

Index

ABSENTEEISM

- Just cause for termination, unexcused absences as, **20:17**
- Leaves of absence. See LEAVES OF ABSENCE
- Policies concerning
 - No-fault, **16:2**
 - Workers' compensation claimants, effect on, **3:40**
- Pregnancy, **14:8**

ABUSIVE DISCHARGE

- Generally, **4:11**
- Exception to employment at will, **1:8**

ACCOMMODATION

- Disabilities, **19:16, 19:19, 19:20**
 - ADA. See AMERICANS WITH DISABILITIES ACT (ADA)
 - Federal requirements, **19:19**
 - Ohio requirements, **19:20**
 - Rehabilitation Act, **2:63, 19:19**
 - Religion, **19:16 to 19:18**

ACKNOWLEDGMENTS

- See DISCLAIMERS; RELEASE AND WAIVER

ADA

- See AMERICANS WITH DISABILITIES ACT (ADA)

ADDICTION

- See ALCOHOL OR DRUG ADDICTION

ADEA

- See AGE DISCRIMINATION IN EMPLOYMENT ACT (ADEA)

ADMINISTRATIVE EMPLOYEES

- See FAIR LABOR STANDARDS ACT (FLSA)
- At Exempt employees

ADMINISTRATIVE LAW JUDGES

- NLRB proceedings, **18:3**

ADMINISTRATIVE REMEDIES

- Exhaustion, See EXHAUSTION OF ADMINISTRATIVE REMEDIES

ADVERTISING

- Generally, **6:4, 6:5**

ADVERTISING—Cont'd

- ADA, **6:1**
 - Preference, indicating, **6:5**
- Affirmative Action Employer designation, **6:4**
- Age preference, indicating, **6:5**
- Employment agencies, **6:9**
- Equal Opportunity Employer designation, **6:4**
- Indication of preference prohibited, **3:13**
- Job security, fraud claims based on representations of, **6:8**
- Minimizing wrongful discharge liability, **6:8**
- Preference, indicating, **6:5**
- Promissory estoppel, **6:8**
- Recordkeeping requirements, **6:7**

AFFIRMATIVE ACTION

- Advertising practices, **6:4**
- Executive Order 11246, **6:3, 6:4**
- Recruiting practices, **6:3**
- Rehabilitation Act, **2:60**

AFFIRMATIVE DEFENSES

- ADEA. See AGE DISCRIMINATION IN EMPLOYMENT ACT (ADEA)
- Bona fide employee benefit plans. See EMPLOYEE BENEFIT PLANS
- Bona fide occupational qualification. See BONA FIDE OCCUPATIONAL QUALIFICATION (BFOQ)
- Bona fide seniority system. See SENIORITY OR MERIT SYSTEM STANDARDS
- Defenses not specifically listed in civil rules, **21:5**
- Denials, distinguished from, **21:2**
- Equal Pay Act, **11:23**
- Just cause for termination. See JUST CAUSE FOR TERMINATION, generally
- Limitation of actions, **21:3, 21:6 to 21:19**
 - See also LIMITATION OF ACTIONS
- Ohio Civil Rights Act. See OHIO CIVIL RIGHTS ACT
- Preemption, **21:5**
 - See also FEDERAL PREEMPTION, generally

AFFIRMATIVE DEFENSES—Cont'd

Procedural rules, **21:4**
 Statute of frauds, **21:20**
 Title VII. See TITLE VII

AGE

ADEA. See AGE DISCRIMINATION
 IN EMPLOYMENT ACT (ADEA)

Advertising preference, **6:5**

Defined

Ohio Civil Rights Act, **3:5**

Discipline and discharge of older work-
 ers. See DISCIPLINE AND DIS-
 CHARGE, at Older workers

Discrimination based on prohibited

Federal law, **2:19 to 2:21**

See also AGE DISCRIMINATION
 IN EMPLOYMENT ACT
 (ADEA)

Ohio Age Discrimination in Employ-
 ment Act. See OHIO AGE
 DISCRIMINATION IN
 EMPLOYMENT ACT

Ohio Civil Rights Act, **3:8 to 3:14**

OWBPA. See OLDER WORKERS
 BENEFIT PROTECTION ACT
 (OWBPA)

Protected class extended beyond age
 seventy, **2:19**

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

See also AGE

Generally, **2:19 to 2:21**

Affirmative defenses, **2:21**

Bona fide employee benefit plan,
2:21, 14:9, 19:28

OWBPA, **19:28**

Bona fide occupational qualification,
2:21, 19:21

Bona fide seniority system, **2:21,**
19:24

OWBPA, **19:25**

Reasonable factor other than age,
19:29

Arbitration, election of remedies, **21:24**

Attorney fees, **2:21, 22:25**

Back pay, **2:21**

Tax consequences of awards or settle-
 ments, **22:43**

Bona fide employee benefit plan
 defense, **2:21, 14:9, 19:28**

OWBPA, **19:28**

Bona fide occupational qualification
 defense, **2:21, 19:21**

**AGE DISCRIMINATION IN
 EMPLOYMENT ACT (ADEA)
 —Cont'd**

Bona fide seniority system defense,
2:21, 19:24

OWBPA, **19:25**

Charges of discrimination

Deferral to state agency, **21:12**

Forms, **23:12 to 23:28**

EEOC, filing with, **2:21, 18:11**

Timeliness, **2:21, 21:12**

Civil Rights Act of 1991, **2:21**

Compensation discrimination, **11:20**

Concurrent jurisdiction of state and
 federal courts, **18:14**

Damages, **2:21, 22:25**

Liquidated damages, **22:25**

Setoff and mitigation, **2:27**

Tax consequences of awards or settle-
 ments, **22:43**

Willful violations, double damages,
2:21

Disparate impact, applicability, **19:5**

Double damages available for willful
 violations, **2:21**

Enforcement procedures, **2:21**

EEOC jurisdiction, **18:11**

ERISA, **14:7, 14:9**

Fringe benefits

State law relation to ADEA, **14:13**

Front pay, **2:21, 22:26**

Jury trials, **2:21**

Layoffs, **2:20**

Legislative erosion of employment-at-
 will doctrine, **1:3**

Limitation of actions, **2:21, 18:11, 21:12**

Accrual, **21:13**

Charge of discrimination, **18:11**

Continuing violations, **21:13**

Court action, filing complaint to com-
 mence, **18:11**

Tolling, **21:13**

Notice of right to sue, **2:21, 18:11,**
21:14

Timeliness of suit-filing, **21:14**

Reasonable factor other than age,
 defense, **19:29**

Reinstatement, **2:21, 22:25**

Remedies, **2:21, 22:25 to 22:27**

Attorney fees, **22:25**

Election, **21:24**

Front pay, **22:26**

Reinstatement, **22:25**

Setoff and mitigation of damages,
22:27

INDEX

AGE DISCRIMINATION IN

EMPLOYMENT ACT (ADEA)

—Cont'd

- Res judicata not arising from OCRC decisions, **3:30**
- Retaliation prohibited, **2:21**
- Retirement, mandatory, **2:21**
- Scope of ADEA, **2:19**
- Title VII compared
 - Enforcement procedures, **2:21**
 - Substantive law, **2:20**
- Waivers, **21:31**
 - OWBPA requirements, **23:11**

AGENCY RELATIONSHIP

See VICARIOUS LIABILITY

AIDS

- Handicap, as
 - Ohio Civil Rights Act, **3:4**
- Ohio Comprehensive AIDS Act. See OHIO COMPREHENSIVE AIDS ACT
- Pre to employment testing, **8:18 to 8:25**
 - Ohio Comprehensive AIDS Act, **8:19 to 8:25**
- Pre-employment testing
 - Mandatory testing, OCRC policy, **8:18**

ALCOHOL OR DRUG ABUSE

- ADA
 - Disability, as, **2:40, 8:10**
 - Pre-employment testing, **2:34, 8:8, 8:10**
 - Psychoactive substance use disorder, exclusion, **2:38**
- Disability, as
 - ADA, **2:40, 8:10**
 - Rehabilitation Act, **2:62**
- Handicap, as
 - Ohio Civil Rights Act, **3:4**
- Pre-employment testing
 - ADA, **2:34, 8:8, 8:10**
 - Competent laboratory, **8:15**
- Psychoactive substance use disorders
 - Exclusions
 - ADA, **2:38**
 - Ohio Civil Rights Act, **3:4**
- Substance abuse policies, **16:24**
 - Acknowledgement by employees, **23:4**
 - Notice to job applicants, **7:5, 8:13, 23:1, 23:3**
- Testing, **8:9 to 8:17**
 - ADA, **2:34, 8:8, 8:10**

ALCOHOL OR DRUG ABUSE

—Cont'd

- Testing, **8:9 to 8:17**—Cont'd
 - Assault and battery claim based on, **5:17**
 - Competent laboratory, **8:15**
 - Confidentiality
 - Limited external disclosure, **8:17**
 - Limited internal disclosure, **8:16**
 - Consent and release form, **5:17, 7:5, 8:14, 23:1, 23:3, 23:4**
 - Constitutionality, **8:9**
 - Contract liability, **8:11**
 - Disabled employees, **16:24**
 - Discrimination issues, **8:10**
 - Impaired performance, **16:24**
 - Legal background, **8:9**
 - Policies, **16:24**
 - Acknowledgement by employees, **23:4**
 - Notice to job applicants, **7:5, 8:13, 23:1, 23:3**
 - Pre-employment testing
 - ADA, **2:34, 8:8, 8:10**
 - Competent laboratory, **8:15**
 - Tort liability, **8:12 to 8:17**

ALCOHOL OR DRUG ADDICTION

- See also ALCOHOL OR DRUG ABUSE
- Disability, as
 - ADA, **2:40, 8:10**
 - Rehabilitation Act, **2:62**
- Handicap, as
 - Ohio Civil Rights Act, **3:4**

ALIENS

- IRCA. See IMMIGRATION REFORM AND CONTROL ACT OF 1986 (IRCA)
- National origin. See NATIONAL ORIGIN

AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

- Whistleblower protections, **2:84**

AMERICANS WITH DISABILITIES ACT (ADA)

- Generally, **2:32 to 2:44**
- Accommodation, reasonable, **2:42 to 2:44, 16:34**
 - Definition, **2:42, 19:19**
 - Determination, **2:43, 19:19**
 - Undue hardship defense, **2:44**
- Advertising practices, **6:1**
 - Preference, indicating, **6:5**

AMERICANS WITH DISABILITIES**ACT (ADA)—Cont'd**

Alcohol or drug abuse. See **ALCOHOL OR DRUG ABUSE**

Application procedures, **6:1**

See also Recruiting practices, and Advertising practices, this heading

Accessibility, **7:2**

Interviewing, **2:34, 7:9**

Permissible questions, **7:4**

Prohibited questions, **2:34, 7:3**

Arbitration, election of remedies, **21:24**

Charges of discrimination, **18:12**

Deferral to state agency, **21:12**

EEOC, filing with, **21:12**

Civil Rights Act of 1991, **22:24, 22:30**

Compensation discrimination, **11:20**

Concurrent jurisdiction of state and federal courts, **18:14**

Coverage, who is subject to the Act, **2:33**

Damages

Civil Rights Act of 1991, under, **22:24, 22:30**

Defenses

Undue hardship, **2:44**

Definitions, **2:38**

Discrimination, **2:32**

Employee, **2:33**

Major life activities, **2:38**

Physical or mental impairment, **2:38**

Qualified individual with disability, **2:38, 6:3**

Reasonable accommodation, **2:42, 19:19**

Substantially limited in major life activities, **2:38**

Undue hardship defense, **2:44**

Discipline and discharge of disabled employees, **16:33, 16:34**

See also **DISCIPLINE AND DISCHARGE**, at Disabled employees

Disparate impact, applicability, **19:6**

Drug or alcohol abuse. See **ALCOHOL OR DRUG ABUSE**

EEOC regulations

See also particular subject concerned, this heading

Coverage, who is subject to the Act, **2:33**

Job functions, essential; establishing, **2:41, 6:3**

Office of Federal Contract Compliance Programs, coordination of

AMERICANS WITH DISABILITIES**ACT (ADA)—Cont'd**

EEOC regulations—Cont'd investigation with EEOC, **18:15**

Employee, defined, **2:33**

Enforcement, **18:12**

ERISA, **14:7**

Exclusions, **2:38**

Fringe benefits, **14:10**

General prohibition, **2:32**

Health care benefits, **14:10**

Individuals with disabilities

Determination of status, **2:38**

Individuals with disabilities. See also

Qualified individuals with disabilities, this heading

Insurance, **2:37**

Interviewing applicants, **2:34, 7:9**

Job functions, essential

Establishing, **2:41, 6:3, 23:9, 23:10**

Performance evaluations, focusing on in, **16:34**

Jury trials

Civil Rights Act of 1991, under, **22:24**

Leaves of absence, medical, **14:10**

Legislative erosion of employment-at-will doctrine, **1:3**

Limitation of actions

Accrual, **21:13**

Charge of discrimination, **18:12, 21:12**

Continuing violations, **21:13**

Notice of right to sue, **18:12, 21:14**

Tolling, **21:13**

Master-servant relationship, **2:33**

Medical examinations

Current employees, of, **2:35, 8:8**

Pre-employment, **2:34**

Medical leaves of absence, **14:10**

Notice of right to sue, **18:12, 21:14**

Office of Federal Contract Compliance

Programs, coordination of investigation with EEOC, **18:15**

Physical or mental impairment

Definition, **2:38**

Determination of existence, **2:38**

Pre-employment testing

Alcohol or drug testing, **2:34, 8:8, 8:10**

Medical testing, **2:34, 8:8**

Nonmedical testing, **8:7**

Qualified individuals with disabilities

Alcohol or drug addiction, **2:40, 8:10**

Defined, **2:38, 6:3**

INDEX

AMERICANS WITH DISABILITIES

ACT (ADA)—Cont'd

- Qualified individuals with disabilities—Cont'd
 - Determination of status, **2:39**
 - Illegal use of alcohol or drugs, **2:40, 8:10**
- Reasonable accommodation. See Accommodation, reasonable, this heading
- Recruiting practices, **6:1**
 - Essential job functions, establishing, **6:3, 23:9, 23:10**
- Remedies
 - Civil Rights Act of 1991, under, **22:24, 22:30**
 - Election, **21:24**
- Retaliation, **2:36**
- Undue hardship defense, **2:44**

ANCESTRY

- See NATIONAL ORIGIN

APPARENT AUTHORITY

- See VICARIOUS LIABILITY

APPEALS

- Disciplinary decisions, internal appeals, **16:9, 17:2**
- ERISA, internal appeals, **21:30**
- Grievance arbitration, internal appeals, **17:2**
- NLRB final orders, **18:4**
- OCRC
 - Conciliation agreements between OCRC and employer, appeals from, **3:23**
 - Determinations, appeals from, **3:28**
 - Standard of judicial review, **18:17**
- Unemployment compensation
 - Benefits determination, **17:5**
 - Contribution rate determination, **17:4**
- Workers' compensation
 - Claim determinations, **15:16**
 - Violation of specific safety rule determinations, **15:19**

APPLICATIONS

- Generally, **7:2 to 7:5**
- Accessibility, **7:2**
- ADA. See AMERICANS WITH DISABILITIES ACT (ADA)
- Alcohol or drug testing policies, **7:5, 8:13, 8:14, 23:1, 23:3**
- Arbitration clauses, **23:6 to 23:8**
- Consumer reports, FCRA standards, **7:3, 23:31 to 23:36**

APPLICATIONS—Cont'd

- Criminal records, authorization to examine, **23:2**
 - Hiring decisions, **9:1**
 - OCRC Guide, **7:10**
 - Pool of applicants, identifying, **6:2, 6:3**
 - Questions permitted
 - ADA, **7:4**
 - Questions prohibited
 - ADA, **2:34, 7:3**
 - FCRA, **7:3**
 - IRCA, **7:3**
 - Ohio Civil Rights Act, **3:13**
 - OCRC Guide, **7:10**
 - Recordkeeping, **6:7**
 - Active file, **9:6**
 - References, authorization to obtain, **7:5, 23:2**
 - Releases
 - Alcohol or drug testing, **7:5, 8:14, 23:1, 23:3**
 - Criminal records, authorization to examine, **23:2**
 - References, authorization to obtain, **7:5, 23:2**
 - Resumes, unsolicited, **7:6**
 - Retention of applications for future consideration, **9:5, 9:6**
 - Returning unsolicited resumes, **7:6**
 - Screening to select interviewees, **7:7**
- ### APPRENTICESHIP PROGRAMS
- Prohibited discrimination under Ohio Civil Rights Act, **3:12**
 - Exception for observing age terms of registered and approved program, **3:21**

ARBITRATION

- Collective bargaining agreements
 - Handbook provisions concerning, **4:7, 23:6 to 23:8**
 - NLRB deferral of unfair labor practice charge, **18:5**
- Election of remedies, **21:24**
- Employment discrimination claims, **21:24**
- Federal Arbitration Act
 - Employment discrimination claims, **21:24**
 - Tort claims, **21:26**
- Grievance. See GRIEVANCE ARBITRATION
- Handbook provisions concerning, **4:7, 23:6 to 23:8**
 - Binding dispute resolution, **10:8**

ARBITRATION—Cont'd**NLRA**

De novo judicial review unavailable, **21:25**

Deferral by NLRB of unfair labor practice, **18:5**

Finality of grievance arbitration, **2:7**

Ohio Age Discrimination in Employment Act, effect on claims under, **3:34**

Ohio Arbitration Act

Contract claims, **21:25**

Employment discrimination claims, **21:24**

Tort claims, **21:27**

Tort claims, **21:26 to 21:29**

ARRA

Whistleblower protections, **2:84**

ASSAULT AND BATTERY

Generally, **5:14 to 5:18**

Drug testing, **5:17**

Elements, **5:14**

Limitation of actions, **21:19**

Polygraph testing, **5:16**

Sexual, **5:18**

Scope of authority, **5:3**

Supervisors, by, **5:15**

Testing, claims arising from, **5:16, 5:17**

Vicarious liability, **5:15**

ATTORNEY FEES

ADEA, **2:21, 22:25**

Breach of contract, **22:8**

Civil Rights Act of 1991

Title VII, **2:12, 22:24**

Equal Pay Act, **22:28**

ERISA, **22:35**

Ohio Age Discrimination in Employment Act, **3:34, 22:40**

Ohio Comprehensive AIDS Act, **8:22**
Reconstruction Era Civil Rights Acts, **2:31**

Rehabilitation Act, **2:65**

Title VII, **2:12, 22:23**

Civil Rights Act of 1991, under, **2:12, 22:24**

Tort actions, **22:19**

Whistleblower actions, **3:45**

Workers' compensation retaliation, **3:41**

AT-WILL EMPLOYMENT

See EMPLOYMENT-AT-WILL DOCTRINE

BACK PAY

ADEA, **2:21**

Tax consequences of awards or settlements, **22:43**

Equal Pay Act, **22:28**

NLRB awarding, **18:3**

OCRC awarding, **3:27, 18:17, 22:37**

Ohio Age Discrimination in Employment Act, **22:40**

Reconstruction Era Civil Rights Acts, **2:30, 22:31**

Rehabilitation Act, **2:65, 22:29**

Section 1981, **2:30, 22:31**

Tax consequences of awards or settlements, **22:43**

Title VII. See TITLE VII

BAD FAITH DISCHARGE

See ABUSIVE DISCHARGE

BASIS OF SEX

Ohio Civil Rights Act, **3:6**

BATTERY

See ASSAULT AND BATTERY

BENEFIT PLANS

See EMPLOYEE BENEFIT PLANS; EMPLOYEE RETIREMENT INCOME SECURITY ACT (ERISA); FRINGE BENEFITS; OLDER WORKERS BENEFIT PROTECTION ACT (OWBPA)

BENEFITS

Workers' compensation. See WORKERS' COMPENSATION ACT

BFOQ

See BONA FIDE OCCUPATIONAL QUALIFICATION (BFOQ)

BISEXUALITY

See also HOMOSEXUALITY

Exclusions

ADA, **2:38**

Ohio Civil Rights Act, **3:4**

BONA FIDE EMPLOYEE BENEFIT PLANS

See EMPLOYEE BENEFIT PLANS; EMPLOYEE RETIREMENT INCOME SECURITY ACT (ERISA); OLDER WORKERS BENEFIT PROTECTION ACT (OWBPA)

BONA FIDE OCCUPATIONAL QUALIFICATION (BFOQ)

ADEA charges, affirmative defense to, **2:21, 19:21**

INDEX

BONA FIDE OCCUPATIONAL QUALIFICATION (BFOQ)

—Cont'd

- Certification by OCRC, **3:13**
- Ohio Civil Rights Act charges, affirmative defense to, **3:18, 19:21**
- Title VII charges, affirmative defense to, **2:17, 19:21**

BONA FIDE SENIORITY SYSTEM

- See SENIORITY OR MERIT SYSTEM STANDARDS

BONUS PAYMENTS

- See also COMPENSATION, generally
- Generally, **11:37**

BREACH OF CONTRACT

- Limitation of actions. See LIMITATION OF ACTIONS
- Remedies, **22:2 to 22:9**
 - Attorney fees, **22:8**
 - Compensatory damages, **22:2**
 - Election of remedies, **21:25**
 - Front pay, **22:3**
 - Liquidated damages, **22:4**
 - Mitigation of damages, **22:6**
 - Prejudgment interest, **22:9**
 - Punitive damages, **22:5**
 - Reinstatement, **22:7**

BREAKS

- Inclusion in hours worked, **11:7, 11:8**

BURDEN OF PROOF

- See also PRIMA FACIE CASES
- At-will presumption, overcoming, **20:4**
- Claims, **21:1**
- Contracts
 - Implied contracts, **20:13**
 - Reciprocity of obligations, **20:14, 20:16**
- Discrimination claims, **19:2 to 19:15**
 - Disparate impact, **2:16, 19:13**
 - Civil Rights Act of 1991, effect, **19:14**
 - Mixed motive cases, **19:12**
 - Ohio Civil Rights Act, **19:15**
 - Uniform Guidelines, impact on, **8:6**
 - Disparate treatment, **2:13, 2:15, 19:9**
 - Title VII, **2:15, 2:16**
- Just cause for termination, **20:12 to 20:16**
 - Uniformed Services Employment and Reemployment Rights Act of 1994, **2:48, 2:49**

BUREAU OF EMPLOYMENT SERVICES

- Duties, **17:3**

BUREAU OF WORKERS' COMPENSATION

- See WORKERS' COMPENSATION ACT

BUSINESS NECESSITY

- Disparate impact cases, **19:13**
 - Burden of proof, **2:16, 19:13**
- Recruiting practices, **6:1**
- Permissible pre-employment inquiries, **7:4**

CAREER PATH DEVELOPMENT PROGRAMS

- Generally, **13:5**
- Alleviation of employee attitude problems, **16:26**

CEASE AND DESIST ORDERS

- NLRB, **18:3**
- OCRC, **3:27, 18:17, 22:37**

CHARGES OF DISCRIMINATION

- See DISCRIMINATION; EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC); OHIO CIVIL RIGHTS COMMISSION (OCRC); particular legislation concerned

CHECKLISTS

- Disciplinary checklist for supervisors, **16:11**
- Exit interview checklist, **16:16**
 - Management representatives, **16:18**

CITIZENSHIP

- Discrimination in employment on account of. See IMMIGRATION REFORM AND CONTROL ACT OF 1986 (IRCA)
- Diversity of citizenship as federal jurisdictional basis, **18:20**

CIVIL RIGHTS ACT OF 1964

- Title VII. See TITLE VII

CIVIL RIGHTS ACT OF 1991

- ADA, **22:24, 22:30**
- ADEA, **2:21**
- Arbitration, election of remedies, **21:24**
- Burden of proof
 - Disparate impact cases, **2:16, 19:14**
 - Uniform Guidelines, impact on, **8:6**
 - Disparate treatment cases, **2:15**

CIVIL RIGHTS ACT OF 1991—Cont'd

- Damages
 - ADA, **22:24, 22:30**
 - Title VII, **2:12, 22:18, 22:24**
- Remedies
 - ADA, **22:24, 22:30**
 - Title VII, **2:12, 22:18, 22:24**
- Section 1981
 - Right to make and enforce contracts, **2:23**
- Title VII
 - Attorney fees, **2:12, 22:24**
 - Burden of proof
 - Disparate impact cases, **2:16, 19:14**
 - Disparate treatment cases, **2:15**
 - Damages, **2:12, 22:18, 22:24**
 - Jury trials, **2:12, 22:24**
 - Remedies, **2:12, 22:24**
 - Undocumented workers, **21:20**

CIVIL RIGHTS ACTS

- Federal. See CIVIL RIGHTS ACT OF 1991; RECONSTRUCTION ERA CIVIL RIGHTS ACTS; TITLE VII
- Ohio Civil Rights Act. See OHIO CIVIL RIGHTS ACT

CLASS ACTIONS

- Jurisdiction, federal courts, **18:21**

CLASSIFICATION OF POSITIONS

- See JOB DESCRIPTIONS

COBRA

- See also HEALTH CARE BENEFITS, at COBRA requirements
- Generally, **17:12 to 17:18**

COLLATERAL ESTOPPEL

- See RES JUDICATA

COLLECTIVE BARGAINING AGREEMENTS

- See also NATIONAL LABOR RELATIONS ACT (NLRA)
- Arbitration
 - Clauses, **4:7, 23:6 to 23:8**
 - NLRB deferral of unfair labor practice, **18:5**
- Arbitration. See also ARBITRATION, generally
- Discharge in violation of terms of agreement as unfair labor practice, **2:3**
- Section 301 actions
 - Statute of limitations, **21:7**
- Whistleblower Protection Act not impairing rights under, **3:45**

COLLEGES AND UNIVERSITIES

- Faculty members, tenure, **4:9**
- Tenure, **4:9**

COLOR

- Discrimination based on prohibited Ohio Civil Rights Act, **3:8 to 3:14**
- Section 1981, **2:23, 2:26**
- Title VII, **2:10**

COLOR OF STATE LAW

- Section 1983, **2:24**
- Section 1985(3), **2:25**

COMMISSION PAYMENTS

- See also COMPENSATION, generally
- Generally, **11:37**

COMMON PLEAS COURTS

- Jurisdiction, **18:24**
- OCRC determinations
 - Appeals from, **3:28**
 - Final orders, review, **18:17**

COMP TIME

- Overtime requirements, **11:10**

COMPARABLE WORTH

- See also EQUAL PAY ACT, generally
- Generally, **11:25**

COMPENSATION

- Generally, **11:1**
- Administering compensation programs, **11:33 to 11:31**
- Age discrimination
 - ADEA, **11:20**
 - Ohio Civil Rights Act, **11:22**
- Agricultural employees, **11:14**
- Back pay. See BACK PAY
- Bonus payments, **11:37**
- Commission payments, **11:37**
- Computer systems analysts and related positions, **11:16**
- Contract principles, **11:26**
- Coverage, **11:2**
- Deduction from or retention of final wages, **17:35**
- Deferred. See FRINGE BENEFITS
- Developing compensation programs, **11:27 to 11:26**
- Designing pay structure, **11:32**
- Job analysis, **11:28**
- Job descriptions, **11:29**
- Job evaluation, **11:30**
- Salary surveys, **11:31**
- Disability discrimination, **11:20**

INDEX

COMPENSATION—Cont'd

- Discrimination, **11:19 to 11:19**
 - Prior salary determining starting salary, **11:34**
- Due on termination, **17:34**
- Equal Pay Act. See EQUAL PAY ACT
- Evaluations, pay equity, or marketplace influence, **12:8**
- Exempt employees, **11:11 to 11:18**
 - Agricultural employees, **11:14**
 - Bona fide executive, administrative, or similar professional capacity, **11:15**
 - Computer systems analysts and related positions, **11:16**
 - Job duties tests, **11:13**
 - Learned professionals, **11:15**
 - Pay deductions destroying exempt status, **11:18**
 - Salary basis, **11:12**
 - Training, **11:17**
- Final wages
 - Deduction from or retention of, **17:35**
 - Due on termination, **17:34**
 - Severance pay. See SEVERANCE PAY
- FLSA. See FAIR LABOR STANDARDS ACT (FLSA)
- FLSA, “employer” under, **11:3**
- Garnishment. See GARNISHMENT OF WAGES
- Job duties tests, exempt employees, **11:13**
- Learned professionals, **11:15**
- Lilly Ledbetter Fair Pay Act of 2009, **11:21**
- Merit increases, **11:36**
- Minimum wage. See MINIMUM WAGE LAWS
- Overtime. See OVERTIME
- Prior salary as factor in starting salaries, **11:34**
- Quasi-contract principles, **11:26**
- Raises. See RAISES
- Recordkeeping statement of earnings and deductions, **11:38**
- Red circle rates, **11:35**
- Severance pay. See SEVERANCE PAY
- Title VII, **11:19**
 - Equal Pay Act affirmative defenses incorporated, **11:19**
- Training, wage and hour law exemptions, **11:17**
- Vacation pay as, **11:26**
- Wage and hour laws
 - Generally, **11:2 to 11:18**

COMPENSATION—Cont'd

- Wage and hour laws—Cont'd
 - FLSA. See FAIR LABOR STANDARDS ACT (FLSA)
 - Minimum wage law. See MINIMUM WAGE LAWS
 - Overtime. See OVERTIME
 - Workers' compensation. See WORKERS' COMPENSATION ACT

COMPENSATORY DAMAGES

- See DAMAGES

COMPLAINTS

- Charges of discrimination. See DISCRIMINATION; EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC); OHIO CIVIL RIGHTS COMMISSION (OCRC); particular legislation concerned
- FLSA, **2:67**
- Minimum wage or overtime complaints, retaliation for, **1:4, 3:1**
- OCRC filing. See OHIO CIVIL RIGHTS COMMISSION (OCRC)
- OSHA complaints, retaliation for, **2:68**
- Rehabilitation Act
 - Section 503, **2:64**
- Tort damages, pleading, **22:14, 22:15**
- Uniformed Services Employment and Reemployment Rights Act of 1994, **2:49**

CONCERTED ACTIVITY

- Retaliatory discharge for exercising right to engage in, unfair labor practice, **2:4**

CONCILIATION

- EEOC, Equal Pay Act, conciliation efforts not prerequisite to suit by EEOC, **18:13**

OCRC

- Appeal by employee from agreement between OCRC and employer, **3:23**
- Efforts, **3:23, 18:17**
- Remedy, **22:37**

CONFIDENTIALITY

- Alcohol or drug testing results
 - Limited external disclosure, **8:17**
 - Limited internal disclosure, **8:16**
- Employee Polygraph Protection Act of 1988, confidential information, **2:79**
- Employment contract clauses, **23:39**

CONFIDENTIALITY—Cont'd

- Invasion of privacy. See **INVASION OF PRIVACY**
- Investigations, disciplinary
- Sexual harassment, **16:21**
- Theft, **16:23**
- Medical examination information, ADA requirement
 - Applicants, **2:34**
 - Current employees, **2:35**
- Public disclosure of private matters as invasion of privacy, **5:13**

CONSENT FORMS

- See **RELEASE AND WAIVER**

CONSIDERATION

- Covenants not to compete, **17:28**
- Detrimental reliance distinguished, **20:21**
- Enforcement of disclaimers, **20:10**

CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT OF 1985 (COBRA)

- See also **HEALTH CARE BENEFITS**, at COBRA requirements
- Generally, **17:12 to 17:18**

CONSPIRACY TO DENY EQUAL PROTECTION

- Section 1985(3), **2:25**

CONSTITUTIONALITY

- Restrictions on employment at will, **1:1**
- Retaliation cases, First Amendment claims, **16:32**
- Testing for drugs
 - State action versus private action, **8:9**

CONTAGIOUS DISEASES

- AIDS. See **AIDS**

CONTRACEPTION

- Pregnancy Discrimination Act, **14:8**
- Title VII implications, **14:8**

CONTRACTS

- Arbitration clauses, **23:6 to 23:8**
- Bad faith discharge as cause of action, **4:11**
- Breach. See **BREACH OF CONTRACT**
- Burden of proof
 - Reciprocity of obligations, **20:14, 20:16**
- Compensation, **11:26**
- Consideration
 - Covenants not to compete, **17:28**
 - Detrimental reliance distinguished, **20:21**

CONTRACTS—Cont'd

- Consideration—Cont'd
 - Enforcement of disclaimer, **20:10**
- Covenants not to compete. See **COVENANTS NOT TO COMPETE**
- Damages. See **DAMAGES**
- Defense of contract claims, **20:3 to 20:7**
- Definite term contracts, **20:3**
 - Facts and circumstances establishing, **20:4**
 - Indefinite term versus definite term, **20:15**
 - Just cause for termination
 - Actions constituting, **20:17**
 - Burden of proof, **20:14**
 - Reciprocity of obligations, burden of proof to reflect, **20:14, 20:16**
 - Satisfaction contract distinguished
 - Burden of proof, **20:12**
 - Specification of annual rate of pay not constituting, **6:8, 20:4**
- Disclaimers
 - Consideration, **20:10**
 - Effect, **20:9**
- Election of remedies, **21:25**
- Employment-at-will doctrine, **4:3**
- Exception to employment at will, **1:6, 4:4 to 4:9**
- Existence, **20:3**
- Forms. See **FORMS**
- Implied. See **IMPLIED CONTRACTS**
- Indefinite term
 - Definite term versus indefinite term, **20:15**
 - Lack or reciprocity, burden of proof to reflect, **20:14**
- Interference with, **5:6**
- Jurisdiction, **18:24**
- Limitation of actions
 - Collective bargaining agreement, Section 301 actions, **21:7**
 - ERISA, **21:8**
 - Oral contract, **21:6**
 - Written contract, **21:6**
- Offers of hire, specificity in offer letters, **9:4**
- Remedies
 - See also **DAMAGES**
 - Covenants not to compete, **17:24**
 - Definite term versus indefinite term, **20:15**
 - Right to make and enforce, **2:23, 2:26**
 - Satisfaction contracts, **4:8, 20:3**
 - Specified term, **4:4, 4:5**
 - See also **Definite term contracts**, this heading

INDEX

CONTRACTS—Cont'd

- Specified term, **4:4, 4:5**—Cont'd
 - Compensation rate provision not creating, **4:5**
- Statute of frauds, **21:20**

COURT OF CLAIMS

- Jurisdiction, **18:24**

COURTS OF COMMON PLEAS

- See COMMON PLEAS COURTS

COVENANTS NOT TO COMPETE

- Generally, **17:24 to 17:29**
- Enforceability
 - Consideration, **17:28**
 - Limitations of time and geography, **17:26**
 - Public interest, **17:27**
 - Reasonableness, **17:25**
- Remedies, **17:24**

CREDIT

- See FAIR CREDIT REPORTING ACT (FCRA)

CRIMINAL RECORDS

- Job applicant's authorization for prospective employer to examine, **23:2**
- Personnel decisions based on, **16:25**

DAMAGES

- ADA, Civil Rights Act of 1991, under, **22:24, 22:30**
- ADEA, **2:21, 22:25**
 - Liquidated damages, **22:25**
 - Setoff and mitigation of damages, **22:27**
 - Tax consequences of awards or settlements, **22:43**
 - Willful violations, double damages, **2:21**
- Civil Rights Act of 1991
 - ADA, **22:24, 22:30**
 - Title VII, **2:12, 22:18, 22:24**
- Compensatory damages, **22:1**
 - Breach of contract claims, **22:2**
- Civil Rights Act of 1991
 - ADA, **22:24, 22:30**
 - Title VII, **2:12, 22:24**
 - Section 1981, **22:31**
 - Tort claims, **22:10 to 22:14**
 - Fair measure of actual loss, **22:11**
 - Future damages, **22:13**
 - Mental injury, **22:12**
 - Reform legislation, **22:1, 22:11**
- Contract claims
 - Compensatory damages, **22:2**

DAMAGES—Cont'd

- Contract claims—Cont'd
 - Definite term versus indefinite term, **20:15**
 - Liquidated damages, **22:4**
 - Mitigation of damages, **22:6**
 - Prejudgment interest, **22:9**
 - Punitive damages, **22:5**
- ERISA, **22:34**
- FMLA, **2:58, 18:16**
- Future damages
 - Tort claims, **22:13**
- Invasion of privacy, **5:13**
- Liquidated damages
 - ADEA, **22:25**
 - Breach of contract claims, **22:4**
 - Equal Pay Act, **22:28**
 - Tax consequences of awards or settlements, **22:43**
- Mitigation of damages
 - ADEA, **22:27**
 - Breach of contract, **22:6**
- Ohio Age Discrimination in Employment Act, **22:40**
- Ohio Civil Rights Act
 - Civil actions, private, **22:37**
- Prejudgment interest
 - Breach of contract, **22:9**
 - Tort claims, **22:16**
- Promissory estoppel claims, unavailability in, **20:21**
- Punitive damages, **22:1**
 - Breach of contract, **22:5**
 - Civil Rights Act of 1991
 - ADA, **22:24, 22:30**
 - Title VII, **2:12, 22:24**
 - Fraud aggravated by malice, **5:4**
 - Insurer liability, **22:46**
 - Ohio Civil Rights Act, **22:37**
 - Section 1981, **22:31**
 - Tort claims, **22:15**
 - Reform legislation, **22:1, 22:15**
- Reconstruction Era Civil Rights Acts, **2:30, 22:31**
- Setoff of damages
 - ADEA, **22:27**
- Tax consequences of awards or settlements, **22:43**
- Title VII
 - Civil Rights Act of 1991, under, **2:12, 22:18, 22:24**
 - Tax consequences of awards or settlements, **22:43**

DAMAGES—Cont'd

- Tort claims
 - Compensatory damages, **22:10 to 22:14**
 - Fair measure of actual loss, **22:11**
 - Mental injury, **22:12**
 - Reform legislation, **22:1, 22:11**
- Future damages, **22:13**
- Non-economic damages, **22:1, 22:11**
- Pleading damages, **22:14**
- Prejudgment interest, **22:16**
- Punitive damages, **22:15**
 - Reform legislation, **22:1, 22:15**
- Whistleblower Protection Act, **3:45**

DEFAMATION

- Generally, **5:8 to 5:12**
- Criminal convictions as basis for personnel decisions, **16:25**
- Elements, **5:8**
 - Publication, **5:12**
- Invasion of privacy distinguished, **5:13**
- Investigative interviews, unnecessary communication of disciplinary information, **16:5**
- Job performance information provided to prospective employers, qualified privilege, **5:8, 17:21**
- Libel compared with slander, **5:8**
- Limitation of actions, **21:19**
- Privilege, **5:9 to 5:11**
 - Absolute privilege, **5:11**
 - Qualified privilege, **5:8, 5:9, 17:21**
 - Actual malice exception, **5:10**
 - Disclosure of alcohol or drug test results, **8:17**
- Publication, **5:12**
- References, **17:21 to 17:23**
- Theft investigations, disciplinary, **16:23**
- Truth as defense, **5:9**

DEFENSES

- ADA accommodation, undue hardship, **2:44**
- Affirmative. See **AFFIRMATIVE DEFENSES**
- Age discrimination claims, reasonable factor other than age, **19:29**
- Business necessity. See **BUSINESS NECESSITY**, generally
- Contract claims, **20:3 to 20:7**
- Defamation, **5:9 to 5:11**
- Equal Pay Act. See **EQUAL PAY ACT**
- False imprisonment, shopkeeper's privilege, **5:19**
- Invasion of privacy, absence of malice, **5:13**

DEFENSES—Cont'd

- Limitation of actions. See **LIMITATION OF ACTIONS**, generally
- Pleading, **21:2**
- Promissory estoppel claims, **20:20, 20:21**
- Qualified privilege, **17:21**

DEFERRAL AGENCIES

- See also **OHIO CIVIL RIGHTS COMMISSION (OCRC)**
- ADA charges, **21:12**
- ADEA charges, **21:12**
 - Forms, **23:12 to 23:28**
- Title VII charges, **2:12, 21:12**
 - Forms, **23:12 to 23:28**

DEFINITIONS

- ADA. See **AMERICANS WITH DISABILITIES ACT (ADA)**
- Affirmative defense, **21:2, 21:4**
- Age
 - Ohio Civil Rights Act, **3:5**
- Disability
 - ADA, **2:38**
 - Rehabilitation Act, **2:62**
- Discrimination
 - ADA, **2:32**
- Employee
 - NLRA, **18:2**
 - Ohio Civil Rights Act, **3:3**
- Employer
 - Intentional tort by, **15:17**
 - NLRA, **18:2**
 - Ohio Civil Rights Act, **3:3**
 - Unemployment Compensation Act, **17:4**
 - Workers' Compensation Act, **15:5**
- Employment
 - Unemployment compensation, **17:6**
 - Workers' Compensation Act, **15:5**
- Employment agency, **6:9**
- Handicap
 - Ohio Civil Rights Act, **3:4**
- Injury, **5:7, 15:6**
- Intentional tort by employer, **15:17**
- Interstate commerce
 - NLRA, **18:2**
- Just cause
 - Unemployment compensation, **17:7**
- Labor dispute
 - NLRA, **18:2**
- Lie detector, **2:72**
- Occupational disease, **15:8**
- Physical or mental impairment
 - ADA, **2:38**

INDEX

DEFINITIONS—Cont'd

- Physical or mental impairment—Cont'd
 - Injury, **5:7**
 - Ohio Civil Rights Act, **3:4**
- Sex discrimination, on basis of, **3:6**
- Undue hardship, **2:44**
- Workers' Compensation Act. See **WORKERS' COMPENSATION ACT**

DETRIMENTAL RELIANCE

- See **PROMISSORY ESTOPPEL**

DISABILITIES

- See also **REHABILITATION ACT OF 1973; AMERICANS WITH DISABILITIES ACT (ADA)**
- Accommodation. See **ACCOMMODATION**
- Alcohol or drug testing, **16:24**
- Definitions
 - ADA, **2:38**
 - Rehabilitation Act, **2:62**
- Discipline and discharge of disabled employees, **16:33, 16:34**
 - See also **DISCIPLINE AND DISCHARGE**, at Disabled employees
- Discrimination based on prohibited, **3:32**
 - Remedies, **22:29, 22:30**
- Federal Rehabilitation Act, **2:59 to 2:65**
- Minimum job qualifications, identifying, **6:3**
- Occupational hazards increased due to, **3:16**
- Performance of job substantially impaired by, **3:16**
- Pre-employment testing, **8:7, 8:8**
 - Medical testing, **2:34, 8:8**
 - Nonmedical testing, **8:7**
- Reasonable accommodation. See **ACCOMMODATION**
- Workers' compensation claims
 - Permanent partial disability, **15:12**
 - Permanent total disability, **15:14**
 - Temporary total disability, **15:10**

DISABILITY INSURANCE

- See **EMPLOYEE RETIREMENT INCOME SECURITY ACT (ERISA)**

DISCHARGE

- See **DISCIPLINE AND DISCHARGE**

DISCIPLINE AND DISCHARGE

- Abusive discharge. See **ABUSIVE DISCHARGE**

DISCIPLINE AND DISCHARGE

—Cont'd

- Alcohol or drug abuse. See **ALCOHOL OR DRUG ABUSE**
- Consistency of application of policies, **16:7 to 16:9**
- Contract clause, form, **23:42**
- Criminal convictions as basis for personnel decisions, **16:25**
 - Defamation, **16:25**
 - Invasion of privacy, **16:25**
- Disabled employees, **16:33, 16:34**
 - Minimizing liability, **16:34**
 - Problems, **16:33**
- Discharge. See **Termination**, this heading
- Disciplinary checklist, **16:11**
- Discipline logs, **16:9**
- Discovery implications of consistency reviews, **16:8**
- Dismissal. See **Termination**, this heading
- Documentation, **16:6**
- Employees with attitude problems, **16:26**
- Firing. See **Termination**, this heading
- Grounds for discharge, list
 - Evidence of implied contract, as, **20:5**
 - Exclusive grounds, interpretation as, **20:18**
 - Handbook containing, **10:6**
- Integrity cases, **16:20 to 16:26**
- Investigations, **16:5**
 - Suspension pending, **16:5**
- Just cause, termination for. See **JUST CAUSE FOR TERMINATION**
- Morality cases, **16:20 to 16:26**
- Nonfraternization policy violations, **16:22**
- Notice of policies
 - Employees, to, **16:3**
 - Supervisors, to, **16:4**
- Older workers, **16:27, 16:28**
 - Minimizing liability, **16:28**
 - Problems, **16:27, 16:28**
- Progressive
 - Evidence of implied contract, as, **20:5**
- Retaliation cases
 - See also **RETALIATION**, generally
 - Generally, **16:29**
 - First Amendment claims, **16:32**
 - FLSA, cases brought under, **16:30**
 - FMLA, cases brought under, **16:31**
 - Scope of judicial review, **20:18, 20:19**

DISCIPLINE AND DISCHARGE**—Cont'd**

- Second level reviews of disciplinary decisions, **16:7**
- Discovery implications, **16:8**
- Sexual harassment, **16:21**
 - See also **SEXUAL HARASSMENT**, at Disciplinary investigations
- Suspension investigation, **16:5**
- Termination
 - Abusive discharge. See **ABUSIVE DISCHARGE**
 - Discriminatory. See **DISCRIMINATION**, generally
 - Exit interview, **16:13, 16:15**
 - Checklist, **16:16**
 - Management representatives, **16:17, 16:18**
 - Grounds for, listing in handbook, **10:6**
 - Guidelines, **16:12 to 16:18**
 - Just cause, for. See **JUST CAUSE FOR TERMINATION**
 - Management representatives present, **16:17, 16:18**
 - Retaliatory. See **RETALIATION**
 - Unequivocal communication of decision, **16:14**
 - Withdrawal of vested rights, analytical distinction, **20:11**
- Theft. See **THEFT**, generally
- Troublesome cases, **16:19 to 16:34**
- Unemployment compensation. See **UNEMPLOYMENT COMPENSATION**, generally
- Variation in approaches, **16:2**
- Wrongful discharge. See **WRONGFUL DISCHARGE**

DISCIPLINE LOGS

- Generally, **16:9**

DISCLAIMERS

- Application forms containing, **7:5, 20:8, 23:1**
- Effect of at-will disclaimers, **20:9**
- Handbooks. See **HANDBOOKS**
- Implied-in-fact contracts, effect on, **4:7**
- Promissory estoppel liability, effect on, **4:7**
- Unilateral, enforcement, **20:10, 20:11**
 - Consideration requirement, **20:10**
 - Prospective versus retroactive change, **20:11**
 - Retroactive versus prospective change, **20:11**

DISCOVERY

- Disciplinary decisions
 - Consistency reviews, **16:8**
 - Logs, **16:9**

DISCRIMINATION

- See also particular legislation concerned
- Age. See **AGE**, generally
- Alcohol or drug testing, **8:10**
- Charges of discrimination
 - Deferral agencies, filing with, **2:12, 21:12**
 - OCRC, **3:22, 21:18, 23:12 to 23:28**
 - EEOC, filing with, **2:12, 18:7 to 18:14**
- Claims
 - Burden of proof. See **BURDEN OF PROOF**, at Discrimination claims
 - Disparate impact. See **DISPARATE IMPACT**
 - Disparate treatment. See **DISPARATE TREATMENT**
 - Election of remedies. See **REMEDIES**, at Election
 - Elements, **19:2 to 19:15**
 - Federal civil rights and employment discrimination laws, **2:8 to 2:65**
 - Statute of limitations, **21:12 to 21:14, 21:15 to 21:17**
 - Notice of right to sue. See **NOTICE OF RIGHT TO SUE**
 - Ohio Age Discrimination in Employment Act. See **OHIO AGE DISCRIMINATION IN EMPLOYMENT ACT**
 - Pleading and practice. See **PLEADING AND PRACTICE**
 - State law claims, statute of limitations, **21:18**
- Color. See **COLOR**
- Disability. See **DISABILITIES**, generally
- EEOC. See **EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)**
- Genetic Information Nondiscrimination Act of 2008, **2:45**
- Grievance arbitration, use, **17:2**
- Handicap. See **HANDICAPS**, generally
- National origin. See **NATIONAL ORIGIN**
- Notice of right to sue. See **NOTICE OF RIGHT TO SUE**
- OCRC. See **OHIO CIVIL RIGHTS COMMISSION (OCRC)**
- Older workers. See **AGE**, generally

INDEX

DISCRIMINATION—Cont'd

Pre-employment testing
See also PRE-EMPLOYMENT
TESTING, generally

Race. See RACE

Retaliation. See RETALIATION

Reverse

Employment agencies, **6:9**

Section 1981, **2:26**

Sex. See SEX; SEXUAL HARASS-
MENT

State employees, jurisdiction over
claims brought by, **18:24**

DISMISSAL

See DISCIPLINE AND DISCHARGE

DISPARATE IMPACT

ADA, applicability to, **19:6**

ADEA, applicability to, **19:5**

Burden of proof, **2:16, 19:13**

Civil Rights Act of 1991, effect,
19:14

Uniform Guidelines, impact on, **8:6**

Business necessity

Proof of, **2:16, 19:13**

Recruiting practices, **6:1**

Cognizable claims, **19:3 to 19:7**

Job qualifications, **13:2**

Ohio Civil Rights Act, **19:7**

Burden of proof, **19:15**

Pre-employment testing, **8:2**

Documentation of impact and validity
evidence, **8:5**

Four-fifths rule, **8:4**

Prima facie cases, **2:16**

Proof, **2:16, 19:13 to 19:15**

Recruiting practices, **6:1**

Rehabilitation Act, **19:6**

Section 1981 claims, **19:4**

Testing. See Pre-employment testing,
this heading

Title VII, cognizable cases, **19:3**

Treatment, distinguished from, **2:14,**
19:2

Uniform Guidelines, **19:13**

DISPARATE TREATMENT

Burden of proof, **2:15, 19:9**

Impact, distinguished from, **2:14, 19:2**

Intentional discrimination, **19:8**

Mixed motive cases, **19:12**

Prima facie cases

Generally, **2:13, 2:15, 19:9**

McDonnell Douglas, **9:2**

Rebuttable presumption, **19:10**

Rebuttal, **19:11**

DISPARATE TREATMENT—Cont'd

Prima facie cases—Cont'd

Title VII of the Civil Rights Act of
1964, **2:13**

Proof, **2:15, 19:8 to 19:12**

Recruiting practices, **6:1**

DISPUTE RESOLUTION

See ARBITRATION

DISTRICT COURTS, UNITED STATES

See FEDERAL COURTS

DOCUMENTATION

See RECORDKEEPING

DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT

Whistleblowers, **2:85**

DRUG-FREE WORKPLACE ACT OF 1988

Generally, **16:24**

DRUGS

See ALCOHOL OR DRUG ABUSE;
ALCOHOL OR DRUG ADDIC-
TION

ECONOMIC STIMULUS BILL

American Recovery and Reinvestment
Act of 2009, **2:84**

EEOC

See EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION
(EEOC)

EMOTIONAL DISTRESS, INFLICTION OF

Generally, **5:7**

EMPLOYEE BENEFIT PLANS

ADEA charges, affirmative defense to,
2:21, 14:9, 19:28

OWBPA, **19:28**

ERISA. See EMPLOYEE RETIRE-
MENT INCOME SECURITY ACT
(ERISA), generally

Ohio Civil Rights Act charges, affirma-
tive defense to, **3:19, 19:28**

EMPLOYEE POLYGRAPH PROTECTION ACT OF 1988

See also POLYGRAPH TESTING

Civil penalties, **2:81**

Coverage, **2:71 to 2:81**

Exemptions, **2:73**

**EMPLOYEE POLYGRAPH
PROTECTION ACT OF 1988
—Cont'd**

- Disclosure of information
 - Confidential information, nondisclosure, **2:79**
 - Notice, posting required, **2:80**
- Examiners
 - Duties, **2:78**
 - Qualifications, **2:78**
- Lie detectors defined, **2:72**
- Limits on number and duration of tests, **2:78**
- Penalties for violation, **2:81**
- Prohibitions, **2:71**
- Remedies, **2:81**
- Rights of examinees, **2:74 to 2:77**
 - Post-test phase, **2:77**
 - Pretest phase, **2:75**
 - Testing phase, **2:76**

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

- ADA, **14:7**
- ADEA, **14:7, 14:9**
- Arbitrary and capricious review, **14:5, 14:6**
- Attorney fees, **22:35**
- Benefits, denial of
 - Remedies, **14:2**
- Bonus payments, **11:37**
- Breach of fiduciary duty, **14:4**
- Damages, **22:34**
- Disclosure duties, **14:3**
- Exhaustion of administrative remedies, **21:30**
- Federal preemption. See Preemption, this heading
- Fiduciary duty, breach, **14:4**
- Internal appeals, **21:30**
- Limitation of actions, **21:8**
 - Retaliation, **21:17**
- Postretirement employment, **14:9**
- Preemption, **14:2, 14:11 to 14:9, 21:36, 21:37**
 - Deemer clause, **14:12**
 - State employment discrimination laws, **14:7, 14:13**
- Pregnancy
 - Federal law relation to state law, **14:13**
- Remedies, **14:2, 22:32 to 22:36**
 - Attorney fees, **22:35**
 - Daily penalty for failure to respond to information request, **22:33**
 - Damages, **22:34**

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

- Remedies, **14:2, 22:32 to 22:36**
 - Cont'd
 - Equitable relief, **22:33**
 - Exhaustion of administrative remedies, **21:30**
 - Prejudgment interest, **22:36**
 - Secretary of Labor, civil actions by, **22:32**
- Reporting, disclosure, and fiduciary duties, **14:2**
- Retaliation, **2:69, 14:2**
 - Legislative erosion of employment-at-will doctrine, **1:3**
 - Limitation of actions, **21:17**
- Severance pay plans, **17:30**
 - Disclosure and fiduciary duties, **17:31**
 - Reservation of company's unilateral right to modify, **17:33**
 - Standard of review, **17:32**
- Title VII, **14:8**
 - Sex discrimination, **14:8**
- Welfare benefit plans, regulation, **14:2**

EMPLOYEES

- See also particular subject concerned
- Definitions
 - Americans with Disabilities Act (ada), **2:33**
 - NLRA, **18:2**
 - Ohio Civil Rights Act, **3:3**
- State
 - Jurisdiction over discrimination claims brought by, **18:24**

EMPLOYERS

- See also particular subject concerned
- Definitions
 - Americans with Disabilities Act (ada), **2:33**
 - Intentional torts by employers, **15:17**
 - NLRA, **18:2**
 - Ohio Civil Rights Act, **3:3**
 - Unemployment Compensation Act, **17:4**
 - Workers' Compensation Act, **15:5**
- Intentional torts by. See INTENTIONAL TORTS BY EMPLOYERS
- Reports to Human Services Department, **9:7**
- Supervisors. See SUPERVISORS
- Unemployment compensation. See UNEMPLOYMENT COMPENSATION

INDEX

EMPLOYERS—Cont'd

Vicarious liability of. See VICARIOUS LIABILITY, generally

EMPLOYMENT AGENCIES

Ohio Civil Rights Act, prohibited discrimination under, **3:10**

Recruiting and advertising practices, **6:9**

EMPLOYMENT CONTRACTS

See CONTRACTS

EMPLOYMENT DISCRIMINATION

Generally, See DISCRIMINATION and also See particular subject concerned

EMPLOYMENT TO AT TO WILL

DOCTRINE

Exceptions

Contract theory, **4:4 to 4:9**

Promissory estoppel theory, **4:4 to 4:9**

Judicial erosion, **1:5 to 1:9**

EMPLOYMENT-AT-WILL

DOCTRINE

At-will presumption, proof necessary to overcome, **20:4**

Constitutionality of restrictions on, **1:1**

Contractual in nature, **4:3**

Exceptions, **1:5**

Abusive discharge, **1:8**

Contract theory, **1:6**

See also CONTRACTS, generally

Promissory estoppel theory, **1:6**

See also PROMISSORY ESTOPPEL, generally

Public policy, **1:7**

See also PUBLIC POLICY, generally

History

Judicial analysis, of, **4:1**

Legislative erosion

Federal, **1:3**

State, **1:4**

Mers doctrine, **4:2**

Origins, **1:2**

Overview, **1:1**

Retaliatory discharge, **4:10**

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

ADA

Charge of discrimination, **21:12**

Enforcement jurisdiction, **18:12**

Notice of right to sue, **18:12, 21:14**

Regulations. See AMERICANS WITH DISABILITIES ACT

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)—Cont'd

ADA—Cont'd

(ADA), at EEOC regulations

ADEA

Charge of discrimination, **2:21, 18:11**

Timeliness, **2:21, 21:12**

Notice of right to sue, **2:21, 18:11, 21:14**

Timeliness of suit, **21:14**

Alternative dispute resolution fact sheets, **23:29**

Charges of discrimination

ADA, **21:12**

ADEA, **2:21, 18:11**

Timeliness, **2:21, 21:12**

Title VII, **2:12, 18:8**

Timeliness, **2:12, 21:12**

Equal Pay Act

Enforcement jurisdiction, **18:13**

Filing with EEOC optional, **18:13**

Forms

Alternative dispute resolution fact sheet, **23:29**

Mediation agreement, **23:30**

Jurisdiction, **18:7 to 18:14**

Title VII charge, **2:12, 18:8 to 18:10**

Mediation agreements, **23:30**

Pre-employment inquiries, **7:1**

Seniority systems, interpretation, **19:27**

Title VII

Charge of discrimination, **2:12, 18:8**

Timeliness, **2:12, 21:12**

Investigation, **18:9**

Notice of right to sue, **2:12, 18:10**

Timeliness of suit, **21:14**

Uniform Guidelines on Employee Selection Procedures, **8:3 to 8:5**

See also UNIFORM GUIDELINES, generally

Civil Rights Act of 1991, impact, **8:6**

EQUAL PAY ACT

Generally, **11:23**

Affirmative defenses, **11:23**

Title VII incorporation, **11:19**

Attorney fees, **22:28**

Back pay, **22:28**

Comparable worth claims, **11:25**

Concurrent jurisdiction of state and federal courts, **18:14**

Coverage, **11:23**

Defenses

Affirmative, **11:23**

Title VII incorporation, **11:19**

EQUAL PAY ACT—Cont'd

- Defenses—Cont'd
 - Factor other than sex, **11:23**
- EEOC
 - Enforcement jurisdiction, **18:13**
 - Filing with EEOC optional, **18:13**
- Equal pay for equal work, **11:23**
- Liquidated damages, **22:28**
- Ohio Equal Pay Act, **11:24**
 - Remedies, **22:42**
- Remedies, **22:28**
 - Attorney fees, **22:28**
 - Back pay, **22:28**
 - Liquidated damages, **22:28**
 - Ohio Equal Pay Act, **22:42**
- Title VII incorporation of affirmative defenses, **11:19**

ERISA

- See EMPLOYEE RETIREMENT INCOME SECURITY ACT (ERISA)

ESTOPPEL

- See PROMISSORY ESTOPPEL

EVALUATIONS

- Defects in design, **12:2 to 12:12**
 - See also Implementation defects, this heading
 - Inherently flawed, **12:3**
 - Subjective categories, **12:3**
 - Unsuitability to specific job, **12:4**
- Detection of flaws, **12:12**
- Employee opportunity to review, **12:13**
- Halo effect, **12:6**
- Implementation defects, **12:5**
 - Central tendency phenomenon, **12:7**
 - Coded evaluations, **12:10**
 - Halo effect, **12:6**
 - Pay increases, linkage to evaluations, **12:8**
 - Rating inflation, **12:8**
 - Supervisory bias, **12:11**
- Management review, **12:13**
- Market influences, **12:8**
- Preparing defensible evaluations, **12:13**
- Prospective employers, information provided to
 - Defamation, qualified privilege, **5:8, 17:21**
- Subjective categories, **12:3**
- Task-specificity, **12:13**

EXECUTIVE EMPLOYEES

- See FAIR LABOR STANDARDS ACT (FLSA)

EXEMPT EMPLOYEES

- See FAIR LABOR STANDARDS ACT (FLSA)

EXHAUSTION OF**ADMINISTRATIVE REMEDIES**

- ERISA, internal plan remedies, **21:30**
- Ohio Civil Rights Act, **18:17, 22:37**
- Title VII, **18:10**

FAIR CREDIT REPORTING ACT (FCRA)

- Applications
 - Investigative consumer credit reports, use of, **7:3, 23:31 to 23:36**
 - Prohibited questions, **7:3**
- Forms, **23:31 to 23:36**

FAIR LABOR STANDARDS ACT (FLSA)

- ADEA incorporating remedial standards, **22:25**
- Legislative erosion of employment-at-will doctrine, **1:3**
- Retaliation, **2:67, 16:30**

FAIR REPRESENTATION

- Union duties to grievants
 - Finality of grievance arbitration, exception where union breaches duty, **2:7**

FALSE ARREST

- Generally, **5:19**

FALSE IMPRISONMENT

- Generally, **5:19**

FAMILY AND MEDICAL LEAVE ACT (FMLA)

- Generally, **2:50 to 2:58, 18:16**
- Benefits
 - Basic, **2:52**
 - Foreseeable leave, **2:54**
 - Fringe benefits, effect on, **14:14**
 - Medical insurance coverage, **2:56, 14:14**
 - Paid leave, relationship to, **2:53**
 - Return from leave, **2:57**
 - Serious health condition, certification, **2:55**
- Coverage, **2:51**
- Damages, **2:58, 18:16**
- Enforcement, **2:58, 18:16**
- Fringe benefits
 - Effect on, **14:14**
 - Notice requirement, **14:15**
- Limitation of actions, **2:58**
- Retaliation, **2:58, 16:31**

INDEX

FAVORITISM

Family members. See NEPOTISM
Sexual harassment, as, **2:11**

FCRA

See FAIR CREDIT REPORTING ACT (FCRA)

FEDERAL ARBITRATION ACT

Employment discrimination claims, **21:24**
Tort claims, **21:26**

FEDERAL CONTRACT COMPLIANCE PROGRAMS, OFFICE OF

ADA, coordination of investigation with EEOC, **18:15**
Rehabilitation Act, **18:15**
Section 503, **2:64**

FEDERAL CONTRACTORS

Advertising practices, **6:4**
Affirmative action plans, **6:3, 6:4**

FEDERAL COURTS

Jurisdiction, **18:18 to 18:22**
Class actions, **18:21**
Concurrent with state courts, **18:14**
Defect, waiver of, **18:23**
Diversity, **18:20**
Federal question, **18:19**
Mass action, **18:21**
Removal jurisdiction, **18:25**
Section 301 action, **2:6**
Supplemental, **18:22**
Waiver of defect, **18:23**

FEDERAL PREEMPTION

Generally, **21:32 to 21:37**
Affirmative defense, as, **21:5**
Constitutional, **21:32**
Discrimination laws, **21:33**
ERISA, **14:2, 14:11 to 14:9, 21:36, 21:37**
NLRA, **21:34**
Section 301, **21:35**

FEDERAL STATUTES

See also particular statute concerned

FIRING

See DISCIPLINE AND DISCHARGE

FOREIGN PERSONS

Generally. See IMMIGRATION REFORM AND CONTROL ACT OF 1986 (IRCA)

FORMS

ADEA claims, OWBPA requirements for waiver, **23:11**
Application releases, **23:1**
Alcohol or drug testing, **23:1, 23:3**
Criminal records, authorization to examine, **23:2**
References, authorization to obtain, **23:2**
Arbitration clauses, **23:6 to 23:8**
Confidentiality, **23:39**
Contracts, **23:38 to 23:42**
Duty of loyalty, **23:41**
Legal compliance, **23:41**
No-compete clauses, **23:40**
Nonsolicitation clauses, **23:40**
Protection of employer's interests, **23:39**
Term of employment, **23:38**
Termination of employment, **23:42**
Criminal records, authorization to examine, **23:2**
Disclaimers, **23:1**
See also Releases, this heading
EEOC
Alternative dispute resolution fact sheet, **23:29**
Mediation agreement, **23:30**
FCRA standards for consumer reports, **23:31 to 23:36**
Genetic Information Nondiscrimination Act, safe harbor under, **23:37**
Handbooks, acknowledgement of receipt, **23:5**
Job description statements, **23:9, 23:10**
OCRC charges of discrimination, **23:12 to 23:28**
References, authorization to obtain, **23:2**
Releases, **23:1**
Alcohol or drug testing, **23:1, 23:3, 23:4**
Criminal records, authorization to examine, **23:2**
References, authorization to obtain, **23:2**
Safe harbor under Genetic Information Nondiscrimination Act, **23:37**

FRATERNIZATION

Discipline and discharge, **16:22**

FRAUD

Generally, **5:4**
Job security, representations in advertising or recruiting, **6:8**
Promissory estoppel distinguished, **5:4**

FRAUDS, STATUTE OF

See STATUTE OF FRAUDS

FREEDOM OF CONTRACTVitality of doctrine post-Mers, **20:18****FRINGE BENEFITS**

See also particular benefit concerned

Generally, **14:1**ADA, **14:10**

ERISA. See EMPLOYEE RETIREMENT INCOME SECURITY ACT (ERISA), generally

FMLA leave, effect, **2:56, 14:14**Implied contracts, policies evidencing, **20:6**

Severance pay. See SEVERANCE PAY

FRONT PAYADEA, **2:21, 22:26**Breach of contract, **22:3**Ohio Civil Rights Act, **22:37**Title VII, **2:12, 22:21****FULL FAITH AND CREDIT**Administrative determinations, **21:22****GAMBLING**

Exclusions

ADA, **2:38**Ohio Civil Rights Act, **3:4****GARNISHMENT OF WAGES**Retaliation against employees for garnishment of wages, prohibition, **1:4, 3:1, 20:22****GAY PERSONS**

See BISEXUALITY; HOMOSEXUALITY

GENETIC INFORMATION**NONDISCRIMINATION ACT OF 2008**Generally, **2:45**Safe harbor language, **23:37****GREELEY DOCTRINE**Generally, **1:7, 4:3, 4:10, 20:2, 20:22**Limitation of actions, **21:10**Piggy-backing wrongful discharge tort claims, **4:10**Ohio Age Discrimination in Employment Act claim, to, **3:34, 22:40**Whistleblower Protection Act claim, to, **3:45**Workers' compensation retaliation claim, to, **3:41****GRIEVANCE ARBITRATION**

See also ARBITRATION

GRIEVANCE ARBITRATION—Cont'dDiscrimination claims, **17:2**

Exhaustion of remedies

Administrative exhaustion. See

EXHAUSTION OF

ADMINISTRATIVE REME-

DIES

Internal grievance procedure, **21:29**Finality under NLRA, **2:7**Internal appeals, **17:2**Preclusion of court litigation, **17:2**Unconscionable provisions, **17:2****HANDBOOKS**Generally, **10:3 to 10:9**Acknowledgement of receipt, **23:5**Arbitration provisions, **10:8, 23:6 to 23:8**

Assurances of job security or benefits, false

Cause of action for fraud, **5:4**Contract theory of enforceability, **4:2, 4:3, 4:6, 4:7**

Discipline policies

Evidence of implied contract, as, **20:5**Notice to employees, **16:3**Disclaimers, **4:7, 7:5, 10:5**Acknowledgement of receipt, **23:5**Content, **20:8**Defeating claim of promise to job applicant, **7:5, 20:8**

Disclaimers. See also DISCLAIMERS, generally

Evidence of employment contracts, as, **20:4, 20:5**Grounds for discharge, listing, **10:6**Harassment complaint procedures, **10:9**Historical background, **10:3**Intentional misrepresentation cause of action for false assurance of job security or benefits, **5:4**Meeting of minds, not binding as contract without, **20:5**Mers doctrine, **4:2**Post-Mers considerations, **10:4**National Labor Relations Act issue regarding policies, **10:10**Negligent misrepresentation, **5:5**Probationary status, danger in designating, **10:7**Promissory estoppel theory of enforceability, **4:2, 4:3, 4:6, 4:7****HANDICAPS**

See also DISABILITIES

AIDS as

Ohio Civil Rights Act, **3:4**

INDEX

HANDICAPS—Cont'd

- AIDS as—Cont'd
 - Testing, OCRC policy, **8:18**
- Defined
 - Ohio Civil Rights Act, **3:4**
- Discrimination based on prohibited
 - Ohio Civil Rights Act, **3:8 to 3:14**
- Physical or mental impairment defined
 - Ohio Civil Rights Act, **3:4**

HARASSMENT

- See **SEXUAL HARASSMENT**

HEALTH CARE BENEFITS

- See also **EMPLOYEE RETIREMENT INCOME SECURITY ACT (ERISA)**
- ADA, **2:37**
- COBRA requirements, **17:12 to 17:18**
 - Continuation coverage period, **17:16**
 - Gross misconduct as disqualification, **17:13**
- Notice requirements, **17:15**
- Premium payment, **17:17**
- Qualified beneficiaries, **17:14**
- Qualifying events, **17:12**
- Sanctions for violations, **17:18**
- Disabled employees, **14:10**
- ERISA. See **EMPLOYEE RETIREMENT INCOME SECURITY ACT (ERISA)**
- FMLA leave, effect, **2:56, 14:14**
- Mandatory benefits, **14:12**
- Ohio coverage continuation law
 - COBRA compared, **17:19**
 - Conversion options, **17:20**
- Wellness programs, **14:10**
- Workers' compensation claims
 - Health Partnership Program, **15:9**

HEARINGS

- Administrative law judges
 - Unfair labor practice charge, **18:3**
- Internal procedures for employee appeals of disciplinary decisions, **16:10, 17:2**
- OCRC complaints, on
 - Notice, **3:24**
 - Procedure, **3:25**
- Workers' compensation claims, **15:16**

HELP WANTED ADS

- See **RECRUITING**

HIRING

- Communicating hiring decisions, **9:3 to 9:6**
- Family. See **NEPOTISM**

HIRING—Cont'd

- Interviewing. See **INTERVIEWING**
- Job-related criteria for hiring decisions, necessity for, **9:1**
- McDonnell Douglas prima facie hiring discrimination cases, **9:2**
- Negligent, **5:20**
- Offer letters, **9:4**
- Recruitment. See **RECRUITING**
- Rejection letters, **9:5**
- Reports to Human Services Department, **9:7**

HIV INFECTION

- See **AIDS**

HMO OPTION

- See **HEALTH CARE BENEFITS**

HOLIDAYS

- Religion, reasonable accommodation, **19:16 to 19:18**

HOMOSEXUALITY

- Exclusions
 - ADA, **2:38**
 - Ohio Civil Rights Act, **3:4**
- Sexual harassment
 - Nonfraternization policies, **16:22**
 - Same-sex hostile environment harassment, **2:11**

HOSPITALIZATION INSURANCE

- See **EMPLOYEE RETIREMENT INCOME SECURITY ACT (ERISA)**; **FRINGE BENEFITS**; **HEALTH CARE BENEFITS**

HOSTILE ENVIRONMENT

HARASSMENT

- See also **SEXUAL HARASSMENT**, generally
- Generally, **2:11**

HUMAN RESOURCES

- Career path development programs, **13:8**
- Employee orientation, **10:2**
- Evaluation systems, **12:12, 12:13**
- Promotion programs, monitoring, **13:8**

IMMIGRATION REFORM AND CONTROL ACT OF 1986 (IRCA)

- Generally, **7:3**
- Application verification, **7:3**
- Retaliation, **2:70**

IMPLIED CONTRACTS

- Burden of proof, **20:13**
- Disclaimers, **4:7**

IMPLIED CONTRACTS—Cont'd

- Evidence, **20:5 to 20:7**
- Fringe benefit policies evidencing, **20:6**
- Handbooks. See HANDBOOKS, generally
- Oral representations giving rise to, **4:2, 4:3, 20:7**
- Theory, **4:6**

INCOMPETENCE

- Just cause for termination, as, **20:17**

INDUSTRIAL COMMISSION

- See WORKERS' COMPENSATION ACT

INFERTILITY

- Pregnancy Discrimination Act, **14:8**
- Title VII implications, **14:8**

INFLECTION OF EMOTIONAL DISTRESS

- Generally, **5:7**

INJUNCTIVE RELIEF

- Ohio Civil Rights Act, **22:37**
- Title VII, **2:12, 22:22**

INSUBORDINATION

- Just cause for termination, as, **20:17**
- Protected activities under NLRA, test for distinguishing from, **2:4**

INSURANCE

- ADA, **2:37**
- Awards or settlements, insurance implications, **22:44 to 22:49**
- Discrimination actions, insurability, **22:49**
- Duty of insurers to defend, **22:45**
- ERISA deemer clause, **14:12**
- Health insurance plans. See HEALTH CARE BENEFITS
- Intentional torts by employers. See INTENTIONAL TORTS
- Saving clause exception to ERISA preemption, **14:12**
- State insurance laws, **14:12**

INTENTIONAL MISREPRESENTATION

- See FRAUD

INTENTIONAL TORTS BY EMPLOYERS

- Generally, **15:17**
- Definition, **15:17**
- Elements, **15:17**
- Emotional distress claims, **5:7**

INTENTIONAL TORTS BY EMPLOYERS—Cont'd

- Insurability, **22:46 to 22:48**
- Deliberate intent to injure, **22:47**
- Rebuttable presumption of intent to injure, **22:48**
- Limitation of actions, **15:17**
- Statutory remedies, **21:28, 22:44**
- Workers' compensation immunity from tort actions, as exception to, **5:7, 15:2, 15:17, 21:28, 22:44**

INTERNAL GRIEVANCE PROCEDURES

- See also ARBITRATION; GRIEVANCE ARBITRATION
- Tort claims, **21:29**

INTERVIEWING

- Guidelines, **7:8**
- Hiring decisions, **9:1**
- OCRC Guide, **7:10**
- Prohibited questions, **3:13**
- Promotion, screening of candidates, **13:7**
- Screening applicants before, **7:7**

INTOXICATION

- See ALCOHOL OR DRUG ABUSE

INVASION OF PRIVACY

- Generally, **5:13**
- Criminal convictions as basis for personnel decisions, **16:25**
- Theft investigations, disciplinary, **16:23**

INVESTIGATIONS

- Alcohol or drug testing. See ALCOHOL OR DRUG ABUSE, at Testing
- Confidentiality. See CONFIDENTIALITY
- Disciplinary, **16:5**
- Older workers, disciplinary problems, **16:28**
- Searches
 - Theft investigations, risk of liability, **16:23**
- Sexual harassment investigation. See SEXUAL HARASSMENT, at Disciplinary investigations

JOB APPLICATIONS

- See APPLICATIONS

JOB DESCRIPTIONS

- Compensation policies, **11:29**
- Criteria for screening applicants before interviewing, **7:7**
- Essential job functions, establishing, **6:3, 23:9, 23:10**

INDEX

JOB DESCRIPTIONS—Cont'd

Minimum qualifications, identifying, **6:2**
Promotion decisions, **13:2**

JOB POSTING

See also PROMOTION POLICIES
Generally, **13:3**

JURISDICTION

Class actions, federal courts, **18:21**
Concurrent state and federal jurisdiction,
18:14

Defect not waivable, **18:23**
Diversity of citizenship, **18:20**
EEOC, **18:7 to 18:14**

Title VII charges, **2:12**

Federal courts. See FEDERAL
COURTS

Federal question, **18:19**

Industrial Commission, **15:16**

NLRB. See NATIONAL LABOR
RELATIONS BOARD (NLRB)

Nonwaiver of defect, **18:23**

OCRC, **18:17**

Parties, **18:1**

Rehabilitation Act of 1973

Labor Department, Office of Federal
Contract Compliance Programs,
18:15

State courts, **18:24**

Subject matter, **18:1**

Supplemental, **18:22**

Uniformed Services Employment and
Reemployment Rights Act of 1994,
2:49

JURY DUTY

Retaliation against employees for serv-
ing on juries, prohibition, **1:4, 3:1**

JURY TRIALS

ADA, Civil Rights Act of 1991, under,
22:24

Age discrimination cases

ADEA, **2:21**

Ohio Age Discrimination in Employ-
ment Act, **3:34, 22:40**

Civil Rights Act of 1991

ADA, **22:24**

Title VII, **2:12, 22:24**

Employer business judgment, jury find-
ing as substitute for, **20:19**

Ohio Age Discrimination in Employ-
ment Act, **3:34, 22:40**

Ohio Civil Rights Act, private civil
actions, **22:37**

Pretext issue, jury consideration, **20:19**

JURY TRIALS—Cont'd

Promissory estoppel claims, unavail-
ability in, **20:21**

Title VII, **2:12**

Civil Rights Act of 1991, under, **2:12,**
22:24

Tort actions, availability, **1:9**

Whistleblower Protection Act, **3:45**

Workers' compensation retaliation
claims, **3:41**

JUST CAUSE FOR TERMINATION

Absenteeism, **20:17**

Actions constituting, **20:17 to 20:19**

At-will employees, **1:4**

Burden of proof, **20:12 to 20:16**

Uniformed Services Employment and
Reemployment Rights Act of
1994, **2:49**

Collateral estoppel inapplicable to
Bureau of Employment Services
findings, **17:11**

Definite term contracts

Actions constituting just cause, **20:17**

Burden of proof, **20:14**

Incompetence, **20:17**

Insubordination, **20:17**

Military personnel

Uniformed Services Employment and
Reemployment Rights Act of
1994, **2:48**

Burden of proof, **2:49**

Ohio Age Discrimination in Employ-
ment Act, **3:34**

Scope of judicial review, **20:18, 20:19**

Unemployment compensation, **1:4, 17:7**
Collateral estoppel inapplicable,
17:11

KLEPTOMANIA

See THEFT

LABOR DEPARTMENT, UNITED STATES

Comp time policy, **11:10**

ERISA violations, authority to pursue,
22:32

FLSA retaliation, complaints, **2:67**

FMLA, enforcement, **2:58, 18:16**

National Labor Relations Board. See
NATIONAL LABOR RELATIONS
BOARD (NLRB)

Office of Federal Contract Compliance
Programs, jurisdiction, **18:15**

OSHA retaliation, complaints, **2:68**

Uniformed Services Employment and
Reemployment Rights Act of 1994,
complaints, **2:49**

LABOR ORGANIZATIONS

See UNIONS

LABOR-MANAGEMENT**RELATIONS ACT (LMRA)**Concurrent state and federal court jurisdiction, **2:6**

Section 301 actions

Federal preemption, **21:35**Jurisdiction, **2:6, 18:6**Limitation of actions, **21:7****LAYOFFS**

See also DISCIPLINE AND DISCHARGE

ADEA violations, **2:20**Mass layoffs, sixty-day WARN notice, **17:29****LEAVES OF ABSENCE**

See also ABSENTEEISM

FMLA. See FAMILY AND MEDICAL LEAVE ACT (FMLA)

Medical

ADA, **14:10**Pregnancy, **14:8**Workers' compensation, **3:40****LIBEL**

See DEFAMATION

LIE DETECTOR TESTS

See POLYGRAPH TESTING

LIFE INSURANCE

See EMPLOYEE RETIREMENT INCOME SECURITY ACT (ERISA); INSURANCE

LILLY LEDBETTER FAIR PAY ACT OF 2009Generally, **11:21****LIMITATION OF ACTIONS**

ADA. See AMERICANS WITH DISABILITIES ACT (ADA)

ADEA. See AGE DISCRIMINATION IN EMPLOYMENT ACT (ADEA)

Affirmative defense, as, **21:3, 21:6 to 21:19**Application records, length of retention affected by tolling, **6:7**

Contract, breach of

Collective bargaining agreement, Section 301 action, **21:7**ERISA, **21:8**Oral contract, **21:6**Written contract, **21:6**ERISA, **21:8**Discrimination or retaliation, **21:17****LIMITATION OF ACTIONS—Cont'd**FMLA, **2:58**Intentional torts by employers, **15:17**Ohio Age Discrimination in Employment Act, **3:34**Ohio Civil Rights Act, **21:18**

Ohio Comprehensive AIDS Act

Disclosure, **8:21**Promissory estoppel claims, **21:9**Public policy violation torts, **21:10**Reconstruction Era Civil Rights Acts, **2:30, 21:15**Rehabilitation Act, **21:16**Section 301 actions, **21:7**

Title VII. See TITLE VII

Torts, miscellaneous, **21:19**Unfair labor practice charges, filing with NLRB, **18:2**Uniformed Services Employment and Reemployment Rights Act of 1994, **2:49**Whistleblower actions, **3:45**Workers' compensation retaliation actions, **3:37****LUNCH PERIODS**Exclusion from hours worked, **11:7, 11:8****MALICE**Cause of action for malicious discharge, **4:11**Damages, punitive, **22:1**Defamation, exception to qualified privilege, **5:10**Invasion of privacy claims, absence of malice as defense, **5:13****MANDAMUS**OCRC determinations, compelling, **18:17****MASS ACTION**Jurisdiction, federal courts, **18:21****MCDONNELL DOUGLAS**

See DISPARATE TREATMENT; PRIMA FACIE CASES

MEDIATION

See also ARBITRATION

EEOC forms

Agreement to mediate, **23:30**Alternative dispute resolution fact sheet, **23:29****MEDICAL EXAMINATIONS**

ADA

Current employees, of, **2:35, 8:8**

INDEX

MEDICAL EXAMINATIONS—Cont'd

ADA—Cont'd

Pre-employment, **2:34, 8:8**

MENTAL DISTRESS, INFLECTION OF

Generally, **5:7**

MERS DOCTRINE

Generally, **4:2**

Freedom of contract, post-Mers validity, **20:18**

Handbooks, post-Mers considerations, **10:4**

Recruiting and advertising policies, effect on, **6:8**

MILITARY SERVICE

Discrimination based on military status, **2:46 to 2:49**

See also UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT OF 1994

MINIMUM WAGE LAWS

Generally, **11:4**

“Employer” defined

Federal. See FAIR LABOR STANDARDS ACT (FLSA)

Fair Labor Standards Act and Ohio Minimum Fair Wage Standards Act, **11:3**

Prevailing wage rate, **11:4**

Retaliation provisions as exception to at-will doctrine, **1:4, 3:1**

MISREPRESENTATION

Intentional. See FRAUD, generally
Negligent, **5:5**

MITIGATION OF DAMAGES

ADEA, **22:27**

Breach of contract, **22:6**

NATIONAL LABOR RELATIONS ACT (NLRA)

Generally, **2:2 to 2:7**

Arbitration. See ARBITRATION, generally

Board. See NATIONAL LABOR RELATIONS BOARD (NLRB)

Federal preemption, **21:34**

Handbooks, **10:10**

Legislative erosion of employment-at-will doctrine, **1:3**

Scope of NLRA, **2:2**

Unfair labor practices, **2:3**

Anti-union animus, **2:5**

NATIONAL LABOR RELATIONS

ACT (NLRA)—Cont'd

Unfair labor practices, **2:3**—Cont'd

Concerted activities, retaliation against, **2:4**

Retaliation for filing charge or testifying, **2:3**

NATIONAL LABOR RELATIONS BOARD (NLRB)

Back pay awards, **18:3**

Cease and desist orders, **18:3**

Investigations, **18:3**

Jurisdiction, **18:2 to 18:6**

Discretion in exercising, **18:5**

Exclusive, **2:6**

NATIONAL ORIGIN

Discrimination based on prohibited

Ohio Civil Rights Act, **3:8 to 3:14**

Section 1981 not covering, **2:26**

Title VII, **2:10**

NEGLIGENCE

Infliction of serious emotional distress, **5:7**

Misrepresentation, **5:5**

Personal injuries to employees in course of employment, **21:28, 22:44**

Workers' compensation. See WORKERS' COMPENSATION ACT, generally

NEGLIGENT MISREPRESENTATION

Generally, **5:5**

NEPOTISM

Recruiting practice, as, **6:3**

NONCOMPETITION AGREEMENTS

See COVENANTS NOT TO COMPETE

NOTICE

Alcohol or drug testing policies, **7:5, 8:13, 23:1, 23:3**

Disciplinary policies

Employees, notice to, **16:3**

Supervisors, notice to, **16:4**

Employee Polygraph Protection Act of 1988, summary of, **2:80**

Family and Medical Leave Act (FMLA), **14:15**

Right to sue. See NOTICE OF RIGHT TO SUE

Unemployment compensation benefits determination, appeals, **17:5**

NOTICE OF RIGHT TO SUE

ADA, **18:12, 21:14**

NOTICE OF RIGHT TO SUE—Cont'd

- ADEA, **2:21, 18:11, 21:14**
- Timeliness of suit-filing, **21:14**
- Title VII, **2:12, 18:10**
- Timeliness of suit-filing, **21:14**

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 (OSHA)

- Nonretaliation provisions, **2:68**
- Legislative erosion of employment-at-will doctrine, as, **1:3**

OFFER LETTERS

- Generally, **9:4**

OHIO AGE DISCRIMINATION IN EMPLOYMENT ACT

- Arbitration, **3:34**
- Attorney fees, **3:34, 22:40**
- Back pay, **22:40**
- Civil suits, private, **3:34, 22:40**
- Damages, **22:40**
- Election of remedies, **3:34, 22:41**
- Enforcement procedures, **3:34**
- Jury trials, **3:34, 22:40**
- Just cause for termination, **3:34**
- Limitation of actions, **3:34**
- Prima facie cases, establishing, **3:34**
- Reinstatement, **22:40**
- Remedies, **3:34, 22:40**
 - Election, **22:41**
 - Wrongful discharge tort claim, piggy-backing to age discrimination claim, **3:34, 22:40**
 - Wrongful discharge tort claims, piggy-backing to age discrimination claims, **3:34, 22:40**

OHIO ARBITRATION ACT

- Contract claims, **21:25**
- Employment discrimination claims, **21:24**
- Tort claims, **21:27**

OHIO CIVIL RIGHTS ACT

- Generally, **3:2 to 3:33**
- Affirmative defenses
 - Bona fide employee benefit plan, **3:19, 19:28**
 - Bona fide occupational qualification, **3:18, 19:21**
 - Bona fide seniority system, **3:19, 19:22**
- Age discrimination
 - See also OHIO AGE DISCRIMINATION IN EMPLOYMENT ACT, generally
 - Election of remedies, **3:34, 22:41**

OHIO CIVIL RIGHTS ACT—Cont'd

- Based on sex, discrimination, **3:6**
- Bona fide employee benefit plan defense, **3:19, 19:28**
- Bona fide occupational qualification defense, **3:18, 19:21**
- Bona fide seniority system defense, **3:19, 19:22**
- Civil actions, private, **3:31, 3:32, 18:17, 22:37**
- Compensation discrimination, **11:22**
- Complaints filed by OCRC. See OHIO CIVIL RIGHTS COMMISSION (OCRC)
- Damages
 - Civil actions, private, **22:37**
- Definitions
 - Age, **3:5**
 - Borrowing of federal definitions, **3:7**
 - Employees, **3:3**
 - Employers, **3:3**
 - Handicap, **3:4**
 - Physical or mental impairment, **3:4**
 - Sex, discrimination on basis of, **3:6**
- Disability accommodation, **19:20**
- Disability discrimination, **3:32**
- Disparate impact cases, **19:7**
 - Burden of proof, **19:15**
- Enforcement, **3:22 to 3:30**
 - See also OHIO CIVIL RIGHTS COMMISSION (OCRC), generally
- Exceptions to coverage, **3:15 to 3:21**
 - Age discrimination, **3:17 to 3:21**
 - Apprenticeship programs, **3:21**
 - Bona fide employment qualifications, **3:18**
 - Executives or high policy-makers, **3:20**
 - Seniority system or benefit plan, **3:19**
- Alcohol or drug abuse, **3:4**
- Bisexuality, **3:4**
- Gambling, **3:4**
- Homosexuality, **3:4**
- Kleptomania, **3:4**
- Occupational hazards increased due to disabled employee, **3:16**
- Performance of job substantially impaired by disabled employee, **3:16**
- Pyromania, **3:4**
- Sexual behavior disorders, **3:4**
- Exhaustion of administrative remedies, **18:17, 22:37**
- Jury trials, private civil actions, **22:37**

INDEX

OHIO CIVIL RIGHTS ACT—Cont'd

- Legislative erosion of employment-at-will doctrine, **1:4**
- Limitation of actions, **21:18**
- OCRC. See OHIO CIVIL RIGHTS COMMISSION (OCRC)
- Prohibitions, **3:8 to 3:14**
- Remedies, **3:27, 22:37 to 22:41**
 - Age discrimination
 - Election, **3:34, 22:41**
 - Civil actions, private, **18:17, 22:37**
 - Damages, **22:37**
 - Election
 - Age discrimination, **3:34, 22:41**
 - Ohio Equal Pay Act, **22:42**
 - Exhaustion of administrative remedies, **18:17, 22:37**
 - Front pay, **22:37**
 - Injunctive relief, **22:37**
 - Sexual harassment, protections against, **3:6**
 - Title VII analysis borrowed, **3:29**

OHIO CIVIL RIGHTS COMMISSION (OCRC)

- See also OHIO CIVIL RIGHTS ACT
- AIDS as handicap, policy, **8:18**
- Applications and interviews, **7:3, 7:10**
- BFOQ certification, **3:13**
- Charges of discrimination
 - Filing, **2:12, 3:22, 21:12, 21:18**
 - Forms, **23:12 to 23:28**
 - Timeliness, **3:22, 21:18**
- Collateral estoppel effect of OCRC decisions, **21:23**
- Complaints filed by, **3:24**
 - Dismissal, **3:26**
 - Hearings on
 - Notice, **3:24**
 - Procedure, **3:25**
- Conciliation
 - Appeal by employee from agreement between OCRC and employer, **3:23**
 - Efforts, **3:23, 18:17**
 - Remedy, **22:37**
- Deferral agency, **18:8, 18:17**
- Determinations, **3:26 to 3:28**
 - Appeal from, **3:28**
 - Standard of judicial review, **18:17**
 - Back pay, **3:27, 22:37**
 - Cease and desist order, **18:17, 22:37**
 - Collateral estoppel, **21:23**
 - Dismissal of complaint, **3:26**
 - Notice of right to sue, **3:27**
 - Reinstatement, **3:27, 18:17, 22:37**

OHIO CIVIL RIGHTS COMMISSION (OCRC)—Cont'd

- Determinations, **3:26 to 3:28**—Cont'd
- Remedies, **3:27, 18:17, 22:37**
 - Res judicata effect, **3:30**
- Forms, **23:12 to 23:28**
- Guide for applications and interviews, **7:10**
- Hearings on complaints
 - Notice, **3:24**
 - Procedure, **3:25**
- Interviews and applications, **7:3, 7:10**
- Jurisdiction, **18:17**
- Notice of hearing, **3:24**
- Pregnancy discrimination in fringe benefits, **14:13**
- Preliminary investigations, **3:22**
- Questioning job applicants, OCRC Guide, **7:10**
- Remedies, **3:27, 18:17, 22:37**

OHIO COMPREHENSIVE AIDS ACT

- Generally, **8:19 to 8:25**
- Attorney fees, **8:22**
- Disclosure, **8:21**
- Emergency care workers, **8:23**
- Informed consent, **8:20**
- Limitation of actions, **8:22**
- Remedies, **8:22**

OHIO EQUAL PAY ACT

- Generally, **11:24**
- Remedies, **22:42**

OHIO WHISTLEBLOWER LAW

- See WHISTLEBLOWER PROTECTION ACT

OLDER WORKERS BENEFIT PROTECTION ACT (OWBPA)

- ADEA
 - Bona fide employee benefit plan, **14:9, 19:28**
 - Bona fide seniority system, **19:25**
 - Equal cost or benefit rule, **14:9, 19:28**
 - Waiver of claims, requirements, **23:11**
- Ohio Civil Rights Act, **14:13**

ORAL REPRESENTATIONS

- Assurances of job security or benefits, false
 - Cause of action for fraud, **5:4**
- Burden of proof, **20:13**
- Implied contracts based on, **4:2, 4:3, 20:7**

ORAL REPRESENTATIONS—Cont'd

Promissory estoppel distinguished from fraud, **5:4**

See also PROMISSORY ESTOPPEL, generally

ORDERS

Cease and desist

NLRB, **18:3**

OCRC, **3:27, 18:17, 22:37**

NLRB

Cease and desist orders, **18:3**

Final orders, appeals, **18:4**

OCRC

Cease and desist orders, **3:27, 18:17, 22:37**

Final orders, review by common pleas courts, **18:17**

ORIENTATION PROGRAMS

Company philosophy, communicating, **10:2**

Uniformity and consistency in explaining company policies, **10:2**

OVERTIME

See also COMPENSATION, generally
Generally, **11:5 to 11:8**

Breaks, inclusion in hours worked, **11:7, 11:8**

Comp time, **11:10**

Determination of hours worked, **11:6, 11:9**

Lunch, exclusion from hours worked, **11:7, 11:8**

Retaliation against employee for complaining about violations prohibited, **3:1**

Time-and-one-half rate, **11:5**

OWBPA

See OLDER WORKERS BENEFIT PROTECTION ACT (OWBPA)

PAY PERIODS

See COMPENSATION; WORK-WEEKS

PAY PRACTICES

See COMPENSATION

PAYROLL RECORDS

Generally, **11:38**

PENSION PLANS

Generally, See EMPLOYEE RETIREMENT INCOME SECURITY ACT (ERISA)

Sex discrimination in design or administration, **14:8**

PERFORMANCE APPRAISALS

See also EVALUATIONS

Prospective employers, information provided to

Defamation, qualified privilege, **5:8, 17:21**

PERSONNEL DEPARTMENTS

See HUMAN RESOURCES

PERSONNEL POLICIES

See particular subject concerned

PHYSICAL EXAMINATIONS

Alcohol or drug testing. See ALCOHOL OR DRUG ABUSE, at Testing

Medical exams. See MEDICAL EXAMINATIONS

PLANT CLOSING NOTICE

Generally, **17:29**

PLEADING AND PRACTICE

Affirmative defenses, **21:4**

Alternative theories, **5:1**

Claims, **21:1**

Complaints, pleading tort damages, **22:14, 22:15**

Defenses, **21:2**

Multiple causes of action, **5:1**

Tort damages, complaints, **22:14, 22:15**

POLICE

Drug policy enforcement, involvement, **16:24**

Employee theft investigations, involvement, **16:23**

POLICY MANUALS

See HANDBOOKS

POLYGRAPH TESTING

See also EMPLOYEE POLYGRAPH PROTECTION ACT OF 1988

Assault and battery claims based on, **5:16**

Invasion of privacy claims based on, **5:13**

Pre-employment testing, **8:8, 8:26**

POSTING OF JOBS

See PROMOTION POLICIES; RECRUITING

PRE TO EMPLOYMENT TESTING

AIDS testing, **8:18 to 8:25**

Ohio Comprehensive AIDS Act, **8:19 to 8:25**

Validation of tests, **8:3 to 8:5**

INDEX

PRE-EMPLOYMENT INQUIRIES

- Application forms. See APPLICATIONS
- EEOC policy statement, **7:1**
- Interviewing. See INTERVIEWING
- Testing. See PRE-EMPLOYMENT TESTING; TESTING

PRE-EMPLOYMENT TESTING

- See also TESTING
- ADA
 - Alcohol or drug testing, **2:34, 8:8, 8:10**
 - Medical testing, **2:34, 8:8**
 - Nonmedical testing, **8:7**
- AIDS testing
 - Mandatory testing, OCRC policy, **8:18**
- Alcohol or drug testing. See ALCOHOL OR DRUG ABUSE, at Testing
- Claims by testing experts and companies selling tests, **8:1**
- Disability discrimination, **8:7, 8:8**
 - Medical testing, **2:34, 8:8**
 - Nonmedical testing, **8:7**
- Disparate impact, **8:2**
 - Documentation of impact and validity evidence, **8:5**
 - Four-fifths rule, **8:4**
- Drug testing. See ALCOHOL OR DRUG ABUSE, at Testing
- Medical examinations
 - ADA, **2:34, 8:8**
- Polygraph testing, **8:8, 8:26**
- Psychological testing, **8:8**
- Validation of tests
 - Borrowed validation studies, **8:5**
 - Civil Rights Act of 1991, impact, **8:6**
 - Construct validity, **8:5**
 - Content validity, **8:5**
 - Criterion-related validity, **8:5**
 - Documentation, **8:5**

PREEMPTION

- ERISA. See EMPLOYEE RETIREMENT INCOME SECURITY ACT (ERISA)
- Federal. See FEDERAL PREEMPTION

PREGNANCY

- Contraception, Title VII implications, **14:8**
- ERISA, Federal law relation to state law, **14:13**
- Leaves of absence, **14:8**
- Ohio Civil Rights Act, **3:6**

PREGNANCY—Cont'd

- Pregnancy Discrimination Amendments of 1978, **2:10**
- Title VII implications
 - Contraception, **14:8**
 - Fringe benefit issues, **14:8**

PRETEXT

- Disparate treatment cases, **19:11**
- Jury as trier of fact, **20:19**
- Rebuttal of employer's articulated legitimate reason for disparate treatment, **2:15**

PRIMA FACIE CASES

- See also BURDEN OF PROOF
- Disparate impact, **2:16**
- Disparate treatment
 - For detailed treatment, see DISPARATE TREATMENT
 - Title VII of the Civil Rights Act of 1964, **2:13**
- Hiring discrimination
 - McDonnell Douglas, **9:2**
- Ohio Age Discrimination in Employment Act, **3:34**
- Title VII of the Civil Rights Act of 1964, disparate treatment, **2:13**

PRIVACY

- Invasion of. See CONFIDENTIALITY; INVASION OF PRIVACY

PROBATIONARY STATUS

- Handbooks, danger in designating in, **10:7**

PROFESSIONAL EMPLOYEES

- See FAIR LABOR STANDARDS ACT (FLSA)

PROMISSORY ESTOPPEL

- Conceptual distinctions between promissory and implied contracts, **20:21**
- Damages, unavailability, **20:21**
- Defense of claims, **20:20, 20:21**
- Doctrine recognized, **4:2, 4:3, 20:20**
- Elements, **20:20**
- Equitable remedies, **20:21, 22:10**
- Exception to employment at will, **1:6, 4:4 to 4:9**
- Fraud distinguished, **5:4**
- Jury trials, unavailability, **20:21**
- Limitation of actions, **21:9**
- Mers doctrine, **4:2**
 - Recruiting and advertising policies, effect on, **6:8**
- Misrepresentation distinguished, **5:4**

PROMISSORY ESTOPPEL—Cont'd

- Practical differences between promissory estoppel and implied contracts, **20:21**
- Reasonable expectation standard, **4:6**
- Recruiting and advertising policies, effect on, **6:8**
- Remedies, **22:10**
- Statute of frauds, applicability, **21:20**

PROMOTION POLICIES

- Candidates, identification, **13:3 to 13:5**
- Career path development programs, **13:5**
- Compliance, ensuring, **13:8**
- Data collection, promotability, **13:6**
- Identifying candidates, **13:3 to 13:5**
- Job descriptions, **13:2**
- Job posting, **13:3**
- Performance in current job, reliability to predict performance in new job, **13:4**
- Screening candidates, **13:7**
- Theory and practice, **13:1**

PSYCHOLOGICAL TESTING

- Pre-employment testing, **8:8**

PUBLIC POLICY

- Compliance with statutory prerequisites, **3:46**
- Greeley exception to employment at will, **1:7, 4:3, 4:10, 20:2, 20:22**
- Limitation of actions, **21:10**
- Piggy-backing wrongful discharge tort claim, **4:10**
- Ohio Age Discrimination in Employment Act claim, to, **3:34, 22:40**
- Whistleblower Protection Act claim, to, **3:45**
- Workers' compensation retaliation claim, to, **3:41**

PUNITIVE DAMAGES

- See DAMAGES

PYROMANIA

- Exclusions
 - ADA, **2:38**
 - Ohio Civil Rights Act, **3:4**

QUID PRO QUO HARASSMENT

- See also SEXUAL HARASSMENT, generally
- Generally, **2:11**

RACE

- Discrimination based on prohibited Ohio Civil Rights Act, **3:8 to 3:14**
- Reverse discrimination
 - Employment agencies, **6:9**
 - Section 1981, **2:26**
 - Section 1981, **2:23, 2:26**
 - Title VII, **2:10**

RAISES

- Compensation programs, developing, **11:27 to 11:26**
- Granting pay increases, **11:36**
- Linkage to performance evaluations, **12:8**
- Merit systems, **11:36**

REASONABLE ACCOMMODATION

- See ACCOMMODATION

RECONSTRUCTION ERA CIVIL RIGHTS ACTS

- Attorney fees to prevailing party, **2:31**
- Back pay, **2:30, 22:31**
- Collateral estoppel effect of state administrative agency decisions, **21:22**
- Damages, **2:30, 22:31**
- Employment discrimination claims under, **2:22 to 2:31**
- Liability
 - Intent required, **2:29**
 - Respondent superior not sufficient for municipal liability, **2:29**
- Limitation of actions, **2:30, 21:15**
- Procedures and remedies, **2:30**
- Section 1981
 - Civil Rights Act of 1991
 - Right to make and enforce contracts, **2:23**
 - Coverage, **2:23**
 - Disparate impact, **19:4**
 - Remedies, **2:30, 22:31**
 - Back pay, **2:30, 22:31**
 - Scope of protection, **2:26**
- Section 1983
 - Color of state law, **2:24**
 - Scope of protection, **2:27**
- Section 1985(3) conspiracies, **2:25**
 - Color of state law, **2:25**
 - Scope of protection, **2:28**

RECORDKEEPING

- Applicants, information concerning, **3:13**
- Applications, **6:7, 9:6**

INDEX

RECORDKEEPING—Cont'd

- Confidentiality. See CONFIDENTIALITY
- Disciplinary actions, documentation, **16:6**
- Discipline logs, **16:9**
- Employee performance data, **12:1**
- Evaluations, data to support, **12:4**
- Hiring reports to Human Services Department, **9:7**
- Impact and validity evidence regarding selection procedure, **8:5**
- Recruiting and advertising records, **6:7**

RECORDKEEPING STATEMENT OF EARNINGS AND DEDUCTIONS

- Compensation records, **11:38**
- Time reports, **11:38**

RECRUITING

- See also APPLICATIONS; HIRING; INTERVIEWING
- ADA, **6:1**
 - Essential job functions, establishing, **6:3, 23:9, 23:10**
- Advertising. See ADVERTISING
- Applicant pools, identifying, **6:2, 6:3**
- Discrimination charges, avoiding, **6:1**
- Employment agencies, **6:9**
- Job security, fraud claims based on representations of, **6:8**
- Minimum job qualifications, identifying, **6:2**
- Nepotism, **6:3**
- Promissory estoppel, **6:8**
- Recordkeeping requirements, **6:7**
- Referral sources
 - Identifying, **6:3**
 - Prohibited acts, **3:13**
- Word-of-mouth referrals, **6:3**
- Wrongful discharge liability, minimizing, **6:8**

REDUCTIONS IN FORCE

- See LAYOFFS

REFERENCES

- Generally, **17:21 to 17:23**
- Consent to disclosure
 - Employees, by, **17:23**
 - Job applicants, by, **7:5, 23:2**
- Limited disclosure, **17:22**
- Qualified privilege defense, **17:21**
- Theft, employees terminated for, **16:23**

REHABILITATION ACT OF 1973

- See also AMERICANS WITH DISABILITIES ACT (ADA); HANDICAPS
 - Generally, **2:59 to 2:65**
 - Accommodation, reasonable, **2:63, 19:19**
 - Affirmative action plans, **2:60**
 - Attorney fees, **2:65**
 - Back pay, **2:65, 22:29**
 - Compensation discrimination, **11:20**
 - Complaints
 - Section 503, **2:64**
 - Disability defined, **2:62**
 - Disparate impact, **19:6**
 - Enforcement
 - Office of Federal Contract Compliance Programs, **18:15**
 - Section 503, **2:64**
 - Section 504, **2:65**
 - Federally funded programs, **2:61**
 - Jurisdiction of Labor Department, **18:15**
 - Legislative erosion of employment-at-will doctrine, **1:3**
 - Limitation of actions, **21:16**
 - Minimum job qualifications, identifying, **6:3**
 - Reasonable, accommodation, **2:63, 19:19**
 - Remedies, **22:29**
 - Section 503, **2:64**
 - Section 504, **2:65**
- ### REINSTATEMENT
- ADEA, **2:21, 22:25**
 - Breach of contract claims, **22:7**
 - Front pay in lieu of. See FRONT PAY, generally
 - Military personnel, **2:46 to 2:49**
 - See also UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT OF 1994, generally
 - OCRC, **3:27, 18:17, 22:37**
 - Ohio Age Discrimination in Employment Act, **22:40**
 - Reconstruction Era Civil Rights Acts, **2:30**
 - Title VII, **2:12**
- ### REJECTION LETTERS
- Generally, **9:5**
- ### RELEASE AND WAIVER
- Generally, **21:31**
 - ADEA, **21:31**
 - OWBPA requirements, **23:11**

RELEASE AND WAIVER—Cont'd

- Alcohol or drug testing consent forms, **5:17, 7:5, 8:14, 23:1, 23:3, 23:4**
- At-will disclaimers
 - Applications, **7:5, 20:8, 23:1**
 - Enforcement, consideration requirement, **20:10**
 - Handbook, acknowledgement of receipt, **23:5**
- Criminal records, authorization to examine, **23:2**
- Drug or alcohol testing consent forms, **5:17, 7:5, 8:14, 23:1, 23:3, 23:4**
- Older employees, **16:28**
 - ADEA claims, OWBPA requirements, **23:11**
- References, authorization to obtain, **7:5, 23:2**
- Revision of company policies, acquiescence by employees, **20:11**
- Truth or consequences clauses, **7:5, 23:1**
- Workers' compensation, **15:2, 21:28**

RELIGION

- Accommodation, **19:16 to 19:18**
- Discrimination based on prohibited
 - Ohio Civil Rights Act, **3:8 to 3:14**
 - Section 1981 not covering, **2:26**
 - Title VII, **2:10**
- Polygraph examinations as to beliefs prohibited, **2:74**
- Reasonable accommodation, **19:16 to 19:18**

REMEDIES

- ADA, **22:24, 22:30**
 - Election, **21:24**
- ADEA. See AGE DISCRIMINATION IN EMPLOYMENT ACT (ADEA)
- Breach of contract. See BREACH OF CONTRACT
- Civil Rights Act of 1991
 - ADA, **22:24, 22:30**
 - Title VII, **2:12, 22:18, 22:24**
- Contracts
 - Covenants not to compete, **17:24**
 - Definite term versus indefinite term, **20:15**
 - Covenants not to compete, **17:24**
- Damages. See DAMAGES
- Election
 - ADA, **21:24**
 - Age discrimination
 - ADA, **21:24**
 - Ohio Age Discrimination in Employment Act, **3:34, 22:41**
 - Ohio Civil Rights Act, **3:34, 22:41**

REMEDIES—Cont'd

- Election—Cont'd
 - Civil Rights Act of 1991, **21:24**
 - Contract claims, **21:25**
 - Ohio Equal Pay Act, **22:42**
 - Title VII, **21:24**
- Employee Polygraph Protection Act of 1988, **2:81**
- Equal Pay Act, **22:28**
- ERISA. See EMPLOYEE RETIREMENT INCOME SECURITY ACT (ERISA)
- Federal employment discrimination laws, **22:18 to 22:37**
 - See also particular legislation concerned
- NLRB
 - Back pay, **18:3**
 - Cease and desist order, **18:3**
- Ohio Age Discrimination in Employment Act, **3:34, 22:40**
 - Election, **22:41**
 - Wrongful discharge tort claim, piggy-backing to age discrimination claim, **3:34, 22:40**
- Ohio Civil Rights Act. See OHIO CIVIL RIGHTS ACT
- Ohio employment discrimination laws, **22:37 to 22:41**
 - See also particular legislation concerned
 - OCRC remedies, **22:37**
 - Private civil actions, **22:37 to 22:40**
- Ohio Equal Pay Act, **22:42**
- Promissory estoppel, **22:10**
- Reconstruction Era Civil Rights Acts, **2:30, 22:31**
- Rehabilitation Act, **22:29**
 - Section 503, **2:64**
 - Section 504, **2:65**
- Title VII. See TITLE VII
- Tort claims. See TORT CLAIMS
- Uniformed Services Employment and Reemployment Rights Act of 1994, **2:49**
- Whistleblower Protection Act, **3:45**
 - Wrongful discharge tort claim, piggy-backing, **3:45**
- Workers' compensation retaliation claims, **3:41**
 - Wrongful discharge tort claim, piggy-backing, **3:41**
- Wrongful discharge tort claims, piggy-backing, **4:10**
 - Ohio Age Discrimination in Employment Act claim, to, **3:34, 22:40**

INDEX

REMEDIES—Cont'd

- Wrongful discharge tort claims, piggy-backing, **4:10—Cont'd**
- Whistleblower Protection Act claim, to, **3:45**
- Workers' compensation retaliation claim, to, **3:41**

REMOVAL TO FEDERAL COURT

- Generally, **18:25**

RES JUDICATA

- Generally, **21:21 to 21:23**
- Collateral estoppel
 - Ohio law, administrative determinations, **21:23**
 - Unemployment compensation decisions, **17:11**
- Full faith and credit, **21:22**
- OCRC decisions, **3:30**
- Unemployment compensation decisions, **21:23**
 - Collateral estoppel inapplicable, **17:11**

RESPONDEAT SUPERIOR

- See VICARIOUS LIABILITY

RESUMES

- Unsolicited, **7:6**

RETALIATION

- ADA, **2:36**
- ADEA, **2:21**
- Concerted activity, participation in, **2:4**
- Discipline and discharge. See index heading DISCIPLINE AND DISCHARGE
- ERISA. See EMPLOYEE RETIREMENT INCOME SECURITY ACT (ERISA)
- Federal statutory prohibitions, **2:66 to 2:70**
 - See also particular legislation concerned
- FLSA, **2:67**
- FMLA, **2:58**
- Garnishment of wages, for, **1:4, 3:1, 20:22**
- IRCA, **2:70**
- Jury duty, for serving, **1:4, 3:1**
- Minimum wage or overtime complaints, for, **1:4, 3:1**
- NLRA, **2:3**
- Opposition to discriminatory practice or participation in proceedings
 - Ohio Civil Rights Act, **3:14**
 - Title VII, **2:18**
- OSHA, **2:68**

RETALIATION—Cont'd

- Overtime or minimum wage complaints, for, **1:4, 3:1**
- Participation in proceedings or opposition to discriminatory practice
 - Ohio Civil Rights Act, **3:14**
 - Title VII, **2:18**
- Title VII
 - Opposition clause, **2:18**
 - Participation clause, **2:18**
- Voting time taken, for, **1:4, 3:1**
- Wage garnishment, for, **1:4, 3:1, 20:22**
- Whistleblower Protection Act. See WHISTLEBLOWER PROTECTION ACT
- Workers' compensation act protections, **3:36**

RETIREMENT

- Retirement plans. See EMPLOYEE RETIREMENT INCOME SECURITY ACT (ERISA); FRINGE BENEFITS

REVERSE DISCRIMINATION

- Employment agencies, **6:9**
- Section 1981, **2:26**

RIGHT TO SUE NOTICE

- See NOTICE OF RIGHT TO SUE

SAFE HARBOR

- Genetic Information Nondiscrimination Act, **23:37**

SALARY

- See COMPENSATION

SARBANES-OXLEY ACT

- Whistleblower protections, **2:82, 2:83**

SCOPE OF EMPLOYMENT

- Generally, **5:3**
- Assault and battery, **5:15**
- Sexual assault, **5:3**

SEARCH POLICIES

- Theft investigations, risk of liability, **16:23**

SECTION 301

- See LABOR-MANAGEMENT RELATIONS ACT (LMRA)

SECTION 1981

- See RECONSTRUCTION ERA CIVIL RIGHTS ACTS

SECTION 1983

- See RECONSTRUCTION ERA CIVIL RIGHTS ACTS

SENIOR CITIZENS

See AGE

SENIORITY OR MERIT SYSTEM STANDARDS

ADEA charges, affirmative defense to, **2:21, 19:24**

OWBPA, **19:25**

Ohio Civil Rights Act charges, affirmative defense to, **3:19, 19:22**

Title VII charges, affirmative defense to, **2:17, 19:23**

SETTLEMENTS

Tax consequences, **22:43**

SEVERANCE PAY

Generally, **17:29 to 17:34**

ERISA. See EMPLOYEE RETIREMENT INCOME SECURITY ACT (ERISA)

Wage payments due on termination, **17:34**

WARN, **17:29**

SEX

Discrimination based on prohibited, **3:6**
Ohio Civil Rights Act, **3:8 to 3:14**
Title VII, **2:10**

EEOC. See EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

Harassment. See SEXUAL HARASSMENT

Pregnancy discrimination prohibited, **2:10, 3:6**

See also PREGNANCY, generally

SEXUAL BEHAVIOR DISORDERS

Exclusions

ADA, **2:38**

Ohio Civil Rights Act, **3:4**

SEXUAL HARASSMENT

Assault and battery claims based on, **5:18**

Scope of authority, **5:3**

Creative solutions, **16:21**

Disciplinary investigations, **16:21**

Confidentiality, **16:21**

Favoritism as, **2:11**

Handbook provisions detailing complaint procedures, **10:9**

Hostile environment

Quid pro quo distinguished, **2:11**

Same-sex harassment, **2:11**

Ohio Civil Rights Act, **3:6**

Psychological harm not required, **2:11**

SEXUAL HARASSMENT—Cont'd

Quid pro quo distinguished from hostile environment, **2:11**

Same-sex hostile environment harassment, **2:11**

Scope of employment, **5:3**

Supervisors, by, **2:11**

Tangible employment action, **2:11**

Title VII prohibition, **2:11**

SHOPKEEPER'S PRIVILEGE

False imprisonment claims, defense to, **5:19**

SLANDER

See DEFAMATION

SLOWDOWNS

Protected activities not including, **2:4**

STATE STATUTES

See also particular statute concerned

STATUTE OF FRAUDS

Generally, **21:20**

Promissory estoppel exception, applicability to, **21:20**

STATUTE OF LIMITATIONS

See LIMITATION OF ACTIONS

SUBROGATION

Workers' Compensation Act, **15:18**

SUPERVISORS

Assault and battery by, **5:15**

Career path development programs, compliance, **13:8**

Disciplinary checklist, **16:11**

Maintaining accurate records of performance data, **12:1**

Negligent supervision, **5:20**

Notice of disciplinary policies to, **16:4**

Orientation of new employees, **10:1**

Sexual harassment by prohibited under Title VII, **2:11**

Training in evaluation process, **12:13**

Vicarious liability for acts of. See VICARIOUS LIABILITY, generally

SUSPENSION

See DISCIPLINE AND DISCHARGE

TAX CONSEQUENCES OF AWARDS OR SETTLEMENTS

Generally, **22:43**

TERM OF EMPLOYMENT

Forms, **23:38**

INDEX

TERMINATION

See DISCIPLINE AND DISCHARGE;
SEVERANCE PAY

TESTING

Alcohol or drug testing. See ALCOHOL
OR DRUG ABUSE, at Testing

Lie detector testing. See EMPLOYEE
POLYGRAPH PROTECTION
ACT OF 1988

Medical examinations. See MEDICAL
EXAMINATIONS

Pre-employment testing. See PRE-
EMPLOYMENT TESTING

Reliance on results as affirmative
defense in Title VII case, **2:17**

THEFT

Discipline and discharge, **16:23**

Investigations

Confidentiality, **16:23**

Police involvement, **16:23**

Search policy, implementation, **16:23**

Kleptomania

Exclusions

ADA, **2:38**

Ohio Civil Rights Act, **3:4**

Search policies, implementation, **16:23**

TIME REPORTING

Generally, **11:38**

TITLE VII

Generally, **2:10 to 2:18**

ADEA compared

Enforcement, **2:21**

Substantive law, **2:20**

Affirmative defenses

Bona fide occupational qualification,
2:17, 19:21

Bona fide seniority system, **2:17,**
19:23

Test results, **2:17**

Arbitration, election of remedies, **21:24**

Attorney fees, **2:12, 22:23**

Civil Rights Act of 1991, under, **2:12,**
22:24

Back pay, **22:20**

Tax consequences of awards or settle-
ments, **22:43**

Two-year limit, **2:12**

Bona fide occupational qualification
defense, **2:17, 19:21**

Bona fide seniority system defense,
2:17, 19:23

Burden of proof

Disparate impact, **2:16, 19:13, 19:14**

Disparate treatment, **2:15, 19:9**

TITLE VII—Cont'd

Charges of discrimination

Deferral to state agency, **2:12, 21:12**

Forms, **23:12 to 23:28**

EEOC, filing with, **2:12, 18:8**

Timeliness, **2:12, 21:12**

Civil Rights Act of 1991. See CIVIL
RIGHTS ACT OF 1991

Compensation practices, **11:19**

Equal Pay Act affirmative defenses
incorporated, **11:19**

Concurrent jurisdiction of state and
federal courts, **18:14**

Coverage, **2:9**

Damages

Civil Rights Act of 1991, under, **2:12,**
22:18, 22:24

Tax consequences of awards or settle-
ments, **22:43**

Disparate impact. See DISPARATE
IMPACT, generally

Disparate treatment. See DISPARATE
TREATMENT, generally

EEOC

See also EQUAL EMPLOYMENT
OPPORTUNITY COMMIS-
SION (EEOC)

EEOC, Jurisdiction, **2:12, 18:8 to 18:10**

Enforcement procedures, **2:12, 18:8 to**
18:10

Equitable relief, **2:12**

ERISA, **14:8**

Contraception, **14:8**

Infertility, **14:8**

Sex discrimination, **14:8**

Exhaustion of administrative remedies,
18:10

Front pay, **2:12, 22:21**

Injunctive relief, **2:12, 22:22**

Jury trials, **2:12**

Civil Rights Act of 1991, under, **2:12,**
22:24

Legislative erosion of employment-at-
will doctrine, **1:3**

Limitation of actions, **21:12**

Accrual, **21:13**

Charge of discrimination

180 days to file with EEOC, **18:8**

OCRC as deferral agency, **18:8**

Continuing violations, **21:13**

Coverage, **2:9**

Notice of right to sue, **2:12, 18:10,**
21:14

Tolling, **21:13**

Notice of right to sue, **2:12, 18:10**

Timeliness of suit-filing, **21:14**

TITLE VII—Cont'd

- Ohio Civil Rights Act, substantive law borrowed by, **3:29**
- Prohibitions, **2:10**
- Remedies, **2:12, 22:18 to 22:24**
 - Attorney fees, **22:23**
 - Civil Rights Act of 1991, under, **2:12, 22:24**
 - Back pay, **22:20**
 - Tax consequences of awards or settlements, **22:43**
 - Civil Rights Act of 1991, under, **2:12, 22:18, 22:24**
 - Damages
 - Civil Rights Act of 1991, under, **2:12, 22:18, 22:24**
 - Tax consequences of awards or settlements, **22:43**
 - Election of, arbitration, **21:24**
 - Equitable relief, **2:12**
 - Exhaustion of administrative remedies, **18:10**
 - Front pay, **2:12, 22:21**
 - Injunctive relief, **2:12, 22:22**
 - Res judicata not arising from OCRC decisions, **3:30**
 - Retaliation prohibited, **2:18**
 - Same-sex hostile environment harassment, **2:11**
 - Seniority or merit system defense, **19:23**
 - Sexual harassment, **2:11**
 - See also SEXUAL HARASSMENT, generally
 - State administrative agency decisions, effect, **21:22**

TORT CLAIMS

- AIDS testing, employer liability, **8:25**
 - Immunity for nonreckless transmission of HIV, **8:24**
- Alcohol or drug testing, **8:12 to 8:17**
- Employer liability, **1:9**
 - See also WORKERS' COMPENSATION ACT
- Greeley public policy actions, **1:7, 4:3, 4:10, 20:2, 20:22**
- Limitation of actions, **21:10**
- Piggy-backing wrongful discharge tort claim, **4:10**
 - Ohio Age Discrimination in Employment Act claim, to, **3:34, 22:40**
 - Whistleblower Protection Act claim, to, **3:45**
 - Workers' compensation retaliation claim, to, **3:41**
- Interference with contracts, **5:6**

TORT CLAIMS—Cont'd

- Internal grievance procedures, **21:29**
- Limitation of actions, **21:19**
- Malicious discharge as cause of action, **4:11**
- Reform legislation
 - Compensatory damages, **22:1, 22:11**
 - Non-economic damages, **22:1, 22:11**
 - Punitive damages, **22:1, 22:15**
- Remedies, **22:10 to 22:17**
 - Attorney fees, **22:17**
 - Compensatory damages, **22:10 to 22:14**
 - Fair measure of actual loss, **22:11**
 - Future damages, **22:13**
 - Mental injury, **22:12**
 - Reform legislation, **22:1, 22:11**
 - Non-economic damages, **22:1, 22:11**
 - Prejudgment interest, **22:16**
 - Punitive damages, **22:15**
 - Reform legislation, **22:1, 22:15**
 - Tort remedies more expansive than contract or statutory theories, **1:9, 15:2**
- Workers' compensation barring, **5:7, 21:28, 22:44**
 - See also WORKERS' COMPENSATION ACT

TRAINING

- Career path development programs, **13:5**
- Compensation, wage and hour law exemptions, **11:17**
- Evaluations, training of supervisors to conduct, **12:13**
- Red circle rates, **11:35**
- Retraining older workers as alternative to discharge, **16:28**

TRANSFER

- Alternative to discharge of older workers, **16:28**

TRANSVESTISM

- Exclusions
 - ADA, **2:38**
 - Ohio Civil Rights Act, **3:4**

UNDOCUMENTED WORKERS

- Civil Rights Act of 1991, **21:20**

UNDUE HARDSHIP

- ADA accommodation, defense to, **2:44**

UNEMPLOYMENT COMPENSATION

- Generally, **17:3 to 17:11**
- Appeals
 - Benefits determination, **17:5**

INDEX

UNEMPLOYMENT COMPENSATION

—Cont'd

- Appeals—Cont'd
 - Contribution rate determination, **17:4**
- Application for benefits, **17:5**
- Bureau of employment services, duties, **17:3**
- Collateral estoppel effect of administrative decisions, **17:11, 21:23**
- Contribution rates, **17:4**
- Definitions
 - Employers, **17:4**
 - Employment, **17:6**
 - Just cause, **17:7**
- Eligibility requirements
 - Discharge for just cause, **17:7**
 - Employment loss, **17:6**
 - Labor disputes, effect, **17:9**
 - Quitting without just cause, **17:8**
 - Refusal of suitable work, **17:10**
- Employers
 - Contributions, **17:4**
 - Defined, **17:4**
- Just cause
 - Discharge for, **1:4, 17:7**
 - Collateral estoppel inapplicable, **17:11**
 - Quitting without, **17:8**
- Labor disputes, effect, **17:9**
- Notice of appeal, benefits determination, **17:5**
- Quitting without just cause, **17:8**
- Reconsideration
 - Benefits determination, **17:5**
 - Contribution rate determination, **17:4**
- Refusal of suitable work, effect, **17:10**
- Unpaid contributions, **17:4**

UNFAIR LABOR PRACTICES

- See also NATIONAL LABOR RELATIONS ACT (NLRA)
- Arbitration, NLRB deferral to, **18:5**
- NLRB jurisdiction, **18:2 to 18:6**
- Protected concerted activity. See CONCERTED ACTIVITY
- Retaliatory discharge of employee for filing unfair labor practices charge as unfair labor practice, **2:3**

UNIFORM GUIDELINES

- Generally, **8:3 to 8:5**
- Application, **8:5**
- Burden of proof
 - Civil Rights Act of 1991, impact, **8:6**
- Business necessity, proof of, **19:13**
- Civil Rights Act of 1991, impact, **8:6**

UNIFORM GUIDELINES—Cont'd

- Test validation requirements, **8:3 to 8:5**
- Civil Rights Act of 1991, impact, **8:6**

UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT OF 1994

- Generally, **2:46 to 2:49**
- Burden of proof, discharge for cause, **2:48**
- Complaints, **2:49**
- Covered persons, **2:46**
- Discharge for cause, **2:48**
- Enforcement, **2:49**
- Jurisdiction, **2:49**
- Just cause for termination, **2:48**
 - Burden of proof, **2:49**
- Limitation of actions, **2:49**
- Reinstatement rights, **2:47**
- Remedies, **2:49**
- Scope of statute, **2:47**
- Secretary of Labor, complaints filed with, **2:49**
- Time frame for reporting to work, **2:47**
 - Failure to report, effect, **2:48**

UNIONS

- Anti-union animus, discharge because of; unfair labor practice, **2:5**
- Contracts. See COLLECTIVE BARGAINING AGREEMENTS
- Duty of fair representation, **2:7**
 - Breach of duty, **21:25**
- Handbooks, considerations in revising or revoking, **10:4**
- Ohio Civil Rights Act, prohibited discrimination under, **3:11**
- Polygraph examinations as to beliefs prohibited, **2:74**

UNIVERSITIES

- See COLLEGES AND UNIVERSITIES

VALIDATION STUDIES

- See PRE-EMPLOYMENT TESTING

VESTED BENEFITS

- See EMPLOYEE RETIREMENT INCOME SECURITY ACT (ERISA); FRINGE BENEFITS

VETERANS

- Discrimination against, **2:46 to 2:49**
- See also UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT OF 1994, generally

VICARIOUS LIABILITY

- Generally, **5:2**
- Assault and battery, **5:15**
- Municipal liability, respondeat superior insufficient basis for under Reconstruction Era Civil Rights Acts, **2:29**
- Respondeat superior
 - Scope of employment, **5:3**
 - Sexual assault or harassment, **5:3**

VIETNAM ERA VETERANS READJUSTMENT ACT OF 1964

- Minimum job qualifications, identifying, **6:3**

VIOLENCE

- Protected activities not including, **2:4**

VOTING

- Retaliation against employees for taking time to vote, **1:4, 3:1**

WAGES

- See COMPENSATION

WAIVER

- See RELEASE AND WAIVER

WARN

- See WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT (WARN)

WELLNESS PROGRAMS

- Health care benefits, **14:10**

WHISTLEBLOWER PROTECTION ACT

- Generally, **3:42 to 3:44**
- Attorney fees, **3:45**
- Collective bargaining agreements, effect on, **3:45**
- Damages, **3:45**
- Duty to notify employers before reporting violations, **3:43**
- Jury trials, availability, **3:45**
- Limitations period, **3:45**
- Remedies, **3:45**
 - Wrongful discharge tort claim, piggy-backing to whistleblower claim, **3:45**
- Reports to public authorities, **3:44**
- Retaliation
 - Cause of action created, **3:42**
 - Erosion of employment-at-will doctrine, prohibition as, **1:4**
 - Public policy exception for statutory violation, **20:22**

WHISTLEBLOWER PROTECTION ACT—Cont'd

- Retaliation—Cont'd
 - Public policy exception for statutory violation. See also PUBLIC POLICY, generally
- Wrongful discharge tort claims, piggy-backing to whistleblower claims, **3:45**

WHISTLEBLOWERS

- American Recovery and Reinvestment Act of 2009, **2:84**
- Dodd-Frank Wall Street Reform and Consumer Protection Act, **2:85**
- Sarbanes-Oxley Act, **2:82, 2:83**

WOMEN

- See SEX; TITLE VII

WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT (WARN)

- Generally, **17:29**

WORKERS' COMPENSATION ACT

- Generally, **21:28**
- Absenteeism policies, effect, **3:40**
- Appeals
 - Claim determinations, **15:16**
 - Violation of specific safety rule determinations, **15:19**
- Benefits
 - Death, **15:15**
 - Medical, **15:9**
- Benefits. See also Compensation, this heading
- Bureau of Workers' Compensation, **15:1**
 - Administrator's duties
 - Claim processing, **15:16**
 - Health Partnership Program, implementation, **15:9**
- Claims
 - Appeals, **15:16**
 - Elements. See Elements of compensable claims, this heading
 - Processing, **15:16**
- Common law tort actions, barring, **5:7, 15:2, 21:28, 22:44**
 - Intentional tort by employer as exception to immunity, **15:17**
 - See also INTENTIONAL TORTS BY EMPLOYERS, generally
- Compensation
 - Permanent partial disability, **15:12**
 - Permanent total disability, **15:14**
 - Scheduled losses, **15:13**
 - Temporary total disability, **15:10**

WORKERS' COMPENSATION ACT**—Cont'd**

- Compensation—Cont'd
 - Wage loss, **15:11**
- Compensation. See also Benefits, this heading
- Death benefits, **15:15**
- Definitions
 - Employer, **15:5**
 - Employment, **15:5**
 - Injury, **15:6**
 - Occupational disease, **15:8**
- District hearing officers, **15:16**
- Dual capacity doctrine, **15:2**
- Elements of compensable claims, **15:4 to 15:8**
 - Employment relationship, **15:5**
 - Injury, **15:6**
 - In course of and arising out of employment, **15:7**
 - Occupational diseases, **15:8**
 - Relationship of injury to employment, **15:7**
- Health Partnership Program, **15:9**
- Hearings, **15:16**
- Immunity of employers from tort actions, **5:7, 15:2, 21:28, 22:44**
 - Intentional tort by employer as exception to immunity, **15:17**
 - See also INTENTIONAL TORTS BY EMPLOYERS, generally
 - Loss of immunity as effect of noncompliance, **15:3**
 - Waiver, **15:2**
- In course of and arising out of employment, **15:7**
- Industrial Commission, **15:1**
 - District hearing officers, **15:16**
 - Jurisdiction, continuing, **15:16**
 - Staff hearing officers, **15:16**
 - Violation of specific safety rule determinations, **15:19**
- Injuries, **15:6**
 - In course of and arising out of employment, **15:7**
- Intentional torts by employers. See INTENTIONAL TORTS BY EMPLOYERS
- Liens against employers' property as effect of noncompliance, **15:3**
- Medical benefits, **15:9**
- Noncompliance by employers, effect, **15:3**
- Nonretaliation provisions
 - Generally, **3:35 to 3:40**
 - Absentee control policies, **3:40**

WORKERS' COMPENSATION ACT**—Cont'd**

- Nonretaliation provisions—Cont'd
 - Attorney fees, **3:41**
 - Equitable relief, **3:41**
 - Erosion of employment-at-will doctrine, as, **1:4**
 - Evidentiary model, **3:39**
 - Jury trial, availability, **3:41**
 - Limitations period, **3:37**
 - Piggy-backing wrongful discharge tort claim to retaliation claim, **3:41**
 - Punitive action prohibited, **3:35**
 - Remedies, **3:41**
 - Scope of protection, **3:36**
 - Occupational diseases, **15:8**
 - Permanent partial disability compensation, **15:12**
 - Permanent total disability compensation, **15:14**
 - Retaliation. Nonretaliation provisions, above
 - Scheduled losses compensation, **15:13**
 - Staff hearing officers, **15:16**
 - Subrogation, **15:18**
 - Temporary total disability compensation, **15:10**
 - Voluntary abandonment doctrine, exceptions, **15:10**
 - Violations of specific safety rules, **15:19**
 - Voluntary abandonment doctrine, exceptions, **15:10**
 - Wage loss compensation, **15:11**
 - Waiver of employers' immunity from tort actions, **15:2, 21:28**
 - Wrongful discharge tort claims, piggy-backing to retaliation claims, **3:41**
 - Wrongful termination of benefits, actions for, **3:38**
 - Zone of employment, **15:7**

WORKWEEKS

- Determination of hours worked and regular rate for overtime calculation, **11:9**

WRONGFUL DISCHARGE

- Advertising practices, claims based on, **6:8**
- Affirmative defenses
 - See also AFFIRMATIVE DEFENSES, generally
- Affirmative defenses, limitations on, **21:11**
- Bad faith discharge as cause of action, **4:11**

WRONGFUL DISCHARGE—Cont'd

- Contract actions. See **CONTRACTS**, generally
- Employment-at-will doctrine, **4:10**
- Garnishment of wages, retaliation against employees for, **20:22**
- Greeley actions, **1:7, 4:3, 4:10, 20:2, 20:22**
- Limitation of actions, **21:10**
- Piggy-backing claims, **4:10**
 - Ohio Age Discrimination in Employment Act claim, to, **3:34, 22:40**
 - Whistleblower Protection Act claim, to, **3:45**
 - Workers' compensation retaliation claim, to, **3:41**
- Implied contract actions. See **IMPLIED CONTRACTS**, generally

WRONGFUL DISCHARGE—Cont'd

- Malicious discharge as cause of action, **4:11**
- Piggy-backing tort claims, **4:10**
 - Ohio Age Discrimination in Employment Act claim, to, **3:34, 22:40**
 - Whistleblower Protection Act claim, to, **3:45**
 - Workers' compensation retaliation claim, to, **3:41**
- Promissory estoppel actions. See **PROMISSORY ESTOPPEL**, generally
- Public policy exception. See Greeley actions, this heading
- Recruiting practices, claims based on, **6:8**
- Whistleblowing, retaliation against employees for, **20:22**