

Foreword

A quarter of a century ago, employment discrimination law was a *tabula rasa*. Today it is a field of law as coherent as torts or labor law. It is defined by an array of statutes and an extensive jurisprudence of extraordinary complexity.

Professor Merrick Rossein's treatise for practitioners and courts is an achievement and a service that is perhaps best appreciated in light of the rapid and volatile development of a new branch of law. The statutory development was driven almost entirely by plaintiffs' lawyers who brought forward the theories that developed the statutes. Remarkably, lawyers representing the classes that are the focus of the statutes have had no reference written explicitly from the plaintiffs' perspective—they do now.

Employment Discrimination Law and Litigation comes at a particularly propitious moment of great need. Not since the 1960's when the Equal Pay Act and Title VII of the 1964 Civil Rights Act were passed has there been such law-making activity in this field. The core statute, Title VII, has been resuscitated by Congress following the carnage left by the Supreme Court in the reinterpretation of longstanding precedent. Following President Bush's veto of its first effort, Congress tried again and finally got the bill signed by the President in November 1991. Instead of simply restoring Title VII, Congress was forced into a profoundly adversarial exercise with the administration. My work with the statute as Chair of the Equal Employment Opportunity Commission in the 1970's and on the statute as a Member of Congress in the 1990's leads me to an inescapable conclusion: Practitioners and judges have no choice but to approach Title VII as if it were a brand new statute. This treatise will prove invaluable in sorting out restoration from revisionism.

In contrast to the publicly contentious reenactment of Title VII was the calm that surrounded the writing of the Americans with Disabilities Act and its embrace by the President. Many disputes lie ahead, however, as this new statute starts down the unique path of its development. Employment Discrimination Law and Litigation is likely to influence the development of the new law as it is used by lawyers and judges as a reference.

This treatise is a resource both for particular laws and for employment discrimination law itself. The tree and its several branches are covered in abundant detail but with admirable succinctness. Employment Discrimination Law and Litigation is a unique reference with a plaintiffs emphasis that is overdue. Its

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utility today goes beyond its perspective, however. This treatise is just in time for a field characterized by a sea change in some areas and the need to come to grips with accumulated nuance in others.

Congresswoman Eleanor Holmes Norton
(Served as Chair, U.S. EEOC)