

# Index

## ABORTION

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

## ABSENTEE BALLOTS

- Generally, **2:83**

## ABSTENTION

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

## ABUSE OF DISCRETION

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

## ACCOMMODATIONS

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

## ACQUIRED IMMUNE

### DEFICIENCY SYNDROME

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

## ADJUSTMENTS TO ATTORNEYS' FEES

- Attorneys' Fees** (this index)

## ADMINISTRATIVE CONVENIENCE

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

## ADMINISTRATIVE PROCEEDINGS AND ENFORCEMENT

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

## ADMINISTRATIVE

### PROCEEDINGS AND ENFORCEMENT—Cont'd

- Employment discrimination, attorneys' fees, **9:177**
- Individuals with Disabilities Education Act, **12:74, 12:79**
- Rehabilitation Act of 1973, **12:58**

## ADMISSIONS

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

## ADVERTISING

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

## ADVISORY OPINIONS

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

## AFFIRMATIVE ACTION

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

## AFFIRMATIVE DEFENSES

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

## AGE

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

## AGE DISCRIMINATION

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

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

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

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

**—Cont'd**

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

## INDEX

### AGE DISCRIMINATION IN

#### EMPLOYMENT ACT (ADEA)

##### —Cont'd

Religious functions, employees with, **11:34**

Remedies and enforcement, filing of charge with EEOC, **11:36**

Remedies and relief

general discussion, **11:44 et seq.**

damages, **11:45, 11:46**

equitable relief, **11:47**

interest, costs and attorneys' fees, **11:50**

liquidated damages, **11:46**

McKennon v Nashville Banner Publishing Co., **11:52**

parents and subsidiaries, **11:51**

reinstatement or front pay, **11:49**

restoration of benefits, **11:48**

Restoration of benefits, **11:48**

Retaliation claims, federal-sector, **11:38**

Retaliatory discharge, **11:17**

Retirement plans, **11:28**

Reverse age discrimination, **11:18**

RFOA (reasonable factors other than age) provision, **11:22**

Section 1983, relationship to, **11:6**

Seniority systems, **11:29**

Smith v City of Jackson, **11:22**

State laws, relationship to, **11:5**

Subsidiary corporations, remedies and relief, **11:51**

Title VII, substantive parallels to, **11:4**

### AGED PERSONS

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

### AGE REQUIREMENTS

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

### AGGRIEVED PARTIES

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

### AID/ASSIST

To voters, waiting in line at polling places

Restrictions on line warming, **2:88**

### AIDS

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

### ALABAMA BLACK CAUCUS

Voting rights, **2:62**

### ALDEN v. MAINE

Sovereign immunity, **14:71**

### ALIENS

Employment discrimination, **9:27**

### ALLEN V. MILLIGAN

Ban on proportionality, Gingles

Reconciling the effects test of section 2, **2:13**

### AMERICANS WITH DISABILITIES ACT

General discussion, **12:2 et seq.**

Accommodations and services

provided by private entities

general discussion, **12:37 et seq.**

accommodations, generally, **12:38**

alternative methods, failure to provide, **12:46**

architectural or communication barriers, failure to remove, **12:45**

Attorney General, enforcement by, **12:51**

commerce, activities that affect, **12:37**

damages, **12:51**

eligibility criteria that screen out disabled persons, **12:42**

enforcement, **12:49 et seq.**

equitable relief, **12:50, 12:51**

exclusion and segregation, failure to deter, **12:44**

goal of integration, **12:40**

good faith attempts to comply, enforcement by Attorney General, **12:51**

injunctive relief, **12:50**

private clubs and religious organizations, exemptions, **12:48**

readily achievable reforms, **12:47**

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

Accommodations and services provided by private entities—Cont'd  
 reasonable modifications, failure to make, **12:43**  
 remedies, **12:49 et seq.**  
 special practices prohibited, **12:41 et seq.**

Arbitration, employment, **12:31, 12:32**

Architectural barriers, accommodations and services provided by private entities, **12:45**

Attorney General, enforcement by, **12:51**

Commerce, activities that affect, **12:37**

Communication barriers, accommodations and services provided by private entities, **12:45**

Community settings, placement in, **12:35**

Constitutional law, **1:16**

Damages, accommodations and services provided by private entities, **12:51**

Disparate impact, employment, **12:22**

Disparate treatment, employment, **12:21**

Drug testing, employment, **12:29**

Eleventh Amendment immunity, employment, **12:8**

Employment  
 general discussion, **12:3 et seq.**  
 arbitration, **12:31, 12:32**  
 being regarded as having impairment, **12:12**  
 coverage, **12:4 et seq.**  
 covered entity, defined, **12:5**  
 disability, defined, **12:9 et seq.**  
 disparate impact, **12:22**  
 disparate treatment, **12:21**  
 drug testing, **12:29**  
 Eleventh Amendment immunity, **12:8**  
 employee, defined, **12:7**  
 enforcement, **12:30**

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

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

Enforcement  
 accommodations and services provided by private entities, **12:49 et seq.**  
 employment, **12:30**

Entrance examinations, medical, **12:24**

Equitable relief, accommodations and services provided by private entities, **12:50, 12:51**

Essential functions, employment, **12:17**

Exemptions, employment, **12:6**

## INDEX

### AMERICANS WITH

#### DISABILITIES ACT—Cont'd

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

### AMERICANS WITH

#### DISABILITIES ACT—Cont'd

- provided by private entities, above
- Social Security disability insurance standards, arbitration, **12:32**
- Special practices prohibited, accommodations and services provided by private entities, **12:41 et seq.**
- Substance abuse, employment, **12:27 et seq.**
- Undue hardship, employment, **12:17**
- Voluntary medical examinations for employees, **12:25**

### ANDERSON-BURDICK BALANCING TEST

- Generally, **2:87**

### ANTI-PEONAGE ACT

- Involuntary Servitude** (this index)

### APPEAL AND REVIEW

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

### APPRENTICESHIP PROGRAMS

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

### ARBITRATION

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

### ARCHITECTURAL BARRIERS

- Americans with Disabilities Act, accommodations and services

**ARCHITECTURAL BARRIERS**

—**Cont'd**

provided by private entities,  
**12:45**

**ASHCROFT V. IQBBAL**

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

**ASSOCIATION**

**Freedom of Association** (this index)

**ASSOCIATIONAL**

**DISCRIMINATION**

Employment discrimination, **9:196**

**ATHLETICS**

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

**AT-LARGE ELECTIONS**

Voting rights, Section 2 violations,  
**2:19**

**ATTORNEYS**

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

**ATTORNEYS' FEES**

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

**ATTORNEYS' FEES—Cont'd**

Declaratory relief, prevailing parties,  
**16:4**  
Denial of fees to prevailing plaintiff  
general discussion, **16:20 et seq.**  
abuse of discretion, standard of  
review, **16:26**  
appellate review, **16:26**  
briefing and presentation, inade-  
quacy of, **16:22**  
ethical violations, **16:21**  
governmental defendants, **16:24**  
pro se plaintiffs, **16:25**  
special circumstances, generally,  
**16:20 et seq.**  
Disabled or handicapped persons  
Rehabilitation Act of 1973, **12:62**  
Discretion of court, **16:10, 16:26**  
Eleventh Amendment immunity,  
**16:27**  
**Employment Discrimination** (this  
index)  
Enhancement for superior perfor-  
mance, **16:11**  
Equal Pay Act, **10:46**  
Ethical violations, denial of fees to  
prevailing plaintiff, **16:21**  
Frivolous cases, awards to prevailing  
defendants, **16:34**  
Governmental entities  
immunity, **16:28**  
prevailing plaintiff, denial of fees  
to, **16:24**  
Housing discrimination, private court  
actions, **3:74**  
Immunity doctrine  
general discussion, **16:27 et seq.**  
Eleventh Amendment, **16:27**  
governmental entities, suits  
against, **16:28**  
individual capacities, officials sued  
in, **16:30 et seq.**  
legislative immunity, officials sued  
in individual capacities, **16:32**  
official capacities, officials sued in,  
**16:29**  
Individual capacities, officials sued  
in, **16:30 et seq.**

## INDEX

### ATTORNEYS' FEES—Cont'd

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

### ATTORNEYS' FEES—Cont'd

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

### ATTORNEYS GENERAL

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

### BACK PAY AND BENEFITS

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

### BAD FAITH

- Good Faith** (this index)

### BAILOUT PROVISION

- Voting rights, **2:40**

### BAN

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

### BANKRUPTCY

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

### BARS AND TAVERNS

- Public accommodations, **7:5**

### BEAUTY PAGEANTS

- Sex discrimination, **8:22**

### BIAS

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

### BILL OF RIGHTS

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

**BIVENS ACTIONS**

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

**BLOCKBUSTING**

- Housing discrimination, **3:48**

**BOERNE V. FLORES**

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

**BONA FIDE APPRENTICESHIP PROGRAMS**

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

**BONA FIDE EMPLOYEE RETIREMENT AND BENEFIT PLANS**

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

**BONA FIDE EXECUTIVES**

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

**BONA FIDE MEMBERSHIP CLUBS**

- Employment discrimination, **9:16**

**BONA FIDE OCCUPATIONAL QUALIFICATION (BFOQ) DEFENSE**

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

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

- Employment Discrimination** (this index)

**BONA FIDE SENIORITY OR MERIT SYSTEMS**

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

**BOY SCOUTS AND SIMILAR ORGANIZATIONS**

- Public accommodations, **7:12**

**BURDEN OF PROOF**

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

**BURDENS OF PRODUCTION AND PERSUASION**

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

**BURDENS ON CAMPAIGN SPENDING**

- Voting rights, **2:80**

**BUSINESS NECESSITY**

- Employment Discrimination** (this index)

**CAMPAIGN SPENDING**

- Voting rights, **2:80**

## INDEX

### CANDIDATES

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

### CAPTIVE AUDIENCES

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

### CAUSATION

Age Discrimination in Employment Act, **11:20 et seq.**

Attorneys' fees, prevailing parties, **16:3**

Color of law, deprivation of rights under, **14:18, 14:106**

### CEASE AND DESIST PROVISIONS

Freedom of Access to Clinic Entrances Act of 1994, injunctions, **17:28**

### CHALLENGES TO VOTER ID LAWS

Voting rights, Crawford decision, **2:79**

### CHILD LABOR

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

### CHRISTIAN LEGAL SOCIETY DECISION

Public accommodation, **7:15**

### CIRCUMSTANTIAL EVIDENCE

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

### CIVIL RIGHTS

Compelled speech  
303 creative decision, **9:158**

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

### CIVIL RIGHTS ACTS

General discussion, **Appx. B, Appx. G10 to G12**

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

Commerce clause, **1:18**

**Conspiracy to Violate Civil Rights** (this index)

### CIVIL RIGHTS ACTS—Cont'd

Contracts. **Property, Contract and Economic Rights** (this index)

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

Economic rights. **Property, Contract and Economic Rights** (this index)

Education, **11:22**

Employment discrimination, **9:4, 9:75, 9:87 et seq.**

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

**Federally Assisted Programs** (this index)

Good faith, **11:22**

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

Intelligence tests, **11:22**

**Property, Contract and Economic Rights** (this index)

**Retroactive Application of Civil Rights Legislation** (this index)

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

Section 1983. **Color of Law, Deprivation of Rights Under** (this index)

Section 1985(3). **Conspiracy to Violate Civil Rights** (this index)

Section 1981. **Property, Contract and Economic Rights** (this index)

Section 1982. **Property, Contract and Economic Rights** (this index)

Tests and testing, **11:22**

### CIVIL RIGHTS ATTORNEYS' FEES AWARDS ACT OF 1976

Color of law, deprivation of rights under, **14:6, 14:78**

### CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS ACT

Color of law, deprivation of rights under, **14:111**

**CLAIMS**

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

**CLASS ACTIONS**

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

**CLASS ARBITRATION**

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

**CLASS OF ONE CLAIMS**

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

**CLEAR STATEMENT PRINCIPLE**

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

**COERCION OR COMPULSION**

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

**COLLATERAL ESTOPPEL**

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

**COLLECTIVE BARGAINING**

Equal Pay Act, **10:4**

**COLLEGES AND UNIVERSITIES**

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

**COLOR OF LAW, DEPRIVATION OF RIGHTS UNDER**

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

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

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

## INDEX

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

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

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

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

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

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

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

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

## INDEX

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

- Locus of policymaking authority, municipal liability, **14:91**
- Monell v. Department of Social Services, municipalities are persons, **14:18**
- Municipal liability
  - general discussion, **14:16 et seq.**
  - Eleventh Amendment immunity, **14:68, 14:80**
  - extension of liability, **14:4**
  - good faith immunity defense, **14:88**
  - implementation of municipal policy or custom, **14:90 et seq.**
  - individual officer liability, relationship to municipal liability, **14:94**
  - limitations on liability, **14:89 et seq.**
  - locus of policymaking authority, **14:91**
  - Monell v. Department of Social Services, **14:87**
  - policymaker, determining for whom official is, **14:96**
  - proximate cause, **14:18**
  - punitive damages, **14:95, 14:153**
  - respondeat superior, **14:19, 14:89**
  - single acts, liability for, **14:91**
  - supervision and training, **14:93**
- Negligent deprivations, due process claims, **14:128**
- Nominal damages, **14:151**
- Official capacity of state and local officials, **14:24**
- Paul v Davis test and sex offender registries, **14:123**
- Pearson v. Callahan, qualified immunity issues, **14:54**
- Pennhurst doctrine, **14:140**
- Person, defined
  - general discussion, **14:15 et seq.**
  - District of Columbia, **14:21**
  - implementation of municipal policy or custom, **14:17**

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

- Person, defined—Cont'd
  - individual capacities of state and local officials, **14:26**
  - local entities other than municipalities, **14:23**
  - municipalities, **14:16 et seq.**
  - official capacity of state and local officials, **14:24**
  - proximate cause, municipalities, **14:18**
  - respondeat superior, municipalities, **14:19**
  - retrospective or prospective relief, state and local officials, **14:25**
- Section 1983, **14:18**
- state and local officials, **14:24 et seq.**
- states and state subdivisions, **14:20, 14:74**
- territories, **14:22**
- Physicians, actions taken under color of law, **14:13**
- Plea bargains, immunity of prosecutors, **14:40**
- Pleading standards, immunity, **14:57**
- Postdeprivation due process, **14:118 et seq.**
- President of United States, immunity, **14:46**
- Private rights of action, **14:103, 14:104**
- Professional contractors, actions taken under color of law, **14:11**
- Prosecutors, immunity, **14:35 et seq.**
- Prospective or retrospective relief
  - Eleventh Amendment immunity, **14:63 et seq.**
  - state and local officials, **14:25**
- Proximate cause, municipalities, **14:18**
- Public and private actors performing in concert, actions taken under color of law, **14:14**
- Public defenders, actions taken under color of law, **14:12 et seq.**
- Pullman abstention, **14:142**

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

Punitive damages, **14:95, 14:152, 14:153**

Qualified immunity for private defendants, **14:58**

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

Quasi-judicial authority, immunity, **14:34**

Questions of law, immunity, **14:53**

Removal from state to federal court, Eleventh Amendment immunity, **14:72**

Removal of action to federal court, **14:71:50**

Res judicata, state law and Section 1983 litigation, **14:139**

Respondeat superior, municipalities, **14:19, 14:89**

Retrospective relief. Prospective or retrospective relief, above

Rooker-Feldman doctrine, **14:147**

Rooker-Feldman doctrine, **14:147**

§ 1983, definition of person under, **14:18**

Seventh Amendment, **14:154**

Sex offender registries, due process claims, **14:123**

Sovereign immunity in state courts, Eleventh Amendment immunity, **14:71**

Sovereign immunity of state in federal administrative proceedings, **14:83:50**

Spending clause statutes, private rights of action in, **14:104**

Standards of liability  
     general discussion, **14:97 et seq.**  
     causation, **14:106**  
     comprehensive remedial schemes in other federal statutes, **14:102**  
     constitutional claims, **14:99**  
     due process, **14:105**  
     freestanding state-of-mind, **14:97**  
     immunity doctrines, **14:98**  
     laws that create no enforceable rights, **14:101**

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

Standards of liability—Cont'd

*Maine v. Thiboutot* and its progeny, **14:101, 14:102**

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

    spending clause statutes, private rights of action in, **14:104**

    statutory claims, **14:100 et seq.**

    vagueness, **14:105**

State action doctrine, relationship to actions taken under color of law, **14:9**

State and local officials, generally, **14:24 et seq.**

State attempts to oust state courts of § 1983 jurisdiction violate Supremacy Clause, *Haywood v. Drown*, **14:137**

State-created danger doctrine, **14:133**

State law and Section 1983 litigation  
     general discussion, **14:136 et seq.**  
     abstention, **14:141 et seq.**  
     Burford abstention, **14:145**  
     claims filed in state courts, **14:136**  
     collateral estoppel, **14:138**  
     Colorado River abstention, **14:143**  
     habeas corpus, **14:146**  
     Pennhurst doctrine, **14:140**  
     preclusion issues, **14:138 et seq.**  
     Pullman abstention, **14:142**  
     res judicata, **14:139**  
     *Younger v. Harris* abstention, **14:144**

State-of-mind, **14:97**

States and state subdivisions, generally, **14:20, 14:74**

Statutes of limitation borrowed from state law, **14:148**

Statutory claims, **14:100 et seq.**

Subject matter jurisdiction, **14:147**

Suits against federal officials and federal entities, *Ashcroft v. Iqbal*, purposeful discrimination requirement, **14:161**

Suits against federal officials and federal entities, *Wilkie v. Robbins*, **14:165**

## INDEX

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

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

### **COMMERCE CLAUSE**

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

### **COMMERCIAL SPEECH**

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

### **COMMON LAW**

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

### **COMMUNICATION BARRIERS**

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

### **COMMUNITY SERVICE PROGRAMS**

- Involuntary servitude, **4:5**

### **COMPARABLE WORTH**

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

### **COMPENSATION**

- Equal Pay Act** (this index)

### **CONGRESSIONAL AUTHORITY**

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

### **CONGRUENCE AND PROPORTIONALITY**

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

### **CONSENT DECREES**

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

### **CONSENT TO SUIT BY STATE**

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

### **CONSPIRACY TO VIOLATE CIVIL RIGHTS**

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

**CONSPIRACY TO VIOLATE CIVIL RIGHTS—Cont'd**

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

**CONSTITUTIONAL LAW**

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

**CONSTITUTIONAL LAW—Cont'd**

- Enforcement vs. dilution, **1:12**
- Enhancement of available remedies
  - general discussion, **1:24 et seq.**
  - burden of proof requirements, easing of, **1:25**
- Cuyahoga Falls decision, easing of burden of proof requirements, **1:25**
- provision of additional remedies, **1:24**
- substantive legal principles, alteration of, **1:26**
- Equal Pay Act, **10:3**
- Equal Protection** (this index)
- Expansion of topical reach of civil rights statutes to prohibit new forms of discrimination, **1:23**
- Federal agencies, separation of powers and the composition of, **1:58**
- Federalism and Tenth Amendment anticommandeering principle, **1:55**
- Fifteenth Amendment** (this index)
- Fisher v. University of Texas, **1:31**
- Fourteenth Amendment** (this index)
- Freedom of Access to Clinic Entrances Act of 1994** (this index)
- Freedom of Association** (this index)
- Freedom of Religion** (this index)
- Freedom of Speech** (this index)
- Fullilove v. Klutznick, affirmative action cases, **1:32**
- Housing Discrimination** (this index)
- Intergovernmental immunity principles, **1:63**
- Interplay of constitutional and statutory law in civil rights enforcement, generally, **1:1 et seq.**
- Judicial deference, agency interpretation of statutes and rules and principles of, **1:56**
- Marijuana, medical, **1:22**
- Medical marijuana, **1:22**
- Metro Broadcasting decision, **1:35 et seq.**
- Michigan affirmative action cases, **1:38**

## INDEX

### CONSTITUTIONAL LAW—Cont'd

- Multiple sources of civil rights law, **1:1**
- New forms of discrimination, expansion of topical reach of civil rights statutes to prohibit, **1:23**
- Nineteenth Amendment, **1:10**
- Non-delegation doctrine, **1:57**
- Outcome and process theories, tension between, generally, **1:27 et seq.**
- Philosophical overview of constitutional and statutory principles, generally, **1:27 et seq.**
- Policy overview of constitutional and statutory principles, generally, **1:27 et seq.**
- Process and outcome theories, tension between, generally, **1:27 et seq.**
- Proportionality and congruence, **1:14**
- Public accommodations, **7:2**
- Religious objections to same-sex marriage law, **1:50**
- Same-sex marriage, **1:48 et seq.**
- School desegregation cases, **1:28**
- Schuette v. Coalition to Defend Affirmative Action , **1:41**
- Separation of powers, composition of federal agencies, **1:58**
- Sex discrimination, **8:38**
- Sources of civil rights law, **1:1**
- Sources of congressional authority to enforce civil rights
  - general discussion, **1:8 et seq.**
  - Americans with Disabilities Act, state immunity under, **1:16**
  - Boerne v. Flores, limits on enforcement power, **1:13**
- Commerce Clause** (this index)
  - congruence and proportionality, **1:14**
  - enforcement vs. dilution, **1:12**
  - Fifteenth Amendment, **1:10**
  - Fourteenth Amendment, **1:9**
  - Nineteenth Amendment, **1:10**
  - Oregon v. Mitchell, **1:11**
  - Twenty-Sixth Amendment, **1:10**

### CONSTITUTIONAL LAW—Cont'd

- Sources of congressional authority to enforce civil rights—Cont'd
  - Violence Against Women Act, **1:15**
- Standing, **1:59**
- State Action Doctrine** (this index)
- Strict scrutiny, affirmative action cases, **1:33**
- Substantive legal principles, alteration of, **1:26**
- Terrorism, war against, **1:52**
- The various tiers of constitutional scrutiny, **1:40**
- Thirteenth Amendment** (this index)
- Twenty-Sixth Amendment, **1:10**
- Universal injunctions, prohibitions on federal courts to issue, **1:62**
- Various tiers of constitutional scrutiny, **1:60**
- Violence Against Women Act, **1:15**
- Voting Rights Act, **2:74, 2:75**
- Voting Rights** (this index)

### CONSTRUCTIVE DISCHARGE

- Age Discrimination in Employment Act, **11:16**
- Employment discrimination, sex discrimination, **9:130**

### CONTINGENCY FEES

- Attorneys' fees, **16:12**

### CONTINUING VIOLATIONS

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

### CONTRACTS

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

### CORONAVIRUS

- Covid-19 Pandemic** (this index)

### COSTS OF ACTION

- Age Discrimination in Employment Act, **11:50**
- Equal Pay Act, **10:45**

### COUNSEL

- Attorneys** (this index)

**COURT MANDATED FORMS OF GOVERNMENT**

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

**COVERED JURISDICTIONS**

Voting Rights Act, **2:55**

**COVID-19 PANDEMIC**

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

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

**CRAWFORD DECISION**

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

**CREDENTIALS AND OTHER OBJECTIVE CRITERIA**

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

**CRIMINAL PENALTIES**

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

**CUSTOMER PREFERENCE**

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

**DAMAGES**

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

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

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

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

**Liquidated Damages** (this index)

**Mitigation of Damages** (this index)

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

Public accommodations, **7:20**

**Punitive Damages** (this index)

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

**DAMAGE TO PROPERTY**

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

**DEATH OF PARTY**

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

**DECLARATORY RELIEF**

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

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

Employment discrimination, **9:164**

Public accommodations, **7:19**

**DEFAMATION**

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

**DEFERENCE TO ADMINISTRATIVE CONSTRUCTION**

Equal Pay Act, **10:30**

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

**DEFERENCE TO FINDINGS OF ATTORNEY GENERAL**

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

**DEFINITIONS**

Person under § 1983, **14:18**

**DEPORTATION**

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

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

**DESTRUCTION OF PROPERTY**

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

**DINING FACILITIES**

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

**DIRECT PARTISAN PRIMARIES**

Voting Rights Act, **2:75**

## INDEX

### **DISABLED OR HANDICAPPED PERSONS**

- General discussion, **12:1 et seq.**
- Americans with Disabilities Act** (this index)
- Associational disability claims, **12:80**
- Eleventh Amendment immunity, remedies and attorney's fees, Rehabilitation Act of 1973, **12:62**
- Housing, **12:64 et seq.**
- Housing Discrimination** (this index)
- Individuals with Disabilities Education Act (IDEA), right of parents to participate in administrative hearings and judicial review, **12:79**
- Individuals with Disabilities Education Act** (this index)
- Punitive damages under Rehabilitation Act of 1973, **12:61**
- Rehabilitation Act of 1973
  - Eleventh Amendment immunity, remedies and attorney's fees, **12:62**
  - punitive damages under, **12:61**
  - remedies and attorney's fees, **12:62**
- Rehabilitation Act of 1973** (this index)
- Remedies and attorney's fees, Rehabilitation Act of 1973, **12:62**

### **DISCHARGE FROM EMPLOYMENT**

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

### **DISCIPLINARY PROCEEDINGS**

- Challenges to, Title IX, **8:43**

### **DISCLOSURE**

- Referndum petition signatures, **2:82**

### **DISCOVERY**

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

### **DISCRETION OF COURT**

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

### **DISCRIMINATION**

- Claims, voting age
  - Twenty-Sixth Amendment, **2:85**
- Discrimination in Property, Contract, and Economic Rights** (this index)
- Employment Discrimination** (this index)

### **DISCRIMINATION IN PROPERTY, CONTRACT, AND ECONOMIC RIGHTS**

- Contractual relationships, **13:12**
- § 1981, retaliation claims under, **13:16**
- Retaliation claims brought under § 1981, **13:16**

### **DISENFRANCHISEMENT LAWS**

- Voting rights, Section 2 violations, **2:25**

### **DISPARATE IMPACT**

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

### **DISPARATE-IMPACT THEORY**

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

### **DISPARATE TREATMENT**

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

**DISTRICT OF COLUMBIA**

Color of law, deprivation of rights under, **14:21**

**DOCTORS**

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

**DOUBLE JEOPARDY**

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

**DRUGS AND NARCOTICS**

Americans with Disabilities Act, **12:27 et seq.**  
 Housing discrimination, drug offenders, **3:24**  
 Medical marijuana, constitutional law, **1:22**  
 Religious Freedom Restoration Act, drug use, **5:46**

**DUAL SOVEREIGNTY**

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

**DUE PROCESS**

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

**EARLY BALLOTS**

Generally, **2:83**

**ECONOMIC DISCRIMINATION**

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

**ECONOMIC RIGHTS**

**Property, Contract and Economic Rights** (this index)

**EDUCATION**

Civil Rights Act of 1964, **11:22**  
 Disparate-impact theory, **11:22**  
 Griggs v. Duke Power Co., **11:22**  
**Schools and Education** (this index)  
 Sex discrimination in employment, **8:33**  
 Title IX  
 retaliation claims, **8:25**

**ELDERLY PERSONS**

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

**ELECTIONS**

**Voting Rights** (this index)

**ELECTIONS CLAUSE**

Moore v. Harper  
 Rejection of the independent state legislature theory, **2:71**

**ELEVENTH AMENDMENT**

Age Discrimination in Employment Act, **11:11**  
 Americans with Disabilities Act, **12:8**  
 Attorneys' fees, **16:27**  
**Color of Law, Deprivation of Rights Under** (this index)  
 Equal Pay Act, **10:9**  
 Remedies and attorney's fees, Rehabilitation Act of 1973, **12:62**

**EMPLOYMENT AGENCIES**

Employment discrimination, **9:21**

**EMPLOYMENT CASES**

303 Creative decision  
 compelled speech, Civil rights, **9:158**  
 Enforcement of civil rights,  
 constitutional equal protection and rejection of class of one claims in, **1:51**

**EMPLOYMENT**

**DISCRIMINATION**

General discussion, **9:1 et seq.**  
 Accommodation, religious discrimination, **9:116, 9:117**  
 Administrative convenience as business necessity, disparate impact cases, **9:82**  
 Administrative filing prerequisite to suit, Equal Employment Opportunity Commission procedures, **9:186**  
 Administrative proceedings, attorneys' fees, **9:177**  
 Adverse employment action, what constitutes, **9:148**  
 Affirmative action  
 general discussion, **9:56 et seq.**  
 cities with substantial minority power base, **9:68**

## INDEX

### EMPLOYMENT

#### DISCRIMINATION—Cont'd

- Affirmative action—Cont'd
  - Civil Rights Act of 1991, **9:75**
  - consent decrees, **9:72 et seq.**
  - constitutional standards applicable to government programs, **9:58**
  - court-ordered affirmative action remedies, **9:69 et seq.**
  - excessive infringement on opportunities of majority group members, avoidance of, **9:67**
  - Executive Order 11246, **9:76**
  - Firefighters Local v. Stotts, **9:72**
  - flexibility and multifactor individualized decision making vs. inflexible numerical quotas, **9:66**
  - governmental employers, **9:57, 9:58**
  - Johnson v. Transportation Agency, **9:62**
  - Local 93 v. City of Cleveland, **9:73**
  - Martin v. Wilks, **9:74, 9:75**
  - Section 2000e-5(g), **9:59**
  - Section 2000e-2(j), **9:60**
  - Sheet Metal Workers, **9:71**
  - standing and claims brought by men for discrimination against women, **9:77**
  - summary of factors that influence approval or disapproval of plan, **9:63 et seq.**
  - temporary vs. permanent plans designed to remedy past imbalance, **9:64**
  - United States v. Paradise, **9:70**
  - voluntary affirmative action plans adopted by private employers, generally, **9:59 et seq.**
  - Weber, **9:61**
  - well-documented case of past imbalance or discrimination, **9:65**
- Affirmative defense, business necessity as, **9:89**
- Age Discrimination in Employment Act (ADEA)
  - disparate-impact theory, **11:22**

### EMPLOYMENT

#### DISCRIMINATION—Cont'd

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

**EMPLOYMENT****DISCRIMINATION—Cont'd**

- Bona fide membership clubs, **9:16**
- Bona fide occupational qualification (BFOQ) defense
  - general discussion, **9:48 et seq.**
  - burden of proof, **9:54**
  - business necessity defense, compared, **9:49**
  - essence of the business, **9:51**
  - factors in analysis, **9:51 et seq.**
  - narrow interpretation by Supreme Court, **9:50**
  - prevalence of the disability, **9:52**
  - religious discrimination, **9:120**
  - third parties, safety of, **9:53**
- Bona fide seniority or merit systems, disparate impact cases, **9:95 et seq.**
- Burden of proof
  - bona fide occupational qualification (BFOQ) defense, **9:54**
  - disparate impact cases, **9:85, 9:105**
- Business necessity
  - bona fide occupational qualification (BFOQ) defense, comparison to, **9:49**
  - disparate impact cases, below
- Captive audiences, freedom of speech, **9:160**
- Circumstantial evidence, disparate treatment, **9:43**
- Civil Rights Act of 1964
  - Griggs v. Duke Power Co., **11:22**
- Civil Rights Act of 1991, **9:4, 9:75, 9:87 et seq.**
- Civil rights and compelled speech
  - 303 Creative decision, **9:158**
- Class actions, back pay, **9:170**
- Color, discrimination based on, **9:114**
- Commerce, operations that affect, **9:8**
- Consent decrees, affirmative action, **9:72 et seq.**
- Constitutional law
  - affirmative action, government programs, **9:58**
  - authority, **9:5**
  - freedom of speech, below

**EMPLOYMENT****DISCRIMINATION—Cont'd**

- Constitutional law—Cont'd
  - religious groups, exemption for, **9:119**
  - retaliation, **9:112**
- Constructive discharge, sex discrimination, **9:130**
- Continuing violations, Equal Employment Opportunity Commission procedures, **9:192**
- Corporate subsidiaries and successors, **9:10**
- Credentials and other objective criteria, disparate impact cases, **9:94**
- Customer preference as business necessity, disparate impact cases, **9:82**
- Declaratory relief, **9:164**
- Defamation fault standards, freedom of speech, **9:159**
- Demotion following untrue allegations of harassment, sex discrimination, **9:145**
- Dilution of business necessity concept, disparate impact cases, **9:84**
- Discretion of court to deny attorneys' fees, **9:175**
- Disparate impact cases
  - general discussion, **9:78 et seq.**
  - affirmative defense, business necessity as, **9:89**
  - Albemarle Paper Co., **9:80 et seq.**
  - bona fide seniority or merit systems, **9:95 et seq.**
  - burden of proof, **9:85, 9:105**
  - business necessity concept, **9:81 et seq.**
- Civil Rights Act of 1991, Section 105, **9:87 et seq.**
- credentials, physical requirements and other objective criteria, **9:94**
- customer preference, employee morale and administrative convenience as business necessity, **9:82**

## INDEX

### EMPLOYMENT

#### DISCRIMINATION—Cont'd

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

### EMPLOYMENT

#### DISCRIMINATION—Cont'd

- Disparate treatment—Cont'd
  - prima facie case, generally, **9:29 et seq.**
  - proof of racial animus, **9:30**
  - questions of fact, **9:31**
  - rebuttal of prima facie case, **9:40**
  - same actor inference, **9:34**
  - statistical analysis, policy or practice systematic disparate treatment, **9:47**
  - systematic disparate treatment cases, **9:44**
- Dysfunction in workplace, speech that causes, **9:153**
- Educational institutions, **9:13**
- Employment agencies, **9:21**
- Employment relationship covered
  - general discussion, **9:6 et seq.**
  - agents of employers, **9:9**
  - aliens without work authorization, **9:27**
  - bona fide membership clubs, **9:16**
  - commerce, operations that affect, **9:8**
  - corporate subsidiaries and successors, **9:10**
  - educational institutions, **9:13**
  - employers, generally, **9:7 et seq.**
  - employment agencies, **9:21**
  - exclusions, **9:16 et seq.**
  - federal government, **9:11**
  - foreign companies doing business in United States, **9:14**
  - foreign countries, American companies doing business in, **9:15**
  - governmental entities, **9:11, 9:12**
  - health care field, relationships in, **9:23**
  - independent contractors vs. employees, **9:22**
  - Indian tribes, **9:17**
  - labor organizations, **9:19**
  - law firms, **9:25**
  - military exception, **9:20**
  - number of employees and working days, **9:7**

**EMPLOYMENT****DISCRIMINATION—Cont'd**

- Employment relationship covered
  - Cont'd
    - religious organizations, **9:18**
    - state and local governmental entities, **9:11**
    - three types of covered employment entities, **9:6**
    - volunteers, **9:24**
- Equal Employment Opportunity Commission procedures
  - general discussion, **9:186 et seq.**
  - administrative filing prerequisite to suit, **9:186**
  - arbitration, **9:193**
  - continuing violations, **9:192**
  - EEOC suits, **9:187**
  - Mach Mining decision, **9:188**
  - Override of state administrative proceedings, **9:194**
  - time limitations, **9:189, 9:190**
- Equal Pay Act** (this index)
- Essence of the business, bona fide occupational qualification (BFOQ) defense, **9:51**
- Excessive infringement on opportunities of majority group members, affirmative action, **9:67**
- Executive Order 11246, affirmative action, **9:76**
- Federal government, **9:11**
- Federally assisted programs, **8:6**
- Federal-sector retaliation claims, Age Discrimination in Employment Act (ADEA), **11:38**
- Fetal protection policies, **9:144**
- Filing of charge with EEOC, remedies and enforcement, Age Discrimination in Employment Act (ADEA), **11:36**
- Foreign companies doing business in United States, **9:14**
- Foreign countries, American companies doing business in, **9:15**
- Forms of discrimination prohibited, generally, **9:113 et seq.**
- Freedom of association cases, **9:157**

**EMPLOYMENT****DISCRIMINATION—Cont'd**

- Freedom of speech
  - general discussion, **9:149 et seq.**
  - captive audiences, **9:160**
  - defamation fault standards, **9:159**
  - dysfunction in workplace, speech that causes, **9:153**
  - freedom of association cases, **9:157**
  - hostile environment cases, **9:159**
  - injunctions and prior restraint doctrine, **9:162**
  - insults and innuendo, distinction from protected speech, **9:153 et seq.**
  - motive or bias, speech as evidence of, **9:151**
  - offensive speech, **9:153 et seq.**
  - public concerns, matters of, **9:155, 9:161**
  - public employment cases, **9:156**
  - quid pro quo harassment, **9:152**
  - types of speech that may give rise to Title VII liability, **9:150**
- Front pay, **9:171**
- Governmental employers, affirmative action, **9:57, 9:58**
- Governmental entities, **9:11, 9:12**
- Hazen Paper Co. v. Biggins, **11:22**
- Health and safety concerns, disparate impact cases, **9:82**
- Health care field, relationships in, **9:23**
- Hostile environment claims. Sex discrimination, below
- Independent contractors vs. employees, **9:22**
- Indian tribes, **9:17**
- Injunctions, **9:162, 9:164, 9:165**
- Instances in which granted or denied, **9:167**
- Insults and innuendo, distinction from protected speech, **9:153 et seq.**
- Interest awards against government, **9:185**
- Labor organizations, **9:19**
- Law firms, **9:25**

## INDEX

### EMPLOYMENT

#### DISCRIMINATION—Cont'd

- Lily Ledbetter Fair Pay Act of 2009, congressional overruling of Supreme Court, **9:191**
- Local governmental entities, **9:11**
- Military exception, **9:20**
- Mitigation of damages, back pay, **9:169**
- Mixed-motive cases, disparate treatment, **9:38, 9:39, 9:43**
- Morale of employees as business necessity, disparate impact cases, **9:82**
- Motive, speech as evidence of, **9:151**
- National origin discrimination, generally, **9:1 et seq.**
- 1972 amendments to Title VII, **9:3**
- Notice to employer, employer liability for sexual harassment by coworkers, **9:138**
- Number of employees and working days, **9:7**
- Offensive speech, **9:153 et seq.**
- Opposition retaliation cases, **9:109**
- Partial success, attorneys' fees, **9:179**
- Personality conflicts, disparate treatment, **9:37**
- Physical requirements and other objective criteria, disparate impact cases, **9:94**
- Policy or practice systematic disparate treatment, **9:45 et seq.**
- Pregnancy, sex discrimination, **9:142, 9:143**
- Preliminary injunctions, **9:165**
- Pretext, disparate treatment, **9:32, 9:33, 9:41, 9:42**
- Prevailing parties. Attorneys' fees, above
- Prima facie case
  - disparate treatment, **9:29 et seq.**
  - employer liability for sexual harassment by coworkers, **9:137**
- Prior restraint doctrine, freedom of speech, **9:162**
- Professionally developed ability test, disparate impact cases, **9:100 et seq.**

### EMPLOYMENT

#### DISCRIMINATION—Cont'd

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

**EMPLOYMENT**

**DISCRIMINATION—Cont'd**

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

**EMPLOYMENT**

**DISCRIMINATION—Cont'd**

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

## INDEX

### EMPLOYMENT

#### DISCRIMINATION—Cont'd

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

#### EMPLOYMENT DIVISION V. SMITH

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

### ENFORCEMENT

#### Americans with Disabilities Act (this index)

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

#### Housing Discrimination (this index)

#### Individuals with Disabilities Education Act (this index)

### ENFORCEMENT OF CIVIL RIGHTS

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

### ENFORCEMENT OF CIVIL RIGHTS—Cont'd

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

### ENTERTAINMENT, PLACES OF

- Public accommodations, **7:7**

### EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

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

### EQUAL PAY ACT

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

**EQUAL PAY ACT—Cont'd**

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

**EQUAL PAY ACT—Cont'd**

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

**EQUAL PROTECTION**

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

## INDEX

### **EQUAL PROTECTION—Cont'd**

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

### **EQUITABLE REMEDIES**

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

### **ESSENCE OF THE BUSINESS**

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

### **ESTABLISHMENT CLAUSE**

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

### **ETHICS AND MORALS**

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

### **EXECUTIVE ORDER 11246**

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

### **EXECUTIVES**

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

### **EXHAUSTION OF REMEDIES**

- Age Discrimination in Employment Act, **11:35**
- Color of Law, Deprivation of Rights Under** (this index)
- Federally assisted programs, **8:12**
- Property, contract and economic rights, **13:17**
- Public accommodations, **7:23**

### **EXPRESSIVE ASSOCIATION**

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

### **FAIR HOUSING ACT**

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

### **FAIR LABOR STANDARDS ACT**

- Equal Pay Act, **10:40**

### **FAMILIAL STATUS**

- Housing Discrimination** (this index)

### **FEDERAL ENTITIES**

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

### **FEDERALISM**

- Anticommandeering principle, **1:55**

### **FEDERALLY ASSISTED PROGRAMS**

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

### **FEDERAL OFFICIALS**

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

**FEDERAL OFFICIALS—Cont'd**

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

**FEDERAL SECTOR**

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

**FETAL PROTECTION POLICIES**

Employment discrimination, **9:144**

**FIFTEENTH AMENDMENT**

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

**FINANCING**

Housing discrimination, **3:47**

**FIREFIGHTERS**

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

**FIRST AMENDMENT**

**Freedom of Association** (this index)  
**Freedom of Religion** (this index)  
**Freedom of Speech** (this index)

**FORCE**

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

**FOREIGN COMPANIES**

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

**FOREIGN COUNTRIES**

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

**FORMS OF GOVERNMENT**

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

**FOURTEENTH AMENDMENT**

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

**FOURTEENTH AMENDMENT**

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

**FOURTH AMENDMENT**

Bivens actions, **14:157**

**FRANCHISE BOARD v. HYATT**

Sovereign immunity, **14:71**

**FRATERNITIES AND SORORITIES**

Sex discrimination, **8:18**

**FREEDOM OF ACCESS TO CLINIC ENTRANCES ACT OF 1994**

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

## INDEX

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

Damage to property, **17:17 et seq.**  
Destruction of property, **17:17 et seq.**  
Floating vs. fixed buffer zones, injunctions, **17:24 et seq.**  
Force, **17:2, 17:17 et seq.**  
Freedom of religion, **17:22**  
Freedom of speech  
    general discussion, **17:15 et seq.**  
    historical and cultural backdrop, **17:15**  
    nonviolent, nonobstructing, nondestructive protest, **17:16**  
    peaceful abortion protest, **17:16**  
Injunctions  
    general discussion, **17:23 et seq.**  
    cease and desist provisions, **17:28**  
    floating vs. fixed buffer zones, **17:24 et seq.**  
    in your face protest, **17:24**  
    lower court applications, **17:30**  
    Madsen v. Women's Health Center, Inc., **17:23**  
    safety and order, public interest in, **17:25**  
    unwanted approaches, **17:29**  
Intent to injure, intimidate, interfere or damage, **17:3**  
In your face protest, injunctions, **17:24**  
Overbreadth, **17:20**  
Peaceful abortion protest, **17:16**  
Physical obstruction, **17:2, 17:17 et seq.**  
Preemption, civil actions, **17:8**  
Religious Freedom Restoration Act, **17:22**  
Remedies, **17:4 et seq.**  
Standing, civil actions, **17:5**  
Threats of force, **17:2, 17:17 et seq.**  
Vagueness, **17:21**

### **FREEDOM OF ASSOCIATION**

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

### **FREEDOM OF RELIGION**

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

### **FREEDOM OF SPEECH**

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

### **FREESTANDING STATE-OF-MIND**

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

### **FRIVOLOUS CASES**

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

### **FRONT PAY**

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

### **GAS STATIONS**

Public accommodations, **7:6**

### **GENDER DISCRIMINATION**

**Sex Discrimination** (this index)

### **GERRYMANDERING**

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

### **GOOD FAITH**

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

**GOVERNMENTAL ENTITIES**

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

**GRIGGS V. DUKE POWER CO.**

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

**GROSS V. FBL FINANCIAL SERVICES**

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

**HABEAS CORPUS**

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

**HANDICAPPED PERSONS**

- Disabled Persons** (this index)

**HAYWOOD V. DROWN**

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

**HAZEN PAPER CO. V. BIGGINS**

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

**HEALTH AND SAFETY**

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

**HEALTH CARE FIELD**

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

**HEARING AIDS**

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

**HIRING**

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

**HISTORY**

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

**HIV INFECTION**

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

**HOBBY LOBBY DECISION**

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

**HOSTILE ENVIRONMENT**

- Age Discrimination in Employment Act, **11:19**
- Employment Discrimination** (this index)
- Property, contract and economic rights, employment discrimination, **13:14, 13:15**

**HOUSING DISCRIMINATION**

- General discussion, **3:1 et seq.**
- Accommodations for handicapped persons, **3:30, 12:65**
- Advertising and notices
  - general discussion, **3:40 et seq.**
  - commercial speech, **3:42, 3:43**
  - Fair Housing Act and First Amendment, **3:44, 3:45**
  - First Amendment, **3:41 et seq.**
- Aggrieved parties, **3:13, 3:69**
- Amendments to Fair Housing Act, **3:12**
- Attorney General actions
  - general discussion, **3:78 et seq.**
  - general public importance cases, **3:80**
  - HUD referral of cases to Attorney General, **3:81**
  - pattern or practice cases, **3:79**
  - relief cases, **3:82**
- Attorneys' fees, private court actions, **3:74**

## INDEX

### HOUSING DISCRIMINATION

#### —Cont'd

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

### HOUSING DISCRIMINATION

#### —Cont'd

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

**HOUSING DISCRIMINATION****—Cont'd**

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

**HOUSING DISCRIMINATION****—Cont'd**

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

## INDEX

### HOUSING DISCRIMINATION

#### —Cont'd

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

### HUMAN IMMUNODEFICIENCY VIRUS

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

### IDEA (INDIVIDUALS WITH DISABILITIES EDUCATION ACT)

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

### IMMIGRATION

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

### IMMUNITY

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

### INDEMNIFICATION

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

### INDEPENDENT APPELLATE REVIEW

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

### INDEPENDENT CONTRACTORS

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

### INDIAN CIVIL RIGHTS ACT

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

### INDIANS

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

### INDIVIDUALS WITH DISABILITIES EDUCATION ACT

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

**INDIVIDUALS WITH  
DISABILITIES EDUCATION  
ACT—Cont'd**

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

**INFLUENCE DISTRICTS**

- Voting rights, Section 5 violations, **2:38**

**INJUNCTIONS**

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

**INSTRUMENTALITIES**

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

**INSULTS AND INNUENDO**

- Employment discrimination, distinction from protected speech, **9:153 et seq.**

**INTEGRATION MAINTENANCE  
DEBATE**

- Housing Discrimination** (this index)

**INTELLIGENCE TESTS**

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

**INTENT**

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

**INTEREST ON JUDGMENTS**

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

**INTEREST ON LAWYERS TRUST  
ACCOUNTS (IOLTA)**

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

**INTERLOCUTORY APPEALS**

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

**INTERNET**

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

**INTERVENTION**

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

**INTIMIDATION**

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

## INDEX

### **INVOLUNTARY SERVITUDE**

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

### **JAYCEES AND SIMILAR ORGANIZATIONS**

- Public accommodations, **7:12**

### **JUDICIAL REVIEW**

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

### **JURISDICTION**

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

### **JURY AND JURY TRIAL**

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

### **JUST COMPENSATION CLAUSE**

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

### **LABOR ORGANIZATIONS**

- Employment discrimination, **9:19**

### **LAMPS PLUS**

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

### **LAW ENFORCEMENT OFFICERS**

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

### **LAWYERS**

- Attorneys (this index)

### **LEAST RESTRICTIVE MEANS**

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

### **LEGAL AID ATTORNEYS**

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

### **LEGISLATIVE HISTORY**

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

### **LEGISLATIVE IMMUNITY**

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

### **LILY LEDBETTER FAIR PAY ACT OF 2009**

- Employment discrimination, **9:191**

### **LIMITATION OF ACTIONS**

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

**LINE WARMING**

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

**LIQUIDATED DAMAGES**

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

**LODESTAR**

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

**LODGING ESTABLISHMENTS**

Public accommodations, **7:3**

**LOYALTY OATHS**

Voting rights, **2:81**

**MACH MINING DECISION**

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

**MAINSTREAMING**

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

**MALESKO CASE**

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

**MARIJUANA**

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

**MEACHAM V. KNOLLS ATOMIC  
POWER LABORATORY**

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

**MEDICAL EXAMINATIONS**

Americans with Disabilities Act,  
**12:23 et seq.**

**MEDICAL MARIJUANA**

Constitutional law, **1:22**

**MENTAL INSTITUTIONS**

Americans with Disabilities Act,  
**12:35**

**MILITARY EXCEPTION**

Employment discrimination, **9:20**

**MILITARY SCHOOLS**

Sex discrimination, **8:16**

**MINISTERIAL FUNCTIONS**

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

**MISTAKE DEFENSE**

Equal Pay Act, **10:27**

**MITIGATION OF DAMAGES**

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

**MIXED-MOTIVE CASES**

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

**MIXED-MOTIVE STANDARD**

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

**MODIFICATIONS**

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

**MONELL V. DEPARTMENT OF  
SOCIAL SERVICES**

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

**MOORE V. HARPER**

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

**MOOTNESS**

Sex discrimination, **8:39**

**MORALE OF EMPLOYEES**

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

**MORALS**

**Ethics and Morals** (this index)

**MOTIVE**

Employment discrimination, speech  
as evidence of motive, **9:151**  
**Housing Discrimination** (this index)

## INDEX

### **MRS. MURPHY HOME BOARDING EXEMPTION**

Housing discrimination, **3:20**

### **MUNICIPALITIES**

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

### **MUNICIPALITIES AS PERSONS**

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

### **NARCOTICS**

**Drugs and Narcotics** (this index)

### **NATIONAL COLLEGIATE ATHLETIC ASSOCIATION**

Sex discrimination, **8:23**

### **NATIONAL ORIGIN DISCRIMINATION**

303 Creative decision  
civil rights  
compelled speech, **9:158**

**Employment Discrimination** (this  
index)

Housing discrimination, **3:26**

### **NATIVE AMERICANS**

**Indians** (this index)

### **NCAA**

Sex discrimination, **8:23**

### **NEGLIGENT DEPRIVATIONS**

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

### **§ 1981**

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

### **NINETEENTH AMENDMENT**

General discussion, **1:10**

### **§ 1983**

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

### **NOMINAL DAMAGES**

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

### **NOMINATING CONVENTIONS**

Voting rights, **2:78**

### **NON-DELEGATION DOCTRINE**

Constitutional law, **1:57**

### **NONRETROGRESSION PRINCIPLE**

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

### **NORTHWEST AUSTIN CASE**

Voting rights, **2:40**

### **NOTICE**

Age Discrimination in Employment  
Act, notice to Equal Employ-  
ment Opportunity Commission,  
**11:36**

Americans with Disabilities Act,  
**12:20 et seq.**

Employment discrimination,  
employer liability for sexual  
harassment by coworkers, **9:138**

**Housing Discrimination** (this index)

Sexual harassment, **8:36**

### **OATHS**

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

### **OBERGEFELL V. HODGES**

Same-sex marriage, **1:48**

### **OFFENSIVE SPEECH**

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

### **OLDER PERSONS**

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

### **OPPOSITION RETALIATION CASES**

Employment discrimination, **9:109**

### **OVERBREADTH**

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

### **PARENT AND SUBSIDIARY CORPORATIONS**

Age Discrimination in Employment  
Act, remedies and relief, **11:51**

Employment discrimination, **9:10**

**PARENTS INVOLVED V. SEATTLE SCHOOL DISTRICT**

Enforcement of civil rights, race-conscious student assignments, **1:42**

**PARTIES**

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

**PAY**

**Equal Pay Act** (this index)

**PEARSON V. CALLAHAN**

Deprivation of rights under color of law, **14:54**

**PENDENT JURISDICTION**

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

**PENDENT STATE LAW CLAIMS**

Attorneys' fees, **16:19**

**PERSONALITY CONFLICTS**

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

**PERSUASION, BURDEN OF**

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

**PHYSICAL REQUIREMENTS AND OTHER OBJECTIVE CRITERIA**

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

**PHYSICIANS**

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

**PLEA BARGAINS**

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

**PLEADINGS**

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

**POLICE OFFICERS**

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

**POLICYMAKING OFFICIALS**

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

**POLICY OR PRACTICE SYSTEMATIC DISPARATE TREATMENT**

Employment discrimination, **9:45 et seq.**

**POLITICAL PRIMARIES**

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

**POLLING PLACES**

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

**PRECLEARANCE**

Voting Rights Act, **2:55**

**PREEMPLOYMENT MEDICAL EXAMINATIONS**

Americans with Disabilities Act, **12:23**

**PREEMPTION**

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

**PREGNANCY**

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

**PRELIMINARY INJUNCTIONS**

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

**PREPONDERANCE OF EVIDENCE**

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

**PRESIDENT OF UNITED STATES**

Color of law, deprivation of rights under, **14:46**

**PRETEXT**

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

## INDEX

### **PRETEXT—Cont'd**

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

### **PREVAILING PARTIES**

**Attorneys' Fees** (this index)

### **PRIMA FACIE CASE**

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

**Employment Discrimination** (this index)

Equal Pay Act, **10:32**

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

### **PRIOR RESTRAINT DOCTRINE**

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

### **PRISONERS**

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

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

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

### **PRIVATE CAUSE OF ACTION**

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

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

**Housing Discrimination** (this index)

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

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

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

### **PRIVATE CLUBS**

Housing discrimination, **3:22**

**Public Accommodations** (this index)

### **PRIVATE ENTITIES**

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

### **PRIVATELY OPERATED FEDERAL PRISONS**

Bivens actions, **14:167**

### **PROCESS AND OUTCOME THEORIES**

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

### **PRODUCTION, BURDEN OF**

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

### **PROFESSIONAL CONTRACTORS**

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

### **PROPERTY, CONTRACT AND ECONOMIC RIGHTS**

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

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

Damages, **13:20**

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

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

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

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

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

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

Equitable relief, **13:19**

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

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

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

Housing discrimination, **13:26**

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

Intent to discriminate, **13:10**

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

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

**PROPERTY, CONTRACT AND  
ECONOMIC RIGHTS—Cont'd**

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

**PROPERTY DISCRIMINATION**

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

**PROPORTIONALITY**

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

**PROSECUTORS**

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

**PRO SE PLAINTIFFS**

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

**PUBLIC ACCOMMODATIONS**

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

## INDEX

### **PUBLIC ACCOMMODATIONS**

#### **—Cont'd**

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

### **PUBLIC DEFENDERS**

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

### **PUBLIC SERVICES**

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

### **PUBLIC TRANSPORTATION**

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

### **PUNITIVE DAMAGES**

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

### **QUALIFICATIONS**

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

### **QUALIFIED IMMUNITY**

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

### **QUASI-JUDICIAL AUTHORITY**

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

### **QUESTIONS OF LAW OR FACT**

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

### **QUID PRO QUO**

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

### **RACE-CONSCIOUS STUDENT ASSIGNMENTS**

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

### **RACE OR COLOR DISCRIMINATION**

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

### **READILY ACHIEVABLE REFORMS**

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

### **REASONABLE ACCOMMODATION**

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

### **RECONCILIATION**

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

### **REDLINING**

- Housing discrimination, **3:47**

### **REFERENDUM**

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

### **REGISTRATION**

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

**REHABILITATION**

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

**REHABILITATION ACT OF 1973**

General discussion, **12:52 et seq.**  
 Administrative enforcement, **12:58**  
 Attorneys' fees, **12:63**  
 Eleventh Amendment immunity, remedies and attorney's fees, **12:62**  
 Federal assistance, receipt of, **12:56, 12:57**  
 Handicapped individual, defined, **12:53**  
 Otherwise qualified persons, **12:54**  
 Private cause of action, **12:60**  
 Program or activity scope issue, receipt of federal assistance, **12:57**  
 Reasonable accommodation, **12:55**  
 Remedies  
     general discussion, **12:58 et seq.**  
     administrative enforcement, **12:58**  
     attorneys' fees, **12:63**  
     private cause of action, **12:60**  
 Solely by reason of handicap standard, **12:55**  
 Undue hardship, **12:55**

**REINSTATEMENT**

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

**REJECTION**

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

**RELIGION AND RELIGIOUS DISCRIMINATION**

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

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

provided by private entities, **12:48**  
 Civil Rights, Compelled speech  
     303 Creative decision, **9:158**  
**Employment Discrimination** (this index)  
**Freedom of Access to Clinic Entrances Act of 1994** (this index)  
**Freedom of Religion** (this index)  
 Housing discrimination, **3:21, 3:28**  
**Religious Freedom Restoration Act** (this index)  
 Religious Land Use and Institutionalized Persons Act, **5:38, 5:39**  
 Same-sex marriage, **1:50**  
 Sex discrimination, religious institutions, **8:15**

**RELIGIOUS FREEDOM RESTORATION ACT**

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

## INDEX

### RELIGIOUS FREEDOM

#### RESTORATION ACT—Cont'd

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

### RELIGIOUS FREEDOM

#### RESTORATION ACT—Cont'd

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

### RELIGIOUS LAND USE AND INSTITUTIONALIZED PERSONS ACT

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

### REMEDIES AND RELIEF

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

**REMEDIES AND RELIEF—Cont'd**  
**Property, Contract and Economic Rights** (this index)

**Public Accommodations** (this index)  
**Rehabilitation Act of 1973** (this index)

**5REMEDIES AND RELIEF**

Rehabilitation Act of 1973, **12:62**

**REMOVAL FROM**

Color of law, deprivation of rights under, **14:72**

**RES JUDICATA**

Color of law, deprivation of rights under, **14:139**

**RESPONDEAT SUPERIOR**

Color of law, deprivation of rights under, **14:19, 14:89**

**RESTORATION OF BENEFITS**

Age Discrimination in Employment Act, **11:48**

**RESTRICTIONS**

Line warming, aid to voters waiting in line at polling places, **2:88**

**RESTRICTIVE COVENANTS**

Housing discrimination, constitutional law, **3:2**

**RETALIATION**

Age Discrimination in Employment Act, **11:17**

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

**Employment Discrimination** (this index)

Section 1983, **14:134**

Sex discrimination, private right of action, **8:26**

Sex discrimination, Title IX, **8:25**

**RETIREMENT PLANS**

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

**RETROACTIVE APPLICATION OF CIVIL RIGHTS LEGISLATION**

General discussion, **18:1 et seq.**

Attorneys' fees limitations, **18:16**

Clear statement principle, **18:7**

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

Competing canons of construction, **18:5**

Deportation and immigration, **18:18**

Immigration and deportation, **18:18**

Judicial default rules

general discussion, **18:5 et seq.**

clear statement principle, **18:7**

competing canons of construction, **18:5**

exceptions to clear statement principle, **18:8 et seq.**

jurisdictional changes, **18:9**

priority of presumption against retroactivity, **18:6**

procedural changes, **18:10**

prospective relief, **18:8**

revision of law in effect principle, **18:11 et seq.**

Jurisdictional changes, **18:9**

Landgraf decision, **18:2 et seq.**

Legislative history of Civil Rights Act of 1991, **18:4**

Lower court applications, **18:17**

Priority of presumption against retroactivity, **18:6**

Procedural changes, **18:10**

Prospective relief, **18:8**

Religious Freedom Restoration Act, **5:14, 5:18**

Revision of law in effect principle, **18:11 et seq.**

Rivers decision, **18:15**

**REVERSE AGE DISCRIMINATION**

Age Discrimination in Employment Act, **11:18**

**REVIEW**

**Appeal and Review** (this index)

## INDEX

### **RFOA (REASONABLE FACTORS OTHER THAN AGE) PROVISION**

Age Discrimination in Employment  
Act (ADEA), **11:22**

### **RICCI V. DESTEFANO**

Title VII, disparate treatment and  
disparate impact, **9:26**

### **RIPENESS**

Voting rights, **2:51**

### **RITUAL SACRIFICE CASE**

Religious Freedom Restoration Act,  
**5:24**

### **ROOKER-FELDMAN DOCTRINE**

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

### **ROUGH PROPORTIONALITY**

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

### **SAFE DISTRICTS**

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

### **SAFETY**

**Health and Safety** (this index)

### **SALARIES**

**Equal Pay Act** (this index)

### **SAME ACTOR INFERENCE, DISPARATE TREATMENT**

Employment discrimination, **9:34**

### **SAME-SEX MARRIAGE**

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

### **SAME-SEX SEXUAL HARASSMENT**

Employment discrimination, **9:147**

### **SARS-COV-2**

**Covid-19 Pandemic** (this index)

### **SCHOOLS AND EDUCATION**

**Colleges and Universities** (this  
index)

### **SCHOOLS AND EDUCATION —Cont'd**

Desegregation, constitutional law,  
**1:28**

Employment discrimination, **9:13**

**Federally Assisted Programs** (this  
index)

**Individuals with Disabilities  
Education Act** (this index)

**Training and Training Programs**  
(this index)

### **SCHUETTE V. COALITION TO DEFEND AFFIRMATIVE ACTION**

Constitutional law, **1:41**

### **SENIORITY SYSTEMS**

Age Discrimination in Employment  
Act, **11:29**

**Bona Fide Seniority or Merit  
Systems** (this index)

Equal Pay Act, **10:29**

### **SEPARATE BUT EQUAL**

State action doctrine, **1:5**

### **SETTLEMENTS**

Attorneys' fees, **16:33**

Employment discrimination,  
attorneys' fees, **9:178**

Voting rights challenges, **2:50**

### **SEVENTH AMENDMENT**

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

### **SEX DISCRIMINATION**

General discussion, **8:13 et seq.**

Admissions, **8:14, 8:31**

Athletic programs, **8:29, 8:35**

Athletic teams, sexual banter on, **8:35**

Beauty pageants, **8:22**

Civil rights, compelled speech  
303 Creative decision, **9:158**

Constitutional law issues, relation-  
ship to, **8:38**

Damages, private right of action for,  
**8:25**

Discriminatory intent vs. disparate  
impact, **8:27**

**SEX DISCRIMINATION—Cont'd**

Education Amendments Act of 1972,  
Title IX, generally, **8:13 et seq.**

**Employment Discrimination** (this  
index)

Equal protection, generally, **1:44**

Father-son and mother-daughter  
activities, **8:21**

Federal funds, entities that receive  
payments from recipients of,  
**8:40**

Financial assistance, **8:32**

Fraternities and sororities, **8:18**

Housing discrimination, **3:27**

Implied private right of action, **8:24**

Military schools, **8:16**

Mootness, **8:39**

National Collegiate Athletic Associa-  
tion, **8:23**

Notice and deliberate indifference,  
sexual harassment, **8:36**

Practice and procedure, **8:38, 8:39**

Prison vocational programs, **8:30**

Private right of action, **8:24 et seq.**

Program or activity issue, **8:28**

Prohibition of discrimination, **8:13**

Religious institutions, **8:15**

Retaliation claims, **8:2, 8:26**

Sexual harassment, **8:34 et seq.**

Sororities and fraternities, **8:18**

Student-on-student sexual harass-  
ment, **8:37**

Title IX

retaliation claims, **8:25**

scope of Section 1983 compared,  
**8:41**

Tradition of single sex admissions,  
schools with, **8:17**

Youth conferences, **8:20**

Youth organizations, **8:19**

**SEX OFFENDERS**

Color of law, deprivation of rights  
under, **14:123**

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

**SEXUAL HARASSMENT**

Athletic teams, sexual banter on, **8:35**

**SEXUAL ORIENTATION**

Equal Pay Act, remedies and relief,  
**10:47**

Equal protection, **1:46**

**SIGNATURES**

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

**SINGLE MEMBER DISTRICTS**

**Voting Rights** (this index)

**SMITH V. CITY OF JACKSON**

Age Discrimination in Employment  
Act (ADEA), **11:22**

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

Employment discrimination, **11:22**

Good faith, **11:22**

Intent, **11:22**

**SOCIAL SECURITY DISABILITY  
INSURANCE STANDARDS**

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

**SOLE V. WYNER**

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

**SORORITIES AND  
FRATERNITIES**

Sex discrimination, **8:18**

**SOVEREIGN IMMUNITY**

Alden v. Maine, **14:71**

Color of law, deprivation of rights  
under, **14:71**

Deprivation of rights under color of  
law, federal administrative  
proceedings, **14:83:50**

Franchise Board v. Hyatt, **14:71**

**SPEECH**

Compelled, civil rights

303 Creative decision, **9:158**

**Freedom of Speech** (this index)

**SPENDING CLAUSE STATUTES**

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

Enforcement of civil rights through  
Taxing and Spending Clause,  
**1:53**

## INDEX

### STANDING

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

### STATE ACTION DOCTRINE

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

### STATE-CREATED DANGER DOCTRINE

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

### STATE LEGISLATURE

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

### STATE OF MIND

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

### STATISTICAL ANALYSIS

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

### STATUTES OF LIMITATION

- Limitation of Actions** (this index)

### STATUTORY LAW

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

### STEERING

- Housing discrimination, **3:39**

### STOLT-NIELSEN

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

### STRICT SCRUTINY

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

### STUDENT ASSIGNMENTS

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

### STUDENTS FOR FAIR ADMISSIONS V. HARVARD

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

### SUBJECT MATTER JURISDICTION

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

### SUBSIDIARY CORPORATIONS

- Parent and Subsidiary Corporations** (this index)

### SUCCESSOR CORPORATIONS

- Employment discrimination, **9:10**

### SUCCESSOR EMPLOYEES

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

### SUMMARY JUDGMENT

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

### SUPERVISION

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

### SUPREMACY CLAUSE

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

**SUPREME COURT**

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

**SURVIVAL**

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

**SYSTEMATIC DISPARATE TREATMENT CASES**

- Employment discrimination, **9:44**

**TAKINGS CLAUSE CLAIMS**

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

**TAVERNS AND BARS**

- Public accommodations, **7:5**

**TAXES**

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

**TAXING AND SPENDING CLAUSE**

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

**TEMPORARY RESTRAINING ORDERS**

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

**TENTH AMENDMENT**

- Anticommandeering principle, **1:55**

**TERRITORIES**

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

**TERRORISM**

- Constitutional law, **1:52**

**TESTER STANDING**

- Housing discrimination, **3:16**

**TESTS AND TESTING**

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

**THIRTEENTH AMENDMENT**

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

**THREATS OF FORCE**

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

**TIPPING PHENOMENON**

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

**TITLE IX**

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

**TITLE VII**

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

## INDEX

### **TOTALITY OF CIRCUMSTANCES FACTORS**

Voting rights, Section 2 violations, **2:10**

### **TRAFFICKING VICTIMS PROTECTION ACT**

Involuntary servitude, **4:6**

### **TRAINING AND TRAINING PROGRAMS**

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

Equal Pay Act, **10:13, 10:25**

### **TRANSGENDER DISCRIMINATION**

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

### **TRAVEL, RIGHT TO**

Housing discrimination, **3:83**

### **TRUMP V. HAWAII**

Immigration ban decision, **1:54**

### **TWENTY-SIXTH AMENDMENT**

General discussion, **1:10**

Voting age, discrimination claims, **2:85**

### **UNDUE HARDSHIP**

Americans with Disabilities Act, **12:17**

Rehabilitation Act of 1973, **12:55**

### **UNIVERSITIES**

**Colleges and Universities** (this index)

### **VAGUENESS**

Color of law, deprivation of rights under, **14:105**

Freedom of Access to Clinic Entrances Act of 1994, **17:21**

### **VENUE**

Equal Pay Act, **10:35**

Housing discrimination, private court actions, **3:70**

### **VICARIOUS LIABILITY**

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

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

### **VIOLENCE AGAINST WOMEN ACT**

Constitutional law, **1:15**

### **VOLUNTEERS**

Employment discrimination, **9:24**

### **VOTER ID LAWS**

Voting rights, Crawford decision, **2:79**

### **VOTERS**

Aid to, waiting in line at polling places

Restrictions on line warming, **2:88**

### **VOTING RIGHTS**

General discussion, **2:1 et seq.**

Absentee ballots, **2:83**

Anderson-Burdick balancing test, **2:87**

Appellate review under clearly erroneous standard, Section 2 violations, **2:27**

At-large elections, Section 2 violations, **2:19**

Attorneys' fees, **2:48**

Bailout provision, **2:40**

Blanket primaries, Voting Rights Act, **2:74**

Burden of proof, Section 2 violations, **2:18**

Burdens on campaign spending by candidates, **2:80**

Challenges to voter ID laws, Crawford decision, **2:79**

Congressional authority, **2:54, 2:55**

Constitutional law  
general discussion, **1:29, 2:52 et seq.**

Alabama Black Caucus, **2:62**

Bethune-Hill v. Virginia, **2:63**

Bush v. Gore, **2:70**

Bush v. Vera, **2:60**

Congressional authority, **2:54**

Cooper v. Harris, **2:64**

court-ordered plans, application to, **2:68**

**VOTING RIGHTS—Cont'd**

- Constitutional law—Cont'd
  - Fifteenth Amendment, race-neutral commands of, **2:69**
  - First Amendment, **2:70, 2:76**
  - Hunt v. Cromartie, **2:64**
  - Hunt v. Cromartie II, **2:67**
  - intent and summary judgment standards, establishment of, **2:68**
  - limitations on enforcement of voting rights, generally, **2:56 et seq.**
  - Miller v. Johnson, **2:58 et seq.**
  - Section 2 compliance as compelling interest, **2:65**
  - semiclosed primaries, **2:73**
  - Shaw v. Hunt, **2:61**
  - Shaw v. Reno, **2:57 et seq.**
  - Shelby County, **2:28**
  - UJO v. Carey, **2:56**
  - Voting Rights Act, **2:74, 2:75**
- Court mandated forms of government, equitable remedies, **2:53**
- Coverage formula struck down by Shelby County, **2:28**
- Covered jurisdictions, Voting Rights Act, **2:55**
- Crawford decision, challenges to voter ID laws, **2:79**
- Deference owed to findings of Attorney General, Section 5 violations, **2:42**
- Direct partisan primaries, Voting Rights Act, **2:75**
- Disclosure of referendum petition signatures, **2:82**
- Disenfranchisement laws, Section 2 violations, **2:25**
- Early ballots, **2:83**
- Early voting rights acts
  - general discussion, **2:2 et seq.**
  - 1870 Enforcement Act, **2:3**
- Equitable remedies, court mandated forms of government, **2:53**
- Equitable remedies, power to fashion, **2:52**
- “Faithless electors,” state restrictions on in presidential elections, **2:84**

**VOTING RIGHTS—Cont'd**

- Fifteenth Amendment, race-neutral commands of, **2:69**
- First Amendment, **2:70, 2:76**
- Forms of government, court mandated, equitable remedies, **2:53**
- Gerrymandering** (this index)
- Government, court mandated forms, equitable remedies, **2:53**
- History of race discrimination, **2:1**
- History of Voting Rights Act of 1965
  - general discussion, **2:4 et seq.**
  - Mobile v. Bolton, restrictive interpretation of, **2:7, 2:8**
  - 1982 amendments, **2:8**
  - 1970 extensions, **2:5**
  - 1975 amendments, **2:6**
  - 1965 Act, **2:4**
- Influence districts, Section 5 violations, **2:38**
- Intent standards, establishment of, **2:66**
- Judicial elections, Section 2 violations, **2:22**
- Loyalty oaths, **2:81**
- Nominating conventions vs. political primaries, **2:78**
- Nonretrogression principle, Section 5 violations, **2:35**
- Northwest Austin case, **2:40**
- Objection to preclearance by Attorney General, Section 5 violations, **2:30**
- Pandemic regulations and restrictions on elections and voting, **2:86**
- Political primaries
  - blanket primaries, **2:74**
  - direct partisan primaries, **2:75**
  - nominating conventions vs., **2:78**
- Political subdivisions, Section 2 violations, **2:20**
- Practice issues, generally, **2:39 et seq.**
- Preclearance for covered jurisdictions, Voting Rights Act, **2:55**
- Preclearance mechanism, Section 5 violations, **2:29, 2:30, 2:41 et seq.**

## INDEX

### VOTING RIGHTS—Cont'd

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

### VOTING RIGHTS—Cont'd

- Section 5 violations—Cont'd
  - compelling of finding, effect of preclearance, **2:43**
  - covered county changes in mandated by noncovered state, **2:37**
  - deference owed to findings of Attorney General, **2:42**
  - effect of preclearance, **2:41 et seq.**
  - failure to preclear, **2:31**
  - federal law, changes mandated by, **2:36**
  - framework established by *Allen v. State Board of Elections*, **2:32**
  - influence districts, **2:38**
  - manner of voting, changes in, **2:33**
  - nonretrogression principle, **2:35**
  - objection to preclearance by Attorney General, **2:30**
  - preclearance mechanism, **2:29, 2:30, 2:41 et seq.**
  - safe districts, **2:38**
  - Shelby County strikes down coverage formula*, **2:28**
  - standards under Section 2 and Section 5, relationship between, **2:44**
  - subsequent challenges not barred by preclearance, **2:41**
- Semiclosed primaries, **2:73**
- Settlement of voting rights challenges, **2:50**
- Single member districts
  - general discussion, **2:14 et seq.**
  - Grove v. Emison*, **2:14**
  - lower court applications, **2:16**
  - rough proportionality, **2:15**
- Size of governmental bodies, Section 2 violations, **2:24**
- Special elections, power to require, **2:52**
- Standing, **2:49**
- Summary judgment, **2:26, 2:66**
- Totality of circumstances factors, Section 2 violations, **2:10**
- Twenty-Sixth Amendment, voting age
  - discrimination claims, **2:85**

**VOTING RIGHTS—Cont'd**

Validity of preclearance for covered jurisdictions, Voting Rights Act, **2:55**

Voter ID laws, challenges to, Crawford decision, **2:79**

Voting Rights Act

blanket primaries, **2:74**

congressional authority, future validity of preclearance for covered jurisdictions, **2:55**

covered jurisdictions, validity of preclearance, **2:55**

direct partisan primaries, **2:75**

preclearance for covered jurisdictions, congressional authority, **2:55**

validity of preclearance for covered jurisdictions, congressional authority, **2:55**

Voting Rights Act of 1965, generally, **2:4 et seq.**

**VOTING RIGHTS ACT**

Blanket primaries, **2:74**

Congressional authority, future validity of preclearance for covered jurisdictions, **2:55**

Covered jurisdictions, validity of preclearance, **2:55**

Direct partisan primaries, **2:75**

**VOTING RIGHTS ACT—Cont'd**

Preclearance for covered jurisdictions, congressional authority, **2:55**

Validity of preclearance for covered jurisdictions, congressional authority, **2:55**

**WAIVER**

Bivens actions, sovereign immunity, **14:169**

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

**WILKIE V. ROBBINS**

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

**WITNESSES**

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

**WORKFARE**

Involuntary servitude, **4:5**

**YOUTH CONFERENCES**

Sex discrimination, **8:20**

**YOUTH ORGANIZATIONS**

Sex discrimination, **8:19**

**ZONING**

Housing discrimination, **3:46**