

Index

ABORTION

Freedom of Access to Clinic Entrances Act of 1994 (this index)
Religious Freedom Restoration Act, **5:43**

ABSENTEE BALLOTS

Generally, **2:83**

ABSTENTION

Color of law, deprivation of rights under, **14:141 et seq.**

ABUSE OF DISCRETION

Attorneys' fees, denial of fees to prevailing plaintiff, **16:26**

ACCOMMODATIONS

Americans with Disabilities Act (this index)
Housing, disabled persons, **12:64**
Public Accommodations (this index)
Reasonable Accommodation (this index)

ACQUIRED IMMUNE DEFICIENCY SYNDROME

Americans with Disabilities Act, **12:11**

ADJUSTMENTS TO ATTORNEYS' FEES

Attorneys' Fees (this index)

ADMINISTRATIVE CONVENIENCE

Employment discrimination, disparate impact cases, **9:82**

ADMINISTRATIVE PROCEEDINGS AND ENFORCEMENT

Eleventh Amendment immunity, deprivation of rights under color of law, **14:84**

ADMINISTRATIVE

PROCEEDINGS AND ENFORCEMENT—Cont'd
Employment discrimination, attorneys' fees, **9:177**
Individuals with Disabilities Education Act, **12:74, 12:79**
Rehabilitation Act of 1973, **12:58**

ADMISSIONS

Sex discrimination, **8:14, 8:31**

ADVERTISING

Age Discrimination in Employment Act, **11:13**
Housing Discrimination (this index)

ADVISORY OPINIONS

Attorneys' fees, prevailing parties, **16:4**

AFFIRMATIVE ACTION

Constitutional law, **1:30 et seq.**
Employment Discrimination (this index)
End of
Students for Fair Admissions v. Harvard, **1:40**
Equal Pay Act, **10:24**
Parents Involved v. Seattle School District, **1:42**

AFFIRMATIVE DEFENSES

Employment discrimination, business necessity, **9:89**

AGE

Twenty-Sixth Amendment, voting discrimination claims, **2:85**

AGE DISCRIMINATION

Employment Age Discrimination in Employment Act (this index)
Religious Freedom Restoration Act, **5:42**

AGE DISCRIMINATION IN EMPLOYMENT ACT (ADEA)

General discussion, **11:1 et seq.**
 Administration by Equal Employment Opportunity Commission, **11:3**
 Advertising, **11:13**
 Apprenticeship programs, **11:32**
 Arbitration agreements, **11:53**
 Attorneys' fees, **11:50**
 Bona fide apprenticeship programs, **11:32**
 Bona fide employee retirement and benefit plans, **11:28**
 Bona fide executives, **11:31**
 Bona fide occupational qualification, **11:25**
 Bona fide seniority systems, **11:29**
 Burden of proof, **11:20 et seq.**
 Burdens of production and persuasion, *Meacham v. Knolls Atomic Power Laboratory*, **11:27**
 Causation, **11:20 et seq.**
 Class actions, **11:39**
 Collateral estoppel, **11:43**
 Conditions of employment, **11:14**
 Constitutionality, **11:2**
 Constructive discharge, **11:16**
 Costs of action, **11:50**
 Damages, **11:45, 11:46**
 Discharge from employment, **11:15 et seq.**
 Disparate-impact theory, **11:22**
 Eleventh Amendment immunity, **11:11**
 Employer-employee relationship, **11:8 et seq.**
 Enforcement, generally, **11:35 et seq.**
 Equal Employment Opportunity Commission, **11:3, 11:36**
 Equitable relief, **11:47**
 Executives, **11:31**
 Exhaustion of remedies under state law, **11:35**
 Extraterritorial effect, **11:7**
 Federal employees, **11:37**
 Federal-sector retaliation claims, **11:38**

AGE DISCRIMINATION IN EMPLOYMENT ACT (ADEA)
 —Cont'd
 Filing of charge with EEOC, remedies and enforcement, **11:36**
 Firefighters, **11:30**
 First Amendment, employees with ministerial or religious functions, **11:34**
 Forms of discrimination prohibited, **11:12 et seq.**
 Front pay, **11:49**
 Good faith, **11:22**
 Government policymaking officials, **11:33**
 Gross v. FBL Financial Services, no mixed-motive standard, **11:24**
 Hazen Paper Co. v. Biggins, **11:21, 11:22**
 Hiring, **11:12**
 Hostile environment, **11:19**
 Intent, **11:22**
 Interest on judgment, **11:50**
 Jury trial, **11:42**
 Law enforcement officers, **11:30**
 Limitation periods, **11:40**
 Liquidated damages, **11:46**
 Ministerial functions, employees with, **11:34**
 Mixed-motive standard, no, **11:24**
 No mixed-motive standard, **11:24**
 Notice to Equal Employment Opportunity Commission, **11:36**
 Parent and subsidiary corporations, remedies and relief, **11:51**
 Pendent jurisdiction, **11:54**
 Police officers, **11:30**
 Policymaking officials, **11:9**
 Pretext, **11:20**
 Prima facie case, **11:20**
 Prohibitions, generally, **11:1**
 Purpose, **11:1**
 Reasonable factors other than age, action based on, **11:26**
 Rebuttal of prima facie case, **11:20**
 Reeves v. Sanderson Plumbing, **11:23**
 Reinstatement, **11:49**
 Relief. Remedies and relief, below

INDEX

AGE DISCRIMINATION IN EMPLOYMENT ACT (ADEA)
—Cont'd
Religious functions, employees with, **11:34**
Remedies and enforcement, filing of charge with EEOC, **11:36**
Remedies and relief
general discussion, **11:44 et seq.**
damages, **11:45, 11:46**
equitable relief, **11:47**
interest, costs and attorneys' fees, **11:50**
liquidated damages, **11:46**
McKennon v Nashville Banner Publishing Co., **11:52**
parents and subsidiaries, **11:51**
reinstatement or front pay, **11:49**
restoration of benefits, **11:48**
Restoration of benefits, **11:48**
Retaliation claims, federal-sector, **11:38**
Retaliatory discharge, **11:17**
Retirement plans, **11:28**
Reverse age discrimination, **11:18**
RFOA (reasonable factors other than age) provision, **11:22**
Section 1983, relationship to, **11:6**
Seniority systems, **11:29**
Smith v City of Jackson, **11:22**
State laws, relationship to, **11:5**
Subsidiary corporations, remedies and relief, **11:51**
Title VII, substantive parallels to, **11:4**

AGED PERSONS
Housing discrimination, **3:34 et seq.**

AGE REQUIREMENTS
Individuals with Disabilities Education Act, **12:68**

AGGRIEVED PARTIES
Housing discrimination, **3:13, 3:69**

AID/ASSIST
To voters, waiting in line at polling places
Restrictions on line warming, **2:88**

AIDS
Americans with Disabilities Act, **12:11**

ALABAMA BLACK CAUCUS
Voting rights, **2:62**

ALDEN v. MAINE
Sovereign immunity, **14:71**

ALIENS
Employment discrimination, **9:27**

ALLEN V. MILLIGAN
Ban on proportionality, Gingles
Reconciling the effects test of section 2, **2:13**

AMERICANS WITH DISABILITIES ACT
General discussion, **12:2 et seq.**
Accommodations and services
provided by private entities
general discussion, **12:37 et seq.**
accommodations, generally, **12:38**
alternative methods, failure to provide, **12:46**
architectural or communication barriers, failure to remove, **12:45**
Attorney General, enforcement by, **12:51**
commerce, activities that affect, **12:37**
damages, **12:51**
eligibility criteria that screen out disabled persons, **12:42**
enforcement, **12:49 et seq.**
equitable relief, **12:50, 12:51**
exclusion and segregation, failure to deter, **12:44**
goal of integration, **12:40**
good faith attempts to comply, enforcement by Attorney General, **12:51**
injunctive relief, **12:50**
private clubs and religious organizations, exemptions, **12:48**
readily achievable reforms, **12:47**

**AMERICANS WITH
DISABILITIES ACT—Cont'd**

Accommodations and services provided by private entities
—Cont'd
reasonable modifications, failure to make, **12:43**
remedies, **12:49 et seq.**
special practices prohibited, **12:41 et seq.**
Arbitration, employment, **12:31, 12:32**
Architectural barriers, accommodations and services provided by private entities, **12:45**
Attorney General, enforcement by, **12:51**
Commerce, activities that affect, **12:37**
Communication barriers, accommodations and services provided by private entities, **12:45**
Community settings, placement in, **12:35**
Constitutional law, **1:16**
Damages, accommodations and services provided by private entities, **12:51**
Disparate impact, employment, **12:22**
Disparate treatment, employment, **12:21**
Drug testing, employment, **12:29**
Eleventh Amendment immunity, employment, **12:8**
Employment
general discussion, **12:3 et seq.**
arbitration, **12:31, 12:32**
being regarded as having impairment, **12:12**
coverage, **12:4 et seq.**
covered entity, defined, **12:5**
disability, defined, **12:9 et seq.**
disparate impact, **12:22**
disparate treatment, **12:21**
drug testing, **12:29**
Eleventh Amendment immunity, **12:8**
employee, defined, **12:7**
enforcement, **12:30**

**AMERICANS WITH
DISABILITIES ACT—Cont'd**

Employment—Cont'd
entrance examinations, medical, **12:24**
essential functions, **12:17**
exemptions, **12:6**
forms of discrimination prohibited, **12:15 et seq.**
hearing aids, **12:13**
HIV infection, **12:11**
major life activity, **12:10**
mandatory medical examinations for employees, **12:26**
medical examinations, **12:23 et seq.**
mitigating measures, **12:13, 12:14**
motive and impact analysis, **12:20 et seq.**
preemployment medical examinations, **12:23**
qualification standards and testing, **12:18**
qualified individuals, **12:16**
reasonable accommodation, **12:17**
rehabilitation, substance abuse, **12:28**
safety standards, inability to meet, **12:19**
Social Security disability insurance standards, arbitration, **12:32**
substance abuse, **12:27 et seq.**
undue hardship, **12:17**
voluntary medical examinations for employees, **12:25**
Enforcement
accommodations and services provided by private entities, **12:49 et seq.**
employment, **12:30**
Entrance examinations, medical, **12:24**
Equitable relief, accommodations and services provided by private entities, **12:50, 12:51**
Essential functions, employment, **12:17**
Exemptions, employment, **12:6**

INDEX

AMERICANS WITH DISABILITIES ACT—Cont’d

- Good faith attempts to comply, enforcement by Attorney General, **12:51**
- Hearing aids, employment, **12:13**
- HIV infection, employment, **12:11**
- Impact analysis, employment, **12:20 et seq.**
- Injunctive relief, accommodations and services provided by private entities, **12:50**
- Medical examinations, employment, **12:23 et seq.**
- Mental institutions, placement in, **12:35**
- Mitigating measures, employment, **12:13, 12:14**
- Notice, employment, **12:20 et seq.**
- Preemployment medical examinations, **12:23**
- Private entities. Accommodations and services provided by private entities, above
- Public services, **12:33 et seq.**
- Public transportation, **12:36**
- Purpose, **12:2**
- Qualification standards and testing, employment, **12:18**
- Readily achievable reforms, accommodations and services provided by private entities, **12:47**
- Reasonable accommodation
 - accommodations and services provided by private entities, **12:43**
 - employment, **12:17**
- Rehabilitation, substance abuse, **12:28**
- Religious organizations, accommodations and services provided by private entities, **12:48**
- Remedies, accommodations and services provided by private entities, **12:49 et seq.**
- Safety standards, inability to meet, **12:19**
- Services provided by private entities. Accommodations and services
 - provided by private entities, above
 - Social Security disability insurance standards, arbitration, **12:32**
 - Special practices prohibited, accommodations and services provided by private entities, **12:41 et seq.**
 - Substance abuse, employment, **12:27 et seq.**
 - Undue hardship, employment, **12:17**
 - Voluntary medical examinations for employees, **12:25**

ANDERSON-BURDICK BALANCING TEST

- Generally, **2:87**

ANTI-PEONAGE ACT

- Involuntary Servitude** (this index)

APPEAL AND REVIEW

- Attorneys’ fees, **16:26, 16:35**
- Color of Law, Deprivation of Rights Under** (this index)
- Religious Freedom Restoration Act, **5:54**
- Voting rights, Section 2 violations, **2:27**

APPRENTICESHIP PROGRAMS

- Age Discrimination in Employment Act, **11:32**

ARBITRATION

- Age Discrimination in Employment Act, **11:53**
- Americans with Disabilities Act, **12:31, 12:32**
- Class arbitration in absence of agreement
 - Lamps Plus, **9:195**
 - Stolt-Nielsen, **9:195**
- Employment discrimination, Equal Employment Opportunity Commission procedures, **9:193**

ARCHITECTURAL BARRIERS

- Americans with Disabilities Act, accommodations and services

ARCHITECTURAL BARRIERS

—**Cont'd**
 provided by private entities,
12:45

ASHCROFT V. IQBBAL

Deprivation of rights under color of law, suits against federal officials and federal entities,
14:161

ASSOCIATION

Freedom of Association (this index)

ASSOCIATIONAL**DISCRIMINATION**

Employment discrimination, **9:196**

ATHLETICS

Sex discrimination, **8:29, 8:35**
 Sexual banter on athletic teams, **8:35**

AT-LARGE ELECTIONS

Voting rights, Section 2 violations,
2:19

ATTORNEYS

Attorneys' Fees (this index)
Attorneys General (this index)
 Employment discrimination, law firms, **9:25**

ATTORNEYS' FEES

General discussion, **16:1 et seq.**
 Abuse of discretion, denial of fees to prevailing plaintiff, **16:26**
 Adjustments to fee
 general discussion, **16:15 et seq.**
 downward adjustments, **16:17**
 partial success, **16:15**
 Prison Litigation Reform Act, **16:18**
 upward adjustments, **16:16**
 Advisory opinions, prevailing parties, **16:4**
 Age Discrimination in Employment Act, **11:50**
 Appeal, **16:26, 16:35**
 Causal test, prevailing parties, **16:3**
 Conspiracy to violate civil rights, **15:16**
 Contingency fees, **16:12**

ATTORNEYS' FEES—Cont'd

Declaratory relief, prevailing parties, **16:4**
 Denial of fees to prevailing plaintiff
 general discussion, **16:20 et seq.**
 abuse of discretion, standard of review, **16:26**
 appellate review, **16:26**
 briefing and presentation, inadequacy of, **16:22**
 ethical violations, **16:21**
 governmental defendants, **16:24**
 pro se plaintiffs, **16:25**
 special circumstances, generally, **16:20 et seq.**

Disabled or handicapped persons
 Rehabilitation Act of 1973, **12:62**
 Discretion of court, **16:10, 16:26**
 Eleventh Amendment immunity, **16:27**

Employment Discrimination (this index)

Enhancement for superior performance, **16:11**
 Equal Pay Act, **10:46**
 Ethical violations, denial of fees to prevailing plaintiff, **16:21**
 Frivolous cases, awards to prevailing defendants, **16:34**

Governmental entities
 immunity, **16:28**
 prevailing plaintiff, denial of fees to, **16:24**

Housing discrimination, private court actions, **3:74**

Immunity doctrine
 general discussion, **16:27 et seq.**
 Eleventh Amendment, **16:27**

governmental entities, suits against, **16:28**
 individual capacities, officials sued in, **16:30 et seq.**
 legislative immunity, officials sued in individual capacities, **16:32**
 official capacities, officials sued in, **16:29**

Individual capacities, officials sued in, **16:30 et seq.**

INDEX

ATTORNEYS' FEES—Cont'd

- Individuals with Disabilities Education Act, **12:77**
- Intervenors, prevailing parties, **16:6**
- Legal aid attorneys, **16:36**
- Legislative immunity, officials sued in individual capacities, **16:32**
- Limitations, legal aid attorneys, **16:36**
- Lodestar, reasonable fee, **16:8**
- Official capacities, officials sued in, **16:29**
- Partial success, adjustments to fee, **16:15**
- Pendent state law claims, success, **16:19**
- Preliminary injunctions, prevailing parties, **16:4**
- Prevailing market rate, reasonable fee, **16:9**
- Prevailing parties
 - general discussion, **16:2 et seq.**
 - causal test, **16:3**
 - denial of fees to prevailing plaintiff, above
 - failure to prevail, **16:7**
 - intervenors, **16:6**
 - qualification as, *Sole v. Wyner*, **16:5**
 - temporary restraining orders, preliminary injunctions, advisory opinions and declaratory relief, **16:4**
- Prison Litigation Reform Act, adjustments to fee, **16:18**
- Pro se plaintiffs, **9:182, 16:25**
- Public accommodations, **7:21**
- Purpose and constructions, generally, **16:1 et seq.**
- Reasonable fee
 - general discussion, **16:8 et seq.**
 - charges allowed, **16:13**
 - charges not permitted, **16:14**
 - contingency fees, **16:12**
 - discretion of court, **16:10**
 - lodestar, **16:8**
 - prevailing market rate, **16:9**
- Rehabilitation Act of 1973, **12:63**

ATTORNEYS' FEES—Cont'd

- Religious Freedom Restoration Act, **5:16**
- Retroactive application of civil rights legislation, **18:16**
- Settlements, **16:33**
- Success on pendent state law claims, **16:19**
- Temporary restraining orders, prevailing parties, **16:4**
- Voting rights, **2:48**

ATTORNEYS GENERAL

- Americans with Disabilities Act, enforcement of, **12:51**
- Freedom of Access to Clinic Entrances Act of 1994, **17:7**
- Housing Discrimination** (this index)

BACK PAY AND BENEFITS

- Employment Discrimination** (this index)
- Equal Pay Act, **10:41**

BAD FAITH

- Good Faith** (this index)

BAILOUT PROVISION

- Voting rights, **2:40**

BAN

- On proportionality, Reconciling the effects test of section 2
- Gingles
- holding in *Allen v. Milligan*, **2:13**

BANKRUPTCY

- Religious Freedom Restoration Act, **5:49**

BARS AND TAVERNS

- Public accommodations, **7:5**

BEAUTY PAGEANTS

- Sex discrimination, **8:22**

BIAS

- Employment discrimination, speech as evidence of bias, **9:151**

BILL OF RIGHTS

- Indian Civil Rights Act, **6:6**

BIVENS ACTIONS

General discussion, **14:155 et seq.**
Bush v. Lucas, 14:162
Carlson v. Green, 14:160
Davis v. Passman, 14:159
 Federal government, claims against, **14:168**
 Fourth Amendment, expansion beyond, **14:157**
 Injunctive relief against federal officers alleging unconstitutional action, **14:170**
 Limitations on Bivens, **14:158 et seq.**
 Private entities, **14:166**
 Privately operated federal prisons, **14:167**
Schweiker v. Chilicky, 14:164
 Service-related claims, **14:163**
 Waiver of sovereign immunity, **14:169**

BLOCKBUSTING

Housing discrimination, **3:48**

BOERNE V. FLORES

Constitutional law, **1:13**
 Religious Freedom Restoration Act, **5:3, 5:29**

BONA FIDE APPRENTICESHIP PROGRAMS

Age Discrimination in Employment Act, **11:32**

BONA FIDE EMPLOYEE RETIREMENT AND BENEFIT PLANS

Age Discrimination in Employment Act, **11:28**

BONA FIDE EXECUTIVES

Age Discrimination in Employment Act, **11:31**

BONA FIDE MEMBERSHIP CLUBS

Employment discrimination, **9:16**

BONA FIDE OCCUPATIONAL QUALIFICATION (BFOQ) DEFENSE

Age Discrimination in Employment Act, **11:25**

BONA FIDE OCCUPATIONAL**QUALIFICATION (BFOQ)****DEFENSE—Cont'd**

Employment Discrimination (this index)

BONA FIDE SENIORITY OR MERIT SYSTEMS

Age Discrimination in Employment Act, **11:29**
 Employment discrimination, disparate impact cases, **9:95 et seq.**
 Equal Pay Act, **10:28**

BOY SCOUTS AND SIMILAR ORGANIZATIONS

Public accommodations, **7:12**

BURDEN OF PROOF

Age Discrimination in Employment Act, **11:20 et seq.**
 Color of law, deprivation of rights under, **14:52**
 Constitutional law, **1:25**
Employment Discrimination (this index)
Equal Pay Act (this index)
 Federally assisted programs, **8:11**
Housing Discrimination (this index)
 Religious Freedom Restoration Act, **5:15, 5:34**
 Voting rights, Section 2 violations, **2:18**

BURDENS OF PRODUCTION AND PERSUASION

Age Discrimination in Employment Act (ADEA), *Meacham v. Knolls Atomic Power Laboratory*, **11:27**

BURDENS ON CAMPAIGN SPENDING

Voting rights, **2:80**

BUSINESS NECESSITY

Employment Discrimination (this index)

CAMPAIGN SPENDING

Voting rights, **2:80**

INDEX

CANDIDATES
Burdens on campaign spending, **2:80**

CAPTIVE AUDIENCES
Employment discrimination, freedom of speech, **9:160**

CAUSATION
Age Discrimination in Employment Act, **11:20 et seq.**
Attorneys' fees, prevailing parties, **16:3**
Color of law, deprivation of rights under, **14:18, 14:106**

CEASE AND DESIST PROVISIONS
Freedom of Access to Clinic Entrances Act of 1994, injunctions, **17:28**

CHALLENGES TO VOTER ID LAWS
Voting rights, Crawford decision, **2:79**

CHILD LABOR
Religious Freedom Restoration Act, **5:48**

CHRISTIAN LEGAL SOCIETY DECISION
Public accommodation, **7:15**

CIRCUMSTANTIAL EVIDENCE
Employment discrimination, disparate treatment, **9:43**

CIVIL RIGHTS
Compelled speech
303 creative decision, **9:158**
Students for Fair Admissions v. Harvard
end of affirmative action, **1:40**

CIVIL RIGHTS ACTS
General discussion, **Appx. B, Appx. G10 to G12**
Color of Law, Deprivation of Rights Under (this index)
Commerce clause, **1:18**
Conspiracy to Violate Civil Rights (this index)

CIVIL RIGHTS ACTS—Cont'd
Contracts. Property, Contract and Economic Rights (this index)
Disparate-impact theory, **11:22**
Economic rights. Property, Contract and Economic Rights (this index)
Education, **11:22**
Employment discrimination, **9:4, 9:75, 9:87 et seq.**
End of affirmative action
Students for Fair Admissions v. Harvard, **1:40**
Federally Assisted Programs (this index)
Good faith, **11:22**
Griggs v. Duke Power Co., **11:22**
Intelligence tests, **11:22**
Property, Contract and Economic Rights (this index)
Retroactive Application of Civil Rights Legislation (this index)
Retroactivity, Civil Rights Act of 1991
immigration and deportation changes, **18:18**
Section 1983. Color of Law, Deprivation of Rights Under (this index)
Section 1985(3). Conspiracy to Violate Civil Rights (this index)
Section 1981. Property, Contract and Economic Rights (this index)
Section 1982. Property, Contract and Economic Rights (this index)
Tests and testing, **11:22**

CIVIL RIGHTS ATTORNEYS' FEES AWARDS ACT OF 1976
Color of law, deprivation of rights under, **14:6, 14:78**

CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS ACT
Color of law, deprivation of rights under, **14:111**

CLAIMS

Voting age, discrimination
Twenty-Sixth Amendment, **2:85**

CLASS ACTIONS

Age Discrimination in Employment Act, **11:39**
Employment discrimination, back pay, **9:170**

CLASS ARBITRATION

Agreement, absence of, **9:195**

CLASS OF ONE CLAIMS

Enforcement of civil rights, **1:51**

CLEAR STATEMENT PRINCIPLE

Retroactive application of civil rights legislation, **18:7**

COERCION OR COMPULSION

Housing discrimination, **3:49**
Public accommodations, **7:16**

COLLATERAL ESTOPPEL

Age Discrimination in Employment Act, **11:43**
Color of law, deprivation of rights under, **14:138**
Equal Pay Act, jury trial, **10:39**

COLLECTIVE BARGAINING

Equal Pay Act, **10:4**

COLLEGES AND UNIVERSITIES

Constitutional law, affirmative action, **1:37 et seq.**
Employment discrimination, appointments and promotions, **9:93**
Religious Freedom Restoration Act, **5:47**

COLOR OF LAW, DEPRIVATION OF RIGHTS UNDER

General discussion, **14:1 et seq.**
Abstention, **14:141 et seq.**
Actions taken under color of law general discussion, **14:8 et seq.**
Indian tribes, **14:10**
physicians, **14:13**
professional contractors, **14:11**
public and private actors performing in concert, **14:14**

COLOR OF LAW, DEPRIVATION OF RIGHTS UNDER—Cont'd

Actions taken under color of law
—Cont'd
public defenders, **14:12 et seq.**
state action doctrine, relationship to, **14:9**
Administrative acts of governing bodies, immunity, **14:44**
Administrative matters, state sovereign immunity in federal administrative proceedings, **14:83:50**
Administrative proceedings, Eleventh Amendment immunity, **14:84**
Appeal and review
Eleventh Amendment immunity, denial of, **14:75**
interlocutory appeals, immunity, **14:55, 14:56**
Ashcroft v. Iqbal, purposeful discrimination requirement, suits against federal officials and federal entities, **14:161**
Bivens actions against private entities, **14:166**
Bivens Actions (this index)
Breach of contract remedies, due process claims, **14:131**
Burdens on plaintiff, immunity, **14:52**
Burford abstention, **14:145**
Causation, **14:106**
Civil Rights Attorneys' Fees Awards Act of 1976, **14:6, 14:78**
Civil Rights of Institutionalized Persons Act, exhaustion of state remedies, **14:111**
Collateral estoppel, state law and Section 1983 litigation, **14:138**
Commerce clause, Eleventh Amendment immunity, **14:81, 14:82**
Common law, immunity, **14:28**
Compensatory damages, **14:150**
Comprehensive remedial schemes in other federal statutes, **14:102**
Congressional intent, immunity, **14:28**
Congruence and proportionality test, Eleventh Amendment immunity, **14:83**

INDEX

COLOR OF LAW, DEPRIVATION OF RIGHTS UNDER—Cont'd

Consent decrees, Eleventh Amendment immunity, **14:72**
Consent to suit by state, Eleventh Amendment immunity, **14:74**
Constitutional claims, **14:99**
Damages, **14:150 et seq.**
Declaratory relief, **14:149**
Definition of person under § 1983, **14:18**
District of Columbia, **14:21**
Due process claims
 general discussion, **14:114 et seq.**
 amount of process that is due, **14:117**
 Baker v. McCollan, **14:125**
 breach of contract remedies, **14:131**
 Hudson v. Palmer, **14:127**
 Ingraham v. Wright, **14:124**
 interest in life, liberty or property, **14:116**
 interplay of federal and state remedies, generally, **14:114 et seq.**
 Logan v. Zimmerman Brush Company, **14:129**
 negligent deprivations, **14:128**
 Parratt v. Taylor, **14:126**
 Paul v. Davis, **14:119 et seq.**
 postdeprivation due process, **14:118 et seq.**
 sex offender registries, **14:124**
 standards of liability, **14:105**
 structure of due process doctrine, **14:115 et seq.**
 substantive due process claims, **14:132**
 takings clause claims, **14:135**
 Zinermon v. Burch, **14:130**
Eleventh Amendment immunity
 general discussion, **14:59 et seq.**
 administrative proceedings, **14:84**
 appeal from denial of immunity, **14:75**
 attempts to secure compliance with state law, **14:66**
Civil Rights Attorneys' Fees Awards Act, **14:78**

COLOR OF LAW, DEPRIVATION OF RIGHTS UNDER—Cont'd

Eleventh Amendment immunity
 —Cont'd
 commerce clause, laws passed pursuant to, **14:81, 14:82**
 Congress may override Eleventh Amendment, **14:76 et seq.**
 congruence and proportionality test, **14:83**
 consent decrees, enforcement of, **14:72**
 consent to suit by state, **14:74**
 Hans v. Louisiana, **14:62**
 Idaho v. Coeur d'Alene Tribe, **14:65**
 indemnification arrangements with federal government, **14:85**
 individual capacities of officials, suits, **14:67**
 municipalities, **14:68, 14:80**
 prospective relief, **14:63 et seq.**
 removal from state to federal court, **14:72**
 retrospective monetary relief, **14:69**
 Seminole Tribe v. Florida, **14:64**
 sovereign immunity in state courts, **14:71**
 statute is not general override as applied to states, **14:79 et seq.**
 Title VII remedies, Congress may override Eleventh Amendment, **14:77**
 waiver of Eleventh Amendment immunity, **14:74**
Equal Employment Opportunity Commission enforcement, **14:171**
Exhaustion of state remedies
 general discussion, **14:107 et seq.**
 Civil Rights of Institutionalized Persons Act, **14:111**
 Monroe v. Pape, **14:107**
 Patsy v. Board of Regents, **14:110**
 Prison Litigation Reform Act, **14:112**
 state court actions, **14:113**
Freestanding state-of-mind, **14:97**

**COLOR OF LAW, DEPRIVATION
OF RIGHTS UNDER—Cont'd**

- Freeze effect of Harlow on development of substantive civil rights law, **14:51**
- Good faith immunity defense, municipal liability, **14:88**
- Governmental entities
 - general discussion, **14:59 et seq.**
 - Eleventh Amendment immunity, above
 - municipal liability, below state court, actions filed in, **14:86**
- Habeas corpus, **14:146**
- Haywood v. Drown, state attempts to oust state courts of § 1983 jurisdiction violate Supremacy, **14:137**
- History
 - general discussion, **14:1 et seq.**
 - Civil Rights Attorneys' Fees Awards Act of 1976, **14:6**
 - federal statutory rights, extension to, **14:5**
 - Monroe v. Pape, **14:3 et seq.**
 - municipal liability, extension of, **14:4**
 - volume of litigation, **14:7**
- Immunity
 - general discussion, **14:27 et seq.**
 - administrative acts of governing bodies, **14:44**
 - Anderson v. Creighton, **14:50**
 - Buckley v. Fitzsimmons, **14:38**
 - burdens on plaintiff, **14:52**
 - Burns v. Reed, **14:37**
 - common law, **14:28**
 - Congressional intent, **14:28**
 - drastic nature of absolute immunity, **14:32**
 - Eleventh Amendment immunity, above
 - freeze effect of Harlow on development of substantive civil rights law, **14:51**
 - functional approach to absolute immunity, **14:30**
 - governmental entities, above
 - Harlow v. Fitzgerald, **14:48**

**COLOR OF LAW, DEPRIVATION
OF RIGHTS UNDER—Cont'd**

- Immunity—Cont'd
 - Imbler v. Pachtman, **14:35**
 - interlocutory appeals, **14:55, 14:56**
 - jurors, **14:45**
 - Kalina v. Fletcher, **14:39**
 - legislative immunity, **14:41 et seq.**
 - local legislative bodies, **14:43**
 - Mitchell v. Forsyth, **14:36, 14:49**
 - Pierson v. Ray, **14:32**
 - plea bargains, prosecutors, **14:40**
 - pleading standards, **14:57**
 - President of United States, **14:46**
 - prosecutors, **14:35 et seq.**
 - qualified immunity for private defendants, **14:58**
 - qualified vs. absolute immunity, **14:29 et seq.**
 - quasi-judicial authority, **14:34**
 - questions of law, **14:53**
 - standards of liability, **14:98**
 - Supreme Court of Virginia v. Consumers Union, **14:42**
 - witnesses, **14:45**
- Implementation of municipal policy or custom, **14:17**
- Indemnification arrangements with federal government, Eleventh Amendment immunity, **14:85**
- Indian tribes, actions taken under color of law, **14:10**
- Individual capacities of state and local officials, **14:26**
- Injunctive relief, **14:149**
- Interest in life, liberty or property, due process claims, **14:116**
- Interest on Lawyers Trust Accounts (IOLTA), **14:135**
- Interlocutory appeals, immunity, **14:55, 14:56**
- Jurisdiction, **14:147**
- Jury and jury trial, **14:45, 14:154**
- Just Compensation clause, **14:135**
- Legislative immunity, **14:41 et seq.**
- Local entities other than municipalities, **14:23**
- Local legislative bodies, immunity, **14:43**

INDEX

COLOR OF LAW, DEPRIVATION OF RIGHTS UNDER—Cont'd

Locus of policymaking authority, municipal liability, **14:91**

Monell v. Department of Social Services, municipalities are persons, **14:18**

Municipal liability

- general discussion, **14:16 et seq.**
- Eleventh Amendment immunity, **14:68, 14:80**
- extension of liability, **14:4**
- good faith immunity defense, **14:88**
- implementation of municipal policy or custom, **14:90 et seq.**
- individual officer liability, relationship to municipal liability, **14:94**
- limitations on liability, **14:89 et seq.**
- locus of policymaking authority, **14:91**

Monell v. Department of Social Services, **14:87**

policymaker, determining for whom official is, **14:96**

proximate cause, **14:18**

punitive damages, **14:95, 14:153**

respondeat superior, **14:19, 14:89**

single acts, liability for, **14:91**

supervision and training, **14:93**

Negligent deprivations, due process claims, **14:128**

Nominal damages, **14:151**

Official capacity of state and local officials, **14:24**

Paul v Davis test and sex offender registries, **14:123**

Pearson v. Callahan, qualified immunity issues, **14:54**

Pennhurst doctrine, **14:140**

Person, defined

- general discussion, **14:15 et seq.**
- District of Columbia, **14:21**
- implementation of municipal policy or custom, **14:17**

COLOR OF LAW, DEPRIVATION OF RIGHTS UNDER—Cont'd

Person, defined—Cont'd

- individual capacities of state and local officials, **14:26**
- local entities other than municipalities, **14:23**
- municipalities, **14:16 et seq.**
- official capacity of state and local officials, **14:24**
- proximate cause, municipalities, **14:18**
- respondeat superior, municipalities, **14:19**
- retrospective or prospective relief, state and local officials, **14:25**

Section 1983, **14:18**

state and local officials, **14:24 et seq.**

states and state subdivisions, **14:20, 14:74**

territories, **14:22**

Physicians, actions taken under color of law, **14:13**

Plea bargains, immunity of prosecutors, **14:40**

Pleading standards, immunity, **14:57**

Postdeprivation due process, **14:118 et seq.**

President of United States, immunity, **14:46**

Private rights of action, **14:103, 14:104**

Professional contractors, actions taken under color of law, **14:11**

Prosecutors, immunity, **14:35 et seq.**

Prospective or retrospective relief

- Eleventh Amendment immunity, **14:63 et seq.**
- state and local officials, **14:25**

Proximate cause, municipalities, **14:18**

Public and private actors performing in concert, actions taken under color of law, **14:14**

Public defenders, actions taken under color of law, **14:12 et seq.**

Pullman abstention, **14:142**

COLOR OF LAW, DEPRIVATION OF RIGHTS UNDER—Cont'd

- Punitive damages, **14:95, 14:152, 14:153**
- Qualified immunity for private defendants, **14:58**
- Qualified immunity issues, Pearson v. Callahan, **14:54**
- Quasi-judicial authority, immunity, **14:34**
- Questions of law, immunity, **14:53**
- Removal from state to federal court, Eleventh Amendment immunity, **14:72**
- Removal of action to federal court, **14:71:50**
- Res judicata, state law and Section 1983 litigation, **14:139**
- Respondent superior, municipalities, **14:19, 14:89**
- Retrospective relief. Prospective or retrospective relief, above
- Rooker-Feldman doctrine, **14:147**
- Rooker-Feldman doctrine, **14:147**
- § 1983, definition of person under, **14:18**
- Seventh Amendment, **14:154**
- Sex offender registries, due process claims, **14:123**
- Sovereign immunity in state courts, Eleventh Amendment immunity, **14:71**
- Sovereign immunity of state in federal administrative proceedings, **14:83:50**
- Spending clause statutes, private rights of action in, **14:104**
- Standards of liability
 - general discussion, **14:97 et seq.**
 - causation, **14:106**
 - comprehensive remedial schemes in other federal statutes, **14:102**
 - constitutional claims, **14:99**
 - due process, **14:105**
 - freestanding state-of-mind, **14:97**
 - immunity doctrines, **14:98**
 - laws that create no enforceable rights, **14:101**

COLOR OF LAW, DEPRIVATION OF RIGHTS UNDER—Cont'd

- Standards of liability—Cont'd
 - Maine v. Thiboutot and its progeny, **14:101, 14:102**
 - private rights of action, **14:103, 14:104**
 - spending clause statutes, private rights of action in, **14:104**
 - statutory claims, **14:100 et seq.**
 - vagueness, **14:105**
- State action doctrine, relationship to actions taken under color of law, **14:9**
- State and local officials, generally, **14:24 et seq.**
- State attempts to oust state courts of § 1983 jurisdiction violate Supremacy Clause, Haywood v. Drown, **14:137**
- State-created danger doctrine, **14:133**
- State law and Section 1983 litigation
 - general discussion, **14:136 et seq.**
 - abstention, **14:141 et seq.**
 - Burford abstention, **14:145**
 - claims filed in state courts, **14:136**
 - collateral estoppel, **14:138**
 - Colorado River abstention, **14:143**
 - habeas corpus, **14:146**
 - Pennhurst doctrine, **14:140**
 - preclusion issues, **14:138 et seq.**
 - Pullman abstention, **14:142**
 - res judicata, **14:139**
 - Younger v. Harris abstention, **14:144**
 - State-of-mind, **14:97**
 - States and state subdivisions, generally, **14:20, 14:74**
 - Statutes of limitation borrowed from state law, **14:148**
 - Statutory claims, **14:100 et seq.**
 - Subject matter jurisdiction, **14:147**
 - Suits against federal officials and federal entities, Ashcroft v. Iqbal, purposeful discrimination requirement, **14:161**
 - Suits against federal officials and federal entities, Wilkie v. Robbins, **14:165**

INDEX

COLOR OF LAW, DEPRIVATION OF RIGHTS UNDER—Cont'd

Supervision, municipal liability, **14:93**
Supremacy Clause, Haywood v. Drown, **14:137**
Takings Clause claims, **14:135**
Takings clause claims, due process claims, **14:135**
Territories, **14:22**
Title VII remedies, Congress may override Eleventh Amendment, **14:77**
Training, municipal liability, **14:93**
Vagueness, **14:105**
Waiver of Eleventh Amendment immunity, **14:74**
Wilkie v. Robbins, suits against federal officials and federal entities, **14:165**
Witnesses, immunity, **14:45**
Younger v. Harris abstention, **14:144**

COMMERCE CLAUSE

General discussion, **1:17 et seq.**
Civil Rights Act of 1964, history leading to, **1:18**
Color of law, deprivation of rights under, **14:81, 14:82**
Employment discrimination, operations that affect commerce, **9:8**
Sources of congressional authority to enforce civil rights, generally, **1:17 et seq.**
United States v. Lopez, **1:19, 1:20**
United States v. Morrison, **1:21**

COMMERCIAL SPEECH

Housing discrimination, advertising and notices, **3:42, 3:43**

COMMON LAW

Color of law, deprivation of rights under, **14:28**

COMMUNICATION BARRIERS

Americans with Disabilities Act, accommodations and services provided by private entities, **12:45**

COMMUNITY SERVICE PROGRAMS

Involuntary servitude, **4:5**

COMPARABLE WORTH

Equal Pay Act, equal work, **10:11**

COMPENSATION

Equal Pay Act (this index)

CONGRESSIONAL AUTHORITY

Indian Civil Rights Act, jurisdiction, **6:10**
Voting Rights Act, **2:55**

CONGRUENCE AND PROPORTIONALITY

Color of law, deprivation of rights under, **14:83**
Constitutional law, **1:14**

CONSENT DECREES

Color of law, deprivation of rights under, **14:72**
Employment discrimination, affirmative action, **9:72 et seq.**
Housing discrimination, private court actions, **3:77**

CONSENT TO SUIT BY STATE

Color of law, deprivation of rights under, **14:74**

CONSPIRACY TO VIOLATE CIVIL RIGHTS

General discussion, **15:1 et seq.**
Attorneys' fees, **15:16**
Bray v. Alexandria Women's Health Clinic, **15:7, 15:8**
Class-based animus, **15:7**
Defining protected classes, **15:10**
Elements of cause of action, **15:4 et seq.**
Failure to prevent conspiracies, **15:17**
Federal officers, interference with duties of, **15:2**
Griffin v. Breckenridge, **15:6**
Immunities, **15:15**
Interference with duties of federal officers, **15:2**
Interference with judicial process, **15:3**

CONSPIRACY TO VIOLATE CIVIL RIGHTS—Cont'd

Intracorporate conspiracies, **15:9**
 Judicial process, interference with, **15:3**
 Remedies, **15:12 et seq.**
 Rights guaranteed against private impairment, **15:8**
 Title VII claims, relationship to, **15:11**

CONSTITUTIONAL LAW

General discussion, **1:1 et seq.**
Adarand Constructors v. Pena, 1:36 et seq.
 Affirmative action cases, **1:30 et seq.**
Age Discrimination in Employment Act, 11:2
 Agency interpretation of statutes and rules and principles of judicial deference, **1:56**
Americans with Disabilities Act, state immunity under, 1:16
 Attacks on diversity, equity, and inclusion or critical race theory, **1:61**
Bakke, affirmative action cases, 1:31, 1:37
 Burden of proof requirements, easing of, **1:25**
 Color of law, deprivation of rights under, **14:99**
Commerce Clause (this index)
 Congruence and proportionality, **1:14**
 Double jeopardy, Indian Civil Rights Act, **6:5**
 Due process. **Color of Law, Deprivation of Rights Under** (this index)
 Elaboration of constitutional doctrine, statutes as, **1:2**
Eleventh Amendment (this index)
Employment Discrimination (this index)
 End of affirmative action
 Students for Fair Admissions v. Harvard, **1:40**
 Enforcement of civil rights, constitutional equal protection principles, **1:51**

CONSTITUTIONAL LAW—Cont'd

Enforcement vs. dilution, **1:12**
 Enhancement of available remedies general discussion, **1:24 et seq.**
 burden of proof requirements, easing of, **1:25**
 Cuyahoga Falls decision, easing of burden of proof requirements, **1:25**
 provision of additional remedies, **1:24**
 substantive legal principles, alteration of, **1:26**
Equal Pay Act, 10:3
Equal Protection (this index)
 Expansion of topical reach of civil rights statutes to prohibit new forms of discrimination, **1:23**
 Federal agencies, separation of powers and the composition of, **1:58**
 Federalism and Tenth Amendment anticommandeering principle, **1:55**
Fifteenth Amendment (this index)
Fisher v. University of Texas, 1:31
Fourteenth Amendment (this index)
Freedom of Access to Clinic Entrances Act of 1994 (this index)
Freedom of Association (this index)
Freedom of Religion (this index)
Freedom of Speech (this index)
Fullilove v. Klutznick, affirmative action cases, **1:32**
Housing Discrimination (this index)
 Interplay of constitutional and statutory law in civil rights enforcement, generally, **1:1 et seq.**
 Judicial deference, agency interpretation of statutes and rules and principles of, **1:56**
 Marijuana, medical, **1:22**
 Medical marijuana, **1:22**
 Metro Broadcasting decision, **1:35 et seq.**
 Michigan affirmative action cases, **1:38**
 Multiple sources of civil rights law, **1:1**

INDEX

CONSTITUTIONAL LAW—Cont'd

New forms of discrimination, expansion of topical reach of civil rights statutes to prohibit, **1:23**

Nineteenth Amendment, **1:10**

Non-delegation doctrine, **1:57**

Outcome and process theories, tension between, generally, **1:27 et seq.**

Philosophical overview of constitutional and statutory principles, generally, **1:27 et seq.**

Policy overview of constitutional and statutory principles, generally, **1:27 et seq.**

Process and outcome theories, tension between, generally, **1:27 et seq.**

Proportionality and congruence, **1:14**

Public accommodations, **7:2**

Religious objections to same-sex marriage law, **1:50**

Same-sex marriage, **1:48 et seq.**

School desegregation cases, **1:28**

Schuette v. Coalition to Defend Affirmative Action, **1:41**

Separation of powers, composition of federal agencies, **1:58**

Sex discrimination, **8:38**

Sources of civil rights law, **1:1**

Sources of congressional authority to enforce civil rights general discussion, **1:8 et seq.**

Americans with Disabilities Act, state immunity under, **1:16**

Boerne v. Flores, limits on enforcement power, **1:13**

Commerce Clause (this index)

congruence and proportionality, **1:14**

enforcement vs. dilution, **1:12**

Fifteenth Amendment, **1:10**

Fourteenth Amendment, **1:9**

Nineteenth Amendment, **1:10**

Oregon v. Mitchell, **1:11**

Twenty-Sixth Amendment, **1:10**

Violence Against Women Act, **1:15**

Standing, **1:59**

CONSTITUTIONAL LAW—Cont'd

State Action Doctrine (this index)

Strict scrutiny, affirmative action cases, **1:33**

Substantive legal principles, alteration of, **1:26**

Terrorism, war against, **1:52**

The various tiers of constitutional scrutiny, **1:40**

Thirteenth Amendment (this index)

Twenty-Sixth Amendment, **1:10**

Universal injunctions, prohibitions on federal courts to issue, **1:62**

Various tiers of constitutional scrutiny, **1:60**

Violence Against Women Act, **1:15**

Voting Rights Act, **2:74, 2:75**

Voting Rights (this index)

CONSTRUCTIVE DISCHARGE

Age Discrimination in Employment Act, **11:16**

Employment discrimination, sex discrimination, **9:130**

CONTINGENCY FEES

Attorneys' fees, **16:12**

CONTINUING VIOLATIONS

Employment discrimination, Equal Employment Opportunity Commission procedures, **9:192**

CONTRACTS

Property, Contract and Economic Rights (this index)

CORONAVIRUS

Covid-19 Pandemic (this index)

COSTS OF ACTION

Age Discrimination in Employment Act, **11:50**

Equal Pay Act, **10:45**

COUNSEL

Attorneys (this index)

COURT MANDATED FORMS OF GOVERNMENT

Voting rights, equitable remedies, **2:53**

COVERED JURISDICTIONS

Voting Rights Act, **2:55**

COVID-19 PANDEMIC

Elections and voting, regulations and restrictions on, **2:86**

Religious discrimination claims arising from pandemic regulations, **5:55**

CRAWFORD DECISION

Voting rights, challenges to voter ID laws, **2:79**

CREDENTIALS AND OTHER OBJECTIVE CRITERIA

Employment discrimination, disparate impact cases, **9:94**

CRIMINAL PENALTIES

Freedom of Access to Clinic Entrances Act of 1994, **17:4**

CUSTOMER PREFERENCE

Employment discrimination, disparate impact cases, **9:82**

DAMAGES

Age Discrimination in Employment Act, **11:45, 11:46**

Americans with Disabilities Act, accommodations and services provided by private entities, **12:51**

Color of law, deprivation of rights under, **14:150 et seq.**

Housing discrimination, private court actions, **3:71, 3:72**

Liquidated Damages (this index)

Mitigation of Damages (this index)

Property, contract and economic rights, **13:20**

Public accommodations, **7:20**

Punitive Damages (this index)

Sex discrimination, private right of action, **8:25**

DAMAGE TO PROPERTY

Freedom of Access to Clinic Entrances Act of 1994, **17:17 et seq.**

DEATH OF PARTY

Survival of Fair Housing Act claims after death of party, **3:86**

DECLARATORY RELIEF

Attorneys' fees, prevailing parties, **16:4**

Color of law, deprivation of rights under, **14:149**

Employment discrimination, **9:164**

Public accommodations, **7:19**

DEFAMATION

Employment discrimination, freedom of speech, **9:159**

DEFERENCE TO ADMINISTRATIVE CONSTRUCTION

Equal Pay Act, **10:30**

Statutes and rules, interpretation of, **1:56**

DEFERENCE TO FINDINGS OF ATTORNEY GENERAL

Voting rights, Section 5 violations, **2:42**

DEFINITIONS

Person under § 1983, **14:18**

DEPORTATION

Civil Rights Act of 1991, retroactive changes in immigration and deportation, **18:18**

Retroactive application of civil rights legislation, **18:18**

DESTRUCTION OF PROPERTY

Freedom of Access to Clinic Entrances Act of 1994, **17:17 et seq.**

DINING FACILITIES

Public accommodations, **7:4 et seq.**

DIRECT PARTISAN PRIMARIES

Voting Rights Act, **2:75**

DISABLED OR HANDICAPPED PERSONS

General discussion, **12:1 et seq.**

Americans with Disabilities Act (this index)

INDEX

DISABLED OR HANDICAPPED PERSONS—Cont'd
Associational disability claims, **12:80**
Eleventh Amendment immunity, remedies and attorney's fees, Rehabilitation Act of 1973, **12:62**
Housing, **12:64 et seq.**
Housing Discrimination (this index)
Individuals with Disabilities Education Act (IDEA), right of parents to participate in administrative hearings and judicial review, **12:79**
Individuals with Disabilities Education Act (this index)
Punitive damages under Rehabilitation Act of 1973, **12:61**
Rehabilitation Act of 1973
Eleventh Amendment immunity, remedies and attorney's fees, **12:62**
punitive damages under, **12:61**
remedies and attorney's fees, **12:62**
Rehabilitation Act of 1973 (this index)
Remedies and attorney's fees, Rehabilitation Act of 1973, **12:62**

DISCHARGE FROM EMPLOYMENT
Age Discrimination in Employment Act, **11:15 et seq.**
Constructive Discharge (this index)

DISCIPLINARY PROCEEDINGS
Challenges to, Title IX, **8:43**

DISCLOSURE
Referendum petition signatures, **2:82**

DISCOVERY
Indian Civil Rights Act, **6:2**

DISCRETION OF COURT
Attorneys' fees, **16:10, 16:26**
Employment discrimination, denial of attorneys' fees, **9:175**

DISCRIMINATION
Claims, voting age
Twenty-Sixth Amendment, **2:85**

DISCRIMINATION—Cont'd
Discrimination in Property, Contract, and Economic Rights (this index)
Employment Discrimination (this index)

DISCRIMINATION IN PROPERTY, CONTRACT, AND ECONOMIC RIGHTS
Contractual relationships, **13:12**
§ 1981, retaliation claims under, **13:16**
Retaliation claims brought under § 1981, **13:16**

DISENFRANCHISEMENT LAWS
Voting rights, Section 2 violations, **2:25**

DISPARATE IMPACT
Americans with Disabilities Act, **12:22**
Employment Discrimination (this index)

DISPARATE-IMPACT THEORY
Age Discrimination in Employment Act (ADEA), **11:22**
Civil Rights Act of 1964, **11:22**
Education, **11:22**
Employment discrimination, **11:22**
Good faith, **11:22**
Griggs v. Duke Power Co., **11:22**
Hazen Paper Co. v. Biggins, **11:22**
Intelligence tests, **11:22**
Intent, **11:22**
Smith v. City of Jackson, **11:22**
Tests and testing, **11:22**
Title VII, Ricci v. DeStefano, **9:26**

DISPARATE TREATMENT
Americans with Disabilities Act, **12:21**
Employment Discrimination (this index)
Title VII, Ricci v. DeStefano, **9:26**

DISTRICT OF COLUMBIA
Color of law, deprivation of rights under, **14:21**

DOCTORS

Color of law, deprivation of rights under, **14:13**

DOUBLE JEOPARDY

Indian Civil Rights Act, **6:5**

DRUGS AND NARCOTICS

Americans with Disabilities Act, **12:27 et seq.**

Housing discrimination, drug offenders, **3:24**

Medical marijuana, constitutional law, **1:22**

Religious Freedom Restoration Act, drug use, **5:46**

DUAL SOVEREIGNTY

Indian Civil Rights Act, **6:5**

DUE PROCESS

Color of Law, Deprivation of Rights Under (this index)

EARLY BALLOTS

Generally, **2:83**

ECONOMIC DISCRIMINATION

Discrimination in Property, Contract, and Economic Rights (this index)

ECONOMIC RIGHTS

Property, Contract and Economic Rights (this index)

EDUCATION

Civil Rights Act of 1964, **11:22**

Disparate-impact theory, **11:22**

Griggs v. Duke Power Co., **11:22**

Schools and Education (this index)

Sex discrimination in employment, **8:33**

Title IX

retaliation claims, **8:25**

ELDERLY PERSONS

Housing discrimination, **3:34 et seq.**

ELECTIONS

Voting Rights (this index)

ELECTIONS CLAUSE

Moore v. Harper

Rejection of the independent state legislature theory, **2:71**

ELEVENTH AMENDMENT

Age Discrimination in Employment Act, **11:11**

Americans with Disabilities Act, **12:8**

Attorneys' fees, **16:27**

Color of Law, Deprivation of Rights Under (this index)

Equal Pay Act, **10:9**

Remedies and attorney's fees, Rehabilitation Act of 1973, **12:62**

EMPLOYMENT AGENCIES

Employment discrimination, **9:21**

EMPLOYMENT CASES

303 Creative decision

compelled speech, Civil rights, **9:158**

Enforcement of civil rights, constitutional equal protection and rejection of class of one claims in, **1:51**

EMPLOYMENT DISCRIMINATION

General discussion, **9:1 et seq.**

Accommodation, religious discrimination, **9:116, 9:117**

Administrative convenience as business necessity, disparate impact cases, **9:82**

Administrative filing prerequisite to suit, Equal Employment Opportunity Commission procedures, **9:186**

Administrative proceedings, attorneys' fees, **9:177**

Adverse employment action, what constitutes, **9:148**

Affirmative action

general discussion, **9:56 et seq.**

cities with substantial minority power base, **9:68**

Civil Rights Act of 1991, **9:75**

consent decrees, **9:72 et seq.**

INDEX

EMPLOYMENT

DISCRIMINATION—Cont'd

Affirmative action—Cont'd
constitutional standards applicable
to government programs, **9:58**
court-ordered affirmative action
remedies, **9:69 et seq.**
excessive infringement on
opportunities of majority
group members, avoidance of,
9:67
Executive Order 11246, **9:76**
Firefighters Local v. Stotts, **9:72**
flexibility and multifactor
individualized decision making
vs. inflexible numerical
quotas, **9:66**
governmental employers, **9:57,**
9:58
Johnson v. Transportation Agency,
9:62
Local 93 v. City of Cleveland, **9:73**
Martin v. Wilks, **9:74, 9:75**
Section 2000e-5(g), **9:59**
Section 2000e-2(j), **9:60**
Sheet Metal Workers, **9:71**
standing and claims brought by
men for discrimination
against women, **9:77**
summary of factors that influence
approval or disapproval of
plan, **9:63 et seq.**
temporary vs. permanent plans
designed to remedy past
imbalance, **9:64**
United States v. Paradise, **9:70**
voluntary affirmative action plans
adopted by private employers,
generally, **9:59 et seq.**
Weber, **9:61**
well-documented case of past
imbalance or discrimination,
9:65
Affirmative defense, business necessity as, **9:89**
Age Discrimination in Employment Act (ADEA)
disparate-impact theory, **11:22**
federal-sector retaliation claims,
11:38

EMPLOYMENT

DISCRIMINATION—Cont'd

Age Discrimination in Employment Act (ADEA)—Cont'd
filing of charge with EEOC, remedies and enforcement, **11:36**
Hazen Paper Co. v. Biggins, **11:22**
remedies and enforcement, filing
of charge with EEOC, **11:36**
retaliation claims, federal-sector,
11:38
reverse age discrimination, **11:18**
Smith v. City of Jackson, **11:22**
Age Discrimination in Employment Act (this index)
Aliens without work authorization,
9:27
Amendments to Title VII, **9:3**
Americans with Disabilities Act (this index)
Arbitration, Equal Employment Opportunity Commission procedures, **9:193**
Associational discrimination, **9:196**
Attorneys' fees
general discussion, **9:173 et seq.**
administrative proceedings, **9:177**
compensable proceedings, **9:177 et seq.**
defendants, prevailing, **9:181**
discretion to deny, **9:175**
factors for determination of fee, **9:183, 9:184**
failure, awards despite, **9:180**
partial success, awards for, **9:179**
prevailing party, generally, **9:174**
pro se plaintiffs, **9:182**
reasonable fee, establishment of, **9:176**
settlement, prevailing through, **9:178**
Back pay
general discussion, **9:166 et seq.**
amount of recovery, **9:168**
class actions, **9:170**
mitigation of damages, **9:169**
Bias, speech as evidence of, **9:151**
Bona fide membership clubs, **9:16**

EMPLOYMENT**DISCRIMINATION—Cont'd**

- Bona fide occupational qualification (BFOQ) defense
 - general discussion, **9:48 et seq.**
 - burden of proof, **9:54**
 - business necessity defense, compared, **9:49**
 - essence of the business, **9:51**
 - factors in analysis, **9:51 et seq.**
 - narrow interpretation by Supreme Court, **9:50**
 - prevalence of the disability, **9:52**
 - religious discrimination, **9:120**
 - third parties, safety of, **9:53**
- Bona fide seniority or merit systems, disparate impact cases, **9:95 et seq.**
- Burden of proof
 - bona fide occupational qualification (BFOQ) defense, **9:54**
 - disparate impact cases, **9:85, 9:105**
- Business necessity
 - bona fide occupational qualification (BFOQ) defense, comparison to, **9:49**
 - disparate impact cases, below
- Captive audiences, freedom of speech, **9:160**
- Circumstantial evidence, disparate treatment, **9:43**
- Civil Rights Act of 1964
 - Griggs v. Duke Power Co., **11:22**
- Civil Rights Act of 1991, **9:4, 9:75, 9:87 et seq.**
- Civil rights and compelled speech
 - 303 Creative decision, **9:158**
- Class actions, back pay, **9:170**
- Color, discrimination based on, **9:114**
- Commerce, operations that affect, **9:8**
- Consent decrees, affirmative action, **9:72 et seq.**
- Constitutional law
 - affirmative action, government programs, **9:58**
 - authority, **9:5**
 - freedom of speech, below
 - religious groups, exemption for, **9:119**

EMPLOYMENT**DISCRIMINATION—Cont'd**

- Constitutional law—Cont'd
 - retaliation, **9:112**
- Constructive discharge, sex discrimination, **9:130**
- Continuing violations, Equal Employment Opportunity Commission procedures, **9:192**
- Corporate subsidiaries and successors, **9:10**
- Credentials and other objective criteria, disparate impact cases, **9:94**
- Customer preference as business necessity, disparate impact cases, **9:82**
- Declaratory relief, **9:164**
- Defamation fault standards, freedom of speech, **9:159**
- Demotion following untrue allegations of harassment, sex discrimination, **9:145**
- Dilution of business necessity concept, disparate impact cases, **9:84**
- Discretion of court to deny attorneys' fees, **9:175**
- Disparate impact cases
 - general discussion, **9:78 et seq.**
 - affirmative defense, business necessity as, **9:89**
 - Albemarle Paper Co., **9:80 et seq.**
 - bona fide seniority or merit systems, **9:95 et seq.**
 - burden of proof, **9:85, 9:105**
 - business necessity concept, **9:81 et seq.**
 - Civil Rights Act of 1991, Section 105, **9:87 et seq.**
 - credentials, physical requirements and other objective criteria, **9:94**
 - customer preference, employee morale and administrative convenience as business necessity, **9:82**
 - dilution of business necessity concept, **9:84**

INDEX

EMPLOYMENT

DISCRIMINATION—Cont'd

- Disparate impact cases—Cont'd
 - discriminatory purpose vs. disparate impact, **9:96**
 - Griggs, **9:79 et seq.**
 - health and safety concerns, business necessity concept, **9:82**
 - history and structure of standard, **9:78**
 - limitations period for challenge to system, **9:99**
 - multiple criteria, use by employer, **9:86, 9:90**
 - professionally developed ability test, **9:100 et seq.**
 - race-norming of test scores, **9:106**
 - rebuttal of business necessity defense, **9:83**
 - reinstatement of business necessity concept, **9:88**
 - statutory defenses, generally, **9:95 et seq.**
 - subjective employer decisions, **9:91 et seq.**
 - uniform guidelines, professionally developed ability test, **9:102**
 - university appointments and promotions, subjective employer decisions, **9:93**
 - validation of professionally developed ability test, **9:103**
- Wards Cove Packaging Co. v. Antonio, **9:84 et seq.**
- Washington v. Davis, **9:104**
- Disparate-impact theory, **11:22**
- Disparate treatment
 - general discussion, **9:28 et seq.**
 - circumstantial evidence, **9:43**
 - mixed-motive cases, **9:38, 9:39, 9:43**
 - personality conflicts, **9:37**
 - policy or practice systematic disparate treatment, **9:45 et seq.**
 - pretext, **9:32, 9:33, 9:41, 9:42**
 - prima facie case, generally, **9:29 et seq.**
 - proof of racial animus, **9:30**

EMPLOYMENT

DISCRIMINATION—Cont'd

- Disparate treatment—Cont'd
 - questions of fact, **9:31**
 - rebuttal of prima facie case, **9:40**
 - same actor inference, **9:34**
 - statistical analysis, policy or practice systematic disparate treatment, **9:47**
 - systematic disparate treatment cases, **9:44**
- Dysfunction in workplace, speech that causes, **9:153**
- Educational institutions, **9:13**
- Employment agencies, **9:21**
- Employment relationship covered
 - general discussion, **9:6 et seq.**
 - agents of employers, **9:9**
 - aliens without work authorization, **9:27**
- bona fide membership clubs, **9:16**
- commerce, operations that affect, **9:8**
- corporate subsidiaries and successors, **9:10**
- educational institutions, **9:13**
- employers, generally, **9:7 et seq.**
- employment agencies, **9:21**
- exclusions, **9:16 et seq.**
- federal government, **9:11**
- foreign companies doing business in United States, **9:14**
- foreign countries, American companies doing business in, **9:15**
- governmental entities, **9:11, 9:12**
- health care field, relationships in, **9:23**
- independent contractors vs. employees, **9:22**
- Indian tribes, **9:17**
- labor organizations, **9:19**
- law firms, **9:25**
- military exception, **9:20**
- number of employees and working days, **9:7**
- religious organizations, **9:18**
- state and local governmental entities, **9:11**

EMPLOYMENT**DISCRIMINATION—Cont'd**

- Employment relationship covered
 - Cont'd
 - three types of covered employment entities, **9:6**
 - volunteers, **9:24**
- Equal Employment Opportunity
 - Commission procedures
 - general discussion, **9:186 et seq.**
 - administrative filing prerequisite to suit, **9:186**
 - arbitration, **9:193**
 - continuing violations, **9:192**
 - EEOC suits, **9:187**
 - Mach Mining decision, **9:188**
 - Override of state administrative proceedings, **9:194**
 - time limitations, **9:189, 9:190**
- Equal Pay Act** (this index)
 - Essence of the business, bona fide occupational qualification (BFOQ) defense, **9:51**
 - Excessive infringement on opportunities of majority group members, affirmative action, **9:67**
 - Executive Order 11246, affirmative action, **9:76**
 - Federal government, **9:11**
 - Federally assisted programs, **8:6**
 - Federal-sector retaliation claims, Age Discrimination in Employment Act (ADEA), **11:38**
 - Fetal protection policies, **9:144**
 - Filing of charge with EEOC, remedies and enforcement, Age Discrimination in Employment Act (ADEA), **11:36**
 - Foreign companies doing business in United States, **9:14**
 - Foreign countries, American companies doing business in, **9:15**
 - Forms of discrimination prohibited, generally, **9:113 et seq.**
 - Freedom of association cases, **9:157**
 - Freedom of speech
 - general discussion, **9:149 et seq.**
 - captive audiences, **9:160**

EMPLOYMENT**DISCRIMINATION—Cont'd**

- Freedom of speech—Cont'd
 - defamation fault standards, **9:159**
 - dysfunction in workplace, speech that causes, **9:153**
 - freedom of association cases, **9:157**
 - hostile environment cases, **9:159**
 - injunctions and prior restraint doctrine, **9:162**
 - insults and innuendo, distinction from protected speech, **9:153 et seq.**
 - motive or bias, speech as evidence of, **9:151**
 - offensive speech, **9:153 et seq.**
 - public concerns, matters of, **9:155, 9:161**
 - public employment cases, **9:156**
 - quid pro quo harassment, **9:152**
 - types of speech that may give rise to Title VII liability, **9:150**
- Front pay, **9:171**
- Governmental employers, affirmative action, **9:57, 9:58**
- Governmental entities, **9:11, 9:12**
- Hazen Paper Co. v. Biggins, **11:22**
- Health and safety concerns, disparate impact cases, **9:82**
- Health care field, relationships in, **9:23**
- Hostile environment claims. Sex discrimination, below
- Independent contractors vs. employees, **9:22**
- Indian tribes, **9:17**
- Injunctions, **9:162, 9:164, 9:165**
- Instances in which granted or denied, **9:167**
- Insults and innuendo, distinction from protected speech, **9:153 et seq.**
- Interest awards against government, **9:185**
- Labor organizations, **9:19**
- Law firms, **9:25**
- Lily Ledbetter Fair Pay Act of 2009, congressional overruling of

INDEX

EMPLOYMENT

DISCRIMINATION—Cont'd

- Supreme Court, 9:191
- Local governmental entities, 9:11
- Military exception, 9:20
- Mitigation of damages, back pay, 9:169
- Mixed-motive cases, disparate treatment, 9:38, 9:39, 9:43
- Morale of employees as business necessity, disparate impact cases, 9:82
- Motive, speech as evidence of, 9:151
- National origin discrimination, generally, 9:1 *et seq.*
- 1972 amendments to Title VII, 9:3
- Notice to employer, employer liability for sexual harassment by coworkers, 9:138
- Number of employees and working days, 9:7
- Offensive speech, 9:153 *et seq.*
- Opposition retaliation cases, 9:109
- Partial success, attorneys' fees, 9:179
- Personality conflicts, disparate treatment, 9:37
- Physical requirements and other objective criteria, disparate impact cases, 9:94
- Policy or practice systematic disparate treatment, 9:45 *et seq.*
- Pregnancy, sex discrimination, 9:142, 9:143
- Preliminary injunctions, 9:165
- Pretext, disparate treatment, 9:32, 9:33, 9:41, 9:42
- Prevailing parties. Attorneys' fees, above
- Prima facie case
 - disparate treatment, 9:29 *et seq.*
 - employer liability for sexual harassment by coworkers, 9:137
- Prior restraint doctrine, freedom of speech, 9:162
- Professionally developed ability test, disparate impact cases, 9:100 *et seq.*

EMPLOYMENT

DISCRIMINATION—Cont'd

- Property, Contract and Economic Rights (this index)
- Pro se plaintiffs, attorneys' fees, 9:182
- Public employment cases, freedom of speech, 9:156
- Purpose of Title VII, 9:2
- Questions of fact, disparate treatment, 9:31
- Quid pro quo sex discrimination, 9:123, 9:152
- Race-norming of test scores, disparate impact cases, 9:106
- Racial discrimination, generally, 9:1 *et seq.*
- Rebuttal of business necessity defense, disparate impact cases, 9:83
- Rebuttal of prima facie case, disparate treatment, 9:40
- Reinstatement of business necessity concept, disparate impact cases, 9:88
- Religious discrimination
 - general discussion, 9:116 *et seq.*
 - accommodation, 9:116, 9:117
 - bona fide occupational qualification defense, 9:120
 - constitutionality of exemption for religious groups, 9:119
 - employers, religious organizations, 9:18
 - exemption for religious groups, 9:118, 9:119
- Religious Freedom Restoration Act, 5:45
- Remedies
 - general discussion, 9:163 *et seq.*
 - affirmative action, 9:172
 - attorneys' fees, above
 - back pay, above
 - declaratory relief, 9:164
 - front pay, 9:171
 - injunctions, 9:164, 9:165
 - interest awards against government, 9:185
 - preliminary injunctions, 9:165

EMPLOYMENT**DISCRIMINATION—Cont'd**

- Remedies—Cont'd
 - prevailing party, relief available to, **9:163 et seq.**
 - violation of Title VII, remedial action to cure, **9:55**
- Remedies and enforcement
 - filings of charge with EEOC, Age Discrimination in Employment Act (ADEA), **11:36**
- Retaliation
 - general discussion, **9:107 et seq.**
 - Burlington Northern, **9:108**
 - constitutional issues, **9:112**
 - former employees, **9:111**
 - opposition retaliation cases, **9:109**
 - participation retaliation cases, **9:110**
 - Section 2000e-3(a), **9:107**
- Retaliation claims
 - Age Discrimination in Employment Act (ADEA), federal-sector, **11:38**
- Same actor inference, disparate treatment, **9:34**
- Same-sex sexual harassment, **9:147**
- Settlements, attorneys' fees, **9:178**
- Sex discrimination
 - general discussion, **9:121 et seq.**
 - ability to function despite harassment, **9:128**
 - actual sexual differences, generally, **9:122 et seq.**
 - complainants or objects of investigation, attacks on, **9:146**
 - complaint and remedial structure, employer liability for harassment by coworkers, **9:139**
 - constructive discharge, **9:130**
 - coworkers, employer liability for harassment by, **9:136 et seq.**
 - demotion following untrue allegations of harassment, **9:145**
 - education, employment in, **8:33**
 - factors in hostile environment claims, **9:127**
 - fetal protection policies, **9:144**

EMPLOYMENT**DISCRIMINATION—Cont'd**

- Sex discrimination—Cont'd
 - freedom of speech, hostile environment cases, **9:159**
 - gender based or gender neutral harassment, employer liability for harassment by coworkers, **9:140**
 - hostile environment claims, **9:124 et seq.**
 - notice to employer, employer liability for harassment by coworkers, **9:138**
 - pregnancy, **9:142, 9:143**
 - prima facie case, employer liability for harassment by coworkers, **9:137**
 - quid pro quo discrimination, **9:123, 9:152**
 - realization of offensiveness after leaving employment, **9:129**
 - same-sex harassment, **9:147**
 - sexual orientation, **9:121**
 - sexual stereotyping, **9:141**
 - tangible employment action, vicarious liability in cases without, **9:135**
 - tangible psychological injury, **9:126**
 - vicarious liability, **9:131 et seq.**
- Sexual harassment. Sex discrimination, above
- Sexual orientation, **9:121**
- Smith v. City of Jackson, **11:22**
- Standing and claims brought by men for discrimination against women, affirmative action, **9:77**
- State governmental entities, **9:11**
- Statistical analysis, policy or practice
 - systematic disparate treatment, **9:47**
- Structure of federal employment discrimination law, generally, **9:1 et seq.**
- Subjective employer decisions, disparate impact cases, **9:91 et seq.**
- Systematic disparate treatment cases, **9:44**

INDEX

EMPLOYMENT DISCRIMINATION—Cont'd

- Temporary vs. permanent plans designed to remedy past imbalance, affirmative action, **9:64**
- Third party safety, bona fide occupational qualification (BFOQ) defense, **9:53**
- Time limitations, Equal Employment Opportunity Commission procedures, **9:189, 9:190**
- Title VII, disparate treatment and disparate impact, **9:26**
- Title VII, generally, **9:1 et seq.**
- Uniform guidelines, professionally developed ability test, **9:102**
- University appointments and promotions, disparate impact cases, **9:93**
- Validation of professionally developed ability test, disparate impact cases, **9:103**
- Vicarious liability, sex discrimination, **9:131 et seq.**
- Voluntary affirmative action plans adopted by private employers, **9:59 et seq.**
- Volunteers, **9:24**
- Well-documented case of past imbalance or discrimination, affirmative action, **9:65**

EMPLOYMENT DIVISION V. SMITH

- Religious Freedom Restoration Act, **5:2, 5:23, 5:25**

ENFORCEMENT

Americans with Disabilities Act (this index)

- End of affirmative action
- Students for Fair Admissions v. Harvard, **1:40**

Housing Discrimination (this index)

Individuals with Disabilities Education Act (this index)

ENFORCEMENT OF CIVIL RIGHTS

- Affirmative action
- Parents Involved v. Seattle School District, **1:42**

ENFORCEMENT OF CIVIL RIGHTS—Cont'd

- Constitutional equal protection principles and rejection of class of one claims in employment cases, **1:51**
- End of affirmative action
- Students for Fair Admissions v. Harvard, **1:40**
- Parents Involved v. Seattle School District, **1:42**
- Race-conscious student assignments, Parents Involved v. Seattle School District, **1:42**
- Student assignments, Parents Involved v. Seattle School District, **1:42**

ENTERTAINMENT, PLACES OF

- Public accommodations, **7:7**

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

- Age Discrimination in Employment Act, **11:3, 11:36**
- Color of law, deprivation of rights under, **14:171**
- Employment Discrimination** (this index)

EQUAL PAY ACT

- General discussion, **10:1 et seq.**
- Administrative construction, deference to, **10:30**
- Affirmative action, **10:24**
- Attorneys' fees, **10:46**
- Back pay and benefits, **10:41**
- Bona fide merit systems, **10:28**
- Burdens of proof and persuasion general discussion, **10:32 et seq.**
- pretext, **10:34**
- prima facie case, **10:32**
- rebuttal by employer, **10:33**
- Collateral estoppel, jury trial, **10:39**
- Collective bargaining agreements, **10:4**
- Comparable worth, equal work, **10:11**
- Comparisons of compensation, **10:18, 10:19**

EQUAL PAY ACT—Cont'd

- Compensatory damages, **10:44**
- Constitutionality, **10:3**
- Costs of action, **10:45**
- Deference to administrative construction, **10:30**
- Education, differences in, **10:13**
- EEOC recovery for employees, **10:37**
- Effort required, differences in, **10:14**
- Eleventh Amendment immunity, **10:9**
- Entities covered, **10:6, 10:7**
- Equal work
 - general discussion, **10:10 et seq.**
 - comparable worth, **10:11**
 - effort required, differences in, **10:14**
 - profits of employer, **10:17**
 - responsibilities, differences in, **10:15**
 - skills, differences in, **10:12**
 - substantial similarity, **10:10**
 - training or education, differences in, **10:13**
 - working conditions, differences in, **10:16**
- Establishment, defined, **10:7**
- Exemptions for discrimination not based on sex
 - general discussion, **10:20 et seq.**
 - affirmative action, **10:24**
 - bona fide merit systems, **10:28**
 - industry traditions, **10:23**
 - Manhart, **10:22**
 - matching competitive salaries, **10:26**
 - mistake defense, **10:27**
 - seniority systems, **10:29**
 - statutory terms, **10:21**
 - training programs, **10:25**
- Fair Labor Standards Act, relationship to, **10:40**
- Good faith of employer, liquidated damages, **10:43**
- Industry traditions, **10:23**
- Interest on judgment, **10:45**
- Jurisdiction, **10:35**
- Jury trial, **10:38, 10:39**
- Liquidated damages, **10:42, 10:43**

EQUAL PAY ACT—Cont'd

- Mistake defense, **10:27**
- Parties, **10:31**
- Practice and procedure, generally, **10:30 et seq.**
- Pretext, burdens of proof and persuasion, **10:34**
- Prima facie case, **10:32**
- Profits of employer, **10:17**
- Purpose, **10:2**
- Relief. Remedies and relief, below
- Remedies and relief
 - general discussion, **10:40 et seq.**
 - attorneys' fees, **10:46**
 - back pay and benefits, **10:41**
 - compensatory damages, **10:44**
 - costs, **10:45**
 - Fair Labor Standards Act, relationship to, **10:40**
 - good faith of employer, liquidated damages, **10:43**
 - interest, **10:45**
 - liquidated damages, **10:42, 10:43**
 - sexual orientation discrimination, **10:47**
- Responsibilities, differences in, **10:15**
- Right to jury trial, **10:38**
- Seniority systems, **10:29**
- Sexual orientation discrimination, remedies and relief, **10:47**
- Skills, differences in, **10:12**
- State laws, relationship to, **10:5**
- Substantial similarity, equal work, **10:10**
- Successor employees, comparisons of compensation, **10:19**
- Time limitations, **10:36**
- Title VII, relationship to, **10:8, 10:9**
- Training and training programs, **10:13, 10:25**
- Venue, **10:35**
- Working conditions, differences in, **10:16**

EQUAL PROTECTION

- General discussion, **1:43 et seq.**
- Changing face of equal protection, generally, **1:43 et seq.**
- Enforcement of civil rights, **1:51**

INDEX

EQUAL PROTECTION—Cont'd

Gender discrimination, **1:44**
Lawrence v. Texas, **1:47**
Nguyen v. INS, **1:45**
Sexual orientation, **1:46**

EQUITABLE REMEDIES

Age Discrimination in Employment Act, **11:47**
Americans with Disabilities Act, accommodations and services provided by private entities, **12:50, 12:51**
Declaratory Relief (this index)
Injunctions (this index)
Preliminary Injunctions (this index)
Property, contract and economic rights, **13:18**
Voting rights, **2:52**
Voting rights, court mandated forms of government, **2:53**

ESSENCE OF THE BUSINESS

Employment discrimination, bona fide occupational qualification (BFOQ) defense, **9:51**

ESTABLISHMENT CLAUSE

Religious Freedom Restoration Act, **5:25, 5:51, 5:52**

ETHICS AND MORALS

Attorneys' fees, denial of fees to prevailing plaintiff, **16:21**

EXECUTIVE ORDER 11246

Employment discrimination, affirmative action, **9:76**

EXECUTIVES

Age Discrimination in Employment Act, **11:31**

EXHAUSTION OF REMEDIES

Age Discrimination in Employment Act, **11:35**

Color of Law, Deprivation of Rights Under (this index)

Federally assisted programs, **8:12**
Property, contract and economic rights, **13:17**
Public accommodations, **7:23**

EXPRESSIVE ASSOCIATION

Public accommodations, private clubs, **7:14**

FAIR HOUSING ACT

Housing discrimination, Fair Housing Act and the Internet, **3:85**
Survival of Fair Housing Act claims after death of party, **3:86**

FAIR LABOR STANDARDS ACT

Equal Pay Act, **10:40**

FAMILIAL STATUS

Housing Discrimination (this index)

FEDERAL ENTITIES

Deprivation of rights under color of law
Ashcroft v. Iqbal, purposeful discrimination requirement, **14:161**
Wilkie v. Robbins, **14:165**

FEDERALISM

Anticommandeering principle, **1:55**

FEDERALLY ASSISTED PROGRAMS

General discussion, **8:1 et seq.**
Burden of proof, **8:11**
Civil Rights Act of 1964, Title VI, generally, **8:1 et seq.**
Discriminatory intent vs. disparate impact, **8:8, 8:9**
Education
general discussion, **8:4**
Education Amendments Act of 1972, Title IX. **Sex Discrimination** (this index)
Employment, **8:6**
Exhaustion of administrative remedies, **8:12**
Housing and development, **8:5**
Private right of action, **8:9 et seq.**
Prohibition of discrimination, generally, **8:1 et seq.**
Sex Discrimination (this index)

FEDERAL OFFICIALS

Deprivation of rights under color of law
Ashcroft v. Iqbal, purposeful discrimination requirement, **14:161**

FEDERAL OFFICIALS—Cont'd
 Deprivation of rights under color of law—Cont'd
Wilkie v. Robbins, **14:165**
 Religious Freedom Restoration Act, **5:4**

FEDERAL SECTOR
 Age Discrimination in Employment Act (ADEA), retaliation claims, **11:38**

FETAL PROTECTION POLICIES
 Employment discrimination, **9:144**

FIFTEENTH AMENDMENT
 General discussion, **1:10**
 Voting rights, race-neutral commands, **2:69**

FINANCING
 Housing discrimination, **3:47**

FIREFIGHTERS
 Age Discrimination in Employment Act, **11:30**

FIRST AMENDMENT
Freedom of Association (this index)
Freedom of Religion (this index)
Freedom of Speech (this index)

FORCE
 Freedom of Access to Clinic Entrances Act of 1994, **17:2, 17:17 et seq.**

FOREIGN COMPANIES
 Employment discrimination, foreign companies doing business in United States, **9:14**

FOREIGN COUNTRIES
 Employment discrimination, American companies doing business in foreign countries, **9:15**

FORMS OF GOVERNMENT
 Voting rights, equitable remedies, **2:53**

FOURTEENTH AMENDMENT
 General discussion, **1:9**
Indian Civil Rights Act, **6:6**

FOURTEENTH AMENDMENT
—Cont'd
 Religious Freedom Restoration Act, **5:28 et seq.**

FOURTH AMENDMENT
Bivens actions, **14:157**

FRANCHISE BOARD v. HYATT
 Sovereign immunity, **14:71**

FRATERNITIES AND SORORITIES
 Sex discrimination, **8:18**

FREEDOM OF ACCESS TO CLINIC ENTRANCES ACT OF 1994
 General discussion, **17:1 et seq.**
 Attorneys general, civil actions by, **17:7**
 Cease and desist provisions, injunctions, **17:28**
 Civil actions, **17:5 et seq.**
 Commerce clause. Constitutional law, below
 Constitutional law
 general discussion, **17:9 et seq.**
 commerce clause, **17:10 et seq.**
 disruption often involved interstate movement, **17:12**
 facilities engaged in commerce clause, **17:11**
 force, threats of force, physical obstruction or damage to property, **17:17 et seq.**
 freedom of religion, **17:22**
 freedom of speech, below
 impact on interstate commerce, **17:13**
Madsen v. Women's Health Center, Inc., **17:19**
 overbreadth, **17:20**
 regulation of illegal conduct vs. regulation of content or viewpoint, **17:17**
 Religious Freedom Restoration Act, **17:22**
United States v. Lopez, **17:14**
 vagueness, **17:21**
 Criminal penalties, **17:4**

INDEX

FREEDOM OF ACCESS TO CLINIC ENTRANCES ACT OF 1994—Cont'd

- Damage to property, **17:17 et seq.**
- Destruction of property, **17:17 et seq.**
- Floating vs. fixed buffer zones, injunctions, **17:24 et seq.**
- Force, **17:2, 17:17 et seq.**
- Freedom of religion, **17:22**
- Freedom of speech
 - general discussion, **17:15 et seq.**
 - historical and cultural backdrop, **17:15**
 - nonviolent, nonobstructing, nondestructive protest, **17:16**
 - peaceful abortion protest, **17:16**
- Injunctions
 - general discussion, **17:23 et seq.**
 - cease and desist provisions, **17:28**
 - floating vs. fixed buffer zones, **17:24 et seq.**
 - in your face protest, **17:24**
 - lower court applications, **17:30**
- Madsen v. Women's Health Center, Inc., **17:23**
- safety and order, public interest in, **17:25**
- unwanted approaches, **17:29**

Intent to injure, intimidate, interfere or damage, **17:3**

In your face protest, injunctions, **17:24**

Overbreadth, **17:20**

Peaceful abortion protest, **17:16**

Physical obstruction, **17:2, 17:17 et seq.**

Preemption, civil actions, **17:8**

Religious Freedom Restoration Act, **17:22**

Remedies, **17:4 et seq.**

Standing, civil actions, **17:5**

Threats of force, **17:2, 17:17 et seq.**

Vagueness, **17:21**

FREEDOM OF ASSOCIATION

- Employment discrimination, **9:157**
- Public accommodations, **7:15**

FREEDOM OF RELIGION

- Age Discrimination in Employment Act, employees with ministerial or religious functions, **11:34**
- Freedom of Access to Clinic Entrances Act of 1994, **17:22**

FREEDOM OF SPEECH

- Employment Discrimination** (this index)
- Freedom of Access to Clinic Entrances Act of 1994** (this index)
- Housing discrimination, advertising and notices, **3:41 et seq.**
- Voting rights, **2:70, 2:76**

FREESTANDING STATE-OF-MIND

- Color of law, deprivation of rights under, **14:97**

FRIVOLOUS CASES

- Attorneys' fees, awards to prevailing defendants, **16:34**

FRONT PAY

- Age Discrimination in Employment Act, **11:49**
- Employment discrimination, **9:171**

GAS STATIONS

- Public accommodations, **7:6**

GENDER DISCRIMINATION

- Sex Discrimination** (this index)

GERRYMANDERING

- General discussion, **2:77 et seq.**

GOOD FAITH

- Age Discrimination in Employment Act (ADEA), **11:22**
- Americans with Disabilities Act, good faith attempts to comply, **12:51**
- Civil Rights Act of 1964, **11:22**
- Color of law, deprivation of rights under, **14:88**
- Disparate-impact theory, **11:22**
- Equal Pay Act, liquidated damages, **10:43**
- Griggs v. Duke Power Co., **11:22**
- Smith v. City of Jackson, **11:22**

GOVERNMENTAL ENTITIES

- Attorneys' Fees (this index)
- Color of Law, Deprivation of Rights Under** (this index)
- Employment discrimination, **9:11, 9:12**
- Voting rights, equitable remedies, **2:53**

GRIGGS V. DUKE POWER CO.

- Civil Rights Act of 1964, **11:22**
- Disparate-impact theory, **11:22**
- Education, **11:22**
- Employment discrimination, **11:22**
- Good faith, **11:22**
- Intelligence tests, **11:22**
- Intent, **11:22**
- Tests and testing, **11:22**

GROSS V. FBL FINANCIAL SERVICES

- Age Discrimination in Employment Act (ADEA), no mixed-motive standard, **11:24**

HABEAS CORPUS

- Color of law, deprivation of rights under, **14:146**
- Indian Civil Rights Act, **6:9**

HANDICAPPED PERSONS

- Disabled Persons** (this index)

HAYWOOD V. DROWN

- Deprivation of rights under color of law, **14:137**

HAZEN PAPER CO. V. BIGGINS

- Age Discrimination in Employment Act (ADEA), **11:22**
- Disparate-impact theory, **11:22**
- Employment discrimination, **11:22**

HEALTH AND SAFETY

- Americans with Disabilities Act, **12:19**
- Employment discrimination, disparate impact cases, **9:82**

HEALTH CARE FIELD

- Employment discrimination, **9:23**
- Physicians, deprivation of rights under color of law, **14:13**

HEARING AIDS

- Americans with Disabilities Act, **12:13**

HIRING

- Age Discrimination in Employment Act, **11:12**

HISTORY

- Color of Law, Deprivation of Rights Under** (this index)

HIV INFECTION

- Americans with Disabilities Act, **12:11**

HOBBY LOBBY DECISION

- Religious Freedom Restoration Act, **5:9**

HOSTILE ENVIRONMENT

- Age Discrimination in Employment Act, **11:19**

- Employment Discrimination** (this index)

- Property, contract and economic rights, employment discrimination, **13:14, 13:15**

HOUSING DISCRIMINATION

- General discussion, **3:1 et seq.**

- Accommodations for handicapped persons, **3:30, 12:65**

- Advertising and notices

- general discussion, **3:40 et seq.**

- commercial speech, **3:42, 3:43**

- Fair Housing Act and First Amendment, **3:44, 3:45**

- First Amendment, **3:41 et seq.**

- Aggrieved parties, **3:13, 3:69**

- Amendments to Fair Housing Act, **3:12**

- Attorney General actions

- general discussion, **3:78 et seq.**
- general public importance cases, **3:80**

- HUD referral of cases to Attorney General, **3:81**

- pattern or practice cases, **3:79**
- relief cases, **3:82**

- Attorneys' fees, private court actions, **3:74**

INDEX

HOUSING DISCRIMINATION

—Cont'd

- Blockbusting, **3:48**
- Burden of proof
 - exemptions, invocation of, **3:25**
 - motive, intent and impact, **3:52, 3:53**
- Coercion, **3:49**
- Color or race, **3:26**
- Commercial speech, advertising and notices, **3:42, 3:43**
- Compensatory damages, private court actions, **3:71**
- Consent decrees, private court actions, **3:77**
- Constitutional law
 - general discussion, **3:1 et seq.**
 - Buchanan v. Warley, **3:1**
 - encouragement of discrimination, **3:4**
 - public housing, intentional discrimination in, **3:3**
 - restrictive covenants, **3:2**
 - Thirteenth Amendment, below
- Damages, private court actions, **3:71, 3:72**
- Drug offenders, **3:24**
- Dwellings covered, **3:18**
- Enforcement. Remedies and enforcement, below
- Exclusions. Property covered and exclusions, below
- Fair Housing Act, generally, **3:10 et seq.**
- Fair Housing Act and the Internet, **3:85**
- Familial status, discrimination based on
 - general discussion, **3:32 et seq.**
 - 55 and older housing, **3:37**
 - governmental housing programs for older persons, **3:35**
 - older persons, housing for, **3:34 et seq.**
 - reasonable occupancy standards, **3:33**
 - 62 and older housing, **3:36**
- Federally assisted programs, **8:5**
- 55 and older housing, **3:37**

HOUSING DISCRIMINATION

—Cont'd

- Financing, **3:47**
- First Amendment, advertising and notices, **3:41 et seq.**
- Gender discrimination, **3:27**
- Governmental housing programs for older persons, **3:35**
- Handicapped persons, discrimination against
 - general discussion, **3:29 et seq.**
 - modifications and accommodations for handicapped persons, **3:30, 12:65**
 - new construction, **3:31, 12:66**
- Historical context of Fair Housing Act, **3:10**
- HUD complaint, **3:68**
- HUD referral of cases to Attorney General, **3:81**
- Impact. Motive, intent and impact, below
- Injunctive relief, private court actions, **3:73**
- Integration maintenance debate
 - general discussion, **3:55 et seq.**
 - judicial debate, **3:60**
 - legal and policy analysis, **3:63 et seq.**
- 1988 amendments to Fair Housing Act, **3:59**
- Otero decision, **3:58**
- Starrett City decision, **3:61**
- tipping phenomenon, **3:55, 3:56**
- Intent. Motive, intent and impact, below
- Internet, Fair Housing Act and, **3:85**
- Intimidation, **3:49**
- Jury trial, private court actions, **3:75**
- Limitations periods, private court actions, **3:76**
- Modifications for handicapped persons, **3:30, 12:65**
- Motive, intent and impact
 - general discussion, **3:50 et seq.**
 - illicit intent, **3:54**
 - intent vs. impact, **3:50**
 - preponderance of evidence standard, **3:53**

HOUSING DISCRIMINATION**—Cont'd**

Motive, intent and impact—Cont'd
 prevailing disparate impact standard, **3:51**
 prima facie case and burden of proof, **3:52, 3:53**
 shifting of burden of proof, **3:52**
 Mrs. Murphy home boarding exemption, **3:20**
 National origin, **3:26**
 New construction, handicapped persons, **3:31, 12:66**
 1988 amendments to Fair Housing Act, **3:12**
 Notices. Advertising and notices, above
 Older persons, housing for, **3:34 et seq.**
 Preponderance of evidence standard, motive, intent and impact, **3:53**
 Prevailing disparate impact standard, motive, intent and impact, **3:51**
 Prima facie case, motive, intent and impact, **3:52, 3:53**
 Private clubs, **3:22**
 Private court actions
 general discussion, **3:69 et seq.**
 actual or compensatory damages, **3:71**
 aggrieved persons, **3:69**
 attorneys' fees, **3:74**
 consent decrees, **3:77**
 damages, **3:71, 3:72**
 injunctive relief, **3:73**
 jury trial, demand for, **3:75**
 limitations periods, **3:76**
 punitive damages, **3:72**
 venue, **3:70**
 Prohibited practices, generally, **3:38 et seq.**
 Property, contract and economic rights, **13:26**
 Property covered and exclusions
 general discussion, **3:18 et seq.**
 burden of proof for invoking exemptions, **3:25**
 drug offenders, **3:24**
 dwellings covered, **3:18**

HOUSING DISCRIMINATION**—Cont'd**

Property covered and exclusions
 —Cont'd
 exemptions, generally, **3:19 et seq.**
 Mrs. Murphy home boarding exemption, **3:20**
 private clubs, **3:22**
 race, color or national origin, **3:26**
 reasonable occupancy standards, **3:23**
 religious organizations, **3:21**
 Punititive damages, private court actions, **3:72**
 Purposes of Fair Housing Act, **3:11**
 Race or color, **3:26**
 Reasonable occupancy standards, **3:23, 3:33**
 Redlining, **3:47**
 Religious discrimination, **3:28**
 Religious organizations, **3:21**
 Remedies and enforcement
 general discussion, **3:66 et seq.**
 Attorney General actions, above defendants, **3:67**
 HUD complaint, **3:68**
 private court actions, above
 three enforcement alternatives, **3:66**
 Rentals, sales and other terms and conditions, **3:38**
 Restrictive covenants, constitutional law, **3:2**
 Sales, rentals and other terms and conditions, **3:38**
 Sex discrimination, **3:27**
 Shifting of burden of proof, motive, intent and impact, **3:52**
 62 and older housing, **3:36**
 Standing
 general discussion, **3:13 et seq.**
 aggrieved parties, **3:13**
 Gladstone, Realtors v. Village of Bellwood, **3:15**
 tester standing, **3:16**
 Trafficante v. Metropolitan Life Insurance Co., **3:14**
 Steering, **3:39**

INDEX

HOUSING DISCRIMINATION

—Cont'd

- Survival of Fair Housing Act claims after death of party, **3:86**
- Tester standing, **3:16**
- Thirteenth Amendment and Section 1982 claims
 - general discussion, **3:5 et seq.**
 - Fair Housing Act and Section 1982, relationship between, **3:7**
- Jones v. Alfred H. Mayer Co., generally, **3:5 et seq.**
- racial discrimination, limitation to, **3:8**
- scope of Section 1982 claims, **3:9**
- Tipping phenomenon, integration maintenance debate, **3:55, 3:56**
- Travel, right to, **3:83**
- Venue, private court actions, **3:70**
- Vicarious liability, **3:84**
- Zoning, **3:46**

HUMAN IMMUNODEFICIENCY VIRUS

- Americans with Disabilities Act, **12:11**

IDEA (INDIVIDUALS WITH DISABILITIES EDUCATION ACT)

- Right of parents to participate in administrative hearings and judicial review, **12:79**

IMMIGRATION

- Retroactive application of civil rights legislation, **18:18**
- Trump v. Hawaii immigration ban decision, **1:54**

IMMUNITY

- Attorneys' Fees** (this index)
- Color of Law, Deprivation of Rights Under** (this index)
- Conspiracy to violate civil rights, **15:15**
- Eleventh Amendment** (this index)
- Legislative Immunity** (this index)
- Qualified Immunity** (this index)

INDEMNIFICATION

- Color of law, deprivation of rights under, **14:85**

INDEPENDENT APPELLATE REVIEW

- Religious Freedom Restoration Act, **5:54**

INDEPENDENT CONTRACTORS

- Employment discrimination, **9:22**
- Property, contract and economic rights, hostile environment claims, **13:15**

INDIAN CIVIL RIGHTS ACT

- General discussion, **6:1 et seq.**
- Bill of Rights, **6:6**
- Congressional power to control federal court jurisdiction, **6:10**
- Doctrine of discovery, **6:2**
- Double jeopardy, **6:5**
- Dual sovereignty, **6:5**
- Fourteenth Amendment, **6:6**
- Habeas corpus, **6:9**
- Plenary power of Congress, **6:4**
- Political entity status of tribes prior to constitution, **6:1**
- Santa Clara Pueblo v. Martinez, **6:8**
- Sovereignty of tribes, **6:3**

INDIANS

- Color of law, deprivation of rights under, **14:10**
- Employment discrimination, **9:17**
- Indian Civil Rights Act** (this index)

INDIVIDUALS WITH DISABILITIES EDUCATION ACT

- General discussion, **12:67 et seq.**
- Administrative review, **12:74**
- Age requirements, **12:68**
- Attorneys' fees, **12:77**
- Enforcement. Remedies and enforcement, below
- Free appropriate public education, **12:70**
- Handicapped children, defined, **12:69**
- Individualized Education Program (IEP), **12:71**

INDIVIDUALS WITH DISABILITIES EDUCATION ACT—Cont'd
 Limitations period, **12:78**
 Mainstreaming, **12:73**
 Need for special education and related services, **12:72**
 Placements, **12:73**
 Private cause of action, **12:75**
 Remedies and enforcement
 general discussion, **12:74 et seq.**
 administrative review, **12:74**
 attorneys' fees, **12:77**
 limitations period, **12:78**
 private cause of action, **12:75**
 relief, **12:76**
 Right of parents to participate in administrative hearings and judicial review, **12:79**

INFLUENCE DISTRICTS
 Voting rights, Section 5 violations, **2:38**

INJUNCTIONS
 Americans with Disabilities Act, accommodations and services provided by private entities, **12:50**
 Bivens actions, injunctive relief against federal officers alleging unconstitutional action, **14:170**
 Color of law, deprivation of rights under, **14:149**
 Employment discrimination, **9:162, 9:164, 9:165**
Freedom of Access to Clinic Entrances Act of 1994 (this index)
 Housing discrimination, private court actions, **3:73**
Preliminary Injunctions (this index)
 Public accommodations, **7:19**

INSTRUMENTALITIES
 Religious Freedom Restoration Act, **5:4**

INSULTS AND INNUENDO
 Employment discrimination, distinction from protected speech, **9:153 et seq.**

INTEGRATION MAINTENANCE DEBATE
Housing Discrimination (this index)

INTELLIGENCE TESTS
 Civil Rights Act of 1964, **11:22**
 Disparate-impact theory, **11:22**
 Griggs v. Duke Power Co., **11:22**
 Tests and testing, **11:22**

INTENT
Age Discrimination in Employment Act (ADEA), 11:22
 Disparate-impact theory, **11:22**
Freedom of Access to Clinic Entrances Act of 1994, intent to injure, intimidate, interfere or damage, **17:3**
 Griggs v. Duke Power Co., **11:22**
Housing Discrimination (this index)
 Property, contract and economic rights, **13:10**
 Smith v. City of Jackson, **11:22**
 Trump v. Hawaii immigration ban decision, **1:54**
 Voting rights, **2:66**

INTEREST ON JUDGMENTS
Age Discrimination in Employment Act, 11:50
 Employment discrimination, **9:185**
 Equal Pay Act, **10:45**

INTEREST ON LAWYERS TRUST ACCOUNTS (IOLTA)
 Deprivation of rights under color of law, **14:135**

INTERLOCUTORY APPEALS
 Color of law, deprivation of rights under, **14:55, 14:56**

INTERNET
 Housing discrimination, Fair Housing Act and the Internet, **3:85**

INTERVENTION
 Attorneys' fees, prevailing parties, **16:6**

INTIMIDATION
 Housing discrimination, **3:49**
 Public accommodations, **7:16**

INDEX

INVOLUNTARY SERVITUDE

General discussion, **4:1 et seq.**
Anti-Peonage Act, **4:4, 4:5**
Community service programs, **4:5**
Defined, **4:2**
Statutory protection, **4:3 et seq.**
Thirteenth Amendment, **4:1, 4:2**
Trafficking Victims Protection Act, **4:6**
Workfare, **4:5**

JAYCEES AND SIMILAR ORGANIZATIONS

Public accommodations, **7:12**

JUDICIAL REVIEW

Individuals with Disabilities Education Act (IDEA), **12:79**

JURISDICTION

Deprivation of rights under color of law, **14:147**
Equal Pay Act, **10:35**
Indian Civil Rights Act, Congressional power, **6:10**
Retroactive application of civil rights legislation, **18:9**

JURY AND JURY TRIAL

Age Discrimination in Employment Act, **11:42**
Color of law, deprivation of rights under, **14:45, 14:154**
Equal Pay Act, **10:38, 10:39**
Housing discrimination, private court actions, **3:75**

JUST COMPENSATION CLAUSE

Deprivation of rights under color of law, **14:135**

LABOR ORGANIZATIONS

Employment discrimination, **9:19**

LAMPS PLUS

Class arbitration in the absence of an agreement to allow class arbitration, **9:195**

LAW ENFORCEMENT OFFICERS

Age Discrimination in Employment Act, **11:30**

LAWYERS

Attorneys (this index)

LEAST RESTRICTIVE MEANS

Religious Freedom Restoration Act, **5:35**

LEGAL AID ATTORNEYS

Attorneys' fees, limitations, **16:36**
Fees, **16:36**

LEGISLATIVE HISTORY

Color of law, deprivation of rights under, **14:28**
Property, contract and economic rights, **13:4 et seq.**
Religious Freedom Restoration Act, **5:20, 5:28**
Retroactive application of civil rights legislation, **18:4**

LEGISLATIVE IMMUNITY

Attorneys' fees, officials sued in individual capacities, **16:32**
Color of law, deprivation of rights under, **14:41 et seq.**

LILY LEDBETTER FAIR PAY ACT OF 2009

Employment discrimination, **9:191**

LIMITATION OF ACTIONS

Age Discrimination in Employment Act, **11:40**
Color of law, deprivation of rights under, **14:148**
Employment discrimination, Equal Employment Opportunity Commission procedures, **9:189, 9:190**
Equal Pay Act, **10:36**
Housing discrimination, private court actions, **3:76**
Individuals with Disabilities Education Act, **12:78**
Property, contract and economic rights, **13:21**
Public accommodations, **7:22**
Title IX claims, **8:42**

LINE WARMING

Restrictions, aid to voters
waiting in line at polling places,
2:88

LIQUIDATED DAMAGES

Age Discrimination in Employment
Act, **11:46**
Equal Pay Act, **10:42, 10:43**

LODESTAR

Attorneys' fees, **16:8**
Enhancement for superior perfor-
mance, **16:11**

LODGING ESTABLISHMENTS

Public accommodations, **7:3**

LOYALTY OATHS

Voting rights, **2:81**

MACH MINING DECISION

Equal Employment Opportunity
Commission procedures, **9:188**

MAINSTREAMING

Individuals with Disabilities Educa-
tion Act, **12:73**

MALESKO CASE

Deprivation of rights under color of
law, Bivens actions against
private entities, **14:166**

MARIJUANA

Constitutional law, medical
marijuana, **1:22**

**MEACHAM V. KNOLLS ATOMIC
POWER LABORATORY**

Age Discrimination in Employment
Act (ADEA), **11:27**

MEDICAL EXAMINATIONS

Americans with Disabilities Act,
12:23 et seq.

MEDICAL MARIJUANA

Constitutional law, **1:22**

MENTAL INSTITUTIONS

Americans with Disabilities Act,
12:35

MILITARY EXCEPTION

Employment discrimination, **9:20**

MILITARY SCHOOLS

Sex discrimination, **8:16**

MINISTERIAL FUNCTIONS

Age Discrimination in Employment
Act, **11:34**

MISTAKE DEFENSE

Equal Pay Act, **10:27**

MITIGATION OF DAMAGES

Americans with Disabilities Act,
12:13, 12:14
Employment discrimination, back
pay, **9:169**

MIXED-MOTIVE CASES

Employment discrimination,
disparate treatment, **9:38, 9:39,**
9:43

MIXED-MOTIVE STANDARD

Age Discrimination in Employment
Act (ADEA), **11:24**

MODIFICATIONS

Disabled persons, housing, **12:65**

**MONELL V. DEPARTMENT OF
SOCIAL SERVICES**

Deprivation of rights under color of
law, **14:18**

MOORE V. HARPER

Elections Clause, independent state
legislature theory
Rejection of, **2:71**

MOOTNESS

Sex discrimination, **8:39**

MORALE OF EMPLOYEES

Employment discrimination,
disparate impact cases, **9:82**

MORALS

Ethics and Morals (this index)

MOTIVE

Employment discrimination, speech
as evidence of motive, **9:151**

Housing Discrimination (this index)

INDEX

MRS. MURPHY HOME BOARDING EXEMPTION
Housing discrimination, **3:20**

MUNICIPALITIES
Color of Law, Deprivation of Rights Under (this index)

MUNICIPALITIES AS PERSONS
Deprivation of rights under color of law, **14:18**

NARCOTICS
Drugs and Narcotics (this index)

NATIONAL COLLEGIATE ATHLETIC ASSOCIATION
Sex discrimination, **8:23**

NATIONAL ORIGIN DISCRIMINATION
303 Creative decision
civil rights
compelled speech, **9:158**
Employment Discrimination (this index)
Housing discrimination, **3:26**

NATIVE AMERICANS
Indians (this index)

NCAA
Sex discrimination, **8:23**

NEGLIGENT DEPRIVATIONS
Color of law, deprivation of rights under, **14:128**

§ 1981
Discrimination in property, contract, and economic rights, retaliation claims, **13:16**

NINETEENTH AMENDMENT
General discussion, **1:10**

§ 1983
Deprivation of rights under color of law, definition of person under, **14:18**

NOMINAL DAMAGES
Color of law, deprivation of rights under, **14:151**

NOMINATING CONVENTIONS
Voting rights, **2:78**

NON-DELEGATION DOCTRINE
Constitutional law, **1:57**

NONRETROGRESSION PRINCIPLE
Voting rights, Section 5 violations, **2:35**

NORTHWEST AUSTIN CASE
Voting rights, **2:40**

NOTICE
Age Discrimination in Employment Act, notice to Equal Employment Opportunity Commission, **11:36**
Americans with Disabilities Act, **12:20 et seq.**
Employment discrimination, employer liability for sexual harassment by coworkers, **9:138**
Housing Discrimination (this index)
Sexual harassment, **8:36**

OATHS
Voting rights, loyalty oaths, **2:81**

OBERGEFELL V. HODGES
Same-sex marriage, **1:48**

OFFENSIVE SPEECH
Employment discrimination, **9:153 et seq.**

OLDER PERSONS
Housing discrimination, **3:34 et seq.**

OPPOSITION RETALIATION CASES
Employment discrimination, **9:109**

OVERBREADTH
Freedom of Access to Clinic Entrances Act of 1994, **17:20**

PARENT AND SUBSIDIARY CORPORATIONS
Age Discrimination in Employment Act, remedies and relief, **11:51**
Employment discrimination, **9:10**

PARENTS INVOLVED V. SEATTLE SCHOOL DISTRICT
Enforcement of civil rights, race-conscious student assignments, **1:42**

PARTIES
Equal Pay Act, **10:31**
Standing (this index)

PAY
Equal Pay Act (this index)

PEARSON V. CALLAHAN
Deprivation of rights under color of law, **14:54**

PENDENT JURISDICTION
Age Discrimination in Employment Act, **11:54**

PENDENT STATE LAW CLAIMS
Attorneys' fees, **16:19**

PERSONALITY CONFLICTS
Employment discrimination, disparate treatment, **9:37**

PERSUASION, BURDEN OF
Age Discrimination in Employment Act (ADEA), Meacham v. Knolls Atomic Power Laboratory, **11:27**

PHYSICAL REQUIREMENTS AND OTHER OBJECTIVE CRITERIA
Employment discrimination, disparate impact cases, **9:94**

PHYSICIANS
Color of law, deprivation of rights under, **14:13**

PLEA BARGAINS
Color of law, deprivation of rights under, **14:40**

PLEADINGS
Color of law, deprivation of rights under, **14:57**

POLICE OFFICERS
Age Discrimination in Employment Act, **11:30**

POLICYMAKING OFFICIALS
Age Discrimination in Employment Act, **11:9**

POLICY OR PRACTICE SYSTEMATIC DISPARATE TREATMENT
Employment discrimination, **9:45 et seq.**

POLITICAL PRIMARIES
Voting rights, **2:74, 2:75, 2:78**

POLLING PLACES
Aid to voters, waiting in line
Restrictions on line warming, **2:88**

PRECLEARANCE
Voting Rights Act, **2:55**

PREEmployment MEDICAL EXAMINATIONS
Americans with Disabilities Act, **12:23**

PREEMPTION
Freedom of Access to Clinic Entrances Act of 1994, civil actions, **17:8**

PREGNANCY
Employment discrimination, sex discrimination, **9:142, 9:143**

PRELIMINARY INJUNCTIONS
Attorneys' fees, prevailing parties, **16:4**
Employment discrimination, **9:165**

PREPONDERANCE OF EVIDENCE
Housing discrimination, motive, intent and impact, **3:53**

PRESIDENT OF UNITED STATES
Color of law, deprivation of rights under, **14:46**

PRETEXT
Age Discrimination in Employment Act, **11:20**
Employment discrimination, disparate treatment, **9:32, 9:33, 9:41, 9:42**

INDEX

PRETEXT—Cont'd

Equal Pay Act, burdens of proof and persuasion, **10:34**

PREVAILING PARTIES

Attorneys' Fees (this index)

PRIMA FACIE CASE

Age Discrimination in Employment Act, **11:20**

Employment Discrimination (this index)

Equal Pay Act, **10:32**

Housing discrimination, motive, intent and impact, **3:52, 3:53**

PRIOR RESTRAINT DOCTRINE

Employment discrimination, freedom of speech, **9:162**

PRISONERS

Attorneys' fees, Prison Litigation Reform Act, **16:18**

Religious Freedom Restoration Act, **5:37**

Vocational programs, sex discrimination, **8:30**

PRIVATE CAUSE OF ACTION

Color of law, deprivation of rights under, **14:103, 14:104**

Federally assisted programs, **8:9 et seq.**

Housing Discrimination (this index)

Individuals with Disabilities Education Act, **12:75**

Rehabilitation Act of 1973, **12:60**

Sex discrimination, **8:24 et seq.**

PRIVATE CLUBS

Housing discrimination, **3:22**

Public Accommodations (this index)

PRIVATE ENTITIES

Deprivation of rights under color of law, Bivens actions against private entities, **14:166**

PRIVATELY OPERATED FEDERAL PRISONS

Bivens actions, **14:167**

PROCESS AND OUTCOME

THEORIES

Constitutional law, **1:27 et seq.**

PRODUCTION, BURDEN OF

Age Discrimination in Employment Act (ADEA), Meacham v. Knolls Atomic Power Laboratory, **11:27**

PROFESSIONAL CONTRACTORS

Color of law, deprivation of rights under, **14:11**

PROPERTY, CONTRACT AND ECONOMIC RIGHTS

General discussion, **13:1 et seq.**

Contractual relationship, employment discrimination, **13:12**

Damages, **13:20**

Discrimination in property, contract, and economic rights, **13:12**

Discrimination in Property, Contract, and Economic Rights (this index)

Employment discrimination general discussion, **13:11 et seq.** contractual relationship, requirement of, **13:12**

hostile environment claims, **13:14, 13:15**

independent contractors, hostile environment claims, **13:15**

Title VII claims, relationship to, **13:13**

Equitable relief, **13:19**

Exhaustion of administrative remedies, **13:17**

Governmental and nongovernmental discrimination prohibited, **13:3 et seq.**

Hostile environment claims, employment discrimination, **13:14, 13:15**

Housing discrimination, **13:26**

Independent contractors, hostile environment claims, **13:15**

Intent to discriminate, **13:10**

Jones v. Alfred H. Mayer Co., **13:4 et seq.**

Legislative history, **13:4 et seq.**

PROPERTY, CONTRACT AND ECONOMIC RIGHTS—Cont'd

- Limitations period, **13:21**
- Patterson v. McLean Credit Union, **13:7**
- Race discrimination, limitation to claims of, **13:9**
- Remedies
 - general discussion, **13:17 et seq.**
 - damages, **13:20**
 - equitable relief, **13:19**
 - exhaustion of administrative remedies, **13:17**
 - limitations period, **13:21**
 - Section 1982, **13:27**
- Runyon v. McCrary, **13:6**
- Section 1982
 - general discussion, **13:22 et seq.**
 - housing discrimination, **13:26**
 - Jones v. Alfred H. Mayer Co., **13:23**
 - racial discrimination, limitation to, **13:24**
 - remedies, **13:27**
 - scope of claims, **13:25**
 - Thirteenth Amendment, **13:22**
- Section 1981, generally, **13:1 et seq.**
- Thirteenth Amendment, Section 1982, **13:22**

PROPERTY DISCRIMINATION

- Discrimination in Property, Contract, and Economic Rights** (this index)

PROPORTIONALITY

- Congruence and Proportionality** (this index)
- Reconciling the effects test of section 2
- Gingles with the ban on proportionality
- Allen v. Milligan, **2:13**

PROSECUTORS

- Color of law, deprivation of rights under, **14:35 et seq.**

PRO SE PLAINTIFFS

- Attorneys' fees, **9:182, 16:25**

PUBLIC ACCOMMODATIONS

- General discussion, **7:1 et seq.**
- Attorneys' fees, **7:21**
- Bars and taverns, **7:5**
- Boy scouts and similar organizations, **7:12**
- Civil Rights Act of 1964, **7:1 et seq.**
- Coercion, **7:16**
- Constitutional authority, **7:2**
- Damages, actions for, **7:20**
- Declaratory relief, **7:19**
- Dining facilities, **7:4 et seq.**
- Entertainment, places of, **7:7**
- Establishments covered
 - general discussion, **7:3 et seq.**
 - bars and taverns, **7:5**
 - dining facilities, **7:4 et seq.**
 - entertainment, places of, **7:7**
 - gas stations, **7:6**
 - incidentally covered establishments, **7:8**
 - lodging establishments, **7:3**
- Exhaustion of remedies, **7:23**
- Freedom of association, private clubs, **7:15**
- Gas stations, **7:6**
- Historical backdrop, **7:1 et seq.**
- Incidentally covered establishments, **7:8**
- Injunctive relief, **7:19**
- Intimidation, **7:16**
- Jaycees and similar organizations, **7:12**
- Limitations periods, **7:22**
- Lodging establishments, **7:3**
- Private clubs
 - general discussion, **7:11 et seq.**
 - freedom of association, **7:15**
 - jaycees, boy scouts and similar organizations, **7:12**
- Remedies
 - general discussion, **7:17 et seq.**
 - attorneys' fees, **7:21**
 - damages, actions for, **7:20**
 - exhaustion of remedies, **7:23**
 - injunctive and declaratory relief, **7:19**
 - limitations periods, **7:22**

INDEX

PUBLIC ACCOMMODATIONS

—Cont'd

- Remedies—Cont'd
 - plaintiffs, **7:17**
 - prohibition on punishment for exercise of rights, **7:18**
- State action, establishments supported by, **7:9**
- State-mandated discrimination, **7:10**
- Taverns and bars, **7:5**

PUBLIC DEFENDERS

- Attorneys' fees limitations, legal aid attorneys, **16:36**
- Color of law, deprivation of rights under, **14:12 et seq.**

PUBLIC SERVICES

- Americans with Disabilities Act, **12:33 et seq.**

PUBLIC TRANSPORTATION

- Americans with Disabilities Act, **12:36**

PUNITIVE DAMAGES

- Color of law, deprivation of rights under, **14:95, 14:152, 14:153**
- Housing discrimination, private court actions, **3:72**
- Rehabilitation Act of 1973, **12:61**

QUALIFICATIONS

- Attorneys' fees, Sole v. Wyner, **16:5**

QUALIFIED IMMUNITY

- Color of law, deprivation of rights under, **14:58**
- Deprivation of rights under color of law, **14:54**
- Religious Freedom Restoration Act, **5:41**

QUASI-JUDICIAL AUTHORITY

- Color of law, deprivation of rights under, **14:34**

QUESTIONS OF LAW OR FACT

- Color of law, deprivation of rights under, **14:53**
- Employment discrimination, disparate treatment, **9:31**

QUID PRO QUO

- Employment discrimination, sex discrimination, **9:123, 9:152**

RACE-CONSCIOUS STUDENT ASSIGNMENTS

- Enforcement of civil rights, Parents Involved v. Seattle School District, **1:42**

RACE OR COLOR DISCRIMINATION

- Compelled speech, civil rights 303 Creative decision, **9:158**
- Employment Discrimination** (this index)
- Housing discrimination, **3:26**
- Property, contract and economic rights, **13:9**

READILY ACHIEVABLE REFORMS

- Americans with Disabilities Act, accommodations and services provided by private entities, **12:47**

REASONABLE ACCOMMODATION

- Americans with Disabilities Act** (this index)
- Employment discrimination, religious discrimination, **9:116, 9:117**
- Rehabilitation Act of 1973, **12:55**
- Religious Freedom Restoration Act, **5:22 et seq.**

RECONCILIATION

- Effects test of section 2 holding in Allen v. Milligan Gingles, ban on proportionality, **2:13**

REDLINING

- Housing discrimination, **3:47**

REFERENDUM

- Disclosure of petition signatures, **2:82**

REGISTRATION

- Paul v Davis test and sex offender registries, **14:123**

REHABILITATION

Americans with Disabilities Act, substance abuse, **12:28**
Rehabilitation Act of 1973 (this index)

REHABILITATION ACT OF 1973
 General discussion, **12:52 et seq.**
 Administrative enforcement, **12:58**
 Attorneys' fees, **12:63**
 Eleventh Amendment immunity, remedies and attorney's fees, **12:62**
 Federal assistance, receipt of, **12:56, 12:57**
 Handicapped individual, defined, **12:53**
 Otherwise qualified persons, **12:54**
 Private cause of action, **12:60**
 Program or activity scope issue, receipt of federal assistance, **12:57**
 Reasonable accommodation, **12:55**
 Remedies

general discussion, **12:58 et seq.**
 administrative enforcement, **12:58**
 attorneys' fees, **12:63**
 private cause of action, **12:60**
 Solely by reason of handicap standard, **12:55**
 Undue hardship, **12:55**

REINSTATEMENT

Age Discrimination in Employment Act, **11:49**

REJECTION

Enforcement of civil rights, class of one claims in employment cases, constitutional equal protection, **1:51**
 Independent state legislature theory
 Elections Clause in *Moore v. Harper*, **2:71**

RELIGION AND RELIGIOUS DISCRIMINATION

Age Discrimination in Employment Act, employees with religious functions, **11:34**
 Americans with Disabilities Act, accommodations and services

RELIGION AND RELIGIOUS**DISCRIMINATION—Cont'd**

provided by private entities, **12:48**

Civil Rights, Compelled speech
 303 Creative decision, **9:158**
Employment Discrimination (this index)
Freedom of Access to Clinic Entrances Act of 1994 (this index)
Freedom of Religion (this index)
 Housing discrimination, **3:21, 3:28**
Religious Freedom Restoration Act (this index)
 Religious Land Use and Institutionalized Persons Act, **5:38, 5:39**
 Same-sex marriage, **1:50**
 Sex discrimination, religious institutions, **8:15**

RELIGIOUS FREEDOM RESTORATION ACT

General discussion, **5:1 et seq.**
 Abortion protest, **5:43**
 Accommodation principle, **5:22 et seq.**
 Age discrimination, **5:42**
 Application of Act, **5:37 et seq.**
 Attorneys' fees, **5:17**
 Bankruptcy, **5:49**
Boerne v. Flores, **5:3, 5:29**
 Burden of proof, **5:15, 5:34**
 Burden on free exercise, defining, **5:26, 5:27**
 Centrality of religious practice, inquiry into, **5:32**
 Child labor, **5:48**
 Claims, judicial relief, **5:12**
 College regulations, **5:47**
 Congressional findings, **5:7**
 Congressional rejection of Employment Division v. Smith, **5:25**
 Corporate plaintiffs, free exercise claims, **5:9**
 Covid-19 pandemic, religious discrimination claims arising from, **5:55**

INDEX

RELIGIOUS FREEDOM RESTORATION ACT—Cont'd

- Cross reference to establishment clause limits, **5:25**
- Defenses, judicial relief, **5:12**
- Drug use, **5:46**
- Employment discrimination, **5:45**
- Employment Division v. Smith, **5:2, 5:23, 5:25**
- Establishment clause limitations, **5:25, 5:51, 5:52**
- Exceptions, **5:10**
- Federal officers, Supreme Court application to, **5:4**
- Forms of relief, **5:16**
- Fourteenth Amendment, Section 4, **5:28 et seq.**
- Freedom of Access to Clinic Entrances Act of 1994, **17:22**
- Free exercise clause, **5:22 et seq.**
- Hobby Lobby decision, **5:9**
- Independent appellate review in religion cases, **5:54**
- Instrumentalities, Supreme Court application to, **5:4**
- Judicial relief, **5:12 et seq.**
- Least restrictive means, **5:35**
- Legislative history, **5:20, 5:28**
- Lower court applications of Act, **5:39**
- Penalty vs. mere failure to subsidize, **5:27**
- Power of Congress to enact Act, **5:28 et seq.**
- Prisoners, **5:37**
- Property rental, **5:44**
- Purpose, **5:6**
- Qualified immunity, **5:41**
- Relaxation of establishment standards, **5:52**
- Religion, defined
 - general discussion, **5:36 et seq.**
 - conundrums posed by attempting to define religion, **5:36**
- Religious Land Use and Institutionalized Persons Act, **5:3, 5:38, 5:39**
- Retroactive application, **5:14, 5:18**
- Right-privilege distinction, **5:21**
- Ritual sacrifice case, **5:24**

RELIGIOUS FREEDOM RESTORATION ACT—Cont'd

- Secular school programs, funds for, **5:52**
- Sherbert v. Verner, **5:22**
- Standing, **5:13**
- Strict scrutiny, **5:10**
- Substantial burden
 - general discussion, **5:8, 5:31 et seq.**
 - centrality of religious practice, inquiry into, **5:32**
 - defined, **5:32**
 - public lands, management of, **5:33**
- Supreme Court
 - application to federal officers and instrumentalities, **5:4**
 - precedent leading to passage of Act, generally, **5:20 et seq.**
 - Taxes, **5:49**
 - University regulations, **5:47**

RELIGIOUS LAND USE AND INSTITUTIONALIZED PERSONS ACT

- Generally, **5:3, 5:38**
- Expansive scope, **5:39**
- Hold v. Hobbs, **5:39**

REMEDIES AND RELIEF

Age Discrimination in Employment Act (this index)

- Americans with Disabilities Act, accommodations and services provided by private entities, **12:49 et seq.**
- Conspiracy to violate civil rights, **15:12 et seq.**
- Damages** (this index)
- Employment Discrimination** (this index)
- Equal Pay Act** (this index)
- Equitable Remedies** (this index)
- Freedom of Access to Clinic Entrances Act of 1994, **17:4 et seq.**
- Housing Discrimination** (this index)
- Individuals with Disabilities Education Act** (this index)

REMEDIES AND RELIEF—Cont'd	RETROACTIVE APPLICATION OF CIVIL RIGHTS LEGISLATION
Property, Contract and Economic Rights (this index)	General discussion, 18:1 et seq.
Public Accommodations (this index)	Attorneys' fees limitations, 18:16
Rehabilitation Act of 1973 (this index)	Clear statement principle, 18:7
5REMEDIES AND RELIEF	Color of Law, Deprivation of Rights Under (this index)
Rehabilitation Act of 1973, 12:62	Competing canons of construction, 18:5
REMOVAL FROM	Deportation and immigration, 18:18
Color of law, deprivation of rights under, 14:72	Immigration and deportation, 18:18
RES JUDICATA	Judicial default rules
Color of law, deprivation of rights under, 14:139	general discussion, 18:5 et seq.
RESPONDEAT SUPERIOR	clear statement principle, 18:7
Color of law, deprivation of rights under, 14:19, 14:89	competing canons of construction, 18:5
RESTORATION OF BENEFITS	exceptions to clear statement principle, 18:8 et seq.
Age Discrimination in Employment Act, 11:48	jurisdictional changes, 18:9
RESTRICTIONS	priority of presumption against retroactivity, 18:6
Line warming, aid to voters waiting in line at polling places, 2:88	procedural changes, 18:10
RESTRICTIVE COVENANTS	prospective relief, 18:8
Housing discrimination, constitutional law, 3:2	revision of law in effect principle, 18:11 et seq.
RETALIATION	jurisdictional changes, 18:9
Age Discrimination in Employment Act, 11:17	Landgraf decision, 18:2 et seq.
Discrimination in property, contract, and economic rights, § 1981, 13:16	Legislative history of Civil Rights Act of 1991, 18:4
Employment Discrimination (this index)	Lower court applications, 18:17
Section 1983, 14:134	Priority of presumption against retroactivity, 18:6
Sex discrimination, private right of action, 8:26	Procedural changes, 18:10
Sex discrimination, Title IX, 8:25	Prospective relief, 18:8
RETIREMENT PLANS	Religious Freedom Restoration Act, 5:14, 5:18
Age Discrimination in Employment Act, 11:28	Revision of law in effect principle, 18:11 et seq.
	Rivers decision, 18:15
	REVERSE AGE DISCRIMINATION
	Age Discrimination in Employment Act, 11:18
	REVIEW
	Appeal and Review (this index)

INDEX

RFOA (REASONABLE FACTORS OTHER THAN AGE) PROVISION
Age Discrimination in Employment Act (ADEA), **11:22**

RICCI V. DESTEFANO
Title VII, disparate treatment and disparate impact, **9:26**

RIPENESS
Voting rights, **2:51**

RITUAL SACRIFICE CASE
Religious Freedom Restoration Act, **5:24**

ROOKER-FELDMAN DOCTRINE
Deprivation of rights under color of law, **14:147**

ROUGH PROPORTIONALITY
Voting rights, single member districts, **2:15**

SAFE DISTRICTS
Voting rights, Section 5 violations, **2:38**

SAFETY
Health and Safety (this index)

SALARIES
Equal Pay Act (this index)

SAME ACTOR INFERENCE, DISPARATE TREATMENT
Employment discrimination, **9:34**

SAME-SEX MARRIAGE
Constitutional law, **1:48 et seq.**, **1:49**
Obergefell case, **1:49**
Religious objections, **1:50**

SAME-SEX SEXUAL HARASSMENT
Employment discrimination, **9:147**

SARS-COV-2
Covid-19 Pandemic (this index)

SCHOOLS AND EDUCATION
Colleges and Universities (this index)

SCHOOLS AND EDUCATION
—Cont'd
Desegregation, constitutional law, **1:28**
Employment discrimination, **9:13**
Federally Assisted Programs (this index)
Individuals with Disabilities Education Act (this index)
Training and Training Programs (this index)

SCHUETTE V. COALITION TO DEFEND AFFIRMATIVE ACTION
Constitutional law, **1:41**

SENIORITY SYSTEMS
Age Discrimination in Employment Act, **11:29**
Bona Fide Seniority or Merit Systems (this index)
Equal Pay Act, **10:29**

SEPARATE BUT EQUAL
State action doctrine, **1:5**

SETTLEMENTS
Attorneys' fees, **16:33**
Employment discrimination, attorneys' fees, **9:178**
Voting rights challenges, **2:50**

SEVENTH AMENDMENT
Color of law, deprivation of rights under, **14:154**

SEX DISCRIMINATION
General discussion, **8:13 et seq.**
Admissions, **8:14**, **8:31**
Athletic programs, **8:29**, **8:35**
Athletic teams, sexual banter on, **8:35**
Beauty pageants, **8:22**
Civil rights, compelled speech
303 Creative decision, **9:158**
Constitutional law issues, relationship to, **8:38**
Damages, private right of action for, **8:25**
Discriminatory intent vs. disparate impact, **8:27**

SEX DISCRIMINATION—Cont'd

- Education Amendments Act of 1972, Title IX, generally, **8:13 et seq.**
- Employment Discrimination** (this index)
 - Equal protection, generally, **1:44**
 - Father-son and mother-daughter activities, **8:21**
 - Federal funds, entities that receive payments from recipients of, **8:40**
 - Financial assistance, **8:32**
 - Fraternities and sororities, **8:18**
 - Housing discrimination, **3:27**
 - Implied private right of action, **8:24**
 - Military schools, **8:16**
 - Mootness, **8:39**
 - National Collegiate Athletic Association, **8:23**
 - Notice and deliberate indifference, sexual harassment, **8:36**
 - Practice and procedure, **8:38, 8:39**
 - Prison vocational programs, **8:30**
 - Private right of action, **8:24 et seq.**
 - Program or activity issue, **8:28**
 - Prohibition of discrimination, **8:13**
 - Religious institutions, **8:15**
 - Retaliation claims, **8:2, 8:26**
 - Sexual harassment, **8:34 et seq.**
 - Sororities and fraternities, **8:18**
 - Student-on-student sexual harassment, **8:37**
 - Title IX
 - retaliation claims, **8:25**
 - scope of Section 1983 compared, **8:41**
 - Tradition of single sex admissions, schools with, **8:17**
 - Youth conferences, **8:20**
 - Youth organizations, **8:19**
- SEX OFFENDERS**
 - Color of law, deprivation of rights under, **14:123**
 - Paul v Davis test and sex offender registries, **14:123**
- SEXUAL HARASSMENT**
 - Athletic teams, sexual banter on, **8:35**

SEXUAL ORIENTATION

- Equal Pay Act, remedies and relief, **10:47**
- Equal protection, **1:46**

SIGNATURES

- Disclosure of referendum petition signatures, **2:82**

SINGLE MEMBER DISTRICTS

- Voting Rights** (this index)

SMITH V. CITY OF JACKSON

- Age Discrimination in Employment Act (ADEA), **11:22**
- Disparate-impact theory, **11:22**
- Employment discrimination, **11:22**
- Good faith, **11:22**
- Intent, **11:22**

SOCIAL SECURITY DISABILITY INSURANCE STANDARDS

- Americans with Disabilities Act, arbitration, **12:32**

SOLE V. WYNER

- Attorneys' fees, qualifications as prevailing party, **16:5**

SORORITIES AND FRATERNITIES

- Sex discrimination, **8:18**

SOVEREIGN IMMUNITY

- Alden v. Maine, **14:71**
- Color of law, deprivation of rights under, **14:71**
- Deprivation of rights under color of law, federal administrative proceedings, **14:83:50**
- Franchise Board v. Hyatt, **14:71**

SPEECH

- Compelled, civil rights
 - 303 Creative decision, **9:158**
- Freedom of Speech** (this index)

SPENDING CLAUSE STATUTES

- Color of law, deprivation of rights under, **14:104**
- Enforcement of civil rights through Taxing and Spending Clause, **1:53**

INDEX

STANDING

- Employment discrimination, affirmative action, **9:77**
- Freedom of Access to Clinic Entrances Act of 1994, civil actions, **17:5**
- Housing Discrimination** (this index)
- Religious Freedom Restoration Act, **5:13**
- Voting rights, **2:49**

STATE ACTION DOCTRINE

- General discussion, **1:3 et seq.**
- Civic rights vs. social rights, **1:5**
- Color of law, deprivation of rights under, **14:9**
- Contours of doctrine, **1:3**
- Evolution of doctrine, generally, **1:3 et seq.**
- Modern epoch in civil rights law, emergence of, **1:5 et seq.**
- Public accommodations, **7:9**
- Relaxation of doctrine, **1:6**
- Separate but equal, repudiation of, **1:5**
- Statutes, use to avoid doctrine and extend nondiscrimination principles to private actors, **1:7**
- The Civil Rights Cases, holding and consequences of, **1:3, 1:4**

STATE-CREATED DANGER DOCTRINE

- Color of law, deprivation of rights under, **14:133**

STATE LEGISLATURE

- Rejection of independent theory, Elections Clause in *Moore v. Harper*, **2:71**

STATE OF MIND

- Color of law, deprivation of rights under, **14:97**

STATISTICAL ANALYSIS

- Employment discrimination, policy or practice systematic disparate treatment, **9:47**

STATUTES OF LIMITATION

- Limitation of Actions** (this index)

STATUTORY LAW

- Students for Fair Admissions v. Harvard
- end of affirmative action, **1:40**

STEERING

- Housing discrimination, **3:39**

STOLT-NIELSEN

- Class arbitration in the absense of an agreement to allow class arbitration, **9:195**

STRICT SCRUTINY

- Constitutional law, affirmative action cases, **1:33**
- Religious Freedom Restoration Act, **5:10**

STUDENT ASSIGNMENTS

- Enforcement of civil rights, *Parents Involved v. Seattle School District*, **1:42**

STUDENTS FOR FAIR ADMISSIONS V. HARVARD

- End of affirmative action, **1:40**

SUBJECT MATTER JURISDICTION

- Deprivation of rights under color of law, **14:147**

SUBSIDIARY CORPORATIONS

- Parent and Subsidiary Corporations** (this index)

SUCCESSOR CORPORATIONS

- Employment discrimination, **9:10**

SUCCESSOR EMPLOYEES

- Equal Pay Act, comparisons of compensation, **10:19**

SUMMARY JUDGMENT

- Voting rights, **2:26, 2:66**

SUPERVISION

- Color of law, deprivation of rights under, **14:93**

SUPREMACY CLAUSE

- Deprivation of rights under color of law, **Haywood v. Drown**, **14:137**

SUPREME COURT

- Civil rights
 - 303 Creative decision
 - compelled speech, **9:158**
- Color of law, deprivation of rights under, **14:42**
- Employment discrimination, bona fide occupational qualification (BFOQ) defense, **9:50**
- Religious Freedom Restoration Act, **5:4, 5:9, 5:20 et seq.**
- Students for Fair Admissions v. Harvard
 - end of affirmative action, **1:40**

SURVIVAL

- Fair Housing Act, claims after death of party, **3:86**

SYSTEMATIC DISPARATE TREATMENT CASES

- Employment discrimination, **9:44**

TAKINGS CLAUSE CLAIMS

- Color of law, deprivation of rights under, **14:135**

TAVERNS AND BARS

- Public accommodations, **7:5**

TAXES

- Enforcement of civil rights through Taxing and Spending Clause, **1:53**
- Religious Freedom Restoration Act, **5:50**

TAXING AND SPENDING CLAUSE

- Enforcement of civil rights, **1:53**

TEMPORARY RESTRAINING ORDERS

- Attorneys' fees, prevailing parties, **16:4**

TENTH AMENDMENT

- Anticommandeering principle, **1:55**

TERRITORIES

- Color of law, deprivation of rights under, **14:22**

TERRORISM

- Constitutional law, **1:52**

TESTER STANDING

- Housing discrimination, **3:16**

TESTS AND TESTING

- Civil Rights Act of 1964, **11:22**
- Disparate-impact theory, **11:22**
- Griggs v. Duke Power Co., **11:22**
- Intelligence tests, **11:22**
- Reconciling the effects of section 2 holding in Allen v. Milligan
- Gingles, ban on proportionality, **2:13**

THIRTEENTH AMENDMENT

- Housing Discrimination** (this index)
- Involuntary servitude, **4:1, 4:2**
- Property, contract and economic rights, **13:22**

THREATS OF FORCE

- Freedom of Access to Clinic Entrances Act of 1994, **17:2, 17:17 et seq.**

TIPPING PHENOMENON

- Housing discrimination, integration maintenance debate, **3:55, 3:56**

TITLE IX

- Athletic teams, sexual banter on, **8:35**
- Disciplinary proceedings, challenges to, **8:43**
- Section 1983 scope compared, **8:41**
- Sex discrimination
 - retaliation claims, **8:25**
- Statute of limitations, **8:42**

TITLE VII

- Age Discrimination in Employment Act, substantive parallels to, **11:4**
- Color of law, deprivation of rights under, **14:77**
- Conspiracy to violate civil rights, **15:11**
- Employment discrimination, Ricci v. DeStefano, **9:26**
- Employment Discrimination** (this index)
- Equal Pay Act, relationship to, **10:8, 10:9**

INDEX

TOTALITY OF CIRCUMSTANCES FACTORS
Voting rights, Section 2 violations, **2:10**

TRAFFICKING VICTIMS PROTECTION ACT
Involuntary servitude, **4:6**

TRAINING AND TRAINING PROGRAMS
Color of law, deprivation of rights under, **14:93**
Equal Pay Act, **10:13, 10:25**

TRANSGENDER DISCRIMINATION
Title VII and the Equal Pay Act, **10:47**

TRAVEL, RIGHT TO
Housing discrimination, **3:83**

TRUMP V. HAWAII
Immigration ban decision, **1:54**

TWENTY-SIXTH AMENDMENT
General discussion, **1:10**
Voting age, discrimination claims, **2:85**

UNDUE HARSHSHIP
Americans with Disabilities Act, **12:17**
Rehabilitation Act of 1973, **12:55**

UNIVERSITIES
Colleges and Universities (this index)

VAGUENESS
Color of law, deprivation of rights under, **14:105**
Freedom of Access to Clinic Entrances Act of 1994, **17:21**

VENUE
Equal Pay Act, **10:35**
Housing discrimination, private court actions, **3:70**

VICARIOUS LIABILITY
Employment discrimination, sex discrimination, **9:131 et seq.**

VICARIOUS LIABILITY—Cont'd
Housing discrimination, **3:84**

VIOLENCE AGAINST WOMEN ACT
Constitutional law, **1:15**

VOLUNTEERS
Employment discrimination, **9:24**

VOTER ID LAWS
Voting rights, Crawford decision, **2:79**

VOTERS
Aid to, waiting in line at polling places
Restrictions on “line warming,” **2:88**

VOTING RIGHTS
General discussion, **2:1 et seq.**
Absentee ballots, **2:83**
Anderson-Burdick balancing test, **2:87**
Appellate review under clearly erroneous standard, Section 2 violations, **2:27**
At-large elections, Section 2 violations, **2:19**
Attorneys’ fees, **2:48**
Bailout provision, **2:40**
Blanket primaries, Voting Rights Act, **2:74**
Burden of proof, Section 2 violations, **2:18**
Burdens on campaign spending by candidates, **2:80**
Challenges to voter ID laws, Crawford decision, **2:79**
Congressional authority, **2:54, 2:55**
Constitutional law
general discussion, **1:29, 2:52 et seq.**
Alabama Black Caucus, **2:62**
Bethune-Hill v. Virginia, **2:63**
Bush v. Gore, **2:70**
Bush v. Vera, **2:60**
Congressional authority, **2:54**
Cooper v. Harris, **2:64**

VOTING RIGHTS—Cont'd

Constitutional law—Cont'd
 court-ordered plans, application to, **2:68**
 Fifteenth Amendment, race-neutral commands of, **2:69**
 First Amendment, **2:70, 2:76**
Hunt v. Cromartie, **2:64**
Hunt v. Cromartie II, **2:67**
 intent and summary judgment standards, establishment of, **2:68**
 limitations on enforcement of voting rights, generally, **2:56 et seq.**
Miller v. Johnson, **2:58 et seq.**
 Section 2 compliance as compelling interest, **2:65**
 semiclosed primaries, **2:73**
Shaw v. Hunt, **2:61**
Shaw v. Reno, **2:57 et seq.**
 Shelby County, **2:28**
UJO v. Carey, **2:56**
 Voting Rights Act, **2:74, 2:75**
 Court mandated forms of government, equitable remedies, **2:53**
 Coverage formula struck down by Shelby County, **2:28**
 Covered jurisdictions, Voting Rights Act, **2:55**
 Crawford decision, challenges to voter ID laws, **2:79**
 Deference owed to findings of Attorney General, Section 5 violations, **2:42**
 Direct partisan primaries, Voting Rights Act, **2:75**
 Disclosure of referendum petition signatures, **2:82**
 Disenfranchisement laws, Section 2 violations, **2:25**
 Early ballots, **2:83**
 Early voting rights acts general discussion, **2:2 et seq.**
 1870 Enforcement Act, **2:3**
 Equitable remedies, court mandated forms of government, **2:53**
 Equitable remedies, power to fashion, **2:52**

VOTING RIGHTS—Cont'd

“Faithless electors,” state restrictions on in presidential elections, **2:84**
 Fifteenth Amendment, race-neutral commands of, **2:69**
 First Amendment, **2:70, 2:76**
 Forms of government, court mandated, equitable remedies, **2:53**
Gerrymandering (this index)
 Government, court mandated forms, equitable remedies, **2:53**
 History of race discrimination, **2:1**
 History of Voting Rights Act of 1965 general discussion, **2:4 et seq.**
Mobile v. Bolton, restrictive interpretation of, **2:7, 2:8**
 1982 amendments, **2:8**
 1970 extensions, **2:5**
 1975 amendments, **2:6**
 1965 Act, **2:4**
 Influence districts, Section 5 violations, **2:38**
 Intent standards, establishment of, **2:66**
 Judicial elections, Section 2 violations, **2:22**
 Loyalty oaths, **2:81**
 Nominating conventions vs. political primaries, **2:78**
 Nonretrogression principle, Section 5 violations, **2:35**
 Northwest Austin case, **2:40**
 Objection to preclearance by Attorney General, Section 5 violations, **2:30**
 Pandemic regulations and restrictions on elections and voting, **2:86**
 Political primaries blanket primaries, **2:74**
 direct partisan primaries, **2:75**
 nominating conventions vs., **2:78**
 Political subdivisions, Section 2 violations, **2:20**
 Practice issues, generally, **2:39 et seq.**
 Preclearance for covered jurisdictions, Voting Rights Act, **2:55**

INDEX

VOTING RIGHTS—Cont'd

Preclearance mechanism, Section 5 violations, **2:29, 2:30, 2:41 et seq.**
Purging voter registration for failure to vote, **2:17**
Rejection of the independent state legislature
theory of the Elections Clause in *Moore v. Harper*, **2:71**
Restrictions on “line warming” aid to voters
waiting in line at polling places, **2:88**
Ripeness, **2:51**
Rough proportionality, single member districts, **2:15**
Safe districts, Section 5 violations, **2:38**
Section 1973aa-1a, **2:47**
Section 1973d, e, f, g and h, **2:45**
Section 1973i, **2:46**
Section 2 violations
general discussion, **2:9 et seq.**
Analysis of the Gingles factors, **2:12**
appellate review under clearly erroneous standard, **2:27**
appointive offices, discrimination in, **2:21**
at-large elections, **2:19**
burden of proof, **2:18**
disenfranchisement laws, **2:25**
holding in *Allen v. Milligan*
Gingles with the ban on proportionality, **2:13**
judicial elections, **2:22**
operative language, **2:9**
political subdivisions, application to, **2:20**
size of governmental bodies, challenges to, **2:24**
standards under Section 2 and Section 5, relationship between, **2:44**
summary judgment, **2:26**
Thornburg v. Gingles, **2:11 et seq.**
totality of circumstances factors, **2:10**

VOTING RIGHTS—Cont'd

Section 5 violations
general discussion, **2:29 et seq.**
compelling of finding, effect of preclearance, **2:43**
covered county changes in mandated by noncovered state, **2:37**
deference owed to findings of Attorney General, **2:42**
effect of preclearance, **2:41 et seq.**
failure to preclear, **2:31**
federal law, changes mandated by, **2:36**
framework established by *Allen v. State Board of Elections*, **2:32**
influence districts, **2:38**
manner of voting, changes in, **2:33**
nonretrogression principle, **2:35**
objection to preclearance by Attorney General, **2:30**
preclearance mechanism, **2:29, 2:30, 2:41 et seq.**
safe districts, **2:38**
Shelby County strikes down coverage formula, **2:28**
standards under Section 2 and Section 5, relationship between, **2:44**
subsequent challenges not barred by preclearance, **2:41**
Semiclosed primaries, **2:73**
Settlement of voting rights challenges, **2:50**
Single member districts
general discussion, **2:14 et seq.**
Grove v. Emison, **2:14**
lower court applications, **2:16**
rough proportionality, **2:15**
Size of governmental bodies, Section 2 violations, **2:24**
Special elections, power to require, **2:52**
Standing, **2:49**
Summary judgment, **2:26, 2:66**
Totality of circumstances factors, Section 2 violations, **2:10**

VOTING RIGHTS—Cont'd

Twenty-Sixth Amendment, voting age
discrimination claims, **2:85**
Validity of preclearance for covered jurisdictions, Voting Rights Act, **2:55**
Voter ID laws, challenges to, Crawford decision, **2:79**
Voting Rights Act
blanket primaries, **2:74**
congressional authority, future validity of preclearance for covered jurisdictions, **2:55**
covered jurisdictions, validity of preclearance, **2:55**
direct partisan primaries, **2:75**
preclearance for covered jurisdictions, congressional authority, **2:55**
validity of preclearance for covered jurisdictions, congressional authority, **2:55**
Voting Rights Act of 1965, generally, **2:4 et seq.**

VOTING RIGHTS ACT

Blanket primaries, **2:74**
Congressional authority, future validity of preclearance for covered jurisdictions, **2:55**
Covered jurisdictions, validity of preclearance, **2:55**

VOTING RIGHTS ACT—Cont'd

Direct partisan primaries, **2:75**
Preclearance for covered jurisdictions, congressional authority, **2:55**
Validity of preclearance for covered jurisdictions, congressional authority, **2:55**

WAIVER

Bivens actions, sovereign immunity, **14:169**
Color of law, deprivation of rights under, **14:74**

WILKIE V. ROBBINS

Deprivation of rights under color of law, suits against federal officials and federal entities, **14:165**

WITNESSES

Color of law, deprivation of rights under, **14:45**

WORKFARE

Involuntary servitude, **4:5**

YOUTH CONFERENCES

Sex discrimination, **8:20**

YOUTH ORGANIZATIONS

Sex discrimination, **8:19**

ZONING

Housing discrimination, **3:46**