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Margret S. Hullinger
Vice President and Group Publisher
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By Adam M. Smith

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Michael L. Drapkin, Managing Editor
American Intellectual Property Law Association

Technical standards, particularly for information and communications technology (ICT) industries, require use of patented technologies, as reflected by continuing growth in Wi-Fi and cellular standards. This trend will only increase as new or next-generation standards are developed for the Internet of Things, and yet unforeseen applications. Understanding issues relating to the use of patented technologies in technical standards is more important now for patent practitioners than ever before. Patents and Standards is the definitive resource in this area and a must-have book for any patent practitioner working in the standards field. Patent prosecutors will use the book to understand the standard process and advise clients on strategies for patent preparation, prosecution, and portfolio development in the standards area. Patent litigators will use this book to understand the unique issues regarding enforcement of standards-essential patents (SEPs). In-house counsel who want to build more valuable SEP portfolios will use this book to develop portfolios, create effective licensing programs, and manage outside counsel.

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By Sharon Cohen Levin

The Practitioner’s Guide to Federal Asset Forfeiture Law will serve as a guide to attorneys litigating a forfeiture case or defending or prosecuting an action where forfeiture is a part of the penalty. Topics covered will include: forfeiture in insider trading prosecutions; attorney’s fees forfeiture; pre-trial restraint of substitute assets; corporate forfeiture in connection with DPAs; forfeiture for sanctions and anti-money laundering violations; victim compensation; the interplay between forfeiture and bankruptcy and equitable sharing; and more. This book will be a practical guide to civil and criminal asset forfeiture, written by the person Forbes magazine once referred to as “the Babe Ruth of Forfeiture.”

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The Fair Labor Standards Act, Third Edition
Ellen C. Kearns, Aaron D. Kaufmann, and Dennis M. McClelland, Editors-in-Chief
(Main Volume); Aaron D. Kaufmann, Dennis M. McClelland, and Cristina Parra Herrera, Editors-in-Chief (2016 Supplement)
Federal Labor Standards Legislation Committee, ABA Section of Labor and Employment Law

An essential tool for understanding and interpreting the FLSA.
Now in its Third Edition, and with a reorganized chapter structure, The Fair Labor Standards Act is an essential tool for helping practitioners understand FLSA coverage and exemptions. With this resource, counsel can make informed decisions about why and how to proceed on a particular course for clients. Highlights include an updated analysis of the evolving jurisprudence on arbitration of FLSA claims, including arbitration of collective actions, expanded analysis of the Section 7(i) retail sales or service establishment exemption, new discussion on FLSA coverage of interns, and a completely rewritten chapter analyzing independent contractor and joint employer issues. All discussions include meticulous citations and footnotes with decisions broken out by Circuit. It provides point-by-point evaluations of each FLSA exemption and discusses issues, including collective action litigation brought under the FLSA by individual private plaintiffs, “hybrid” actions involving both state and federal law claims, and elements of enforcement actions and litigation brought by the Secretary of Labor.

Supplement Information
The 2016 Supplement updates the treatise with coverage including:
• The DOL’s new “white-collar” exemption regulation
• Discussion of the Supreme Court’s decision in Encino Motorcars v. Navarro, the exempt treatment of automobile service advisors, and when courts should defer to DOL interpretations of the FLSA
• Updated discussion of the Motor Carrier Act exemption and the impact of SAFETEA-LU and the Technical Corrections Act
• Discussion of the new DOL Administrator Interpretation on joint employment
• Updated case law regarding the application of Section 3(m) and DOL regulations with respect to tipped employees
• New discussion of the DOL investigative procedures and DOL-supervised settlements

Summary of Contents
Chapter 1. A Brief History of the Fair Labor Standards Act
Chapter 2. Operations and Functions of the Department of Labor
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Chapter 6. Other Statutory Exemptions
Chapter 7. Agricultural Exemptions
Chapter 8. Compensable Hours
Chapter 9. Minimum Wage Requirements
Chapter 10. Overtime Compensation
Chapter 11. Government Employment
Chapter 12. Child Labor
Chapter 13. Retaliation
Chapter 14. Recordkeeping
Chapter 15. Department of Labor Enforcement and Remedies
Chapter 16. Litigation Issues
Chapter 17. Collective Actions and “Hybrid” Class Actions

Ellen C. Kearns is a partner and the Wage and Hour Practice Group Co-Chair at Constancy, Brooks, Smith & Prophete, LLP, Boston, MA.
Aaron D. Kaufmann is a partner at Leonard Carder, LLP, San Francisco, CA.
Dennis M. McClelland is a partner at Phelps Dunbar, LLP, Tampa, FL.
Cristina Parra Herrera is an attorney in Minneapolis, MN.

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New Edition!
Gregory K. McGillivary, Editor-in-Chief
Federal Labor Standards Legislation Committee, ABA Section of Labor and Employment Law

The complete guide to U.S. wage and hour laws.
This treatise covers wage and hour and mandatory leave laws in all 50 states, plus the District of Columbia and Puerto Rico, allowing practitioners to quickly find the information they need and compare laws in different states. Topics covered include minimum wage and overtime; timing, place, and manner of payment to employees; prohibitions on hours worked and mandatory leave; and much more.
Wage and Hour Laws: A State-by-State Survey, Third Edition covers state laws, regulations, wage orders, and court decisions, and provides analysis to help practitioners interpret and apply each state’s requirements. Its state-by-state analysis includes: enforcement and remedies; defenses; damages; attorneys’ fees litigation; liens specific to unpaid wages; forum; availability of class actions; exemptions; and more.

The Third Edition updates the two-volume set with the timely addition of new sections on fluctuating workweeks, gap time pay, the treatment of mandatory service charges in the payment of tipped employees, Portal-to-Portal acts, mandatory paid sick leave laws, and the varying state laws defining joint employment and independent contractors.
A representative sampling of the Third Edition’s coverage of each state’s individual wage and hour and mandatory leave laws includes:
• California’s mandate that on-call time be compensable if employees are required to remain on or be nearby the employer’s premises
• Colorado’s requirement for overtime pay for anyone who works 12 or more consecutive hours
• Connecticut’s Pay Equity and Fairness Act, which prohibits employers from punishing employees for discussing their wages with other employees
• The District of Columbia’s Wage Theft Prevention Amendment, requiring employers to provide written notices to all employees with detailed and prescribed information
• North Carolina’s treatment of overtime for seasonal employees, which conflicts with federal law
• Montana’s prohibition on tips being counted toward an employee’s minimum wage, and its requirement that service charges be considered tips
• Washington state’s law mandating rest and meal periods for most workers

Summary of Contents
Each State Chapter Addresses:
• State Law and Regulation
• Operations and Functions of State Administrative Agency
• Minimum Wage and Overtime Laws
• Timing, Place, and Manner of Payments
• Payments and Leave in Addition to Minimum Wage and Overtime
• Prohibitions on Hours Worked
• Occupations With Special Rules
• Child Labor
• Recordkeeping, Posting, and Notice Requirements
• Common Law Causes of Action
• Retaliation
• Special Litigation Issues

Gregory K. McGillivary is a partner in Woodley & McGillivary, Washington, DC, where he practices in the areas of fair labor standards law, employment discrimination law, and public sector labor relations law.

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New Supplement Due Fall 2017
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Family Responsibilities Discrimination

By Cynthia Thomas Calvert, Joan C. Williams, and Gary Phelan

Covering the breadth of liabilities in this fast-growing area, Family Responsibilities Discrimination provides everything lawyers need to know about this subject area. From the discussion of applicable federal, state, and local laws that cover family caregivers in various circumstances to analysis of issues arising with particular types of workers, this treatise is a useful resource for all employment lawyers. Family Responsibilities Discrimination provides a clear explanation of what FRD is, how and why it arises, related laws, how claims are brought and defended, and how it can be prevented in the workplace.

Family Responsibilities Discrimination covers topics such as the history and development of FRD, potential causes of FRD in the workplace, statutory and common law bases of FRD liability, current federal and state FRD case law, and practice tips for both plaintiffs’ and management-side lawyers.

Supplement Information

The 2016 Supplement updates the work with highlights including in-depth discussions of how the Supreme Court's decision in Young v. UPS affects not only light duty claims but also Title VII cases; complete coverage of pregnancy accommodation laws and cases; an overview of the newest state and local laws covering family responsibilities discrimination, paid sick days, and parental leave; a new section detailing breastfeeding laws; an expanded section about employees who provide care for elders; updated case law regarding caregiving and the FMLA, ADA, Title VII, wrongful termination, breach of contract, and more.

Summary of Contents

Part I. Introduction
Part II. Federal Law Governing Family Responsibilities Discrimination
Part III. State and Local Law Governing Family Responsibilities Discrimination
Part IV. FRD and Particular Types of Employees
Part V. Comparative Law

Cynthia Thomas Calvert is an employment attorney and President of Workforce 21C who has led the research behind FRD at the Center for WorkLife Law.

Joan C. Williams is a Distinguished Professor of Law and Founding Director of the Center for WorkLife Law at the University of California, Hastings College of the Law.

Gary Phelan is a shareholder at Mitchell & Sheahan, P.C., Stratford and Stamford, CT.

2014/1,028 pp. Hardcover with 2016 Supplement
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The Family and Medical Leave Act

Michael J. Ossip and Robert M. Hale, Editors-in-Chief; Gail V. Coleman and Indira Talwani, Associate Editors (Main Volume); William Bush and James M. Paul, Editors-in-Chief (2015 Cumulative Supplement)

Federal Labor Standards Legislation Committee
ABA Section of Labor and Employment Law

Understand the complex issues surrounding this seemingly simple statute.

The Family and Medical Leave Act is the premier resource for handling all aspects of the Family and Medical Leave Act (FMLA), including interrelationships with other laws. This treatise focuses on the responsibilities of employees and employers under the Act, as reflected in the statute, regulations, and case law, including provisions of the Act, regulations promulgated by the Department of Labor (DOL), how DOL opinion letters have interpreted provisions, and how leave rights are coordinated with other legal rights of employees.

Supplement Information

The 2015 Cumulative Supplement addresses significant developments on topics including: eligibility for and calculation of leave, and calculation of pay and benefits during leave; restoration rights; caring for family members; notice, certification, and fitness-for-duty certifications; prejudice and estoppel standards in defect notice cases; coverage of employers; standards of proof; notice requirements; enforcement; remedies; and more.

Michael J. Ossip is a partner in the Labor and Employment Practice of Morgan, Lewis & Bockius LLP, Philadelphia, PA.

Robert M. Hale is a partner in the Labor and Employment Practice of Goodwin Procter LLP, Boston, MA.

Gail V. Coleman is retired from the Department of Labor, where she served as Deputy Associate Solicitor for Fair Labor Standards.

Indira Talwani, a partner in Segal Roitman LLP, Boston, MA at the time the main volume was written, is now a Federal District Court judge.

William Bush is a staff attorney with the Legal Aid Society of Middle Tennessee and the Cumberlands, Cookeville, TN.

James M. Paul is a shareholder in Ogletree, Deakins, Nash, Smoak & Stewart, P.C., St. Louis, MO.

2006/980 pp. Hardcover with 2015 Cumulative Supplement
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Order #2478/$275.00

Supplement History: 2013, $245.00/2011, $225.00
New Edition Due Fall 2017

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The premier treatise on the law of discrimination in the workplace.

For more than 35 years, Employment Discrimination Law has been the definitive treatise in this complex and highly detailed area of law. Legal specialists offer analysis from a range of perspectives, including management, plaintiff, union, and public practice, providing a balanced presentation of issues surrounding discrimination in the workplace. It offers the most comprehensive coverage and unbiased analysis of employment discrimination law available anywhere.

The Fifth Edition provides updated analysis of changes and significant new developments since the previous supplement, including rewritten chapters on EEOC Administrative Processes and Federal Contractor Affirmative Action Compliance. Throughout this treatise, legal specialists offer analysis from a range of perspectives, including management, plaintiff, union, and public practice.

Highlights covered in the Fifth Edition include:

- **Ledbetter v. Goodyear Tire & Rubber Co., Inc.,** where the Supreme Court’s decision on the Title VII statute of limitations accrual date for pay discrimination claims sparked passage of the Lilly Ledbetter Fair Pay Act of 2009
- The Supreme Court’s rulings expanding the breadth of retaliation claims
- The Supreme Court’s decision in Wal-Mart Stores, Inc. v. Dukes, addressing Title VII class actions
- The impact of the Supreme Court’s multiple decisions on the viability of agreements to arbitrate employment disputes

Throughout this treatise, legal specialists from the management, plaintiff, union, and public practice perspective provide a balanced presentation of the labor and employment issues surrounding discrimination in the workplace. The Fifth Edition offers the most comprehensive coverage and unbiased analysis of employment discrimination law available anywhere.

### Supplement Information

The 2015 Cumulative Supplement updates the two-volume treatise, and includes analysis of significant decisions, including:

- Employers’ duty to recognize the need for accommodation of religious beliefs or practices after the Supreme Court’s decision in Abercrombie & Fitch
- The limited extent of judicial inquiry into review for sufficiency of EEOC’s good faith efforts at conciliation (notwithstanding the statutory provision prohibiting disclosure of what is said and done during conciliation) that is permitted by the Supreme Court’s decision in Mach Mining
- The manner in which the McDonnell Douglas burden-shifting model is to be applied to employees requesting an accommodation on the basis of pregnancy after the Supreme Court’s Young v. UPS decision

### Summary of Contents

#### Volume I

- Part I. Theories of Discrimination
- Part II. Prohibited Bases of Discrimination
- Part III. Employment Actions
- Part IV. The Parties

#### Volume II

- Part V. Procedural Issues
- Part VI. Other Sources of Protection
- Part VII. Remedies and Resolution
- Table of Cases • Index

Barbara T. Lindemann is formerly Of Counsel at Seyfarth Shaw and is co-author of Bloomberg BNA’s Workplace Harassment Law.

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C. Geoffrey Weirich is the principal of Weirich Consulting and Mediation, Atlanta, GA.

Debra A. Millenson is the principal of The Millenson Law Firm, Washington, DC.

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Laurie E. Leader is a professor of law at the Illinois Institute of Technology’s Chicago-Kent College of Law, Chicago, IL.

2012/2 Volumes/3,588 pp. Hardcover with 2015 Cumulative Supplement

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Supplement History: 2014, $305.00

New Cumulative Supplement Due Winter 2017

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**Workplace Harassment Law**

By Barbara T. Lindemann and David D. Kadue

Comprehensive coverage of this litigious area of employment law.

Workplace Harassment Law offers valuable guidance from seasoned practitioners, providing the comprehensive coverage that attorneys need when bringing or defending a workplace harassment suit. It examines the nuts and bolts of the law, including the requirements for bringing a harassment suit, whether it is based on gender, race or color, national origin, religion, age, disability, association, or proximity, as well as the determination of employer liability once harassment is shown. It also explores timeliness and the timely exhaustion of administrative remedies; the parties involved; and the establishment of the causal connection, one of the most important requirements of a harassment claim.

### Summary of Contents

#### Part I. Overview

- Part II. Timeliness of Claims
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- Part IV. The Causal Connection
- Part V. Harassment Culminating in a Tangible Employment Action or a Hostile Work Environment
- Part VI. Employer Liability
- Part VII. Other Sources of Federal Law Creating Rights and Obligations Regarding Workplace Harassment
- Part VIII. Special Issues in Harassment Litigation

Barbara T. Lindemann is formerly Of Counsel at Seyfarth Shaw and is co-author of Bloomberg BNA’s Employment Discrimination Law.

David D. Kadue is a partner at Seyfarth Shaw, Los Angeles, CA and is co-author of Age Discrimination in Employment Law.


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Gender Identity and Sexual Orientation Discrimination in the Workplace: A Practical Guide

Christine Michelle Duffy, Esq., Editor-in-Chief; Denise M. Visconti, Esq., State Laws Executive Editor

A groundbreaking, must-have resource. This is the first book to comprehensively address workplace law and human resource practice relating to gender identity, sexual orientation, and gender expression. It surveys state and federal employment laws applicable to lesbian, gay, bisexual, and transgender (LGBT) employees and discusses a wide range of HR best practices. This practical guide explores:

- Employment discrimination laws, immigration law, labor arbitration, and litigation tactics and strategies
- Landmark Supreme Court decisions
- Nationwide survey of employment laws relating to LGBT issues
- Practical solutions for HR professionals
- Intersections of gender and sexual orientation with culture, education, politics, religion, and the workplace

In addition, this book features detailed case summaries, coverage of Title VII and ADA case law, and a comprehensive discussion of the challenges presented by LGBT terminology.

Christine Michelle Duffy, Esq., is a Senior Staff Attorney with the Pro Bono Partnership, Parsippany, NJ.
Denise M. Visconti, Esq., is Managing Shareholder of the San Diego, CA office of Litter Mendelson, P.C.

Royalties from this treatise are being donated to Gay & Lesbian Advocates & Defenders, Inc. (GLAD).

Disability Discrimination and the Workplace, Second Edition

By Peter A. Susser and Peter J. Petesch

Complete analysis of the ADA and subsequent amendments and relevant EEOC regulations.

This treatise provides comprehensive analysis of the Americans with Disabilities Act as amended by the ADA Amendments Act (ADAAA). It also discusses the parameters of the Rehabilitation Act, the proliferation of state protections, and the intersection of federal law and other federal statutes.


By P. Daniel Williams, Esq.

Useful for lawyers and HR professionals alike. The Pregnancy Discrimination Act: A Guide for Plaintiff Employment Lawyers provides strategies and guidance on pregnancy discrimination litigation that plaintiff lawyers require to effectively represent their clients. This book also contains extensive analysis regarding case law favorable to defendants, making it a useful source of information for management lawyers.

Age Discrimination in Employment Law, Second Edition

Eric W. Iskra and Eric E. Kinder, Editors-in-Chief

Federal Labor Standards Legislation Committee, ABA Section of Labor and Employment Law

A complete resource for bringing and defending age discrimination claims.

The Second Edition explores the breadth of ADEA law, covering the Act, retaliation, hiring, promotion, litigation strategies, reductions in force, the evolving role of the EEOC and EEOC litigation, the increasing role of arbitration, analysis of the “reasonable factor other than age” defense, and analysis of the “but for” causation standard.

Supplement Information

The 2016 Supplement updates this treatise with highlights such as:

- Allocation of proof in disparate treatment discharge cases
- Possible impact of the EEOC’s proposed guidance on retaliation
- Expansion of adverse/disparate impact claims to protect job applicants
- “Stray remarks” as evidence giving rise to an inference of discrimination

Summary of Contents

Persons Protected; Identifying the Employer; Defining Age; Terms and Conditions of Employment; Mandatory Retirement; Reductions in Force; Harassment; Discharge; Retaliation; Disparate Treatment; Adverse Impact; EEOC Structure, Jurisdiction, and Process; Timeliness and Sufficiency of Charges; Jurisdiction and Venue; Evidence; Summary Judgment; Jury Trials; Expert Witnesses; Affirmative Defenses; EEOC Litigation; Public Employee Litigation; Collective Actions; Settlement and Release; Mediation; Arbitration; Remedies

Eric W. Iskra and Eric E. Kinder are members at Spilman Thomas & Battle, PLLC, Charleston, WV.

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Employment at Will: A State-by-State Survey

Melinda J. Caterine, Editor-in-Chief (Main Volume); David L. Johnson, Editor-in-Chief (2016 Cumulative Supplement)

Employment Rights and Responsibilities Committee, ABA Section of Labor and Employment Law

Get detailed analysis of state law causes of action for wrongful termination.

This is a comprehensive analysis of the employment at will doctrine, as well as the unique exceptions that various states have applied. This treatise uses a uniform topic structure to provide a comparative view across states, as well as to allow for research on an individual state. This format is extremely helpful for lawyers with a multi-jurisdictional practice, and for those seeking persuasive authority to expand or limit the law in their own state.

Topics include:
- The creation of enforceable employment agreements through employee handbooks, written personnel policies, and oral assurances
- Common law claims for wrongful discharge
- The covenant of good faith and fair dealing
- The public policy exception to the doctrine of employment at will
- The burden of proof necessary to sustain a claim of wrongful discharge
- What constitutes “just cause” for purposes of termination
- The effect of disclaimers on the employment at will relationship
- Potential damages in a wrongful discharge claim
- Related tort claims arising out of the employment relationship
- State statutes prohibiting termination based on classifications

Supplement Information

This important resource is updated annually. Representative highlights covered in the 2016 Cumulative Supplement include:
- California: expansion of Labor Code provisions providing statutory protection against termination
- Florida: review of case law on at-will employees and tortious interference
- Illinois: clarification of application of the Illinois Whistleblower Act
- New York: sufficiency of indicia of contract in “employee handbook” to overcome the at-will presumption
- Texas: examination of “good cause” termination where employee shows contract for a definite term

Melinda J. Caterine is a partner at the Portland, ME and Boston, MA offices of Littler Mendelson P.C., a national labor and employment firm representing management.

David L. Johnson is an attorney at Butler Snow LLP, Nashville, TN.

201/318 pp. Hardcover with 2016 Cumulative Supplement
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Order #3060/$325.00

Supplement History: 2015, $320.00/2014, $315.00
New Edition Due Winter 2017

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Reductions in Force in Employment Law, Second Edition

By Ethan Lipsig, Mary C. Dollarhide, and Brit K. Seifert

A resource addressing discrimination, benefits, and other RIF concerns.

This book is a step-by-step guide to the key employment and employee benefit considerations surrounding a reduction in force (RIF). The material in this soup-to-nuts volume is presented in logical order, from preliminary issues to consider when planning a workforce reduction, to those that arise during implementation.

Summary of Contents

Part I. Practice and Law
Part II. Appendices
Table of Cases • Table of Statutes

Ethan Lipsig is a retired partner in Paul Hastings LLP, Los Angeles, CA.
Mary C. Dollarhide is an employment law partner in Paul Hastings LLP, San Diego, CA.
Brit K. Seifert is an attorney with Paul Hastings LLP, San Diego, CA.

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Healthcare Employment Guide: Counseling on the New Medical Realities

2017-2025 will bring a harsh dose of economic reality for doctors and their counsel. This unique guide will help to bring clarity to chaos.

See Page 45 for more details.

EEOC Litigation and Charge Resolution, Second Edition

By Donald R. Livingston and Reed L. Russell

An inside look at litigating with the EEOC.

This treatise helps practitioners more effectively handle EEOC investigations, conciliations, and litigation, explaining and demystifying the commissioner charge process, sponsored litigation, the subpoena process, and requirements for settlements. It also addresses updates on subpoena enforcement actions, rules concerning the EEOC’s conciliation obligations, and special litigation considerations.

The Second Edition reviews the rules on EEOC administrative subpoenas and information requests, the standards for the conciliation process, the general counsel’s guidance for the conduct of EEOC litigation, and the practical implications of the EEOC’s systemic enforcement initiative. It also discusses important case law, including Federal Express v. Holoweci and the Eighth Circuit’s decision in EEOC v. CRST Van Expedited, Inc.

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Chapter 6. Representing the Charging Party
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Chapter 8. Commissioner Charges and Other EEOC Initiated Investigations
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Chapter 14. EEOC Workload: Statistical Data
Part III. EEOC Litigation
Chapter 15. EEOC Subpoenas and Subpoena Enforcement Litigation
Chapter 16. EEOC Enforcement Litigation
Chapter 17. Settlement of Litigation
Chapter 18. Appellate Litigation

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Order #2032/$350.00
www.bna.com/bnabooks/eec
Covenants Not to Compete: A State-by-State Survey, Tenth Edition
By Brian M. Malsberger
Chief Contributing Editor: Luke A. Suchyta
Board of Review Associate Editors: David J. Carr, Arnold H. Pedowitz, and Eric Akira Tate
Committee on Employment Rights and Responsibilities, ABA Section of Labor and Employment Law

An indispensable reference on covenant enforceability.

This respected and authoritative three-volume treatise delivers the information practitioners need to analyze, draft, and confidently litigate covenants not to compete and other restrictive covenants in the employment, partnership, franchise, license, and sale-of-business contexts. Comprehensive in scope, yet easy to use, Covenants Not to Compete provides fingertip access to critical information, whether the user is searching by state, by topic, by questions of first impression, or by issues that have been specifically identified as unresolved by courts.

Using a uniform topic structure that provides a comparative view across states, this treatise is invaluable for lawyers with a multi-jurisdictional practice, as well as for those seeking persuasive authority from other states.

Supplement Information
Representative updates covered in the 2016 Supplement include:
• How an overly broad confidentiality covenant is treated as a noncompetition covenant under Arizona law
• The anticipatory repudiation of covenants under California law
• The statutorily permitted scope of new, amended, or renewed noncompetes executed by Connecticut physicians
• The impact of a new Hawaii statute prohibiting noncompetes for any employee of a technology business
• The adequacy of continued employment as consideration for execution of an afterthought covenant under Illinois law

Summary of Contents
Each State Chapter Addresses:
• Statutes Governing Enforceability
• Employer’s Protectable Interests
• Proof of Existence of a Covenant
• Consideration Issues
• Courts’ Power to Modify the Covenant
• Obtaining a Preliminary Injunction
• Establishing Irreparable Harm
• Standard of Review on Appeal
• Enforceability After Firing
• Period of Injunction, Damages Available
• Liquidated Damages Clauses
• Choice of Law Rules
• References to Law Review Articles/Other Publications

The treatise also contains a comprehensive review of major topics, including:

Reference Tools: All of the information contained in this one-of-a-kind work is made easily accessible through a variety of reference tools, including a highly detailed Table of Cases, Finding Lists of developments and questions by state, and multiple information-rich Indexes of occupations, industries, and transactions at issue.

2015/3 Volumes/7188 pp. Hardcover with 2016 Supplement
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New Edition Due Fall 2017
www.bna.com/bnabooks/cnc

By Brian M. Malsberger
Chief Contributing Editor: Luke A. Suchyta
Board of Review Associate Editors: David J. Carr, Arnold H. Pedowitz, and Eric Akira Tate
Committee on Employment Rights and Responsibilities, ABA Section of Labor and Employment Law

In-depth coverage of each state’s statutory and common law protection of trade secrets.

This treatise provides authoritative, in-depth analysis of each state’s statutory and common law protection of trade secrets and other confidential business information, both within and outside the employment context. Using a uniform topic structure that provides a comparative view across states, this treatise is invaluable for lawyers with a multi-jurisdictional practice, as well as for those seeking persuasive authority from other states.

The Fifth Edition examines whether ownership, as opposed to mere possession, is a prerequisite to a claim for trade secret misappropriation; how particularized a trade secret claim must be at pleading and throughout litigation; what must be shown by a party asserting trade secret status as a basis for sealing a court record; what must be shown to recover punitive damages for a trade secret misappropriation; whether a corporate entity can be capable of engaging in the type of conduct required to support punitive damages; the extent to which the Uniform Trade Secrets Act preempts common law claims for unfair competition and breach of the employee duty of loyalty; and more.

Supplement Information
The 2016 Supplement contains analysis that includes whether both damages and injunctive relief are appropriate for a plaintiff who proves misappropriation under Colorado law; the particularity with which a plaintiff must identify a trade secret in order to pursue a misappropriation claim under Georgia law; whether a private communication may itself be a trade secret under Illinois law; whether a claim for breach of the duty of loyalty is preempted by Tennessee trade secret law; the proper timing for a preemption challenge under Wisconsin law; and more.

Summary of Contents
Each State Chapter Addresses:
• State’s Definition of “Trade Secret”
• Courts’ Interpretations Under the Statute, Uniform Trade Secrets Act, and Common Law
• Policy Considerations Recognized by Courts
• Evidence Establishing the Elements of a Trade Secret and of a Misappropriation Claim
• Courts’ Justifications for Denial of Protection
• Types of Information Granted Trade Secret Protection
• Types of Relief Granted for the Misappropriation of Trade Secrets
• Level of Protection for “Proprietary Information”
• References to Law Review Articles/Other Publications

2015/2 Volumes/3,614 pp. Hardcover with 2016 Supplement
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Authors and Editors of the State-by-State Survey Series
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By Brian M. Malsberger

Board of Review Associate Editors:
David J. Carr, Arnold H. Pedowitz, and Eric Akira Tate

Committee on Employment Rights and Responsibilities, ABA Section of Labor and Employment Law

A complete guide to causes of action, procedural issues, leading cases, and emerging trends in all 50 states and the District of Columbia.

Reflecting the rapid expansion of litigation concerning the application of the employee duty of loyalty, this meticulously researched treatise reviews the duty a state-by-state basis, including analysis of prohibited and permitted conduct, litigation issues, defenses, damages, and the availability of injunctive relief.

Extensive discussions of state law, broken out by category of employee—from “mere employees” to “officers and directors”—show the reader how the duty of loyalty is applied depending on the level of responsibility an employee has within an organization.

Using a uniform topic structure that provides a comparative view across states, this treatise is invaluable for lawyers with a multi-jurisdictional practice, as well as for those seeking persuasive authority from other states.

Employee Duty of Loyalty: A State-by-State Survey includes Finding Lists and detailed chapter contents, appendices containing relevant Restatement excerpts, extensive quotations from the case law, and cross-references to other titles in the Bloomberg BNA State-by-State Series. This question-and-answer reference is the premier resource available on how each state addresses the employee duty of loyalty.

Highlights covered in the new Sixth Edition include:
• The remedies available under the 2015 Restatement of Employment Law
• The allegations necessary to support a preparation-to-compete defense under Delaware law
• The appropriate statute of limitations under District of Columbia law
• The specific elements of an aiding-and-abetting claim under Florida law
• Whether using an employer-supplied home office to service noncompetitive clients breaches the duty of loyalty under New York law

Summary of Contents

Each State Chapter Addresses:
• How the State Defines Protectable Interests of Employers
• Procedural Issues
• Duty of Employee to Disclose Information, Corporate Opportunities, or Conflicts of Interest to Employer
• Prohibition Against Solicitation of the Employer’s Customers, Accounts, or Employees
• Limitations on Competition by Employee During and After Employment
• Prohibition Against Use of Employer’s Proprietary Information
• Prohibition Against Taking Kickbacks and Bribes
• Remedies
• Injunctive Relief
• Employee Defenses
• Distinctions Among Categories of Employees
• Illustrative Cases
• Law Review Articles/Other Publications

See p. 8 for author and editors information.


By Brian M. Malsberger

Board of Review Associate Editors:
David J. Carr, Arnold H. Pedowitz, and Eric Akira Tate

Committee on Employment Rights and Responsibilities, ABA Section of Labor and Employment Law

Up-to-date coverage of critical tortious interference issues in the competitive-employment context.

Tortious Interference in the Employment Context: A State-by-State Survey, Fourth Edition examines both business-versus-business suits, and suits brought by former employees against employers. Using a uniform outline and an easy to use, question-and-answer format, the treatise examines—for each state—the elements of the cause of action, the defenses that may be successfully raised, and the types of relief available.

Supplement Information

The 2016 Cumulative Supplement updates the main volume with analysis of issues including:
• The arbitability of tortious interference claims under Arizona law
• Preemption of tortious interference claims under Arkansas law
• The establishment of triable claims for intentional interference with prospective economic advantage under California law
• How New York plaintiffs can overcome the “high hurdle” of establishing that a defendant acted with the sole purpose of harm or used dishonest, unfair, or improper means
• Whether a nurse engages in tortious interference with business relations under Connecticut law by contacting her employer’s patients after she resigns

Summary of Contents

Each State Chapter Addresses:

Elements of a Former Employer’s Claim Regarding Recruiting or Hiring an Employee With a Restrictive Covenant:
• Interference With the Covenant
• Interference With Commercial Relationships or Prospective Economic Advantage Expectancies

Claims for Interference Involving the Restrictive Covenant Itself:
• Claims Against the New Employer Where the Employment Was At Will
• Claims Where the Employment Was for a Definite Term
• Defenses to Claim
• Relief Available to Former Employer
• Similar Claims Recognized by States

Common Issues:
• Hiring Measures by a New Employer for Screening Applicants With Restrictive Covenants
• Practical Advice to a Company Considering Hiring Such an Applicant
• Indemnification
• Personal Liability of Individual Officers or Employees of Former Employer for Interference

Law Review Articles/Other Publications

See p. 8 for author and editors information.

2014/1,630 pp. Hardcover with 2016 Cumulative Supplement
Order #3069/$500.00

Order #3069/$240.00

Supplement History: 2015, $230.00
New Edition Due Winter 2017
www.bna.com/bnabooks/tic

Call Bloomberg BNA at 800.960.1220 for your free 30-day review.
Workplace Data: Law and Litigation
Robert Sprague, Editor-in-Chief
Committee on Technology in the Practice and Workplace, ABA Section of Labor and Employment Law

The full guide to workplace e-discovery and data privacy law.

Workplace Data: Law and Litigation provides complete coverage of laws and issues involving employment-related electronically stored information (ESI). It focuses on key issues of interest to attorneys representing employers or employees, including privacy and monitoring. The treatise also focuses on the ever-expanding globalization of business and increasing inter-country transfer of employee personal data. It also reviews privacy laws in 22 countries and regions, including Europe, Asia, Oceania, Canada, and Mexico.

Workplace Data addresses relevant issues such as:
- Discovery issues associated with ESI from an employment law perspective, including preservation, spoliation, attorney-client privilege, and working with IT professionals
- A comprehensive analysis of data retention requirements in federal labor and employment statutes
- Privacy and discovery issues associated with social media and devices owned by either the employer or employee
- International workplace-related privacy laws

Supplement Information
The 2014 Supplement includes:
- Updates on legal developments related to workplace data
- Discussion of analysis of proportionality relative to ESI under Federal Rule of Civil Procedure 26(b)(2)(C)(iii)
- Discussion of discovery standards before the National Labor Relations Board
- Detailed discussion of social media discovery issues

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Chapter 5. E-Discovery in the Workplace: Employee Perspective
Chapter 6. General Evidentiary Issues for Workplace-Related ESI
Chapter 7. Preservation, Spoliation, and Sanctions
Chapter 8. Attorney-Client Privilege in the ESI Context
Chapter 9. Working With Information Technology Experts

Part III. Data Retention Statutes
Chapter 10. Federal Data Retention Statutes

Part IV. Emerging Issues Related to Workplace Data
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Chapter 13. International Workplace Data Issues

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Chapter 15. Asia and Oceania
Chapter 16. Europe

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Robert Sprague is an Associate Professor of Legal Studies at the University of Wyoming College of Business and a member of the Editorial Board of the American Business Law Journal.

New Edition!
Canadian Labour and Employment Law for the U.S. Practitioner, Fourth Edition
By Douglas G. Gilbert, Brian W. Burkett, and Moira K. McCaskill

The U.S. practitioner’s essential guide to workplace requirements in Canada.

As the United States continues to be Canada’s major trading partner and most significant foreign investor, Canadian Labour and Employment Law for the U.S. Practitioner is the essential resource for U.S. attorneys counseling American businesses seeking to do business north of the border. Now updated with a Fourth Edition, this treatise offers a concise explanation of Canada’s workplace laws from a U.S. perspective and highlights the key distinctions between Canadian and U.S. labor and employment law.

Highlights of the Fourth Edition include:
- Identification of the termination provisions under which employers may fire employees without just cause, as long as they provide notice or make minimum payments in lieu of giving proper notice
- Analysis of a pair of key Supreme Court of Canada decisions (Mounted Police Association of Ontario v. Canada (Attorney General) and Saskatchewan Federation of Labour v. Saskatchewan) that interpret the Canadian guarantee of freedom of association to generously protect against substantial interference with the right to a meaningful process of collective bargaining
- Discussion of recent rulings examining the procedural fairness of workplace investigations, which have taken central stage in recent years

With its helpful summaries of Canadian Supreme Court decisions relating to the panoply of labor and employment law, including its timely review of hot-button issues, such as data management, surveillance, workplace harassment, and bullying, Canadian Labour and Employment Law for the U.S. Practitioner is a one-of-a-kind, indispensable reference.

“This book is, quite frankly, the best single volume on Canadian employment law to appear for a long time. It tells employers and employees where they stand, legally speaking, across the whole range of issues that make up modern labour law. Not to put too fine a point on it, if there were but one Canadian labour law text that should be on the shelf of every Canadian practitioner, I think that this would be the one.”

— R.O. MacDowell, Former Chair, Ontario Labour Relations Board, on the First Edition

Summary of Contents
Chapter 1. Overview of the Canadian Environment
Chapter 2. Collective Bargaining
Chapter 3. The Individual Employment Relationship
Chapter 4. Discrimination in Employment
Chapter 5. Occupational Health and Safety
Chapter 6. Workers’ Compensation
Chapter 7. Employee Benefits
Chapter 8. Reciprocal Arrangements Between Canada and the U.S.
Chapter 9. Canada and Globalization

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William L. Keller and Timothy J. Darby, Editors-in-Chief (Main Volume)
Timothy J. Darby and Ute Krudewagen, Editors-in-Chief (2017 Cumulative Supplement)

International Labor and Employment Law Committee, ABA Section of Labor and Employment Law

The unparalleled reference on labor and employment laws governing the world’s major economies.

Providing vital information about labor and employment laws in the world’s major economies, the Fourth Edition covers litigation of international employment disputes, compensation for internationally mobile executives, negotiation of expatriate employment agreements, the top ten issues for U.S. employers doing business in another country, and more.

Supplement Information

Representative highlights of the 2017 Cumulative Supplement include: Canada—holding that the Canada Labour Code overrules a common law principle regarding termination of federally regulated, non-unionized employee, without cause; France—new statute reforming the system of staff representation; Germany—clarification from the Federal Labor Court as to what distinguishes an employee from an independent contractor; and United Kingdom—passage of the National Minimum Wage (Amendment) Regulations 2016 that introduced the National Living Wage for employees aged 25 years and over.

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Volume IB: Major Economies (NAFTA) and International Issues
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Labor Provisions in U.S. Free Trade Agreements Under the Trade Promotion Authority Act of 2002
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Negotiating and Drafting Expatriate Employment Agreements
Litigation of International Employment Disputes
Social Networking and the Global Workforce
Impact of International Human Rights Law on Labor and Employment Law

2015/2 Volumes/4,768 pp. Hardcover with 2017 Cumulative Supplement
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Supplement History: 2016, $210.00
New Cumulative Supplement Due Fall 2017
www.bna.com/bnabooks/ile2


William L. Keller and Timothy J. Darby, Editors-in-Chief (Main Volume)

International Labor and Employment Law Committee, ABA Section of Labor and Employment Law

Providing analysis of labor and employment laws in important countries outside the major economies.

International Labor and Employment Laws, Fourth Edition, Volumes IIA and IIB discusses developments in countries beyond the major economies discussed in Volume I, including several European Union member states, as well as countries in Africa, Asia, the Middle East, Oceania, and South America.

The Fourth Edition includes information on extraterritorial application of each country’s laws, and availability of class action procedures. The extensive bibliography provides sources of additional information on the countries discussed, including sources on the internet and addresses of key offices.

Supplement Information

The 2016 Cumulative Supplement’s coverage includes updates such as:
- Russia—enactment of privacy law legislation imposing new legal requirements on personal data and search engine operators
- Singapore—judicial review of obligations imposed by Employment of Foreign Manpower Act on employers hiring foreign workers
- Switzerland—passage of constitutional amendment requiring revision of immigration laws
- Turkey—statutory revision to the minimum wage

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Volume IIB: Additional Economies (Non-European)
Africa: Nigeria
Asia: Cambodia, India, Indonesia, Singapore, South Korea, Taiwan, Vietnam
Middle East: Israel, Saudi Arabia
Oceania: Australia, New Zealand
South America: Argentina, Chile, Venezuela

William L. Keller (deceased) was a partner in Hunton & Williams, Dallas, TX and the former Chair of the ABA Section of Labor and Employment Law.

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2013/2 Volumes/3,426 pp. Hardcover with 2016 Cumulative Supplement
Order #P3063/$545.00

Order #3063/$210.00
Supplement History: 2015, $205.00/2014, $200.00
New Cumulative Supplement Due Fall 2017
www.bna.com/bnabooks/ile2

The ABA Section of Labor and Employment Law

Section publications provide a balanced forum for the views and professional development of practitioners in labor and employment law. For more information on Section participation, please call 312.988.5813 or visit www.americanbar.org/groups/labor_law.html.
Restrictive Covenants and Trade Secrets in Employment Law: An International Survey, Volumes I and II

Wendi S. Lazar and Gary R. Siniscalco, Editors-in-Chief; Katherine Blostein, Associate Editor (2015 and 2016 Cumulative Supplements)

International Labor and Employment Law Committee, ABA Section of Labor and Employment Law

A must-have resource for companies and attorneys dealing with trade secrets or covenants in employment agreements.

This treatise explores the differences among countries in regulating noncompetition and nonsolicitation provisions and in imposing restrictions related to confidential information and trade secrets, as well as use of garden leave and restrictions on equity compensation in this area. Each country-specific chapter is written by highly regarded local lawyers and examines applicable country law; international conventions and treaties; practical issues in drafting restrictive covenants; practical issues, strategies, and tactics in trade secret protection and enforcement; forum options; jurisdiction; and discovery.

In addition to the country-specific chapters, the treatise contains useful overviews including:

- Confidentiality, Trade Secret, and Other Duties and Restrictive Covenants in a Global Economy, written by Editors-in-Chief Wendi S. Lazar and Gary R. Siniscalco
- The Challenge of Cross-Border Litigation from an EU Perspective, written by Paul Goulding, QC, a noted British barrister who has litigated key cases in Europe and has written his own book on European issues, Employee Competition: Covenants, Confidentiality, and Garden Leave (Oxford University Press)

Supplement Information

Volume I, 2015 Cumulative Supplement updates include:

- Hungary—Civil Code's protection of confidential information and trade secrets
- Norway—review of proposed new rules on restrictive covenants
- United Kingdom—review of the limits of the implied duty of confidentiality
- Ukraine—review of new Law on Personal Data Protection

Volume II, 2016 Cumulative Supplement updates include new analysis on the laws of Israel, Lebanon, Philippines, Saudi Arabia, South Africa, Taiwan, Thailand, Vietnam, and more.

Wendi S. Lazar is a partner at Outten & Golden LLP, New York, NY, where she co-heads the firm's Executives & Professionals Practice Group.

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Volume I: 2010/1,254 pp. Hardcover with 2015 Cumulative Supplement Order #9696P/$400.00
Supplement History: 2014, $210.00/2013, $195.00
www.bna.com/bnabooks/rcts

Volume II: 2010/1,248 pp. Hardcover with 2016 Cumulative Supplement Order #9697P/$400.00
Supplement History: 2014, $210.00/2013, $195.00
www.bna.com/bnabooks/rcts2

Privacy in Employment Law, Fourth Edition

By Matthew W. Finkin

Know the extent—and limits—of individual rights and employer authority.

This treatise offers guidance on employee/employer rights and the limits of employer authority in securing information about applicants and employees, disclosing such information, and controlling activities in the U.S. workplace.

It is a dependable reference on the law of privacy as addressed fragmentally in statutes and court decisions. It provides lists of relevant state laws addressing topics relating to workplace privacy, including drug testing, access to personnel files, lie detection, electronic monitoring, and more, in addition to offering text of selected foreign statutes and the EU Directive on privacy law.

The Fourth Edition also discusses whether a GPS device may be attached to an employee's private vehicle by a public employer, whether an applicant's status as unemployed may be used to deny consideration for employment, whether use of marijuana that is lawful under state law may be a ground for termination or for denial of unemployment compensation benefits, whether an employee may leave a firearm in a vehicle on the employer's premises, and more.

Supplement Information

The 2016 Cumulative Supplement's updates include:

- Revised EEOC rules on "wellness" programs—defining permissible incentives to participate, voluntariness, and spousal disclosure of genetic information
- ADA medical confidentiality for information disclosed to an employer directly by an employee
- Revised OSHA rule on the relationship of drug testing to the reporting and recording of occupational injuries
- A series of cases under the Fair Credit Reporting Act (FCRA) refining such statutory questions as: the need to show damages in order to have standing, the distinction between background checks and investigations into misconduct, the nature of adequate notice of pre-adverse action, damages, and willfulness

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Chapter 2. Drug, Alcohol, and Tobacco Screening and Testing
Chapter 3. Psychological Screening and Testing
Chapter 4. Interviews and Background Investigation
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Chapter 6. Control of Employees

Part II. Statutory and Regulatory References
- Polygraphy and Lie Detection
- Drug and Alcohol Testing
- Use of Tobacco, Alcohol, or Lawful Products Outside the Workplace
- Access to Personnel Records
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- Social Security Numbers
- Electronic Monitoring and Surveillance

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  - New South Wales, Australia
  - Portugal
  - France

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Matthew W. Finkin is the Albert J. Hamo and Edward W. Cleary Chair in Law at the University of Illinois, where he also holds appointments in the Center for Advanced Study and the School of Labor and Employment Relations.

2013/1,268 pp. Hardcover with 2016 Cumulative Supplement Order #3067/$450.00
Supplement History: 2015, $130.00/2014, $120.00
New Cumulative Supplement Due Fall 2017
www.bna.com/bnabooks/priv
Global Employee Privacy and Data Security Law, Second Edition

Morrison & Foerster LLP; Miriam H. Wugmeister and Christine E. Lyon, Editors; Privacy and Data Security Practice Group

An essential guide to workplace privacy and data security laws around the globe.

This handbook is designed specifically to help privacy and human resources professionals and attorneys understand international workplace privacy and data security laws and the relation to U.S. law to help ensure compliance with all requirements.

The book covers all of the important issues related to international employee privacy law, including background checks and investigations, monitoring and surveillance, use of government identifiers and Social Security numbers, data security, and security breach notification requirements.

This handbook is designed to be used with Morrison & Foerster’s “Privacy Library,” a free resource available at www.mofoprivacy.com.

Summary of Contents

Chapter 1. Overview of Privacy and Data Security
Chapter 2. Background Checks and Investigations
Chapter 3. Email and Internet Monitoring/Video and Physical Surveillance
Chapter 4. Employees’ Off-Duty Conduct
Chapter 5. Confidentiality of Health Information
Chapter 6. Medical Examinations and Drug Testing of Applicants and Employees
Chapter 7. Personnel Records
Chapter 8. Use of Government Identifiers and Social Security Numbers
Chapter 9. Security Breach Notification Requirements
Chapter 10. Data Security: Maintaining an Information Security Program

Miriam H. Wugmeister is a partner in the New York, NY, office of Morrison & Foerster LLP and is Chair of the firm’s Privacy and Data Security Practice Group.

Christine E. Lyon is a partner in Morrison & Foerster’s Palo Alto, CA, office, where her practice concentrates on employment and privacy law.

Order #1942/$265.00
www.bna.com/bnabooks/gep

NLRA Rights in the Nonunion Workplace

By Kenneth T. Lopatka

An exploration of the NLRA’s application in the nonunion workplace.

NLRA Rights in the Nonunion Workplace concentrates exclusively on the broad application of the National Labor Relations Act (NLRA) outside the union workplace to help employers spot potential NLRA issues, understand the options and associated risks, and render sound advice to their clients.

Kenneth T. Lopatka is an adjunct professor at the Charleston School of Law, Charleston, SC.

Order #1923/$145.00
www.bna.com/bnabooks/nlra

The Uniformed Services Employment and Reemployment Rights Act

George R. Wood and Ossai Miazad, Editors-in-Chief

Federal Labor Standards Legislation Committee, ABA Section of Labor and Employment Law

Fully understand the complexities of USERRA requirements.

This treatise provides a comprehensive analysis of the complicated issues involved with the application and enforcement of this law. It is edited by practitioners who represent both employers and employees, providing a balanced view of the issues.

Supplement Information

Highlights of the 2016 Cumulative Supplement include:

• Clarification of the employer’s burden for discrimination claims, including the proper formulation of jury instructions
• Analysis of the terms under which USERRA claims may be arbitrated
• Examination of the “brief, non-recurrent employment” defense for reinstatement claims
• Application of the “reasonable certainty” test to discretionary, as well as automatic, promotions

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George R. Wood is a partner with Littler Mendelson P.C., Minneapolis, MN.
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2009/534 pp. Hardcover with 2016 Cumulative Supplement
Order #P3072/$365.00
Order #3072/$190.00
Supplement History: 2015, $190.00/2014, $190.00
New Edition Due Summer 2017
www.bna.com/bnabooks/userra

By M. Scott McDonald and Jacqueline C. Johnson

Guidance for legal counsel assisting employers with unfair competition and IP protection issues.

Unfair Competition and Intellectual Property Protection in Employment Law: Contract Solutions and Litigation Guide comprehensively addresses employers’ key concerns and their full range of potential protections, providing a balanced look at all contractual options and litigation alternatives to protect against unfair competition and intellectual property theft.

The treatise includes:
- Contract drafting advice
- Practical implementation and litigation avoidance advice (with checklists)
- Litigation advice and tactics

The book includes chapters covering: protection concepts; basic law, policy, and contract options; hiring safely from a competitor; sale of the business; mergers and acquisitions; causes of action; unique evidence issues; and trial considerations. Helpful checklists cover subjects like “How to Hire Safely from a Competitor” and “Key Contract Enforcement Assessment Questions.”

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M. Scott McDonald is office-managing shareholder and serves on the board of directors at Littler Mendelson P.C., Dallas, TX.

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Gregory N. Dale and P. Matthew Shudtz, Editors-in-Chief

Occupational Safety and Health Law Committee, ABA Section of Labor and Employment Law

Legal analysis of judicial and administrative decisions related to the OSH Act.

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- Updates in the enforcement and interpretation of standards and the general duty clause by the courts and the Commission
- Agency perspectives and interpretations of employee walkaround rights and safety incentive programs

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—Eric E. Hobbs, Shareholder, Ogletree, Deakins, Milwaukee, WI, and Past Employer Co-Chair, American Bar Association Labor and Employment Law Section’s Occupational Safety and Health Law Committee

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Gregory N. Dale is a partner with Faegre Baker Daniels, Indianapolis, IN.

P. Matthew Shudtz is Executive Director of the Center for Progressive Reform, Washington, DC.

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The Developing Labor Law: The Board, the Courts, and the National Labor Relations Act, Sixth Edition

John E. Higgins, Jr., Editor-in-Chief (Main Volume); Steven D. Wheeless, Patrick E. Deady, and Barry J. Kearney, Editors-in-Chief (2016 Cumulative Supplement)

Committee on Development of the Law Under the NLRA, ABA Section of Labor and Employment Law

The ultimate desktop reference for labor and employment law practitioners.

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- Discusses Board policy in Murphy Oil USA with respect to employer mandatory arbitration agreements
- Discusses the Board’s Final Rule regarding representation hearings

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—Gordon E. Krischer, Of Counsel, O'Melveny & Myers LLP, Los Angeles, CA

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Committee on Practice and Procedure
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- New procedures for deferral of charges to arbitration
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Matthew M. Frankiewicz is a labor and employment arbitrator, who served as an NLRB attorney for 14 years. He has handled hundreds of investigations.
Daniel Silverman, former director of the NLRB’s New York Regional Office and former acting general counsel to the Board, is currently an adjunct professor of law and co-director of the Labor and Employment Clinic at the Benjamin N. Cardozo School of Law, Yeshiva University. He also is a partner in Silverman & Silverman, LLP, Brooklyn, NY, and a labor mediator and arbitrator.

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Kenneth May, Editor-in-Chief; Patrick M. Sanders and Michelle T. Sullivan, Associate Editors

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The new Eighth Edition covers arbitrators' consideration of external law in labor arbitration, the developing standards for evidentiary privilege as it relates to union shop stewards, arbitrators' views on threats and violence, the continued viability of the plain-meaning rule, the unauthorized practice of law in labor arbitration, and discussion of state and local government arbitration and interest arbitration.

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Part I. Overview; ADR in the Employment Context
Part II. Employment Arbitration
Part III. Special ADR Issues in the Employment Context
Part IV. Drafting Issues

Norman Brand has been engaged in dispute resolution full time since 1983 and is a member of the National Academy of Arbitrators, a Fellow of the College of Labor and Employment Lawyers, a Fellow of the American College of Employee Benefits Counsel, and past president of the California Dispute Resolution Council. Mr. Brand has been voted a “Super Lawyer in ADR” in Northern California.

In Discipline and Discharge in Arbitration, Third Edition, experienced practitioners analyze the standards and rationales used by arbitrators in rendering their awards for cases involving absenteeism, insubordination, theft/falsification, off-duty behavior, negligence on the job, possession of drugs, fighting, employee use of social media, and much more.

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Norman Brand has been engaged in dispute resolution full time since 1983 and is a member of the National Academy of Arbitrators, a Fellow of the College of Labor and Employment Lawyers, a Fellow of the American College of Employee Benefits Counsel, and past president of the California Dispute Resolution Council. Mr. Brand has been voted a “Super Lawyer in ADR” in Northern California.

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*Court Gifford, Editor*

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- BLS data on major strike activity in the U.S. from 1947 to 2016
- American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) headquarters and state officials
- Names and addresses of Change to Win officers and unions
- An analysis of union representation elections supervised by the National Labor Relations Board in 2016
- Tables showing union membership in each state and as a percentage of the state workforce in 2015 and 2016
- The appendices include BLS tables on union membership and earnings, an AFL-CIO report on membership in unions, and a chart listing union financial reporting requirements under the Labor-Management Reporting and Disclosure Act and the Civil Service Reform Act

The Directory also provides complete coverage of union membership, including national membership, state-by-state membership, work stoppages, and union representation elections.

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Departments, Trade and Industrial Departments, Executive Council, Affiliated Unions, State Federations, and Central Labor Councils

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Leadership Council, Affiliated Unions

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BLS Union Membership and Earnings Data, 2015 and 2016; BLS Union Membership Data by State, 2015 and 2016; Major Work Stoppages; AFL-CIO Membership Report; Reports Required Under the LMRDA and the CSRA

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Court Gifford is a former editor of Bloomberg BNA’s Daily Labor Report.


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**Construction Industry Labor and Employment Law**

*By James W. Wimberly, Jr., Les A. Schneider, and Martin H. Steckel*

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**Supplement Information**

The 2017 Supplement updates the treatise with analysis of topics including:

- False Claims Act allegations involving Davis-Bacon violations
- Preemption of city or local government project labor agreement requirements
- Retaliatory discharge and other interference with workers’ compensation claims
- Bargaining unit and joint employment issues arising with employees and workers provided by staffing firm or subcontractor
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Part V. Miscellaneous Issues

Part VI. Trust Fund and ERISA Concerns

The treatise also includes 37 separate appendices providing practical guidance from the management, neutral, and union perspectives.

James W. Wimberly, Jr. is a senior principal at Wimberly, Lawson, Steckel, Schneider & Stine, Atlanta, GA.

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Robert M. Cassel has specialized exclusively in labor and employment law representing management since 1962. He has been a partner in major San Francisco, CA, law firms and now practices from his own law office in Marin County, adjacent to San Francisco.

How to Cost Your Labor Contract, Second Edition
By Michael H. Granof, Jay E. Grenig, and Moira J. Kelly
An in-depth, expert examination of the costing issues critical to both labor and management.
This handbook offers a comprehensive, easy-to-understand explanation on how to calculate the economic impact of wages, benefits, and work practices in labor contract costing. It discusses expanded costing methodology; the use of technology in bargaining; what a bargaining team needs to do to prepare for negotiations and to set up a costing model; how to prepare, present, and respond to costing proposals during negotiations; how to apply interest-based bargaining techniques to economic components of negotiation; public sector issues in bargaining; and arbitrators’ key considerations in deciding economic components of public sector collective bargaining disputes.

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Michael H. Granof has been a Professor of Accounting at University of Texas at Austin, Austin, TX, since 1972.
Jay E. Grenig is a Professor of Law at Marquette University Law School, Milwaukee, WI, where he teaches alternative dispute resolution and civil procedure.
Moira J. Kelly is an adjunct assistant professor at Marquette University Law School, Milwaukee, WI, and president of Kelly Consulting LLC, New Berlin, WI.

Contract Bargaining Handbook for Local Union Leaders, Fourth Edition
By Maurice B. Better
Revised by Kenneth May
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• How to file charges and communicate with federal agencies in the electronic age
• Updated discussion on the use of spreadsheets in bargaining
• Revised commentary on the use of strikes and other pressure tactics
• New section on litigation strategies

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Kenneth May is an arbitrator and was formerly the lead editor of Labor Arbitration Reports, a component of Bloomberg BNA’s Labor Relations Reporter, Arlington, VA. He is a member of the Executive Board of the Labor and Employment Relations Association.

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Karen L. Ertel is the Director of Bloomberg BNA’s Labor, Employment, Benefits, and HR news desk, Arlington, VA.

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Roger I. Abrams is the Richardson Professor of Law at Northeastern University School of Law, Boston, MA.

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Theodore J. St. Antoine is the James E. and Sarah A. Degan Emeritus Professor of Law at the University of Michigan Law School, Ann Arbor, MI.

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Adolph M. Koven (deceased) was a prominent arbitrator for nearly 40 years.
Susan L. Smith is with the University of California at San Diego, San Diego, CA.
Kenneth May is an arbitrator and was formerly a lead editor of Labor Arbitration Reports, a component of Bloomberg BNA's Labor Relations Reporter, Arlington, VA. He is a member of the Executive Board of the Labor and Employment Relations Association.

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Arnold M. Zack is a labor arbitrator based in Boston, MA.
Richard I. Bloch is a labor arbitrator based in Washington, DC.

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Ray J. Schoonhoven (deceased) was a partner in Seyfarth Shaw, Chicago, IL, where he specialized in employment law and labor relations.

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Charles S. Loughran is a labor arbitrator, mediator, attorney, and fact finder based in Oakland, CA, with over 40 years of experience in labor and employee relations.

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Regina Olshan is the global head of the Executive Compensation and Benefits practice group at Skadden, Arps, Slate, Meagher & Flom LLP, New York, NY.  
Erica F. Schohn is a partner in the Executive Compensation and Benefits practice group at Skadden, Arps, Slate, Meagher & Flom LLP, New York, NY.

Employee Benefits Law, Fourth Edition offers detailed, annotated coverage of Employee Retirement Income Security Act (ERISA) Titles I and IV; rules of tax qualification, deductibility, and other key tax issues; preemption, with regard to ERISA and medical malpractice and related claims; benefit claims, with regard to evidentiary issues and abuse of discretion in denials; interplay with related legal areas; and effects of sexual orientation and veteran status on benefits.

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- Discussion of changes in the law affecting benefits for same-sex spouses in employee benefit plans

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- Pub. L. No. 114-74: accelerated the Pension Benefit Guaranty Corporation (PBGC) flat-rate and variable-rate premium due date for the 2025 plan year by one month; increased the single-employer flat-rate premium; and increased the flat-rate premium for the years 2017-2019
- Pub. L. No. 114-41: extended the date by which qualified transfers of excess pension assets from overfunded plans may be made to a medical expense account for the payment of retiree health care expenses; and provided that qualified transfers will not be treated as impermissible employer reversions or prohibited transactions under ERISA if made prior to January 1, 2026

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Sharon F. Fountain, Esq., is Managing Editor for Compensation Planning at Bloomberg BNA Tax & Accounting, Arlington, VA.

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Supplement Information
The 2016 Cumulative Supplement includes a chapter on the ERISA implications of investment in swaps and other derivatives, consideration of emerging topics relating to the Department of Labor's controversial reproposal of the definition of “fiduciary” under ERISA and the proposed “Best Interest Contract” class exemption, and a discussion of insurers' fiduciary responsibilities. The Supplement also includes a number of recent judicial and regulatory developments, including a host of Supreme Court cases such as Fifth Third Bancorp v. Dudenhoeffer and Tibble International v. Edison, and other federal court decisions addressing revenue sharing and excessive fee claims, statute of limitations, arbitration, employer stock-drop issues, preemption of state law malpractice claims against attorneys, and many others.

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Kathleen D. Bardunias is Special Counsel at Foley & Lardner LLP, Milwaukee, WI.

2008/1,194 pp. Hardcover with 2016 Cumulative Supplement
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Supplement History: 2011, $195.00/2009, $175.00
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- Detailed case updates involving accidental death plans, church plans, disability plans, governmental plans, severance plans, healthcare plans (including retiree benefits), multi-employer plans, and pension plans
- Analysis of preemption, remedies, standard of review, standing, limitation periods, forum selection clauses, venue, and attorneys’ fees
- Examination of proposed disability regulations, cases decided under new federal discovery rules, and regulations under the ACA
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The Affordable Care Act: Law and Regulations, Annotated, 2016 Edition
Eric H. Rubin, Esq., and Sharon F. Fountain, Esq., Editors
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Jeffrey M. Samuels is Professor Emeritus of the University of Akron School of Law. He was formerly the David L. Brennan Professor of Law and Director, Center for Intellectual Property Law and Technology, at the University of Akron School of Law; the Assistant Commissioner for Trademarks, U.S. Patent and Trademark Office; and Managing Editor of Bloomberg BNA’s Patent, Trademark & Copyright Journal.

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- Copyright Royalty Board rule amendments: to move coin-operated phonorecord royalty provisions from old section on Copyright Arbitration Royalty Panel to current section on Copyright Royalty Board; for COLA increase for webcaster royalties; and on reporting requirements for noncommercial webcasters
- USPTO: rule corrections to recently issued rules on Trademark Trial and Appeal Board, and rule amendments on affidavits of continued use to permit USPTO to ensure register accurately reflects marks used in commerce
- Copyright Office rule amendments: to allow authors and claimants to replace or remove personally identifiable information from online registration catalog; to replace outdated terminology, reflect changes to the Office and senior management, eliminate expired or obsolete provisions, and correct non-substantive errors; and to implement the FOIA Improvement Act of 2016

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James D. Crowne is the Director of Legal Affairs for the American Intellectual Property Law Association (AIPLA) and was formerly the Managing Editor of Bloomberg BNA’s Patent, Trademark & Copyright Journal.

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G. Peter Albert, Jr., Editor-in-Chief

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The 2016 Cumulative Supplement adds the following discussions:

- New topics in patent law on subject matter eligibility after Enfish v. Microsoft, including the USPTO’s May 16, 2016 memorandum; a new section on derivation proceedings; and a new section on post-grant review proceedings, including changes to PTAB trial grants
- New analysis of the Defend Trade Secrets Act of 2016, which creates a federal civil cause of action for trade secret misappropriation
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G. Peter Albert, Jr., is a partner with AlbertDhand, LLP, San Diego, CA, where his practice encompasses all phases of international patent, trademark, and copyright litigation, prosecution licensing, and intellectual property counseling. Contributing chapter authors are members of AIPLA.

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**Intellectual Property, Software, and Information Licensing: Law and Practice**

By Xuan-Thao N. Nguyen, Robert W. Gomulkiewicz, and Danielle M. Conway

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- The Seventh Circuit held that the sale of the licensee did not constitute an assignment of the patent license agreement in violation of the anti-assignment clause because the agreement failed to include a restriction on who could own or control the licensee

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Lee A. Hollaar is Professor Emeritus at the University of Utah. Prior to retirement, Professor Hollaar's research included software and hardware systems for text handling and retrieval (major support from the National Science Foundation and the Central Intelligence Agency), distributed systems, and data communications. He holds five United States patents on his research and has submitted or supervised the submission of a number of amicus briefs to the Supreme Court, including ones that first proposed the “foreseeability” test of Festo and “inducement” in Grokster.


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Jeffrey A. Maine, B.B.A., M.B.A., J.D., LL.M., C.P.A., is a Professor of Law at the University of Maine School of Law, Portland, ME.

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Aline C. Flower is the associate general counsel for global development with the Bill and Melinda Gates Foundation, Bainbridge Island, WA. Contributing chapter authors are experienced IP technology transfer practitioners.

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The authors have had extensive experience with the legislation and regulations for the AIA, having served in various capacities both within AIPLA and on other bar committees that were responsible for analysis and comment on the AIA and subsequent regulations.

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The Tenth Edition adds discussion of:

- **Cuozzo Speed Technologies, LLC** where the Supreme Court held that review of the Patent Trial and Appeal Board decision to institute an IPR is prohibited even after final decision, and that patent claims in an IPR are to be construed under the “broadest reasonable interpretation” standard
- Consolidated cases **Stryker Corp. v. Zimmer, Inc. and Halo Electronics, Inc. v. Pulse Electronics, Inc.,** where the Supreme Court overturned the Federal Circuit’s strict test used to award enhanced damages, allowing district courts more freedom to exercise discretion under 35 U.S.C. §284 to increase damages up to three times the amount awarded for egregious cases of misconduct beyond typical infringement
- En banc Federal Circuit decision **The Medicines Co. v. Hospira** holding that a contract manufacturer’s sale to the inventor of manufacturing services where neither title to the embodiments nor the right to market the same passes to the supplier did not constitute an invalidating sale

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Irah H. Donner is a partner in the Intellectual Property Department of Manatt, Phelps & Phillips, LLP, New York, NY.

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- Exclusion of tax strategies and human organisms from patent-eligible subject matter under the AIA
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Supplement Information

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- Argentina’s review of claim construction, infringement, and venue and forum selection
- Finland’s expanded analysis of patent invalidity and patent trial proceedings
- Pakistan’s new discussions on infringement, prosecution, and discovery
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By Bruce H. Stoner, Jr., Nancy J. Linck, Carol A. Spiegel, and Richard Torczon
American Intellectual Property Law Association (AIPLA)
An invaluable guide to USPTO patent post-issuance procedures.
The Second Edition of Post-Grant Patent Practice, co-published with the American Intellectual Property Law Association (AIPLA), provides a complete reference guide to post-issuance procedures, helping patent professionals to challenge and defend patents and address possible mistakes made during the prosecution of a patent application, including mistakes made by the U.S. Patent and Trademark Office (USPTO). In-depth analysis offers a roadmap to post-grant practices under the AIA. The book’s authors—four former USPTO Administrative Patent Judges—provide guidance on AIA post-grant review, inter partes review, covered business method review, and derivation proceedings. The treatise also examines other post-grant procedures, including: reissue, ex parte and inter partes reexamination, declarations, certificates of correction, and interference practice.

Supplement Information
The 2016 Supplement adds:
- Changes to USPTO rules and guidance
- Decisions from the Patent Trial and Appeal Board (PTAB) and from the federal courts affecting post-grant practices
- Insight into how pending Supreme Court cases and proposed statute and rule changes might affect post-grant practice
- Revised tables and appendices, including the AIA, other statutes, and rules governing post-grant practices

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Bruce H. Stoner, Jr. is a former Chief Administrative Patent Judge of the Board of Patent Appeals and Interferences (BPAI) of the USPTO, now the Patent Trial and Appeal Board (PTAB), and served as Chief Judge until his retirement from federal service, when he joined Greenblum & Bernstein P.L.C.
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Henry B. Gutman is a retired partner at Simpson Thacher & Bartlett LLP, where he was the Chair of the firm’s Intellectual Property Practice Group. He is a past Chair of the Complex Litigation Committee of the ACTL and was a member of the State Committee for Downstate New York.
George F. Pappas is a partner at Covington & Burling, LLP and is a member of the firm’s national patent and IP litigation group. He is a past Chair of the ACTL Complex Litigation Committee.
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• Redefined the standards for resolving challenges to claim definiteness and appeals of District Court claim construction decisions (Nautilus v. Biosig Instruments and Teva v. Sandoz)

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The Eighth Edition is authored by Robert J. (Bob) Goldman, a partner at Ropes & Gray in Silicon Valley, and a colleague and friend of Mr. Schwartz’s, who co-authored the Sixth and Seventh Editions. Bob Goldman has been a trial lawyer for 36 years, beginning at the IP boutique Fish & Neave, where he first worked with Mr. Schwartz on Polaroid Corporation’s landmark patent litigation with Eastman Kodak. That case resulted in a permanent injunction against Kodak’s product and a damages award of over $900 million. In the decades that followed, Bob has tried patent, copyright, and trade secret cases in technologies ranging from postage meters and medical devices to computer hardware and software, pharmaceuticals, and genetically engineered mice for drug development.

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Supplement Information

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• Review of the Supreme Court’s Cuozzo decision, which held that the USPTO can apply the broadest reasonable interpretation standard to interpret claims during inter partes review

• Review of the Supreme Court’s decision in Halo Electronics abrogating Seagate’s two-part test for willfulness and changing the standard and burden of proof for enhanced damages

• Review of Federal Circuit’s decision in Acorda Therapeutics v. Mylan Pharmaceuticals, Inc., which held that specific jurisdiction exists over an ANDA applicant in any state in which it plans to market its proposed drugs

• Review of May 2016 USPTO Update on Subject Matter Eligibility in life sciences

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Supplement Information

The 2012 Cumulative Supplement addresses:

• Aero Prods. Int’l, Inc. v. Intex Rec. Corp. and duplicative recovery
• Poly America, L.P. v. GSE Lining Technology, Inc. and lost profits
• Uniloc USA, Inc. v. Microsoft Corp. and reasonable royalties
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• eBay, Inc. v. MercExchange and injunctive relief
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Lawrence M. Sung is a registered patent attorney with a Ph.D. in microbiology who has over 20 years of experience in biotechnology, medical device and pharmaceutical patent counseling, litigation, and technology transfer. Dr. Sung has served as a consultant to the National Human Genome Research Institute and as a member of the National Academies Standing Committee on Emerging Issues and Data on Environmental Contaminants. He has also testified before the U.S. House of Representatives Committee on the Judiciary, Subcommittee on Courts, the Internet, and Intellectual Property on the role of gene patents.

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Supplement Information

The 2016 Supplement adds discussion of the following:

- The on-sale bar and pharmaceutical suppliers
- Personal jurisdiction in Hatch-Waxman cases
- Equivalent infringement for pharmaceutical patents
- Rolling review NDAs and patent term extension
- How to avoid filing Paragraph IV certifications

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About the Author

John R. Thomas is a member of the faculty of Georgetown University Law Center, Washington, DC, and a widely published author in the field of pharmaceutical patent law. He frequently serves as a Special Master in patent litigation before the federal courts.

2015/936 pp. Hardcover with 2016 Supplement
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New Cumulative Supplement Due Fall 2017
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By Kenneth J. Burchfiel (Main Volume) and Howard W. Levine (2015 Cumulative Supplement)

In-depth, expert consideration of the entire body of Federal Circuit precedent in biotechnology.

The Second Edition offers full analysis of, and expert commentary on, en banc Federal Circuit and Supreme Court decisions that have rewritten the law of biotechnology inventions and altered the basic legal principles governing patentability and infringement. The book discusses the Hatch-Waxman Act and Supreme Court and Federal Circuit precedent concerning the safe harbor for medical and pharmaceutical research; patent term and term extension; and infringement and the various hierarchies of claim construction approved in Phillips v. AWH.

Supplement Information

The 2015 Cumulative Supplement provides full analysis of recent Supreme Court and Federal Circuit decisions, including in-depth discussions on Mayo v. Prometheus and Myriad and how these cases continue to shape the permissible bounds of patent-eligible subject matter; the doctrine of obviousness-type double patenting and its use by the Federal Circuit; the continuing evolution of the law of written description; the relationship between the Supreme Court, the Federal Circuit, and the USPTO in terms of who has the final say concerning a patent’s validity and when that decision becomes final; the evolving standard of review for claim construction; and the differing reasoning of panels of the Federal Circuit concerning obviousness under Section 103.

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2010/164 pp. Hardcover with 2015 Cumulative Supplement
Order #9638P/$465.00

Order #2638/$185.00

Supplement History: 2013, $165.00
New Cumulative Supplement Due Fall 2017
www.bna.com/bnabooks/biot
Drafting Patent License Agreements, Eighth Edition

By D. Patrick O’Reilley and D. Brian Kacedon

Probe and understand the legal issues that affect patent license agreements.

This invaluable volume tracks and discusses—clause by clause—all the critical components of patent and technology license agreements, as well as non-disclosure agreements and collaboration agreements. The Eighth Edition also presents a current overview of all legal issues surrounding licensing, including patent exhaustion, antitrust, bankruptcy, Bayh-Dole, and export control. It includes chapters on the UCC and licensing and on RAND licensing. Sample provisions include references to applicable legal and practical consequences. Major cases covered include Kimble v. Marvel Entertainment LLC; Azure Networks LLC v. CSR PLC; Helfrich v. New York Times; STC.UNM v. Intel Corp.; Ericsson Inc. v. D Link Systems Inc.; Jaffe v. Samsung Electronics Co.; Microsoft Corp. v. Motorola Inc.; and FTC v. Actavis Inc.

A companion online appendix offers 200 sample clauses and forms, including sample license agreements, confidential disclosure agreements, employment agreements, and more.

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Chapter 6. IP Licenses and the Uniform Commercial Code
Chapter 7. Impaired Licenses
Chapter 8. Patent Exhaustion
Chapter 9. Issues in License Agreement Negotiation
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Chapter 13. Reservations and Improvements
Chapter 14. Royalties, Reports, and Payments
Chapter 15. RAND Principles
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Chapter 27. Validity and Construction of Patents
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Chapter 29. Confidental Disclosure Agreements
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Chapter 32. Cross-Border Licensing Issues
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D. Patrick O’Reilley (retired) was a partner with Finnegan, Henderson, Farabow, Garrett & Dunner, LLP, Washington, DC. He also teaches law at George Mason University Law School, Arlington, VA.

D. Brian Kacedon is a partner at Finnegan, Henderson, Farabow, Garrett & Dunner, LLP, Washington, DC and has broad experience in all aspects of patent litigation.

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Drafting Patents for Litigation and Licensing, Second Edition

Bradley C. Wright, Editor-in-Chief

ABA Section of Intellectual Property Law

A guide through the minefield of court decisions that have systematically eroded the scope and validity of patents. This treatise helps practitioners draft the broadest possible patent by synthesizing and applying lessons from the case law to sustain a validity challenge.

It provides in-depth discussions on pitfalls in claim drafting; dangers of means-plus-function clauses in claims; strategies to target direct infringers; the scope of enablement trends; instructions on how to "Festo-proof" a patent application; and more.

The Second Edition was revised to:

- Address passage of the Leahy-Smith America Invents Act (AIA)
- Examine patenting strategies in view of the Biologics Price Competition and Innovation Act of 2009
- Offer strategies for dealing with obviousness problems
- Feature a new chapter on Validity Trials at the Patent Trial and Appeal Board

The Second Edition also focuses on significant court decisions relating to patent law, including:

- Association for Molecular Pathology v. Myriad Genetics
- Akamai Technologies v. Limelight Networks
- Boehringer Ingelheim v. Barr Labs
- Halliburton Energy Services v. M-I LLC
- Mayo Collaborative Services v. Prometheus Labs

Supplement Information

The 2016 Cumulative Supplement includes discussion of:

- The U.S. Supreme Court’s ruling in Cuozzo Speed Technologies, LLC v. Lee upholding the PTAB’s claim construction standard
- The Federal Circuit’s en banc decision on direct infringement on remand in Akamai Technologies Inc. v. Limelight Networks, Inc.
- The Federal Circuit’s biosimilars decisions in Amgen v. Apotex and Amgen v. Sandoz
- The Federal Circuit’s decision on means-plus-function claim construction in Williamson v. Citrix Online, LLC

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Chapter 2. Pitfalls in Patent Drafting
Chapter 3. Drafting the Winning Patent
Chapter 4. Continued Prosecution of the Patent
Chapter 5. Mechanical Patents
Chapter 6. Electrical Patents
Chapter 7. Software, E-Commerce, Internet, and Business Method Patents
Chapter 8. Chemical and Pharmaceutical Patents
Chapter 9. Biotechnology Patents
Chapter 10. Design Patents
Chapter 11. Combining Prosecution With Other Forms of Representation
Chapter 12. Drafting U.S. Patents With a View Toward Europe
Chapter 13. Validity Trials at the Patent Trial and Appeal Board

Bradley C. Wright is a senior partner at Banner & Witcoff, Ltd., Washington, DC. Contributing chapter authors are seasoned patent practitioners and members of the ABA Section of Intellectual Property Law.

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Supplement History: 2015, $220.00/2014, $215.00
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Trademark & Copyright Law

Secondary Trademark Infringement
By Jane Coleman and Griffith B. Price, Jr. (Main Volume); Jane Coleman and Naresh Kilaru (2016 Cumulative Supplement)

Thorough analysis and guidance on this rapidly growing area of intellectual property law.

This treatise is the first and only work that provides a comprehensive treatment of the law of contributory and vicarious trademark infringement, combining in-depth examination of the case law with expert practical insights into litigating secondary liability cases. Attorneys and business executives will benefit from its practical approach to detailed case law, analysis, commentary, and practice notes. Practice notes feature real-world litigation examples and highlight substantive and procedural issues in secondary trademark infringement cases—from both the trademark owner's and the accused infringer's point of view. Issues covered include: recovery of damages and injunctive relief, and guidelines for trademark protection and enforcement, as well as risk management for internet service providers and other service providers. Beginning with the early “passing off” cases, this treatise covers the rapidly expanding areas of trademark law involving the internet.

Supplement Information

The 2016 Cumulative Supplement adds the following developments and new material:

• Chapter 3 addresses the courts' further movement away from a rigid reading of Tiffany's requirement of “specific knowledge of infringement”

• Chapter 4 adds a section on contributory false advertising in light of the Eleventh Circuit's decision in Duty Free Amrs., Inc. v. Esteve Lauder Cos., which signals the courts' willingness to continue to extend contributory liability doctrine across the spectrum of Lanham Act violations

• Chapter 11 discusses TRB Acquisitions LLC v. Seduka, LLC. Although, as a general rule, a corporate parent is not automatically liable for the acts of its wholly owned subsidiary, in TRB Acquisitions, the court nonetheless sustained the plaintiff's joint tortfeasor claim against a corporation and its parent where the plaintiff's allegations asserted more than a mere parent-subsidiary relationship

• Chapter 12 examines a federal court's decision to award maximum statutory damages against the contributory infringers in Innovation Ventures, LLC v. Ultimate One Distrib. Corp., which involved wide-scale counterfeiting of a popular liquid dietary supplement produced in a facility that posed a threat to public health

Trademark Litigation Practice
By David S. Fleming and John T. Gabrieldes

Get the most practical guide to litigating trademark and other Lanham Act cases.

This treatise puts into context every aspect of Lanham Act cases, from pre-filing considerations to disclosures and discovery, through motion practice, trial, and post-trial proceedings. The book, written by seasoned trademark lawyers, also includes analysis of alternative proceedings that may be used in trademark cases, including oppositions and cancellations in the TTAB, Uniform Domain Name Dispute-Resolution Policy proceedings for domain names, International Trade Commission investigations, and alternative dispute resolution tools.

Supplement Information

New in the 2016 Cumulative Supplement:

• Updates to the chapter on discovery based on the revisions to the Federal Rules of Civil Procedure effective December 1, 2015

• The Fourth Circuit’s ruling in Belmora LLC v. Bayer Consumer Care AG that a plaintiff need not show that it possesses or has used a trademark in U.S. commerce as an element of a cause of action for false association after Lexmark

“The book is logically and meticulously well-organized and easy to read and use as a reference. Enhanced by an engaging and user-friendly writing style, and a straightforward approach to its subject, the book offers analysis of the applicable case law as well as practice notes. It’s an instant necessity for the desktop or bookshelf of any serious trademark practitioner.”

—Robert C. Cumbow, Attorney, Graham & Dunn PC

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Chapter 4. Contributory Liability for Other Forms of Trademark Infringement
Chapter 5. The Relationship Between Secondary Trademark and Secondary Copyright Infringement Claims
Part III. The Expansion of the Inwood Labs Standard to the Service-Provider Context
Chapter 6. Introduction: Contributory Trademark Infringement in the Service-Provider Context
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Chapter 9. Trademark Infringement on the Internet
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Order #P3039/$330.00
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Supplement History: 2015, $210.00/2014, $205.00
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Trademark Litigation Practice
By David S. Fleming and John T. Gabrieldes

Get the most practical guide to litigating trademark and other Lanham Act cases.

This treatise puts into context every aspect of Lanham Act cases, from pre-filing considerations to disclosures and discovery, through motion practice, trial, and post-trial proceedings. The book, written by seasoned trademark lawyers, also includes analysis of alternative proceedings that may be used in trademark cases, including oppositions and cancellations in the TTAB, Uniform Domain Name Dispute-Resolution Policy proceedings for domain names, International Trade Commission investigations, and alternative dispute resolution tools.

Supplement Information

New in the 2016 Cumulative Supplement:

• The Eleventh Circuit's ruling in Duty Free Americas, Inc. v. Esteve Lauder Cos. on whether the Lanham Act recognizes contributory liability for false advertising, and concluding that a plaintiff may bring a claim for contributory false advertising

• The Third Circuit’s conclusion in Arrowpoint Capital Corp. v. Arrowpoint Asset Management, LLC that the district court, in denying plaintiff's motion to dismiss, applied an overly narrow interpretation of what constitutes confusion under the Lanham Act

• The Eleventh Circuit’s discussion of error in jury instructions in ADT LLC v. Alarm Protection Technology Florida, LLC

• Rulings by the Second and Fifth Circuits on review of civil contempt orders

David S. Fleming is a shareholder in the Chicago, IL, office of the intellectual property firm of Brinks Gilson & Lione.
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2010/804 pp. Hardcover with 2016 Cumulative Supplement
Order #P3042/$500.00
Order #3042/$285.00
Supplement History: 2015, $285.00/2014, $280.00
New Cumulative Supplement Due Fall 2017
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Products Comparison Manual for Trademark Users, Third Edition

By Francis M. Pinckney; David R. Higgins, Contributing Author

The only resource available for product comparisons with cites to U.S. Patents Quarterly, unpublished decisions of the TTAB, PTO’s Official Gazette, and TTAB proceeding numbers.

This essential resource will guide practitioners through the Trademark Trial and Appeal Board’s (TTAB) and the courts’ findings on similarity of products for trademark registration and enforcement. It covers 87 years of court and Board decisions and allows practitioners to search them electronically on an accompanying CD-ROM.

The Third Edition contains more than 85,000 product comparisons, decided by the courts and the TTAB. It also includes citations for every comparison, making it easy to find decisions on the Patent and Trademark Office (PTO) website or in Bloomberg’s U.S. Patents Quarterly. Virtually all of the comparisons are also provided on the accompanying CD-ROM, allowing for electronic searching and linking, in most cases, to the full-text decisions either on the PTO’s TTAB Decisions website or on Bloomberg Law.

To help practitioners conduct the most complete search possible of similar products, the authors have analyzed the findings of the courts and/or the Board in order to impose editorial uniformity on the descriptions of products listed in the cases and have assigned U.S. Class numbers to each product. The Third Edition covers TTAB proceedings and court decisions through December, 2012, including approximately 3,300 comparisons from that year alone.

Supplement Information

The 2016 Cumulative Supplement covers TTAB and court proceedings through December 31, 2015, and contains approximately 4,500 new comparisons from 2015, in addition to approximately 5,300 new comparisons from 2013 and 2014. The accompanying CD-ROM fully incorporates the new data into the Third Edition, providing one seamless data file spanning 87 years.

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How to Use This Book
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List of Products Compared
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U.S. Classes
Francis M. Pinckney, retired, was Of Counsel at K&L Gates LLP, Charlotte, NC, where he focused his practice solely on intellectual property. Mr. Pinckney received his Juris Doctor degree (with Honors) from the George Washington University Law School, Washington, DC. He was listed in “The Best Lawyers in America” from 1995 to 2010, when he retired.

David R. Higgins is with the firm of Tillman Wright PLLC, Charlotte, NC, where his areas of practice include patent and trademark law, with a particular focus on patent preparation and prosecution.

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Order #3037/$270.00

Supplement History: 2015, $265.00/2014, $255.00
New Edition Due Fall 2017
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By Robert W. Clarida

A complete guide to game-changing issues in U.S. copyright law, from fair use to digital rights.

The Copyright Law Deskbook, Second Edition addresses the law and practice of copyright, with an emphasis on case law developments. It explores decisions in which existing copyright content is being aggregated, adapted, and distributed in ways unforeseen by Congress when it passed the Copyright Act in 1976. The book covers significant aspects of the law, including fair use, work for hire, copyrightability, digital rights and the Digital Millennium Copyright Act, international considerations, damages, formalities, preemption, and litigation issues. Copyright Law Deskbook comes with an online Annotated Case Digest that covers every significant copyright law decision from 1993 to February 22, 2016.

Highlights covered in the Second Edition include U.S. jurisdiction over acts of foreign infringement and personal jurisdiction based on a defendant’s internet activities; new decisions on the copyrightability of derivative works, real estate information, financial data, lighting fixtures, and toys; the Visual Artists Rights Act; cars as copyrightable “characters” in movies; newest arguments in transformative technological use, both successful and not, including the digitization of library books; music file-sharing and online “space shifting” of music files; fair use and Harry Potter reference books; and more.

“Anyone with questions about copyright law would be well advised to look for the answers in Robert Clarida’s Copyright Law Deskbook. There is no one more knowledgeable than Bob, who always manages to explain complicated issues in a way that not only experts, but those who are new to the field, can readily comprehend. I highly recommend this book, which is a well-written, valuable guide to understanding the basics and the intricacies of copyright law.”

—Judith M. Saffer, Assistant General Counsel, Broadcast Music Inc., New York, NY; Former President of the Copyright Society of the USA; Former President of the AIPLA; President of the AIPPI-US (on the First Edition)

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Robert W. Clarida is a partner at Reitler, Kailas & Rosenblatt, LLC, New York, NY, and a noted author and speaker on copyright. He is a past trustee of the Copyright Society of the USA and a past member of the Board of Directors of the American Intellectual Property Law Association.

2016/1,097 pp. Hardcover with Online Appendix/ISBN 978-1-68267-014-9
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Trademark Infringement Remedies, Second Edition
Brian E. Banner, Editor-in-Chief (Main Volume); Steve Meleen, Editor-in-Chief (2016 Cumulative Supplement)
ABA Section of Intellectual Property Law

Detailed, practical analysis of the full range of federal and state remedies. This treatise provides trademark owners and their counsel with the information they need to effectively defend and protect their brands and maintain the value of trademarks. It covers all aspects of trademark rights, liabilities, and remedies, as well as the civil infringement remedies available today in federal and state courts. Also included in the Second Edition are discussions of: the necessary elements for establishing liability for trademark and unfair competition; the principles for equitable relief and the impact of bad faith on a practitioner’s case; and the issuance of preliminary and permanent injunctions.

Supplement Information

New in the 2016 Cumulative Supplement:
- A completely revised chapter on preliminary injunctions adds detailed discussion and citations
- An extensive new section addresses circuit-by-circuit the status of the presumption of irreparable harm after eBay
- Discussion of the award of attorneys’ fees after the Supreme Court’s Octane Fitness ruling
- In Princeton Vanguard, LLC v. Frito-Lay North America, Inc., the Federal Circuit held there are no “short cuts” in finding a name generic; when a mark involves a phrase or compound term, it must be considered holistically, rather than each word individually
- The Ninth Circuit reviewed unique arguments for trademark liability on the internet, and particularly regarding search engines, in Multi-Time Machine, Inc. v. Amazon.com, Inc.
- The Fourth Circuit in Belmora LLC v. Bayer Consumer Care AG held after Lexmark that some of the federal rights granted by the Lanham Act are not limited to those who use a mark in United States commerce
- A federal court in New York held that use of another’s mark alone may also establish that a party has counterfeited in Tiffany & Co. v. Costco Wholesale Corp.

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Brian E. Banner is a trademark practitioner with The Banner Firm, LLC, Washington, DC.
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Contributing chapter authors are members of the ABA Section of Intellectual Property Law.

Trademark Dilution: Federal, State, and International Law, Second Edition
By David S. Welkowitz

Get the most complete discussion on the complex laws governing trademark dilution protection. This useful treatise helps sort through the controversy and confusion surrounding the Trademark Dilution Revision Act of 2006, the ways in which the Act makes clear that the likelihood of dilution is the standard for analyzing federal dilution claims, and the complications that may arise under state law.

Trademark Dilution: Federal, State, and International Law provides thorough coverage of state dilution statutes and cases, and organizes the topic of dilution into easily usable chapters, each devoted to an important subtopic of dilution. The Second Edition features rich, detailed, and expanded discussions in key areas and useful citations of federal, state, and international dilution law. It analyzes major cases including Rosetta Stone v. Google; Starbucks v. Wolfe’s Borough Coffee; Research in Motion Ltd. v. Defining Presence Marketing Group, Inc.; Nike, Inc. v. Maher; and Rolex Watch U.S.A. Inc. v. AFP Imaging Corp.

Supplement Information

New in the 2016 Cumulative Supplement:
- Louis Vuitton v. My Other Bag: an important discussion of parody, fair use, and dilution in the Southern District of New York
- Several new opinions from the Trademark Trial & Appeal Board (including ESRT Empire State Building v. Liang, and Omega v. Alpha Phi Omega)
- Significant changes in European Union law that have already become effective and that will become effective in the near future (and that’s even before Brexit, which is discussed in Chapter 15)
- New cases interpreting state law

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II. Federal Dilution Law
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David S. Welkowitz is a Professor of Law at Whittier Law School, Costa Mesa, CA.

2012/852 pp. Hardcover with 2016 Cumulative Supplement
Order #P3040/$500.00

Order #3040/$225.00

Supplement History: 2015, $220.00/2014, $215.00
New Cumulative Supplement Due Fall 2017
www.bna.com/bnabooks/tmd
Health Care Fraud and Abuse: Practical Perspectives, Third Edition
Linda A. Baumann, Editor-in-Chief
ABA Health Law Section

Insights on existing laws, regulations, case law, and government standards.

Health Care Fraud and Abuse: Practical Perspectives, Third Edition outlines in detail the existing fraud and abuse laws, regulations, case law, and other government activity, and offers attorneys the practical perspectives and guidance they need to protect their clients. This incomparable treatise provides seasoned counsel, as well as those new to health care law, with assistance in structuring acceptable business arrangements, avoiding statutory and regulatory pitfalls, defending clients against government investigations and litigation, implementing effective corporate compliance programs, and more.

Supplement Information

The 2016 Cumulative Supplement contains:

• An expanded chapter on director and officer liability and the Yates Memorandum and related revisions to the U.S. Attorneys’ Manual, as well as use of the Foreign Corrupt Practices Act
• Analysis of the various regulations related to the rule requiring that overpayments be returned within 60 days of identification
• Assessment of the ramifications of the Supreme Court’s decision in Escobar, particularly the revised “rigorous and demanding” materiality standard to be used in False Claims Act cases
• Discussion in multiple chapters about the amendments to the Stark regulations in the 2016 Medicare Physician Fee Schedule, including several new exceptions and new interpretations of certain key criteria in several existing exceptions
• Review of numerous new developments related to fraud and abuse in the managed care context, including CMS audits, enforcement actions, and the resulting penalties and the new Medicaid managed care regulations
• The DOJ’s appointment of a Compliance Counsel and the criteria for evaluating the effectiveness of compliance programs
• Descriptions of notable settlements with pharmaceutical companies, hospitals, nursing homes, and others
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Chapter 6. Care Fraud and Abuse: Risk Areas for Government Program Participants
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Chapter 8. Potential Liabilities for Directors and Officers of Health Care Organizations
Chapter 9. The Past, Present, and Future of the Anti-Kickback Statute: A Practical History
Chapter 10. Controlling Fraud, Waste, and Abuse in the Medicare Part D Program
Chapter 11. Fraud and Abuse Issues Surrounding Clinical Trials
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Linda A. Baumann is a partner at Arent Fox, Washington, DC, where she specializes in health care fraud and abuse and compliance. Contributing chapter authors are members of the ABA Health Law Section.

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Supplement History: 2015, $255.00/2014, $240.00
New Cumulative Supplement Due Fall 2017
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New!
Healthcare Employment Guide: Counseling on the New Medical Realities
By James O’Reilly and Mary Ellen Keegan

It’s a harsh employment climate for healthcare professionals and their counsel. Be prepared.

Healthcare consumes about one-fifth of U.S. domestic spending and employs tens of millions. Employment disagreements in the healthcare profession can quickly become multi-level conflicts that require legal counsel with specialized knowledge. The Healthcare Employment Guide arms legal practitioners with the insights they need to capably represent doctors, nursing groups, smaller providers, and public entities in dealing with the new realities of the corporate healthcare world.

Delivering critical information at a practical level, the authors cover a variety of timely topics, including:

• Forming a unit to organize hospital worker unions
• Mergers and outsourcing effects on individual healthcare workers
• Pitfalls of expansive rules on director/laboratory “kickbacks”
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James O’Reilly teaches Public Health Policy & Systems at the University of Cincinnati, College of Medicine, Cincinnati, OH, has taught labor law, and served as a public sector labor arbitrator.

Mary Ellen Keegan is retired senior counsel for the General Electric Co., Cincinnati, OH.

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Michael K. Loucks is the former Acting U.S. Attorney and First Assistant U.S. Attorney for the District of Massachusetts. He is now a litigation partner with Skadden Arps, LLP, Boston, MA.

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Michael E. Clark is Special Counsel with Duane Morris, LLP, Houston, TX, and Adjunct Professor of Law at the University of Houston Law Center. Previously, he served as Chief of the Criminal Division of the U.S. Attorney’s Office for the Southern District of Texas. Contributing chapter authors are members of the ABA Health Law Section.

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- FDA warning letters related to social media promotion of pharmaceutical and dietary supplement products, and FDA final guidance detailing the regulatory scheme for mobile medical apps

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David M. Humiston is a retired partner with Sedgwick LLP, Los Angeles, CA, and is former Chair of the firm’s Healthcare Practice Group.

Contributing chapter authors are members of the ABA Health Law Section.

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James B. Helmer, Jr. is a senior partner and President of Helmer, Martins, Rice & Popham Co., L.P.A., Cincinnati, OH.

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• Discussion of OCR guidance documents covering privacy, security, breach notification, and other special topics
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Samuel Rosenthal is a Senior Partner at Squire Patton Boggs, where he leads the Government Investigations & White Collar Practice Group. He has argued cases in every federal court of appeal in the United States and several of them have resulted in landmark rulings. He has also represented numerous directors, officers, and entities involved in the financial services sector.

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Samuel Rosenthal is Senior Partner at Squire Patton Boggs, where he leads the Government Investigations & White Collar Practice Group. He has argued cases in every federal court of appeal in the United States, and several of them have resulted in landmark rulings. He has also represented numerous directors, officers, and entities involved in the financial services sector.

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Kirby D. Behre is a member of Miller & Chevalier’s Litigation department, Washington, DC.
Morgan J. Miller is a Partner in the Litigation Practice of Paul Hastings, LLP, Washington, DC.

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Corporate Settlement Tools: DPAs, NPAs, and Cooperation Agreements
By Joan E. Meyer

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- Corporate monitorships, and sentencing guidelines
- Collateral consequences and related considerations
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Joan E. Meyer is a partner at Baker McKenzie LLP, where she chairs the North America Compliance, Investigations & Government Enforcement Practice Group. Prior to joining the firm, she was senior counsel to the Deputy Attorney General at the U.S. Department of Justice, where she advised on corporate charging policies, corporate monitorships, and complex criminal litigation and corporate settlements. She also managed the operation of the President’s Corporate Fraud Task Force. Ms. Meyer was the First Assistant United States Attorney and Criminal Chief of the United States Attorney’s Office in the Western District of Michigan and also spent a number of years as a senior trial attorney at the Commodity Futures Trading Commission in Washington, DC.

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Chapter 4. What the Jury Consultants Say
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Harry J. Roper is a partner at Jenner & Block LLP, where he is Co-Chair of the firm's Patent Litigation and Counseling Practice. He is Chair of the Complex Litigation Committee of the American College of Trial Lawyers and a member of the Upstate Illinois Committee of the College of Trial Lawyers.

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Philip Allen Lacovara is senior counsel in Mayer Brown LLP, New York, NY. He previously served as a law clerk on the U.S. Court of Appeals for the District of Columbia Circuit and as Chair of the Court’s Committee on Practice and Procedure. He served as assistant to the Solicitor General (Thurgood Marshall), as Deputy Solicitor General of the United States, and as counsel to the Watergate Special Prosecutor.

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Matthew H. Solomson is Chief Legal Officer, Federal Government Solutions at Anthem, Inc., where he oversees all legal and compliance staff in the federal contracting business unit. He previously led the government contracts group within the law department of Booz Allen Hamilton Inc., served as counsel at Sidley Austin LLP, and as a Trial Attorney with the Commercial Litigation Branch of the U.S. Department of Justice.

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Emanuel Burstein holds a B.A. from Brandeis University, a J.D. from Boston College Law School, and an LL.M. in taxation from the New York University School of Law. He addressed insurance tax issues at the Office of Chief Counsel at the Internal Revenue Service and was the editor of The Insurance Tax Review.

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Robert E. Wilhelm is a Legal Editor of Bloomberg BNA’s Criminal Law Reporter and White Collar Crime Report.

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Adam P. KohSweeney is a partner at O’Melveny & Myers LLP, San Francisco, CA.
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Leslie King is a former tax law editor at Bloomberg BNA Tax & Accounting and currently serves as the assistant general counsel at the District of Columbia Retirement Board, Washington, DC.

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