

CASES AND MATERIALS ON
EMPLOYMENT DISCRIMINATION
AND EMPLOYMENT LAW

Second Edition

Samuel Estreicher
Michael C. Harper

American Casebook Series®

THOMSON



WEST

**CASES AND MATERIALS ON
EMPLOYMENT
DISCRIMINATION AND
EMPLOYMENT LAW**

Second Edition

By

Samuel Estreicher

*Charles L. Denison Professor of Law
New York University*

Michael C. Harper

*Professor of Law
Boston University*

AMERICAN CASEBOOK SERIES®

THOMSON

WEST

West, a Thomson business, has created this publication to provide you with accurate and authoritative information concerning the subject matter covered. However, this publication was not necessarily prepared by persons licensed to practice law in a particular jurisdiction. West is not engaged in rendering legal or other professional advice, and this publication is not a substitute for the advice of an attorney. If you require legal or other expert advice, you should seek the services of a competent attorney or other professional.

American Casebook Series and West Group are trademarks registered in the U.S. Patent and Trademark Office.

COPYRIGHT © 2000 By WEST GROUP

© 2004 West, a Thomson business

610 Opperman Drive

P.O. Box 64526

St. Paul, MN 55164-0526

1-800-328-9352

ISBN 0-314-15151-6



TEXT IS PRINTED ON 10% POST
CONSUMER RECYCLED PAPER



To my little wing and our life together...

SE

To Marvis, silver to gold

MH

*

Preface

This text is the second edition of a work that grew out of our initial text, *Cases and Materials on the Law Governing the Employment Relationship*. We retain and update all of the chapters from the first edition including the chapters on the Fair Labor Standards Act (FLSA), the Employment Retirement Income Security Act (ERISA), and post-termination restraints on employees, that we added in the first edition.

We are also publishing this year two shorter books drawn from this larger text. One of these focuses on employment discrimination law, while the other covers employment law. We recognize that many instructors desire leaner texts that separate the civil rights orientation of traditional employment discrimination courses from the employee benefits and contractual orientation of employment law offerings.

We continue to believe that the traditional subject matter of the employment discrimination course is best integrated into the employment and labor curriculum if presented as part of a broader set of legal restraints that have been placed on employers' basic personnel decisions. We therefore offer instructors the option of designing a broader course out of the materials included in this larger text.

We understand that this book cannot be taught from cover to cover in one three hour semester course. The book remains modular and supportive of several different kinds of courses. First, an instructor might use the book as a basis for two three-hour courses: a first semester course on employment discrimination law, drawn primarily from Part Two and with some supplementation for the treatment of procedural issues in Part Six; and a second semester course on Employment Law that focuses on the other state and federal wrongful termination (and post-termination) law covered in Parts Three and Four as well as the minimum terms legislation treated in Part Five. The second semester's study would be enhanced by the perspectives gained during the first semester, but the instructor need not make the first semester a prerequisite for the second course.

The text can also serve as the basis for a one-semester course. Such a course, taught for most of two decades by one of us, can cover most (though possibly not all) of the discrimination chapters, as well as a selection of chapters from other sections of the book. To offer one of many possible combinations, an instructor might treat chapters two (the race paradigm), five (sex), six (age), seven (disability), and ten (anti-retaliation), to provide a comprehensive perspective on status discrimination regulation, and then offer comparisons to other forms of statutory and common law regulation by coverage of chapters eleven (public policy and whistleblower protections), and twelve (contractual, wrongful discharge

law). The course might conclude with a selection of procedural issues in Part Six, including preemption and the trend toward arbitration.

The notes and questions that follow the principal readings are designed to expose the student to the emerging cutting-edge issues in the particular area. The note material is intended primarily as a teaching tool rather than as a vehicle for expressing our particular viewpoints. In this text, as in the first edition, we have not tried to reach complete consensus concerning the wording and the balance of each of our notes. Although we both engaged in close and extensive editing of all chapters, each chapter in this book was the primary responsibility of only one of us, and that author had the final authority to determine its contents.

In order to avoid excessive use of asterisks in our editing of cases and secondary material, we indicate ellipses only when our excerpt deletes substantive material from the original text. We do not typically indicate the fact that the excerpt we use may come from the middle of an opinion, or that its ending does not correspond with the end of the opinion. Although we have preserved case citations where appropriate, so that students can check the court's authorities on their own, we have not included references to prior lower court opinions in the same case or to trial or appellate records and briefs or internal references to majority or dissenting opinions. We also often do not include subheadings. These omissions, made in the interest of readability, are not always indicated in our excerpts. For Supreme Court decisions in which a majority of the Justices have not joined a single opinion, we include both the plurality and important concurring opinions. As a general matter, however, we do not indicate the position taken by every single member of the Court.

We wish to again express our debt to our spouses, Aleta G. Estreicher and Marvis Ann Knospe, and to our children, Michael Simon Estreicher, Jessica Aronson, Hannah Rose Estreicher, and Oliver Louis and Nicholas Skelly Harper. We appreciate the research assistance of many students, especially Michelle L. Booth (B.U.), Jon Bourgault (N.Y.U.), Sandra K. Davis (B.U.), Chris Garafalo (N.Y.U.), Lauryn Gouldin (N.Y.U.), Megan Lewis (N.Y.U.), Ryan McCarthy (B.U.), Luke McLaughlin (N.Y.U.), Terence P. Noonan (B.U.), Mark Seidel (N.Y.U.), and Murshed M. Zaheed (B.U.); and the secretarial assistance of Rosetta Abraham (N.Y.U.). Finally, we note that this text benefitted from the comments of students and instructors who used our predecessor texts.

We thank the copyright holders identified below for permission to reprint excerpts from the following material:

Jay M. Feinman, *The Development of the Employment At Will Rule*, 20 *Am.J.Legal Hist.* 118 (1976), copyright © 1976 by the American Journal of Legal History.

Richard Epstein, *In Defense of the Contract at Will*, 51 *U.Chi.L.Rev.* 947 (1984), copyright © 1984 by the University of Chicago Law Review.

Paul C. Weiler, *Governing the Workplace: The Future of Labor and Employment Law*, copyright © 1990 by the Harvard University Press.

Samuel Estreicher, Unjust Dismissal Laws: Some Cautionary Notes, 33 Am.J.Comp.L. 310 (1985), copyright © 1985 by the American Journal of Comparative Law.

Alfred W. Brumrosen, The Binding Effect of Affirmative Action Guidelines, 1 The Lab.Lawy. 261 (1985), copyright © 1985 by the American Bar Association.

John T. Addison and Barry T. Hirsch, The Economic Effects of Employment Regulation: What Are the Limits?, in Government Regulation of the Employment Relationship (Bruce E. Kaufman ed., 1997), copyright © 1997 by Industrial Relations Research Association.

Samuel Estreicher and Stewart J. Schwab, Foundations of Labor and Employment Law, copyright © 2000 by Foundation Press.

*

Table of Cases

The principal cases are in bold type. Cases cited or discussed in the text are roman type. References are to pages. Cases cited in principal cases and within other quoted materials are not included.

- Aaron v. City of Wichita, Kan., 54 F.3d 652 (10th Cir.1995), 981
- Abbott v. Bragdon, 163 F.3d 87 (1st Cir. 1998), 594
- Aberman v. J. Abouchar & Sons, Inc., 160 F.3d 1148 (7th Cir.1998), 41
- Able v. United States, 155 F.3d 628 (2d Cir.1998), 204
- Aboud v. Detroit Bd. of Ed., 431 U.S. 209, 97 S.Ct. 1782, 52 L.Ed.2d 261 (1977), 630, 654
- Abraham v. Exxon Corp., 85 F.3d 1126 (5th Cir.1996), 1027
- Abron v. Black & Decker Mfg. Co., 439 F.Supp. 1095 (D.Md.1977), 117
- Accardi, United States ex rel. v. Shaughnessy, 347 U.S. 260, 74 S.Ct. 499, 98 L.Ed. 681 (1954), 761
- Ackerman v. Coca-Cola Enterprises, Inc., 179 F.3d 1260 (10th Cir.1999), 964
- Ackerman v. Diamond Shamrock Corp., 670 F.2d 66 (6th Cir.1982), 496
- Adams v. Ameritech Services, Inc., 231 F.3d 414 (7th Cir.2000), 497
- Adams v. Dole, 927 F.2d 771 (4th Cir.1991), 729
- Adams v. Fitzpatrick, 125 N.Y. 124, 34 N.Y.St.Rep. 859, 26 N.E. 143 (N.Y.1891), 746
- Adams v. Florida Power Corp., 255 F.3d 1322 (11th Cir.2001), 482
- Adarand Constructors, Inc. v. Mineta, 534 U.S. 103, 122 S.Ct. 511, 151 L.Ed.2d 489 (2001), 310
- Adarand Constructors, Inc. v. Pena, 965 F.Supp. 1556 (D.Colo.1997), 309
- Adarand Constructors, Inc. v. Pena**, 515 U.S. 200, 115 S.Ct. 2097, 132 L.Ed.2d 158 (1995), **301**
- Adarand Constructors, Inc. v. Slater, 528 U.S. 216, 120 S.Ct. 722, 145 L.Ed.2d 650 (2000), 309
- Adarand Constructors, Inc. v. Slater, 228 F.3d 1147 (10th Cir.2000), 309
- Adarand Constructors, Inc. v. Slater, 169 F.3d 1292 (10th Cir.1999), 309
- Adler v. American Standard Corp., 830 F.2d 1303 (4th Cir.1987), 724
- Adler v. Board of Education of City of New York, 342 U.S. 485, 72 S.Ct. 380, 96 L.Ed. 517 (1952), 632
- Agis v. Howard Johnson Co., 371 Mass. 140, 355 N.E.2d 315 (Mass.1976), 822
- Aguilera v. Cook County Police and Corrections Merit Bd., 760 F.2d 844 (7th Cir. 1985), 184
- Ahern v. County of Nassau, 118 F.3d 118 (2d Cir.1997), 982
- Air Line Pilots Ass'n, Intern. v. Northwest Airlines, Inc., 199 F.3d 477 (D.C.Cir. 1999), 1169
- Aka v. Washington Hosp. Center, 156 F.3d 1284, 332 U.S.App.D.C. 256 (D.C.Cir. 1998), 563
- Albemarle Paper Co. v. Moody**, 422 U.S. 405, 95 S.Ct. 2362, 45 L.Ed.2d 280 (1975), 85, **156**, 1073
- Albertson's, Inc. v. Kirkingburg, 527 U.S. 555, 119 S.Ct. 2162, 144 L.Ed.2d 518 (1999), 537, 595
- Aldrich v. Boeing Co., 146 F.3d 1265 (10th Cir.1998), 551
- Alexander v. Choate, 469 U.S. 287, 105 S.Ct. 712, 83 L.Ed.2d 661 (1985), 599
- Alexander v. Gardner-Denver Co.**, 415 U.S. 36, 94 S.Ct. 1011, 39 L.Ed.2d 147 (1974), 500, 1081, **1145**
- Alexander v. Sandoval, 532 U.S. 275, 121 S.Ct. 1511, 149 L.Ed.2d 517 (2001), 210, 693, 706
- Allen v. City of Mobile, 464 F.Supp. 433 (S.D.Ala.1978), 183
- Allen v. Denver Public School Bd., 928 F.2d 978 (10th Cir.1991), 387
- Allen v. Isaac, 39 FEP Cas. 1142 (N.D.Ill. 1986), 176
- Allen v. Michigan Dept. of Corrections, 165 F.3d 405 (6th Cir.1999), 386

- Allen v. Prince George's County, Md., 737 F.2d 1299 (4th Cir.1984), 251
- Allied-Bruce Terminix Companies, Inc. v. Dobson, 513 U.S. 265, 115 S.Ct. 834, 130 L.Ed.2d 753 (1995), 1162
- Allied Chemical and Alkali Workers of America, Local Union No. 1 v. Pittsburgh Plate Glass Co., 404 U.S. 157, 92 S.Ct. 383, 30 L.Ed.2d 341 (1971), 1036
- Allison v. Citgo Petroleum Corp.**, 151 F.3d 402 (5th Cir.1998), 107, **1104**
- Amchem Products, Inc. v. Windsor, 521 U.S. 591, 117 S.Ct. 2231, 138 L.Ed.2d 689 (1997), 1120
- American Ass'n of Retired Persons v. EEOC, 823 F.2d 600, 262 U.S.App.D.C. 192 (D.C.Cir.1987), 486
- American Broadcasting Companies, Inc. v. Wolf, 438 N.Y.S.2d 482, 420 N.E.2d 363 (N.Y.1981), 935
- American Computer Corp. v. Superior Court, 213 Cal.App.3d 664, 261 Cal.Rptr. 796 (Cal.App. 4 Dist.1989), 726
- American Federal Group, Ltd. v. Rothenberg, 136 F.3d 897 (2d Cir.1998), 935
- American Federation of State, County, and Mun. Employees, AFL-CIO (AFSCME) v. State of Washington**, 770 F.2d 1401 (9th Cir.1985), **421**
- American Medical Sec., Inc. v. Bartlett, 111 F.3d 358 (4th Cir.1997), 1196
- American Postal Workers Union, AFL-CIO, Boston Metro Area v. Frank, 734 F.Supp. 40 (D.Mass.1990), 882
- American Postal Workers Union, Columbus Area Local AFL-CIO v. United States Postal Service, 871 F.2d 556 (6th Cir. 1989), 868
- American Tobacco Co. v. Patterson**, 456 U.S. 63, 102 S.Ct. 1534, 71 L.Ed.2d 748 (1982), **239**
- Amex Distributing Co., Inc. v. Mascari, 150 Ariz. 510, 724 P.2d 596 (Ariz.App. Div. 1 1986), 925
- AMP Inc. v. Fleischhacker**, 823 F.2d 1199 (7th Cir.1987), **939**
- Andersen v. McCotter, 100 F.3d 723 (10th Cir.1996), 638
- Anderson v. Alpha Portland Industries, Inc., 836 F.2d 1512 (8th Cir.1988), 1053
- Anderson v. Baxter Healthcare Corp., 13 F.3d 1120 (7th Cir.1994), 475
- Anderson v. Conboy, 156 F.3d 167 (2d Cir. 1998), 208
- Anderson v. Pacific Maritime Ass'n, 336 F.3d 924 (9th Cir.2003), 30
- Anderson v. U.S.F. Logistics, Inc., 274 F.3d 470 (7th Cir.2001), 621
- Andes v. Ford Motor Co., 70 F.3d 1332, 315 U.S.App.D.C. 120 (D.C.Cir.1995), 1060
- Andrews v. State of Ohio, 104 F.3d 803 (6th Cir.1997), 540
- Angelo v. Bacharach Instrument Co., 555 F.2d 1164 (3d Cir.1977), 410
- Ansonia Bd. of Educ. v. Philbrook**, 479 U.S. 60, 107 S.Ct. 367, 93 L.Ed.2d 305 (1986), **614**
- Application of (see name of party)**
- Application Group, Inc. v. Hunter Group, Inc., 72 Cal.Rptr.2d 73 (Cal.App. 1 Dist. 1998), 924
- Archie v. Grand Cent. Partnership, Inc., 997 F.Supp. 504 (S.D.N.Y.1998), 963
- Arias v. Mutual Cent. Alarm Services, Inc., 182 F.R.D. 407 (S.D.N.Y.1998), 892
- Arizona Governing Committee v. Norris**, 463 U.S. 1073, 103 S.Ct. 3492, 77 L.Ed.2d 1236 (1983), 86, **315**
- Armstrong v. Martin Marietta Corp., 138 F.3d 1374 (11th Cir.1998), 1082
- Armstrong v. Turner Industries, Inc., 141 F.3d 554 (5th Cir.1998), 596
- Armstrong Paint & Varnish Works v. Continental Can Co., 301 Ill. 102, 133 N.E. 711 (Ill.1921), 750
- Arnett v. California Public Employees Retirement System (PERS), 179 F.3d 690 (9th Cir.1999), 474
- Arnold v. Ballard, 390 F.Supp. 723 (N.D.Ohio 1975), 176
- Arthur Young & Co. v. Sutherland, 631 A.2d 354 (D.C.1993), 401
- Asmus v. Pacific Bell, 96 Cal.Rptr.2d 179, 999 P.2d 71 (Cal.2000), 766
- Association Against Discrimination in Employment, Inc. v. City of Bridgeport, 647 F.2d 256 (2d Cir.1981), 228
- Association of Mexican-American Educators v. State of California, 231 F.3d 572 (9th Cir.2000), 180
- Astoria Federal Sav. and Loan Ass'n v. Solimino, 501 U.S. 104, 111 S.Ct. 2166, 115 L.Ed.2d 96 (1991), 1179
- Atchison, Topeka and Santa Fe Ry. Co. v. Buell, 480 U.S. 557, 107 S.Ct. 1410, 94 L.Ed.2d 563 (1987), 1152
- Atkins v. Northwest Airlines, Inc., 967 F.2d 1197 (8th Cir.1992), 488
- Atmel Corp. v. Vitesse Semiconductor Corp., 30 P.3d 789 (Colo.App.2001), 922
- Atonio v. Wards Cove Packing Co., Inc., 275 F.3d 797 (9th Cir.2001), 156
- Aubrey v. School Bd. of Lafayette Parish, 148 F.3d 559 (5th Cir.1998), 881
- Auer v. Robbins**, 519 U.S. 452, 117 S.Ct. 905, 137 L.Ed.2d 79 (1997), **976**, 1077
- Auerbach v. Board of Educ. of the Harborfields Cent. School Dist. of Greenlawn, 136 F.3d 104 (2d Cir.1998), 492, 499
- Austin v. Owens-Brockway Glass Container, Inc., 78 F.3d 875 (4th Cir.1996), 1168
- Avitia v. Metropolitan Club of Chicago, Inc., 49 F.3d 1219 (7th Cir.1995), 1075
- Ayala v. Mayfair Molded Products Corp., 831 F.2d 1314 (7th Cir.1987), 448
- Azzaro v. County of Allegheny, 110 F.3d 968 (3d Cir.1997), 649

- Babbitt v. United Farm Workers Nat. Union, 442 U.S. 289, 99 S.Ct. 2301, 60 L.Ed.2d 895 (1979), 655
- Badia v. City of Miami, 133 F.3d 1443 (11th Cir.1998), 386
- Baggett v. Bullitt, 377 U.S. 360, 84 S.Ct. 1316, 12 L.Ed.2d 377 (1964), 632
- Bailey v. Federal Nat. Mortg. Ass'n, 209 F.3d 740, 341 U.S.App.D.C. 112 (D.C.Cir.2000), 1163
- Bailey v. Perkins Restaurants, Inc., 398 N.W.2d 120 (N.D.1986), 762
- Baird v. Rose, 192 F.3d 462 (4th Cir.1999), 587
- Balint v. Carson City, Nev., 180 F.3d 1047 (9th Cir.1999), 618
- Balla v. Gambro, Inc., 145 Ill.2d 492, 164 Ill.Dec. 892, 584 N.E.2d 104 (Ill.1991), 715
- Bankey v. Storer Broadcasting Co., 432 Mich. 438, 443 N.W.2d 112 (Mich.1989), 765
- Banks v. East Baton Rouge Parish School Bd., 320 F.3d 570 (5th Cir.2003), 665
- Banks v. Service America Corp., 952 F.Supp. 703 (D.Kan.1996), 621
- Banks v. Wolfe County Bd. of Educ., 330 F.3d 888 (6th Cir.2003), 649
- Baravati v. Josephthal, Lyon & Ross, Inc., 28 F.3d 704 (7th Cir.1994), 830
- Barber v. CSX Distribution Services, 68 F.3d 694 (3d Cir.1995), 446
- Barker v. Taft Broadcasting Co., 549 F.2d 400 (6th Cir.1977), 359
- Barnes v. GenCorp Inc., 896 F.2d 1457 (6th Cir.1990), 468
- Barnes v. Gorman, 536 U.S. 181, 122 S.Ct. 2097, 153 L.Ed.2d 230 (2002), 210
- Barnes v. Stone Container Corp., 942 F.2d 689 (9th Cir.1991), 1209
- Barr v. Kelso-Burnett Co., 106 Ill.2d 520, 88 Ill.Dec. 628, 478 N.E.2d 1354 (Ill. 1985), 725, 739
- Barrentine v. Arkansas-Best Freight System, Inc., 450 U.S. 728, 101 S.Ct. 1437, 67 L.Ed.2d 641 (1981), 1152
- Barrowclough v. Kidder, Peabody & Co., Inc., 752 F.2d 923 (3d Cir.1985), 1041
- Bartlett v. New York State Bd. of Law Examiners, 226 F.3d 69 (2d Cir.2000), 541
- Bartlett v. New York State Bd. of Law Examiners, 970 F.Supp. 1094 (S.D.N.Y. 1997), 551
- Bass v. Board of County Com'rs, Orange County, Fla., 256 F.3d 1095 (11th Cir. 2001), 282
- Baty v. Willamette Industries, Inc., 985 F.Supp. 987 (D.Kan.1997), 88
- Baughman v. Wal-Mart Stores, Inc., 592 S.E.2d 824 (W.Va.2003), 904
- Baumgartner v. Harrisburg Housing Authority, 21 F.3d 541 (3d Cir.1994), 1131
- Baxter v. Palmigiano, 425 U.S. 308, 96 S.Ct. 1551, 47 L.Ed.2d 810 (1976), 886
- Bayly, Martin & Fay, Inc. v. Pickard, 780 P.2d 1168 (Okla.1989), 922
- Bazemore v. Friday, 478 U.S. 385, 106 S.Ct. 3000, 92 L.Ed.2d 315 (1986), 107, 237
- BDO Seidman v. Hirshberg**, 690 N.Y.S.2d 854, 712 N.E.2d 1220 (N.Y. 1999), 914
- Beals v. Kiewit Pacific Co., Inc., 114 F.3d 892 (9th Cir.1997), 1208
- Beasley v. Semitool, Inc., 258 Mont. 258, 853 P.2d 84 (Mont.1993), 852
- Beck v. Prupis, 529 U.S. 494, 120 S.Ct. 1608, 146 L.Ed.2d 561 (2000), 731
- Beck v. University of Wisconsin Bd. of Regents, 75 F.3d 1130 (7th Cir.1996), 565
- Becket v. Welton Becket & Associates, 39 Cal.App.3d 815, 114 Cal.Rptr. 531 (Cal. App. 2 Dist.1974), 821
- Beckwith v. United Parcel Service, Inc., 889 F.2d 344 (1st Cir.1989), 1001
- Becton v. Detroit Terminal of Consol. Freightways, 687 F.2d 140 (6th Cir. 1982), 1151
- Bell v. Industrial Vangas, Inc., 179 Cal. Rptr. 30, 637 P.2d 266 (Cal.1981), 692
- Bell Atlantic Network Services, Inc. v. P.M. Video Corp., 322 N.J.Super. 74, 730 A.2d 406 (N.J.Super.A.D.1999), 822
- Belline v. K-Mart Corp., 940 F.2d 184 (7th Cir.1991), 725, 726
- Bence v. Detroit Health Corp., 712 F.2d 1024 (6th Cir.1983), 413
- Bennett v. Coors Brewing Co., 189 F.3d 1221 (10th Cir.1999), 503
- Bennun v. Rutgers State University, 941 F.2d 154 (3d Cir.1991), 186
- Benshoff v. City of Virginia Beach, 180 F.3d 136 (4th Cir.1999), 963
- Benson v. Northwest Airlines, Inc., 62 F.3d 1108 (8th Cir.1995), 565
- Berg v. La Crosse Cooler Co., 612 F.2d 1041 (7th Cir.1980), 676
- Bergen Commercial Bank v. Sisler, 157 N.J. 188, 723 A.2d 944 (N.J.1999), 442
- Berger v. Xerox Corp. Retirement Income Guarantee Plan, 338 F.3d 755 (7th Cir. 2003), 1009
- Berry v. Board of Sup'rs of L.S.U., 715 F.2d 971 (5th Cir.1983), 412
- Bethel v. Jefferson, 589 F.2d 631, 191 U.S.App.D.C. 108 (D.C.Cir.1978), 1082
- Bhandari v. First Nat. Bank of Commerce, 887 F.2d 609 (5th Cir.1989), 208
- Bibby v. Philadelphia Coca Cola Bottling Co., 260 F.3d 257 (3d Cir.2001), 360
- Bill Johnson's Restaurants, Inc. v. NLRB, 461 U.S. 731, 103 S.Ct. 2161, 76 L.Ed.2d 277 (1983), 668
- Billor v. United States Merit Systems Protection Bd., 863 F.2d 1079 (2d Cir.1988), 656
- Billish v. City of Chicago, 989 F.2d 890 (7th Cir.1993), 178
- Bins v. Exxon Co. U.S.A., 189 F.3d 929 (9th Cir.1999), 1052

- Biswell, *United States v.*, 406 U.S. 311, 92 S.Ct. 1593, 32 L.Ed.2d 87 (1972), 869
- Blackmon v. Brookshire Grocery Co., 835 F.2d 1135 (5th Cir.1988), 975
- Blanchard v. Bergeron, 489 U.S. 87, 109 S.Ct. 939, 103 L.Ed.2d 67 (1989), 1132
- Blaylock v. United States Merit Systems Protection Bd., 851 F.2d 1348 (11th Cir. 1988), 656
- Bledsoe v. Palm Beach County Soil and Water Conservation Dist., 133 F.3d 816 (11th Cir.1998), 520
- Bleeker v. Johnson, 51 How. Pr. 380 (N.Y.Com.Pl.1876), 746
- Blistein v. St. John's College, 74 F.3d 1459 (4th Cir.1996), 447
- Blum v. Stenson, 465 U.S. 886, 104 S.Ct. 1541, 79 L.Ed.2d 891 (1984), 1130
- BMW of North America, Inc. v. Gore, 517 U.S. 559, 116 S.Ct. 1589, 134 L.Ed.2d 809 (1996), 400
- Board of County Com'rs, Wabaunsee County, Kan. v. Umbehr, 518 U.S. 668, 116 S.Ct. 2342, 135 L.Ed.2d 843 (1996), 651
- Board of Education of Independent School District No. 92 of Pottawatomie County v. Earls, 536 U.S. 822, 122 S.Ct. 2559, 153 L.Ed.2d 735 (2002), 880
- Board of Educ. for School Dist. of Philadelphia, *United States v.*, 911 F.2d 882 (3d Cir.1990), 620
- Board of Higher Ed. of City of New York v. Professional Staff Congress, 80 Misc.2d 297, 362 N.Y.S.2d 985 (N.Y.Sup.1975), 1152
- Board of Regents of State Colleges v. Roth, 408 U.S. 564, 92 S.Ct. 2701, 33 L.Ed.2d 548 (1972), 750
- Board of Trustees of University of Alabama v. Garrett, 531 U.S. 356, 121 S.Ct. 955, 148 L.Ed.2d 866 (2001), 207, 576
- Boerne, City of v. P.F. Flores, 521 U.S. 507, 117 S.Ct. 2157, 138 L.Ed.2d 624 (1997), 207, 626, 640
- Bohach v. City of Reno, 932 F.Supp. 1232 (D.Nev.1996), 897
- Bolden v. Pennsylvania State Police, 578 F.2d 912 (3d Cir.1978), 236
- Bollard v. California Province of the Society of Jesus, 196 F.3d 940 (9th Cir.1999), 629
- Bolling v. Sharpe, 347 U.S. 497, 74 S.Ct. 693, 98 L.Ed. 884 (1954), 196
- Bolton v. Scrivner, Inc., 36 F.3d 939 (10th Cir.1994), 542
- Bonds v. Milwaukee County, 207 F.3d 969 (7th Cir.2000), 639
- Bordell v. General Elec. Co., 644 N.Y.S.2d 912, 667 N.E.2d 922 (N.Y.1996), 728
- Boresen v. Rohm & Haas, Inc., 526 F.Supp. 1230 (E.D.Pa.1981), 814
- Borkowski v. Valley Cent. School Dist., 63 F.3d 131 (2d Cir.1995), 573
- Borrell v. United States Intern. Communications Agency, 682 F.2d 981, 221 U.S.App.D.C. 32 (D.C.Cir.1982), 730
- Borse v. Piece Goods Shop, Inc., 963 F.2d 611 (3d Cir.1992), 904
- Boston Chapter, NAACP, Inc. v. Beecher, 371 F.Supp. 507 (D.Mass.1974), 178
- Bottijliso v. Hutchison Fruit Co., 96 N.M. 789, 635 P.2d 992 (N.M.App.1981), 692
- Botz v. Omni Air Intern., 286 F.3d 488 (8th Cir.2002), 729
- Bouchard v. Regional Governing Bd. of Region V Mental Retardation Services, 939 F.2d 1323 (8th Cir.1991), 972
- Bower v. AT & T Technologies, Inc., 852 F.2d 361 (8th Cir.1988), 775, 814
- Boykin v. Boeing Co., 128 F.3d 1279 (9th Cir.1997), 981
- Bradley v. Pittsburgh Bd. of Educ., 913 F.2d 1064 (3d Cir.1990), 1144
- Bradley v. University of Texas M.D. Anderson Cancer Center, 3 F.3d 922 (5th Cir.1993), 594
- Bragdon v. Abbott**, 524 U.S. 624, 118 S.Ct. 2196, 141 L.Ed.2d 540 (1998), **510, 589**
- Brambrinck v. City of Philadelphia, 1994 WL 649342 (E.D.Pa.1994), 868
- Branch v. City of New Orleans, 78 F.3d 582 (5th Cir.1996), 550
- Branche v. Airtran Airways, Inc., 342 F.3d 1248 (11th Cir.2003), 729
- Brandau v. State of Kansas, 168 F.3d 1179 (10th Cir.1999), 1131
- Branti v. Finkel, 445 U.S. 507, 100 S.Ct. 1287, 63 L.Ed.2d 574 (1980), 653
- Bratt v. International Business Machines Corp., 785 F.2d 352 (1st Cir.1986), 912
- Bray v. Alexandria Women's Health Clinic, 506 U.S. 263, 113 S.Ct. 753, 122 L.Ed.2d 34 (1993), 1143
- Bray v. New York Life Ins., 851 F.2d 60 (2d Cir.1988), 1177
- Brennan v. Ace Hardware Corp., 495 F.2d 368 (8th Cir.1974), 1080
- Brennan v. Goose Creek Consol. Independent School Dist., 519 F.2d 53 (5th Cir. 1975), 413
- Brennan v. Heard, 491 F.2d 1 (5th Cir. 1974), 964
- Bridges v. City of Bossier, 92 F.3d 329 (5th Cir.1996), 541
- Briggs v. American Air Filter Co., Inc., 630 F.2d 414 (5th Cir.1980), 892
- Briggs v. North Muskegon Police Dept., 563 F.Supp. 585 (W.D.Mich.1983), 886, 911
- Bright v. Houston Northwest Medical Center Survivor, Inc.**, 934 F.2d 671 (5th Cir.1991), **965**
- Brinkley-Obu v. Hughes Training, Inc., 36 F.3d 336 (4th Cir.1994), 411, 427
- Brisentine v. Stone & Webster Engineering Corp., 117 F.3d 519 (11th Cir.1997), 1168

- Brito v. Zia Co., 478 F.2d 1200 (10th Cir. 1973), 176
 Broadrick v. Oklahoma, 413 U.S. 601, 93 S.Ct. 2908, 37 L.Ed.2d 830 (1973), 656
 Brock v. Claridge Hotel and Casino, 846 F.2d 180 (3d Cir.1988), 981
 Brodie v. General Chemical Corp., 934 P.2d 1263 (Wyo.1997), 767
 Bronk v. Mountain States Tel. & Tel., Inc., 943 F.Supp. 1317 (D.Colo.1996), 1026
 Brooklyn Sav. Bank v. O'Neil, 324 U.S. 697, 65 S.Ct. 895, 89 L.Ed. 1296 (1945), 500
 Brooks v. ACF Industries, Inc., 537 F.Supp. 1122 (S.D.W.Va.1982), 353
 Brooks v. Martin Marietta Utility Services, Inc., 166 F.3d 1213 (6th Cir.1998), 728
 Brown v. ABF Freight Systems, Inc., 183 F.3d 319 (4th Cir.1999), 1168
 Brown v. Board of Ed. of Topeka, Shawnee County, Kan., 347 U.S. 483, 74 S.Ct. 686, 98 L.Ed. 873 (1954), 55
 Brown v. City of Tucson, 336 F.3d 1181 (9th Cir.2003), 667
 Brown v. CSC Logic, Inc., 82 F.3d 651 (5th Cir.1996), 447
 Brown v. Gaston County Dyeing Mach. Co., 457 F.2d 1377 (4th Cir.1972), 186
 Brown v. General Services Administration, 425 U.S. 820, 96 S.Ct. 1961, 48 L.Ed.2d 402 (1976), 207
 Brown v. Physicians Mut. Ins. Co., 679 S.W.2d 836 (Ky.App.1984), 725
 Brown v. Trustees of Boston University, 891 F.2d 337 (1st Cir.1989), 87
 Brown & Root, Inc. v. Donovan, 747 F.2d 1029 (5th Cir.1984), 728
 Brune v. I.R.S., 861 F.2d 1284, 274 U.S.App.D.C. 89 (D.C.Cir.1988), 890
 Brunet v. City of Columbus, 1 F.3d 390 (6th Cir.1993), 282
 Buck v. Billings Montana Chevrolet, Inc., 248 Mont. 276, 811 P.2d 537 (Mont. 1991), 850
 Buckhannon Bd. and Care Home, Inc. v. West Virginia Dept. of Health and Human Resources, 532 U.S. 598, 121 S.Ct. 1835, 149 L.Ed.2d 855 (2001), 1131
 Buethe v. Britt Airlines, Inc., 749 F.2d 1235 (7th Cir.1984), 729
 Building & Const. Trades' Dept., AFL-CIO v. Donovan, 712 F.2d 611, 229 U.S.App. D.C. 297 (D.C.Cir.1983), 965
 Bullock v. Automobile Club of Michigan, 432 Mich. 472, 444 N.W.2d 114 (Mich. 1989), 768
 Bultemeyer v. Fort Wayne Community Schools, 100 F.3d 1281 (7th Cir.1996), 566
 Burch v. Coca-Cola Co., 119 F.3d 305 (5th Cir.1997), 524
 Burke v. Kodak Retirement Income Plan, 336 F.3d 103 (2d Cir.2003), 1036
 Burlington Industries, Inc. v. Ellerth, 524 U.S. 742, 118 S.Ct. 2257, 141 L.Ed.2d 633 (1998), 726
 Burns v. McGregor Electronic Industries, Inc., 989 F.2d 959 (8th Cir.1993), 369
 Burrus v. Vegliante, 336 F.3d 82 (2d Cir. 2003), 656
 Bush v. Lucas, 462 U.S. 367, 103 S.Ct. 2404, 76 L.Ed.2d 648 (1983), 640
 Butcher v. Gerber Products Co., 8 F.Supp.2d 307 (S.D.N.Y.1998), 504
 Butler v. Home Depot, Inc., 70 FEP Cas. 51 (N.D.Cal.1996), 1117
 Bynog v. Cipriani Group, 1 N.Y.3d 193, 770 N.Y.S.2d 692, 802 N.E.2d 1090 (2003), 1001
 Cagguila v. Wyeth Laboratories, Inc., Div. of American Home Products, 127 F.R.D. 653 (E.D.Pa.1989), 1104
 Caldeira v. County of Kauai, 866 F.2d 1175 (9th Cir.1989), 1179
 Caldwell v. ServiceMaster Corp., 966 F.Supp. 33 (D.D.C.1997), 40
 Calef v. Gillette Co., 322 F.3d 75 (1st Cir. 2003), 551
California Brewers Ass'n v. Bryant, 444 U.S. 598, 100 S.Ct. 814, 63 L.Ed.2d 55 (1980), **245**
 California Div. of Labor Standards Enforcement v. Dillingham Const., N.A., Inc., 519 U.S. 316, 117 S.Ct. 832, 136 L.Ed.2d 791 (1997), 1194
California Federal Sav. and Loan Ass'n v. Guerra, 479 U.S. 272, 107 S.Ct. 683, 93 L.Ed.2d 613 (1987), 329, **1179**
 Callaway v. Hafeman, 832 F.2d 414 (7th Cir.1987), 649
 Camara v. Municipal Court of City and County of San Francisco, 387 U.S. 523, 87 S.Ct. 1727, 18 L.Ed.2d 930 (1967), 869
 Cameco, Inc. v. Gedicke, 157 N.J. 504, 724 A.2d 783 (N.J.1999), 937
 Campbell v. BankBoston, N.A., 327 F.3d 1 (1st Cir.2003), 1009
 Campbell v. Ford Industries, Inc., 274 Or. 243, 546 P.2d 141 (Or.1976), 703
 Cannon v. University of Chicago, 441 U.S. 677, 99 S.Ct. 1946, 60 L.Ed.2d 560 (1979), 210, 692
 Canup v. Chipman-Union, Inc., 123 F.3d 1440 (11th Cir.1997), 85
Cappiello v. Ragen Precision Industries, Inc., 192 N.J.Super. 523, 471 A.2d 432 (N.J.Super.A.D.1984), **817**
 Carey v. Phipus, 435 U.S. 247, 98 S.Ct. 1042, 55 L.Ed.2d 252 (1978), 1075
 Carparts Distribution Center, Inc. v. Automotive Wholesaler's Ass'n of New England, Inc., 37 F.3d 12 (1st Cir.1994), 603
 Carpenter v. City & County of Denver, Colo., 82 F.3d 353 (10th Cir.1996), 981
 Carpenter v. Reed ex rel. Dept. of Public Safety, 757 F.2d 218 (10th Cir.1985), 1179

- Carr v. Allison Gas Turbine Div., General Motors Corp., 32 F.3d 1007 (7th Cir. 1994), 369
- Carrero v. New York City Housing Authority, 668 F.Supp. 196 (S.D.N.Y.1987), 1073
- Carroll v. Federal Exp. Corp., 113 F.3d 163 (9th Cir.1997), 884
- Carroll v. Sears, Roebuck & Co., 708 F.2d 183 (5th Cir.1983), 130
- Carroll v. Talman Federal Sav. and Loan Ass'n of Chicago, 604 F.2d 1028 (7th Cir.1979), 359
- Carson v. Bethlehem Steel Corp., 82 F.3d 157 (7th Cir.1996), 68
- Carson v. Giant Food, Inc., 175 F.3d 325 (4th Cir.1999), 1168
- Carter v. Signode Industries, Inc., 688 F.Supp. 1283 (N.D.Ill.1988), 1041
- Cash v. Conn Appliances, Inc., 2 F.Supp.2d 884 (E.D.Tex.1997), 975
- Castaneda v. Partida, 430 U.S. 482, 97 S.Ct. 1272, 51 L.Ed.2d 498 (1977), 110
- Casteel v. Executive Bd. of Local 703 of Intern. Broth. of Teamsters, 272 F.3d 463 (7th Cir.2001), 1088
- Castellano v. City of New York, 142 F.3d 58 (2d Cir.1998), 602
- Caterpillar Inc. v. Williams, 482 U.S. 386, 107 S.Ct. 2425, 96 L.Ed.2d 318 (1987), 1206
- Cavuoti v. New Jersey Transit Corp., 161 N.J. 107, 735 A.2d 548 (1999), 401
- Cehrs v. Northeast Ohio Alzheimer's Research Center, 155 F.3d 775 (6th Cir. 1998), 584
- Cendant Corp. Securities Litigation, In re, 76 F.Supp.2d 539 (D.N.J.1999), 1007
- Chace v. Champion Spark Plug Co., 725 F.Supp. 868 (D.Md.1989), 1073
- Chalk v. United States Dist. Court Cent. Dist. of California, 840 F.2d 701 (9th Cir.1988), 593
- Chalmers v. Tulon Co. of Richmond, 101 F.3d 1012 (4th Cir.1996), 621
- Chamberlain v. Bissell Inc., 547 F.Supp. 1067 (W.D.Mich.1982), 814
- Chamberlin v. 101 Realty, Inc., 915 F.2d 777 (1st Cir.1990), 369
- Chambers v. Omaha Girls Club, Inc., 834 F.2d 697 (8th Cir.1987), 331
- Chambers v. Parco Foods, Inc., 935 F.2d 902 (7th Cir.1991), 251
- Chance v. Board of Examiners and Bd. of Ed. of City of New York, 330 F.Supp. 203 (S.D.N.Y.1971), 112
- Chandler v. City of Dallas, 2 F.3d 1385 (5th Cir.1993), 551
- Chandler v. Miller, 520 U.S. 305, 117 S.Ct. 1295, 137 L.Ed.2d 513 (1997), 880
- Chaney v. Southern Ry. Co., 847 F.2d 718 (11th Cir.1988), 186
- Chao v. A-One Medical Services, Inc., 346 F.3d 908 (9th Cir.2003), 38
- Chapman v. Houston Welfare Rights Organization, 441 U.S. 600, 99 S.Ct. 1905, 60 L.Ed.2d 508 (1979), 1144
- Chernoff Diamond & Co. v. Fitzmaurice, Inc., 234 A.D.2d 200, 651 N.Y.S.2d 504 (N.Y.A.D. 1 Dept.1996), 924
- Chevron U.S.A., Inc. v. Echazabal, 536 U.S. 73, 122 S.Ct. 2045, 153 L.Ed.2d 82 (2002), 594
- Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837, 104 S.Ct. 2778, 81 L.Ed.2d 694 (1984), 537, 1077
- Chicago, City of, United States v., 549 F.2d 415 (7th Cir.1977), 186
- Chicago Teachers Union, Local No. 1, AFT, AFL-CIO v. Hudson, 475 U.S. 292, 106 S.Ct. 1066, 89 L.Ed.2d 232 (1986), 655
- Childree v. UAP/GA CHEM, Inc., 92 F.3d 1140 (11th Cir.1996), 732
- Childress v. City of Richmond, Va., 134 F.3d 1205 (4th Cir.1998), 678
- Christensen v. Harris County, 529 U.S. 576, 120 S.Ct. 1655, 146 L.Ed.2d 621 (2000), 975, 1077
- Christian v. United States, 46 Fed.Cl. 793 (Fed.Cl.2000), 285
- Christiansburg Garment Co. v. EEOC**, 434 U.S. 412, 98 S.Ct. 694, 54 L.Ed.2d 648 (1978), 1120
- Cipriano v. Board of Educ. of City School Dist. of City of North Tonawanda, N.Y., 785 F.2d 51 (2d Cir.1986), 491
- Circuit City Stores, Inc. v. Adams, 532 U.S. 105, 121 S.Ct. 1302, 149 L.Ed.2d 234 (2001), 1162
- Cirulis v. UNUM Corp., 321 F.3d 1010 (10th Cir.2003), 1050
- Cisco v. United Parcel Services, Inc., 328 Pa.Super. 300, 476 A.2d 1340 (Pa.Super.1984), 904
- City of (see name of city)**
- Civil Rights Cases, In re, 109 U.S. 3, 3 S.Ct. 18, 27 L.Ed. 835 (1883), 55
- Clackamas Gastroenterology Associates, P. C. v. Wells**, 538 U.S. 440, 123 S.Ct. 1673, 155 L.Ed.2d 615 (2003), 23
- Clark v. E.I. Dupont De Nemours and Co., Inc., 105 F.3d 646 (4th Cir.1997), 1027
- Clark v. Newport News Shipbuilding and Dry Dock Co., 937 F.2d 934 (4th Cir. 1991), 1205
- Clark County School Dist. v. Breeden, 532 U.S. 268, 121 S.Ct. 1508, 149 L.Ed.2d 509 (2001), 369, 389, 666, 676
- Cleary v. American Airlines, Inc., 111 Cal. App.3d 443, 168 Cal.Rptr. 722 (Cal.App. 2 Dist.1980), 806
- Cleburne, Tex., City of v. Cleburne Living Center, 473 U.S. 432, 105 S.Ct. 3249, 87 L.Ed.2d 313 (1985), 576
- Cleveland v. Policy Management Systems Corp., 526 U.S. 795, 119 S.Ct. 1597, 143 L.Ed.2d 966 (1999), 586

- Cleveland Bd. of Educ. v. Loudermill, 470 U.S. 532, 105 S.Ct. 1487, 84 L.Ed.2d 494 (1985), 750
- Cleveland Newspaper Guild, Local 1 v. Plain Dealer Pub. Co., 839 F.2d 1147 (6th Cir.1988), 1084
- Clifford v. Cactus Drilling Corp., 419 Mich. 356, 353 N.W.2d 469 (1984), 693
- Cline v. General Dynamics Land Systems, Inc., 296 F.3d 466 (6th Cir.2002), 446
- Cloutier v. Great Atlantic & Pac. Tea Co., Inc., 121 N.H. 915, 436 A.2d 1140 (N.H. 1981), 703
- Clover v. Total System Services, Inc., 176 F.3d 1346 (11th Cir.1999), 667
- Clymore v. Far-Mar-Co., Inc., 709 F.2d 499 (8th Cir.1983), 411
- Coates v. National Cash Register Co., 433 F.Supp. 655 (W.D.Va.1977), 485
- Cobb v. Pozzi, 352 F.3d 79 (2d Cir.2003), 654
- Coffman v. Tracker Marine, L.P., 141 F.3d 1241 (8th Cir.1998), 400
- Cohen v. Illinois Institute of Technology, 524 F.2d 818 (7th Cir.1975), 1071
- Colby v. Graniteville Co., 635 F.Supp. 381 (S.D.N.Y.1986), 490
- Colby v. J.C. Penney Co., Inc., 811 F.2d 1119 (7th Cir.1987), 425
- Cole v. Burns Intern. Sec. Services, 105 F.3d 1465, 323 U.S.App.D.C. 133 (D.C.Cir.1997), 1164
- Cole v. Fair Oaks Fire Protection Dist., 233 Cal.Rptr. 308, 729 P.2d 743 (Cal.1987), 823
- Colizza v. United States Steel Corp., 116 F.R.D. 653 (W.D.Pa.1987), 1062
- College-Town v. Massachusetts Com'n Against Discrimination, 400 Mass. 156, 508 N.E.2d 587 (Mass.1987), 823
- Collier v. Superior Court of Los Angeles County, 228 Cal.App.3d 1117, 279 Cal. Rptr. 453 (Cal.App. 2d Dist.1991), 726
- Collins v. Elkay Min. Co., 179 W.Va. 549, 371 S.E.2d 46 (W.Va.1988), 703
- Collins v. New York City Transit Authority, 305 F.3d 113 (2d Cir.2002), 1151
- Colonial Stores v. Barrett, 73 Ga.App. 839, 38 S.E.2d 306 (1946), 829
- Colonnade Catering Corp. v. United States, 397 U.S. 72, 90 S.Ct. 774, 25 L.Ed.2d 60 (1970), 869
- Coman v. Thomas Mfg. Co., Inc., 325 N.C. 172, 381 S.E.2d 445 (N.C.1989), 705
- Combs v. Central Texas Annual Conference of United Methodist Church, 173 F.3d 343 (5th Cir.1999), 629
- Comeaux v. Brown & Williamson Tobacco Co., 915 F.2d 1264 (9th Cir.1990), 776
- Commissioner v. _____ (see opposing party)
- Commonwealth of (see name of Commonwealth)**
- Communications Workers of America v. Beck, 487 U.S. 735, 108 S.Ct. 2641, 101 L.Ed.2d 634 (1988), 655
- Concrete Works of Colorado, Inc. v. City and County of Denver, 321 F.3d 950 (10th Cir.2003), 282
- Connecticut v. Teal**, 457 U.S. 440, 102 S.Ct. 2525, 73 L.Ed.2d 130 (1982), **123**
- Conner v. Schrader-Bridgeport Intern., Inc., 227 F.3d 179 (4th Cir.2000), 368
- Connick v. Myers**, 461 U.S. 138, 103 S.Ct. 1684, 75 L.Ed.2d 708 (1983), **640**
- Conroy v. New York State Dept. of Correctional Services, 333 F.3d 88 (2d Cir. 2003), 597
- Consolidated Edison Co. of New York, Inc. v. Donovan, 673 F.2d 61 (2d Cir.1982), 729
- Consolidated Rail Corp. v. Darrone, 465 U.S. 624, 104 S.Ct. 1248, 79 L.Ed.2d 568 (1984), 519
- Consolidated Rail Corp. v. Railway Labor Executives' Ass'n, 491 U.S. 299, 109 S.Ct. 2477, 105 L.Ed.2d 250 (1989), 913
- Conti v. Universal Enterprises, Inc., 50 Fed. Appx. 690 (6th Cir.2002), 426
- Contreras v. Suncast Corp., 237 F.3d 756 (7th Cir.2001), 521
- Cook v. State of Rhode Island, Dept. of Mental Health, Retardation, and Hospitals, 10 F.3d 17 (1st Cir.1993), 542
- Cooper v. Federal Reserve Bank of Richmond, 467 U.S. 867, 104 S.Ct. 2794, 81 L.Ed.2d 718 (1984), 111, 1102
- Cooper v. IBM Personal Pension Plan, 274 F.Supp.2d 1010 (S.D.Ill.2003), 1009
- Copeco, Inc. v. Caley, 91 Ohio App.3d 474, 632 N.E.2d 1299 (Ohio App. 5th Dist. 1992), 923
- Copeland v. Philadelphia Police Dept., 840 F.2d 1139 (3d Cir.1988), 870
- Cormier v. P. P. G. Industries, Inc., 519 F.Supp. 211 (W.D.La.1981), 161
- Corning Glass Works v. Brennan**, 417 U.S. 188, 94 S.Ct. 2223, 41 L.Ed.2d 1 (1974), **401**
- Corporate Exp. Delivery Systems v. N.L.R.B., 292 F.3d 777, 352 U.S.App. D.C. 73 (D.C.Cir.2002), 21
- Corporation of Presiding Bishop of Church of Jesus Christ of Latter-day Saints v. Amos, 483 U.S. 327, 107 S.Ct. 2862, 97 L.Ed.2d 273 (1987), 626
- Cort v. Ash, 422 U.S. 66, 95 S.Ct. 2080, 45 L.Ed.2d 26 (1975), 692, 706
- Cort v. Bristol-Myers Co.**, 385 Mass. 300, 431 N.E.2d 908 (Mass.1982), **898**
- Corti v. Storage Technology Corp., 304 F.3d 336 (4th Cir.2002), 400
- Cossette v. Minnesota Power & Light, 188 F.3d 964 (8th Cir.1999), 596
- Cotran v. Rollins Hudig Hall Intern., Inc.**, 69 Cal.Rptr.2d 900, 948 P.2d 412 (Cal.1998), 390, **795**

- Cotter v. City of Boston, 323 F.3d 160 (1st Cir.2003), 282
- Cotto v. United Technologies Corp., 251 Conn. 1, 738 A.2d 623 (Conn.1999), 739
- Coventry v. United States Steel Corp., 856 F.2d 514 (3d Cir.1988), 500
- Covington v. Southern Illinois University, 816 F.2d 317 (7th Cir.1987), 411
- Cox v. American Cast Iron Pipe Co., 784 F.2d 1546 (11th Cir.1986), 1102
- Cox v. City of Memphis, 230 F.3d 199 (6th Cir.2000), 1088
- Cox v. United States Gypsum Co., 409 F.2d 289 (7th Cir.1969), 1098
- Craft v. Metromedia, Inc., 766 F.2d 1205 (8th Cir.1985), 353, 359, 459
- Craig v. Los Angeles County, 626 F.2d 659 (9th Cir.1980), 171
- Craik v. Minnesota State University Bd., 731 F.2d 465 (8th Cir.1984), 115, 426
- Cramer v. Consolidated Freightways, Inc., 255 F.3d 683 (9th Cir.2001), 905, 1205
- Cramp v. Board of Public Instruction of Orange County, Fla., 368 U.S. 278, 82 S.Ct. 275, 7 L.Ed.2d 285 (1961), 632
- Crapp v. City of Miami Beach, 242 F.3d 1017 (11th Cir.2001), 93
- Crawford v. Medina General Hosp., 96 F.3d 830 (6th Cir.1996), 448
- Crawford v. Runyon, 37 F.3d 1338 (8th Cir.1994), 587
- Crawford v. Western Elec. Co., Inc., 614 F.2d 1300 (5th Cir.1980), 186
- Crawford Rehabilitation Services, Inc. v. Weissman, 938 P.2d 540 (Colo.1997), 801
- Criado v. IBM Corp., 145 F.3d 437 (1st Cir.1998), 584
- Crist v. Focus Homes, Inc., 122 F.3d 1107 (8th Cir.1997), 373
- Cross v. United States Postal Service, 639 F.2d 409 (8th Cir.1981), 68
- Crown, Cork & Seal Co., Inc. v. Parker, 462 U.S. 345, 103 S.Ct. 2392, 76 L.Ed.2d 628 (1983), 1081
- Crumpton v. Bridgeport Educ. Ass'n, 993 F.2d 1023 (2d Cir.1993), 283
- Culver v. Merrill Lynch & Co., Inc., No. 94 Civ. 8124, 1995 WL 422203 (S.D.N.Y. 1995), 830
- Cummings v. Standard Register Co., 265 F.3d 56 (1st Cir.2001), 69
- Curley v. Cumberland Farms, Inc., 134 F.R.D. 77 (D.N.J.1991), 1104
- Curtis v. Electronics & Space Corp., 113 F.3d 1498 (8th Cir.1997), 1074
- Curtiss-Wright Corp. v. Schoonejongen, 514 U.S. 73, 115 S.Ct. 1223, 131 L.Ed.2d 94 (1995), 1053
- Cybsys v. Independent School Dist. No. 196, Rosemount-Apple Valley, 347 N.W.2d 256 (Minn.1984), 886
- Dahill v. Police Dept. of Boston, 434 Mass. 233, 748 N.E.2d 956 (2001), 537
- Daisernia v. State of New York, 582 F.Supp. 792 (N.D.N.Y.1984), 208
- Dalheim v. KDFW-TV**, 918 F.2d 1220 (5th Cir.1990), **982**
- Dallas, City of v. Dallas Fire Fighters Ass'n, 526 U.S. 1046, 119 S.Ct. 1349, 143 L.Ed.2d 511 (1999), 282
- Dallas Fire Fighters Ass'n v. City of Dallas, Tex., 150 F.3d 438 (5th Cir.1998), 282
- Dalton v. Subaru-Isuzu Automotive, Inc., 141 F.3d 667 (7th Cir.1998), 564
- Danco, Inc. v. Wal-Mart Stores, Inc., 178 F.3d 8 (1st Cir.1999), 41
- Daniel Adams Associates, Inc. v. Rimbach Pub., Inc., 360 Pa.Super. 72, 519 A.2d 997 (Pa.Super.1987), 821
- Danskine v. Miami Dade Fire Dept., 253 F.3d 1288 (11th Cir.2001), 282
- Darden v. United States Steel Corp., 830 F.2d 1116 (11th Cir.1987), 1208
- D.A. Schulte, Inc., v. Gangi, 328 U.S. 108, 66 S.Ct. 925, 90 L.Ed. 1114 (1946), 500
- Davey v. City of Omaha, 107 F.3d 587 (8th Cir.1997), 129
- Davidson v. Board of Governors of State Colleges and Universities for Western Illinois University, 920 F.2d 441 (7th Cir.1990), 1089
- Davis v. City of Dallas, 777 F.2d 205 (5th Cir.1985), 183
- Davis v. Gorton, 16 N.Y. 255 (1857), 746
- Davis v. Monroe County Bd. of Educ., 526 U.S. 629, 119 S.Ct. 1661, 143 L.Ed.2d 839 (1999), 210
- Davis v. Passman, 442 U.S. 228, 99 S.Ct. 2264, 60 L.Ed.2d 846 (1979), 207
- Davis v. Richmond, Fredericksburg and Potomac R. Co., 803 F.2d 1322 (4th Cir. 1986), 184
- Davis v. Scherer, 468 U.S. 183, 104 S.Ct. 3012, 82 L.Ed.2d 139 (1984), 206
- Davis v. Town of Lake Park, Fla., 245 F.3d 1232 (11th Cir.2001), 67
- Davis v. United States Steel Supply, Div. of U.S. Steel Corp., 688 F.2d 166 (3d Cir. 1982), 1177
- Day v. Wayne County Bd. of Auditors, 749 F.2d 1199 (6th Cir.1984), 1144
- Deal v. Spears, 980 F.2d 1153 (8th Cir. 1992), 892
- De Anda v. St. Joseph Hospital, 671 F.2d 850 (5th Cir.1982), 676
- Deane v. Pocono Medical Center**, 142 F.3d 138 (3d Cir.1998), **577**
- DeCintio v. Westchester County Medical Center, 807 F.2d 304 (2d Cir.1986), 372
- DeClue v. Central Illinois Light Co., 223 F.3d 434 (7th Cir.2000), 331
- Deffenbaugh-Williams v. Wal-Mart Stores, Inc., 156 F.3d 581 (5th Cir.1998), 205
- DeGaetano v. Smith Barney, Inc., 983 F.Supp. 459 (S.D.N.Y.1997), 1166
- de la Torres v. Bolger, 781 F.2d 1134 (5th Cir.1986), 540

- Delaware v. Prouse, 440 U.S. 648, 99 S.Ct. 1391, 59 L.Ed.2d 660 (1979), 881
- Deloach v. Delchamps, Inc., 897 F.2d 815 (5th Cir.1990), 68
- DeMarco v. Holy Cross High School, 4 F.3d 166 (2d Cir.1993), 628
- Demars v. General Dynamics Corp., 779 F.2d 95 (1st Cir.1985), 814
- Demasse v. ITT Corp., 194 Ariz. 500, 984 P.2d 1138 (Ariz.1999), 759, 767
- Den Hartog v. Wasatch Academy, 129 F.3d 1076 (10th Cir.1997), 568
- Dent v. St. Louis-San Francisco Ry. Co., 406 F.2d 399 (5th Cir.1969), 1080
- Deposit Guaranty Nat. Bank, Jackson, Miss. v. Roper, 445 U.S. 326, 100 S.Ct. 1166, 63 L.Ed.2d 427 (1980), 1101
- Derbis v. United States Shoe Corp., 67 F.3d 294 (4th Cir.1995), 566
- DeSantis v. Pacific Tel. & Tel. Co., Inc., 608 F.2d 327 (9th Cir.1979), 204
- Desert Palace, Inc. v. Costa**, 539 U.S. 90, 123 S.Ct. 2148, 156 L.Ed.2d 84 (2003), 79, 356, 588
- Desimone v. Allstate Ins. Co., 2000 WL 1811385 (N.D.Cal.2000), 21
- Despears v. Milwaukee County, 63 F.3d 635 (7th Cir.1995), 587, 588
- Deubert v. Gulf Federal Sav. Bank, 820 F.2d 754 (5th Cir.1987), 1143
- Dhyne v. Meiners Thriftway, Inc., 184 F.3d 983 (8th Cir.1999), 400
- DiBiase v. SmithKline Beecham Corp., 48 F.3d 719 (3d Cir.1995), 501
- Dickerson v. United States Steel Corp., 472 F.Supp. 1304 (E.D.Pa.1978), 174
- Dickson v. Office of Personnel Management, 828 F.2d 32, 264 U.S.App.D.C. 182 (D.C.Cir.1987), 889
- Dilla v. West, 179 F.3d 1348 (11th Cir. 1999), 475
- Dillon v. Champion Jogbra, Inc., 819 A.2d 703 (Vt.2002), 759
- Dimeo v. Griffin, 943 F.2d 679 (7th Cir. 1991), 869
- DiRussa v. Dean Witter Reynolds Inc., 121 F.3d 818 (2d Cir.1997), 1166
- Dister v. Continental Group, Inc., 859 F.2d 1108 (2d Cir.1988), 658, 1062
- District Council 37, American Federation of State, County & Municipal Employees, AFL-CIO v. New York City Dept. of Parks and Recreation, 113 F.3d 347 (2d Cir.1997), 482
- Division of Labor Standards Enforcement v. Williams, 121 Cal.App.3d 302, 175 Cal. Rptr. 347 (Cal.App. 2 Dist.1981), 1000
- Doane v. City of Omaha, 115 F.3d 624 (8th Cir.1997), 550
- Dobbins, DeGuire & Tucker, P.C. v. Ruth-erford, MacDonald & Olson, 218 Mont. 392, 708 P.2d 577 (1985), 922
- Doe v. Aliquippa Hosp. Ass'n, 3 (BNA) A.D. Cases 1244 (W.D.Pa.1994), 594
- Doe v. Garcia, 131 Idaho 578, 961 P.2d 1181 (1998), 831
- Doe v. Mutual of Omaha Ins. Co., 179 F.3d 557 (7th Cir.1999), 601
- Doe v. Roe, Inc., 160 A.D.2d 255, 553 N.Y.S.2d 364 (1st Dept.1990), 904
- Doe v. Roe, Inc., 143 Misc.2d 156, 539 N.Y.S.2d 876 (N.Y.Sup.1989), 882
- Doe v. Washington University, 780 F.Supp. 628 (E.D.Mo.1991), 594
- Doe v. City of Belleville, Ill., 119 F.3d 563 (7th Cir.1997), 370
- Dole v. United Steelworkers of America, 494 U.S. 26, 110 S.Ct. 929, 108 L.Ed.2d 23 (1990), 681
- Dombrowski v. Dowling, 459 F.2d 190 (7th Cir.1972), 1143
- Donahue v. Consolidated Rail Corp., 52 F.Supp.2d 476 (E.D.Pa.1999), 586
- Donihoo v. Dallas Airmotive, Inc., 1998 WL 47632 (N.D.Tex.1998), 975
- Donnelly v. Exxon Research & Engineering Co., 12 FEP Cas. 417 (D.N.J.1974), 483
- Donovan v. Burger King Corp., 675 F.2d 516 (2d Cir.1982), 990
- Donovan v. Burger King Corp., 672 F.2d 221 (1st Cir.1982), 990
- Donovan v. Dewey, 452 U.S. 594, 101 S.Ct. 2534, 69 L.Ed.2d 262 (1981), 869
- Dothard v. Rawlinson**, 433 U.S. 321, 97 S.Ct. 2720, 53 L.Ed.2d 786 (1977), 130
- DoubleClick Inc. v. Henderson, 1997 WL 731413 (N.Y.Sup.1997), 936
- Douglass v. Merchants' Ins. Co., 118 N.Y. 484, 23 N.E. 806 (N.Y.1890), 746
- Downs v. Massachusetts Bay Transp. Au-thority, 13 F.Supp.2d 130 (D.Mass. 1998), 597
- Doyle v. Holy Cross Hosp., 186 Ill.2d 104, 237 Ill.Dec. 100, 708 N.E.2d 1140 (1999), 767
- Drake v. Geochemistry and Environmental Chemistry Research, Inc., 336 N.W.2d 666 (S.D.1983), 801
- Dranchak v. Akzo Nobel Inc., 88 F.3d 457 (7th Cir.1996), 678, 1017
- D'Sa v. Playhut, Inc., 102 Cal.Rptr.2d 495 (Cal.App. 2d Dist.2000), 717, 924
- Duffield v. Robertson Stephens & Co., 144 F.3d 1182 (9th Cir.1998), 1161
- Duldulao v. Saint Mary of Nazareth Hosp. Center, 115 Ill.2d 482, 106 Ill.Dec. 8, 505 N.E.2d 314 (Ill.1987), 759
- Dumas v. Auto Club Ins. Ass'n, 437 Mich. 521, 473 N.W.2d 652 (1991), 768
- Duncan v. Washington Metropolitan Area Transit Authority, 240 F.3d 1110, 345 U.S.App.D.C. 170 (D.C.Cir.2001), 542
- Dunlop v. Gray-Goto, Inc., 528 F.2d 792 (10th Cir.1976), 974
- Durham Life Ins. Co. v. Evans, 166 F.3d 139 (3d Cir.1999), 391
- Dutcher v. Ingalls Shipbuilding, 53 F.3d 723 (5th Cir.1995), 542

- EarthWeb, Inc. v. Schlack, 71 F.Supp.2d 299 (S.D.N.Y.1999), 921, 936
- Eastman Kodak Co. v. Powers Film Products, 189 A.D. 556, 179 N.Y.S. 325 (4th Dept.1919), 935
- Eaton v. Onan Corp., 117 F.Supp.2d 812 (S.D.Ind.2000), 1009
- Eberhardt v. O'Malley, 17 F.3d 1023 (7th Cir.1994), 651
- Edelman v. Jordan, 415 U.S. 651, 94 S.Ct. 1347, 39 L.Ed.2d 662 (1974), 206, 208
- Edelman v. Lynchburg College, 535 U.S. 106, 122 S.Ct. 1145, 152 L.Ed.2d 188 (2002), 1081
- Edward J. DeBartolo Corp. v. Florida Gulf Coast Bldg. and Const. Trades Council, 485 U.S. 568, 108 S.Ct. 1392, 99 L.Ed.2d 645 (1988), 655
- E. E. Black, Ltd. v. Marshall, 497 F.Supp. 1088 (D.Hawai'i 1980), 542
- EEOC v. AIC Sec. Investigations, Ltd., 823 F.Supp. 571 (N.D.Ill.1993), 88
- EEOC v. Alioto Fish Co., Ltd., 623 F.2d 86 (9th Cir.1980), 1083
- EEOC v. Amego, Inc., 110 F.3d 135 (1st Cir.1997), 588
- EEOC v. Aramark Corp., Inc., 208 F.3d 266, 341 U.S.App.D.C. 38 (D.C.Cir.2000), 601
- EEOC v. Asplundh Tree Expert Co., 340 F.3d 1256 (11th Cir.2003), 1080
- EEOC v. Astra U.S.A., Inc., 94 F.3d 738 (1st Cir.1996), 503
- EEOC v. Atlantic Community School Dist., 879 F.2d 434 (8th Cir.1989), 484
- EEOC v. Atlas Paper Box Co., 680 F.Supp. 1184 (E.D.Tenn.1987), 174
- EEOC v. Board of Governors of State Colleges and Universities, 957 F.2d 424 (7th Cir.1992), 669, 1152
- EEOC v. Borden's, Inc., 724 F.2d 1390 (9th Cir.1984), 482, 487
- EEOC v. Catholic University of America, 83 F.3d 455, 317 U.S.App.D.C. 343 (D.C.Cir.1996), 628
- EEOC v. Chicago Miniature Lamp Works, 947 F.2d 292 (7th Cir.1991), 117, 138, 143
- EEOC v. City Colleges of Chicago, 944 F.2d 339 (7th Cir.1991), 1088
- EEOC v. City of East Providence, 798 F.2d 524 (1st Cir.1986), 458
- EEOC v. CNA Ins. Companies, 96 F.3d 1039 (7th Cir.1996), 600
- EEOC v. Commercial Office Products Co., 486 U.S. 107, 108 S.Ct. 1666, 100 L.Ed.2d 96 (1988), 1079
- EEOC v. Commonwealth of Pennsylvania, 829 F.2d 392 (3d Cir.1987), 458
- EEOC v. Consolidated Service Systems, 989 F.2d 233 (7th Cir.1993), 119
- EEOC v. Cosmair, Inc., L'Oreal Hair Care Div., 821 F.2d 1085 (5th Cir.1987), 503
- EEOC v. Crown Zellerbach Corp., 720 F.2d 1008 (9th Cir.1983), 676, 677
- EEOC v. Delight Wholesale Co., 973 F.2d 664 (8th Cir.1992), 1073
- EEOC v. Dial Corp., 156 F.Supp.2d 926 (N.D.Ill.2001), 392
- EEOC v. E. I. duPont de Nemours & Co., 445 F.Supp. 223 (D.Del.1978), 245
- EEOC v. Exxon Corp., 203 F.3d 871 (5th Cir.2000), 589
- EEOC v. Federal Reserve Bank of Richmond, 698 F.2d 633 (4th Cir.1983), 111
- EEOC v. General Motors Corp., 826 F.Supp. 1122 (N.D.Ill.1993), 670
- EEOC v. Goodyear Aerospace Corp., 813 F.2d 1539 (9th Cir.1987), 1082
- EEOC v. Great Atlantic & Pacific Tea Co., 735 F.2d 69 (3d Cir.1984), 1083
- EEOC v. Guardian Pools, Inc., 828 F.2d 1507 (11th Cir.1987), 268, 1074
- EEOC v. Harbert-Yeargin, Inc., 266 F.3d 498 (6th Cir.2001), 370
- EEOC v. Hickman Mills Consol. School Dist. No. 1, 99 F.Supp.2d 1070 (W.D.Mo. 2000), 492
- EEOC v. Humiston-Keeling, Inc., 227 F.3d 1024 (7th Cir.2000), 563
- EEOC v. Ilona of Hungary, Inc., 108 F.3d 1569 (7th Cir.1997), 618
- EEOC v. J.C. Penney Co., Inc., 843 F.2d 249 (6th Cir.1988), 185, 412, 425
- EEOC v. Joe's Stone Crab, Inc., 136 F.Supp.2d 1311 (S.D.Fla.2001), 142, 353
- EEOC v. Joe's Stone Crab, Inc., 220 F.3d 1263 (11th Cir.2000), 142
- EEOC v. Kallir, Philips, Ross, Inc., 401 F.Supp. 66 (S.D.N.Y.1975), 666
- EEOC v. Kamehameha Schools/Bishop Estate, 990 F.2d 458 (9th Cir.1993), 627
- EEOC v. Kenosha Unified School Dist. No. 1, 620 F.2d 1220 (7th Cir.1980), 410
- EEOC v. Kentucky State Police Dept., 860 F.2d 665 (6th Cir.1988), 458
- EEOC v. Liberal R-II School Dist., 314 F.3d 920 (8th Cir.2002), 450
- EEOC v. Luce, Forward, Hamilton & Scripps, 345 F.3d 742 (9th Cir.2003), 670, 1162
- EEOC v. McDonnell Douglas Corp., 191 F.3d 948 (8th Cir.1999), 482
- EEOC v. Metal Service Co., 892 F.2d 341 (3d Cir.1990), 119
- EEOC v. Missouri State Highway Patrol, 748 F.2d 447 (8th Cir.1984), 458
- EEOC v. Mitsubishi Motor Mfg. of America, Inc., 990 F.Supp. 1059 (C.D.Ill.1998), 392, 1117, 1118
- EEOC v. Mitsubishi Motor Mfg. of America, Inc., 960 F.Supp. 164 (C.D.Ill.1997), 1104
- EEOC v. Morgan Stanley & Co., Inc., 1999 WL 756206 (S.D.N.Y.1999), 1083
- EEOC v. Ohio Edison Co., 7 F.3d 541 (6th Cir.1993), 678
- EEOC v. Rath Packing Co., 787 F.2d 318 (8th Cir.1986), 227