 Ohio “Whistleblower Protection Act”—Cause of action
created
- § 3:42 —Notification of employer
- § 3:43 —Report to public authority
- § 3:44 —Limitations period, relief
- § 3:45 Compliance with statutory prerequisites; public policy
claims

CHAPTER 4. JUDICIAL EROSION OF EMPLOYMENT AT WILL IN OHIO

- § 4:1 Judicial erosion—Historical review
- § 4:2 —*Mers* decision
- § 4:3 —*Mers* decision’s aftermath
- § 4:4 —Contracts for a specified term
- § 4:5 —*Henkel v. Educational Research Council of America*
- § 4:6 —“Implied-in-fact” contracts, “unilateral” contracts, and
promissory or equitable estoppel exceptions
- § 4:7 —Disclaimers, binding arbitration
- § 4:8 —Satisfaction contracts
- § 4:9 —Academic tenure
- § 4:10 —Specific public policy exceptions
- § 4:11 —Catchall “abusive discharge” exception

CHAPTER 5. RELATED CAUSES OF ACTION

- § 5:1 Common-law tort theories
- § 5:2 Vicarious liability
- § 5:3 Scope of employment
- § 5:4 Fraud or intentional misrepresentation
- § 5:5 Negligent misrepresentation
- § 5:6 Tortious interference with contract
- § 5:7 Negligent or intentional infliction of serious emotional
distress
- § 5:8 Defamation—Elements
- § 5:9 —Common law defenses of truth and qualified privilege
- § 5:10 —Exceptions to qualified privilege defense
- § 5:11 —Absolute privilege
- § 5:12 —Publication
- § 5:13 Invasion of privacy
- § 5:14 Assault and battery—Elements
- § 5:15 —Vicarious liability

TABLE OF CONTENTS

- § 5:16 —Polygraph testing
- § 5:17 —Drug testing
- § 5:18 —Sexual contact
- § 5:19 False imprisonment and false arrest
- § 5:20 Negligent hiring, retention, and supervision

CHAPTER 6. RECRUITING AND ADVERTISING

- § 6:1 Recruiting and advertising—Introduction
- § 6:2 —Avoiding discrimination charges
- § 6:3 —Defining job qualifications
- § 6:4 —ADA and affirmative action
- § 6:5 Advertising for applicants—Indication of preference prohibited
- § 6:6 —What must be said
- § 6:7 Recruiting; Recordkeeping requirements and policies
- § 6:8 Minimizing wrongful discharge liability; What should not be said
- § 6:9 Employment agencies; Special considerations

CHAPTER 7. EMPLOYMENT APPLICATIONS AND THE INTERVIEWING PROCESS

- § 7:1 Applications and interviewing; Introduction
- § 7:2 Applications—Accessibility
- § 7:3 —What cannot be asked
- § 7:4 —What should be asked
- § 7:5 —Releases, disclaimers, and “truth or consequences” clauses
- § 7:6 Resumes
- § 7:7 Interviewing selection process
- § 7:8 Interviewing guidelines
- § 7:9 Interviewing—ADA issues
- § 7:10 —OCRC guide

CHAPTER 8. PRE-EMPLOYMENT TESTING

- § 8:1 Pre-employment testing—Introduction
- § 8:2 —Disparate impact under *Griggs* and *Albemarle*
- § 8:3 —Uniform guidelines on employee selection procedures—1978 guidelines
- § 8:4 — —Four-fifths rule
- § 8:5 — —Validity studies
- § 8:6 —Impact of Civil Rights Act of 1991
- § 8:7 —Nonmedical
- § 8:8 —Medical
- § 8:9 —Drug and alcohol—Legal background
- § 8:10 — —Discrimination issues
- § 8:11 — —Contract issues
- § 8:12 — —Tort issues
- § 8:13 — — —Advance notice
- § 8:14 — — —Consent and release forms
- § 8:15 — — —Selection of competent laboratory
- § 8:16 — — —Limited internal disclosure

- § 8:17 — — — Limited external disclosure
- § 8:18 — AIDS and HIV
- § 8:19 — Ohio Comprehensive AIDS Act
- § 8:20 — — Informed consent
- § 8:21 — — Disclosure
- § 8:22 — — Civil action, attorney fees, defenses, immunities
- § 8:23 — — Emergency care workers
- § 8:24 — — Employer immunity
- § 8:25 — AIDS; Tort liability
- § 8:26 — Lie detector issues

CHAPTER 9. HIRING

- § 9:1 Hiring—Introduction
- § 9:2 — Making the decision
- § 9:3 — Communicating the decision
- § 9:4 — Offer letters
- § 9:5 — Rejection letters
- § 9:6 — Keeping applications
- § 9:7 — Department of Job and Family Services

CHAPTER 10. EMPLOYEE ORIENTATION AND HANDBOOKS

- § 10:1 Orientation—Introduction
- § 10:2 — Communication of information
- § 10:3 Handbooks
- § 10:4 — Post-*Mers*
- § 10:5 — Disclaimers
- § 10:6 — Listing grounds for discharge
- § 10:7 — Probationary versus permanent status
- § 10:8 — Binding dispute resolution mechanism
- § 10:9 — Harassment complaint procedure
- § 10:10 National Labor Relations Act issues regarding employer policies

CHAPTER 11. COMPENSATION PRACTICES

- § 11:1 Compensation—Introduction
- § 11:2 — Wage and hour laws—Coverage
- § 11:3 — — “Employer” under Fair Labor Standards Act and Ohio Minimum Fair Wage Standards Act
- § 11:4 — — Minimum wage
- § 11:5 — — Overtime—Time-and-one-half
- § 11:6 — — — Hours worked
- § 11:7 — — — Meal periods and breaks
- § 11:8 — — — Case illustrations
- § 11:9 — — — Regular rate, workweek
- § 11:10 — — — “Comp time”
- § 11:11 — — Exemptions
- § 11:12 — — — Salary basis
- § 11:13 — — — Job duties tests
- § 11:14 — — Exemptions: Agricultural employees

TABLE OF CONTENTS

- § 11:15 — —Exemptions: Learned professional; bona fide executive, administrative, or similar professional capacity
- § 11:16 — —Exemptions: Computer systems analysts and related positions
- § 11:17 — —Exemptions: Training
- § 11:18 — —Exemptions—Deductions destroying exemption
- § 11:19 — —Discrimination laws—Title VII
- § 11:20 — —ADEA and ADA
- § 11:21 — —Lilly Ledbetter Fair Pay Act of 2009
- § 11:22 — —State law
- § 11:23 — —Federal EPA
- § 11:24 — —Ohio EPA
- § 11:25 — —Comparable-worth claims
- § 11:26 — —Contract and quasi-contract principles
- § 11:27 — —Developing a program
- § 11:28 — —Job analysis
- § 11:29 — —Job descriptions
- § 11:30 — —Job evaluation
- § 11:31 — —Surveying market pay practices
- § 11:32 — —Designing a pay structure
- § 11:33 — —Administering a program
- § 11:34 — —Prior salary as a factor in starting salaries
- § 11:35 — —Red circle rates
- § 11:36 — —Granting pay increases
- § 11:37 — —Bonus and commission payments
- § 11:38 — —Recordkeeping

CHAPTER 12. PERFORMANCE APPRAISALS

- § 12:1 Performance appraisals—Introduction
- § 12:2 — —Why some fail
- § 12:3 — —Inherently flawed
- § 12:4 — —Unsuitability of design
- § 12:5 — —Defects in implementation
- § 12:6 — —“Halo” effect
- § 12:7 — —“Central tendency” phenomenon
- § 12:8 — —Marketplace influences
- § 12:9 — —Paper processing
- § 12:10 — —Coded evaluations
- § 12:11 — —Supervisor bias
- § 12:12 — —Detection of problems
- § 12:13 — —Preparation for defensibility

CHAPTER 13. PROMOTION POLICIES

- § 13:1 Promotion policies—Introduction
- § 13:2 — —Identifying job requirements
- § 13:3 — —Posting job opening
- § 13:4 — —Present job performance
- § 13:5 — —Separate career path development program
- § 13:6 — —Capturing promotability data
- § 13:7 — —Screening potential candidates

§ 13:8 —Ensuring compliance

CHAPTER 14. FRINGE BENEFIT ISSUES

- § 14:1 Fringe benefits—Introduction
- § 14:2 —ERISA overview
- § 14:3 — —Disclosure duties
- § 14:4 — —Breach of fiduciary duty
- § 14:5 — —Arbitrary and capricious review: Cases finding decision was arbitrary and capricious
- § 14:6 — —Arbitrary and capricious review: Cases finding decision was not arbitrary and capricious
- § 14:7 —Discrimination—ERISA
- § 14:8 — —Title VII
- § 14:9 — —ADEA
- § 14:10 — —Disability
- § 14:11 —State law requirements
- § 14:12 —State insurance laws
- § 14:13 —State discrimination laws
- § 14:14 Family and medical leave issues
- § 14:15 —Notice requirements of Family Medical and Leave Act (FMLA)

CHAPTER 15. WORKERS' COMPENSATION

- § 15:1 Workers' compensation—Introduction
- § 15:2 —Exclusivity
- § 15:3 —Effect of noncompliance
- § 15:4 —Elements of a compensable claim
- § 15:5 —Employment relationship
- § 15:6 —Injury
- § 15:7 —Relationship of injuries to employment
- § 15:8 —Occupational diseases
- § 15:9 —Medical benefits
- § 15:10 —Temporary total disability (TTD) compensation; voluntary abandonment doctrine; exceptions
- § 15:11 —Wage loss compensation
- § 15:12 —Permanent partial disability
- § 15:13 —Scheduled losses
- § 15:14 —Permanent total disability compensation
- § 15:15 —Death benefits
- § 15:16 —Hearing process
- § 15:17 —Intentional tort doctrine
- § 15:18 —Subrogation
- § 15:19 —Violation of specific safety rule (VSSR) awards

CHAPTER 16. DISCIPLINE AND DISCHARGE

- § 16:1 Discipline and discharge—Introduction
- § 16:2 —Varying approaches
- § 16:3 —Notice to employees
- § 16:4 —Notice to supervisors
- § 16:5 —Investigation

TABLE OF CONTENTS

§ 16:6	—Documentation
§ 16:7	—Consistency review—Second level review
§ 16:8	— —Discovery implications
§ 16:9	— —Discipline log
§ 16:10	—Opportunity to be heard
§ 16:11	—Disciplinary checklist
§ 16:12	—Termination guidelines
§ 16:13	— —Brief meeting
§ 16:14	— —Unequivocal communication of decision
§ 16:15	— —Standard format
§ 16:16	— —Exit interview checklist
§ 16:17	— —Management representatives
§ 16:18	— —Exit interview do's and don'ts
§ 16:19	—Particularly troublesome cases
§ 16:20	—Morality and integrity cases
§ 16:21	— —Sexual harassment
§ 16:22	— —Violation of nonfraternization rules
§ 16:23	— —Theft
§ 16:24	— —Drug and alcohol abuse
§ 16:25	— —Criminal conviction record
§ 16:26	—“Bad attitude”
§ 16:27	—Older workers
§ 16:28	— —Minimizing liability
§ 16:29	—Retaliation cases
§ 16:30	— —Cases brought under Fair Labor Standards Act
§ 16:31	— —Cases brought under Family and Medical Leave Act (FMLA)
§ 16:32	— —First Amendment retaliation claims
§ 16:33	—Disabled employees
§ 16:34	— —Minimizing liability

CHAPTER 17. POST-TERMINATION ISSUES

§ 17:1	Post-termination issues—Introduction
§ 17:2	—Internal appeals and mandatory arbitration
§ 17:3	—Unemployment compensation
§ 17:4	— —Employer requirements
§ 17:5	— —Administrative process
§ 17:6	— —Eligibility requirements
§ 17:7	— —Discharge for just cause
§ 17:8	— —Quitting without just cause
§ 17:9	— —Labor disputes
§ 17:10	— —Refusal of suitable work
§ 17:11	— —Collateral estoppel implications
§ 17:12	—Health care benefits—COBRA
§ 17:13	— — —Gross misconduct
§ 17:14	— — —Beneficiaries entitled to elect
§ 17:15	— — —Notice requirements
§ 17:16	— — —Period for continuation coverage
§ 17:17	— — —Premium payment
§ 17:18	— — —Sanctions for violations

- § 17:19 — —Ohio law
- § 17:20 — —Conversion options
- § 17:21 —References—Qualified privilege defense
- § 17:22 — —Disclosure of limited information
- § 17:23 — —Consent to disclosure by release
- § 17:24 —Covenants not to compete—Remedies for breach of covenant
- § 17:25 — —Reasonableness
- § 17:26 — —Limitations of time and geography
- § 17:27 — —Public interest
- § 17:28 — —Consideration
- § 17:29 —Severance pay—Sixty-day WARN notice of plant closing or mass layoff
- § 17:30 — —Voluntary employer-established plans subject to ERISA
- § 17:31 — —Disclosure and fiduciary duties
- § 17:32 — —De novo review except where discretion preserved
- § 17:33 — —Reservation of unilateral right to amend, modify, or terminate plan
- § 17:34 —Wage payments due on termination
- § 17:35 —Deduction from or retention of final wages

CHAPTER 18. JURISDICTION

- § 18:1 Jurisdiction—Introduction
- § 18:2 —NLRB—Exclusive
- § 18:3 — —Investigation, complaint, administrative law judge
- § 18:4 — —Appellate review
- § 18:5 — —Discretion, deferral
- § 18:6 — —Section 301 actions
- § 18:7 —EEOC
- § 18:8 — —Title VII—Charge, timeliness, deferral
- § 18:9 — —Investigation
- § 18:10 — — —Disposition of charge, right to sue notice
- § 18:11 — —ADEA
- § 18:12 — —Americans with Disabilities Act
- § 18:13 — —Equal Pay Act
- § 18:14 — —Court action, concurrent jurisdiction
- § 18:15 —Department of Labor—Section 503
- § 18:16 — —Family and Medical Leave Act of 1993
- § 18:17 —OCRC
- § 18:18 —Federal courts—Limited jurisdiction
- § 18:19 — —Federal question
- § 18:20 — —Diversity of citizenship
- § 18:21 — —Class actions
- § 18:22 — —Supplemental jurisdiction
- § 18:23 — —Nonwaiver of jurisdictional defect
- § 18:24 —Ohio judicial system
- § 18:25 —Removal

CHAPTER 19. DEFENDING DISCRIMINATION CLAIMS

- § 19:1 Defending discrimination claims; Introduction

TABLE OF CONTENTS

§ 19:2	Elements and burdens of proof—Disparate treatment and disparate impact distinguished
§ 19:3	—Cognizable disparate impact claims—Title VII
§ 19:4	—Due process, equal protection, and section 1981 claims
§ 19:5	—ADEA
§ 19:6	—Rehabilitation Act and ADA
§ 19:7	—Ohio discrimination law
§ 19:8	—Disparate treatment cases—Intent
§ 19:9	— <i>McDonnell Douglas/Burdine</i> model
§ 19:10	—Rebuttable presumption arising from prima facie case
§ 19:11	—Employer’s rebuttal
§ 19:12	—Mixed motive cases
§ 19:13	— <i>Griggs</i> requirement of proof of business necessity
§ 19:14	—Disparate impact cases— <i>Wards Cove</i> and the Civil Rights Act of 1991
§ 19:15	—Ohio law
§ 19:16	Reasonable accommodation
§ 19:17	—Religion—Federal requirements
§ 19:18	—Ohio requirements
§ 19:19	—Disability discrimination—Federal requirements
§ 19:20	—Ohio requirements
§ 19:21	Specific defenses—BFOQ
§ 19:22	—Bona fide seniority system
§ 19:23	—Title VII claims
§ 19:24	—Age discrimination claims; Former “subterfuge” language
§ 19:25	—OWBPA
§ 19:26	—Case law interpretations
§ 19:27	—EEOC interpretations
§ 19:28	—Bona fide employee benefit plan; Age discrimination claims
§ 19:29	Specific Defenses—Reasonable factor other than age; Age discrimination claims

CHAPTER 20. DEFENDING STATE LAW WRONGFUL DISCHARGE CASES

§ 20:1	Wrongful discharge—Implied contract and promissory estoppel exceptions
§ 20:2	—Public policy exception
§ 20:3	—Contract actions
§ 20:4	—Standard of proof
§ 20:5	—Evidence of implied contract—Employee handbooks and policy manuals
§ 20:6	—Fringe benefit policies
§ 20:7	—Oral representations
§ 20:8	—At-will acknowledgments and disclaimers
§ 20:9	—Effect
§ 20:10	—Acknowledgments and disclaimers—Unilateral enforcement—Consideration requirement
§ 20:11	—Implementing unilateral policy revisions

- § 20:12 —Determining just cause for termination—Definite term
versus satisfaction
- § 20:13 — —Agreements limiting grounds for discharge
- § 20:14 — —Reciprocity of obligations
- § 20:15 — —Damages
- § 20:16 — —Burdens of proof to reflect different degrees of
obligation
- § 20:17 —Actions or conduct constituting just cause—Under
definite term contracts
- § 20:18 — —Under *Mers*-type agreements
- § 20:19 — —Factual disputes about reason for discharge
- § 20:20 —Promissory estoppel actions
- § 20:21 — —Differences between promissory estoppel and implied
contract
- § 20:22 —Public policy actions

CHAPTER 21. AFFIRMATIVE DEFENSES TO WRONGFUL DISCHARGE CLAIMS

- § 21:1 Wrongful discharge—Affirmative defenses—Elements and
burden of proof
- § 21:2 — —Defenses generally
- § 21:3 — —Statutes of limitation
- § 21:4 — —Procedural rules
- § 21:5 — —Other affirmative defenses
- § 21:6 —Contract claims
- § 21:7 —Section 301
- § 21:8 —ERISA claims
- § 21:9 —Promissory estoppel claims
- § 21:10 —*Greeley*-type public policy torts
- § 21:11 —Title VII claims; Limitation on affirmative defenses
- § 21:12 —Title VII, ADEA, and ADA claims—Charge-filing
timeliness requirements
- § 21:13 — —Accrual, tolling, and continuing violations
- § 21:14 — —Suit-filing timeliness requirements
- § 21:15 —Reconstruction Era Civil Rights Acts
- § 21:16 —Disability discrimination claims
- § 21:17 —ERISA discrimination and retaliation claims
- § 21:18 —State law employment discrimination claims
- § 21:19 —Miscellaneous torts
- § 21:20 —Statute of frauds
- § 21:21 —Res judicata
- § 21:22 —Full faith and credit
- § 21:23 —Collateral estoppel
- § 21:24 —Exhaustion of remedies—Employment discrimination
claims
- § 21:25 — —Breach of contract
- § 21:26 —Tort claims—Arbitration under federal labor laws
- § 21:27 — —Ohio Arbitration Act
- § 21:28 — —Effect of workers' compensation laws
- § 21:29 — —Internal grievance procedures

TABLE OF CONTENTS

- § 21:30 —ERISA claims
- § 21:31 —Releases and waivers
- § 21:32 —Federal preemption of state law claims
- § 21:33 —Preemptive effect of federal employment discrimination laws
- § 21:34 —Preemptive effect of NLRA
- § 21:35 —Preemptive effect of LMRA Section 301
- § 21:36 —Preemptive effect of ERISA
- § 21:37 — —Case illustrations

CHAPTER 22. REMEDIES

- § 22:1 Remedies—Introduction
- § 22:2 —Breach of contract—Compensatory damages
- § 22:3 — —Front pay
- § 22:4 — —Liquidated damages
- § 22:5 — —Punitive damages
- § 22:6 — —Mitigation of damages
- § 22:7 — —Reinstatement
- § 22:8 — —Attorney fees
- § 22:9 — —Prejudgment interest
- § 22:10 —Promissory estoppel cases
- § 22:11 —Tort actions—Fair measure of actual loss
- § 22:12 — —Mental injury
- § 22:13 — —Future damages
- § 22:14 — —Pleading damages
- § 22:15 — —Punitive damages
- § 22:16 — —Prejudgment interest
- § 22:17 — —Attorney fees
- § 22:18 —Civil Rights Acts—Framework
- § 22:19 — —Applicability to unauthorized and undocumented workers
- § 22:20 — —Back pay
- § 22:21 — —Front pay in lieu of reinstatement
- § 22:22 — —Injunctive relief
- § 22:23 — —Attorney fees
- § 22:24 — —Compensatory and punitive damages
- § 22:25 —ADEA
- § 22:26 — —Front pay
- § 22:27 — —Computation of back pay, setoff, mitigation
- § 22:28 —EPA
- § 22:29 —Section 504 of the Rehabilitation Act of 1973
- § 22:30 —ADA
- § 22:31 —Civil Rights Acts of 1866: 42 U.S.C.A. 1981
- § 22:32 —ERISA—Civil action
- § 22:33 — —Statutory relief
- § 22:34 — —Other relief unauthorized
- § 22:35 — —Attorney fees
- § 22:36 — —Prejudgment interest discretionary
- § 22:37 —OCRC
- § 22:38 —R.C. 4112.99

- § 22:39 —R.C. 4112.14
- § 22:40 —Election
- § 22:41 —Ohio's EPA
- § 22:42 —Tax consequences
- § 22:43 —Insurance implications—Immunity under Ohio workers' compensation laws
- § 22:44 — —Duty to defend
- § 22:45 — —Intentional tort
- § 22:46 — — —Deliberate intent to injure
- § 22:47 — — —Rebuttable presumption of intent to injure
- § 22:48 — —Employment discrimination actions

CHAPTER 23. EMPLOYMENT LAW FORMS

- § 23:1 Employment application release, disclaimer, and "truth or consequences" clause; form
- § 23:2 Reference and police records authorization; form
- § 23:3 Acknowledgment of pre-employment testing policy, consent, and release; form
- § 23:4 Acknowledgment of substance abuse policy, consent, and release; form
- § 23:5 Receipt for employee handbook; form
- § 23:6 Labor arbitration clause; form
- § 23:7 Employment dispute arbitration clause; form
- § 23:8 Employment dispute mediation clause; form
- § 23:9 ADA job description statements
- § 23:10 —Manual
- § 23:11 Separation agreement and release of all claims: OWBPA waiver language; form
- § 23:12 OCRC charge of discrimination; form
- § 23:13 OCRC notice of charge of discrimination; form
- § 23:14 OCRC basic charge data packet; form
- § 23:15 OCRC corporation check and background information; form
- § 23:16 OCRC case activity log; form
- § 23:17 OCRC notice to the persons we serve; form
- § 23:18 OCRC witness list; form
- § 23:19 OCRC charging party intake form
- § 23:20 OCRC procedures for charge handling; form
- § 23:21 OCRC questionable jurisdiction; form
- § 23:22 OCRC statement; form
- § 23:23 OCRC EEOC case tracking update; form
- § 23:24 OCRC medical release; form
- § 23:25 OCRC case information updates; form
- § 23:26 OCRC ADR/investigation options; form
- § 23:27 OCRC acknowledgment of ADR option; form
- § 23:28 OCRC information on proving discrimination; form
- § 23:29 EEOC ADR fact sheet; form
- § 23:30 EEOC agreement to mediate; form
- § 23:31 Disclosure—Obtaining a consumer report; form
- § 23:32 Authorization to obtain consumer report; form

TABLE OF CONTENTS

§ 23:33	Disclosure—Obtaining an investigative consumer report; form
§ 23:34	Pre-notification and disclosure—Adverse action based on a consumer report; form
§ 23:35	Notification and disclosure—Adverse action based on a consumer report; form
§ 23:36	Summary of rights under the FCRA; form
§ 23:37	Safe harbor language under the Genetic Information Nondiscrimination Act (GINA)
§ 23:38	Employment contract clauses—Term of employment
§ 23:39	—Protection of employer’s interests; matters of confidentiality
§ 23:40	—No compete; nonsolicitation clauses
§ 23:41	—Duty of loyalty and legal compliance
§ 23:42	—Termination of employment

APPENDIX

APPENDIX A. Glossary

Table of Laws and Rules

Table of Cases

Index