

DRAKE LAW REVIEW

Volume 39

1989-1990

Number 1

FOREWORD: THE EVOLVING CONCEPTS OF EMPLOYMENT LAW

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When I attended law school, only two types of labor law courses were offered: an overview of existing statutes (primarily the National Labor Relations Act) and labor arbitration. In 1962 through 1965, when I worked for the National Labor Relations Board, the focus of a labor lawyer's practice centered on unfair labor practice claims, union organizational campaigns under the NLRA, grievance-arbitration hearings, and opinions regarding the federal wage and hour law. Many of the enactments with which we now work—such as the federal and state occupational safety and health acts, civil rights laws, and drug testing laws—were passed in the last twenty-five years. Since 1978, the United States Supreme Court has confronted the difficult issue of affirmative action plans in fifteen decisions. The most recent and most unfortunate issue in labor law is the scourge of AIDS and its affliction upon our society. It is not only affecting personal lives, but is creating new tensions in the work place as well.

The nationwide erosion of the common law doctrine of employment-at-will is a phenomenon of the 1980s. Iowa Supreme Court decisions in the last two years have approved two exceptions to the doctrine: tort actions for retaliatory discharges contrary to public policy and unilateral or implied contract actions based on the language of an employer's personnel policies. In

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September of 1989 the court first discussed a third exception, the nebulous "covenant of good faith and fair dealing," but declined to adopt it. The article written by Brent Appel and Gayla Harrison is a comprehensive review of the volatile area of employment-at-will.

Plaintiffs' counsel frequently join separate claims for employment torts with wrongful discharge counts. The article written by Frank Harty and Tom Foley explores the recent use of familiar tort theories such as misrepresentation, defamation, and intentional infliction of emotional distress in the employment setting. This article not only discusses the present status and use of such employment torts, but also suggests valuable practical hints to avoid such claims.

Workers' compensation expenses have been identified—along with prevailing wage rates, income taxes, utility rates, and unemployment costs—as critical factors in employers' decisions to expand and relocate their businesses. The Iowa Industrial Commission annually processes 33,000 reportable injury cases. Harry Dahl and Marvin Duckworth, both experienced lawyers in industrial injury, analyze and assess the issues of the second injury fund and bad faith actions in the area of workers' compensation, respectively. Judith Higgs addresses a very unique and thought-provoking issue related to workers' compensation: "Is suicide compensable under the workers' compensation statute?" All three topics are relevant and timely in respect to increased litigation.

As one can plainly see, the area of labor law is quickly changing and expanding. Issues that did not exist ten or twenty years ago are now at the forefront of employment law practice. Labor lawyers should be aware of these evolving theories of law.

In reading this symposium, one is struck with the variety of potential claims arising out of a single employment situation. An on-the-job injury can lead to a worker's compensation claim, an OSHA investigation, a civil rights complaint for disability discrimination, and a lawsuit alleging retaliatory discharge and intentional infliction of emotional distress. Iowa lawyers should be aware of the multiplicity of available forums and remedies. *Drake Law Review* should be congratulated for devoting an entire edition to these evolving issues in labor and employment law. The topics are timely and significant.