PREFACE

This book is current through January 2018.

Since 1973, the *McDonnell Douglas* framework has been a key analytical structure in employment discrimination law.¹ Debate regarding the framework has often sounded its death knell or posited its irrelevance, yet it continues to play a vital role in discrimination law.²

Given the case’s central role in discrimination jurisprudence, this book fills a void in existing materials available for practitioners, students, and scholars. Other texts describing discrimination law must focus on a number of other topics and necessarily must restrict their coverage of *McDonnell Douglas* and its progeny. This is the first book to focus solely on this line of cases. Given that focus, this book intends to be the most comprehensive text available about this line of cases.

In writing this book, I reviewed thousands of cases relating to *McDonnell Douglas*. That number alone demonstrates how important the case is within the discrimination canon. Where possible, I have described the existing law and any major variations from the majority view. For some topics, it is impossible to state

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a coherent doctrine—the doctrines vary due to fact differences in cases and judges sometimes apply the doctrines inconsistently even within a circuit. Where major inconsistencies appear, I discuss the inconsistencies.

There are many portions of the *McDonnell Douglas* test that can be properly criticized, some on a number of grounds. Where substantial criticism exists, I first explain the doctrine as it exists and subsequently describe the criticism. While I have personal views about *McDonnell Douglas*, I have tried as much as possible to limit those personal views to the portions of the book focused on criticism of the test.

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