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Researching Labor Arbitration and Alternative Dispute Resolution in Employment, Employee Advocate: A Publication of the National Employment Lawyers Association

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Researching Labor Arbitration and Alternative Dispute Resolution in Employment*

Suzanne Thorpe** and Laura J. Cooper***

The authors list and describe the sources that may be used to research arbitration and other means of employment dispute resolution in unionized and nonunionized settings. Both print and electronic works are included.

What kinds of information can we expect to find when doing research in alternative dispute resolution? To the extent that ordinary issues of law arise when considering methods of alternative dispute resolution, such as whether an agreement to arbitrate is judicially enforceable or whether communications in the course of mediation enjoy an evidentiary privilege, ordinary sources of legal research remain appropriate. This research guide generally does not describe those research tools.

Much of what goes on within mediation or arbitration is, however, beyond the immediate reach of traditional legal doctrines and processes of enforcement. The legal system affords arbitrators and mediators a broad range of discretion untouched by legal controls. The question is often not a matter of what the neutral may legally do, but rather what the neutral might or should do.

Consider, for example, the concept of precedent and its role in legal research. Appellate court decisions establish a body of precedent binding on lower courts whose decisions are subject to judicial review by those appellate courts. In arguing a case to a lower court, it is therefore critical to locate the decisions of appropriate appellate courts that would be binding on that lower court. Within a system of labor arbitration, however, arbitrator awards generally are not subject to judicial review on the merits. The decisions of a court, or even of another arbitrator, will not have the force of precedent. An advocate in a labor arbitration forum, therefore, is not looking for decisions that would constitute precedent in the pending arbitration proceeding, but rather for decisions that might have persuasive authority because of their analytical power.

The ability to conduct research regarding disputes resolved in alternative

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forums is also limited by party privacy. While courts and their decisions are open to the public, mediation and arbitration nearly always occur in private. Privacy is often one of the reasons the parties have selected mediation or arbitration. Research sources, therefore, cannot possibly provide comprehensive access to the decisions of arbitrators or the outcomes of mediated settlements. For example, arbitration awards are only published if all of the parties to the arbitration have authorized publication. Some labor arbitrators request permission from the parties in all of the cases they decide; some never do.

As compared to the tools used in a traditional legal context, research tools in alternative dispute resolution are thus likely to be much less complete and their use is much less likely to be critical to the resolution of the dispute.

This guide lists sources that discuss arbitration and other means of employment dispute resolution in unionized and nonunionized settings. After identifying comprehensive bibliographies on these topics, the guide presents texts that dispute resolution practitioners consider to be essential reference tools. It follows with sources that contain arbitration awards and then sources providing information about alternative dispute resolution professionals. The last portion of the guide covers other texts, periodicals, and Web sites that offer additional commentary on arbitration, mediation, and other types of dispute resolution in the employment context. Both hard copy and electronic works are listed. In the interest of currency, only monographs that have appeared since 1990 are included.

Bibliographies

Coleman, Charles J., Theodora T. Haynes, and Marie T. Gibson McGraw. *Labor and Employment Arbitration: An Annotated Bibliography, 1991–1996*. Ithaca, N.Y.: ILR Press, 1997.

This bibliography provides almost six hundred short summaries of books and articles covering most aspects of American and Canadian labor arbitration and general employment dispute resolution. The bibliography is arranged into seventeen broad format (e.g., general studies, biographies) and topical categories that are further subdivided by more specific topics. Author and subject indexes also are included.

Coleman, Charles J., and Theodora T. Haynes, eds. *Labor Arbitration: An Annotated Bibliography*. Ithaca, N.Y.: ILR Press, 1994.

This work provides commentary about more than one thousand works that cover American and Canadian labor arbitration. Included are monographs published since 1950, articles published in nonlegal journals since 1970, and articles published in law journals since 1980. The work is arranged in two parts: books and monographs followed by periodicals and proceedings. Both parts are subdivided under the following headings: arbitration and dispute settlement; arbitrator

characteristics; development of arbitration; grievances and grievance mediation; advocacy; arbitrability, management rights, past practice; discipline and discharge; compensation, work rules, remedies; arbitration and the law; interest arbitration; nonunion employees and wrongful discharge; arbitration in specific industries.

Major Texts

Arbitration under Collective Bargaining Agreements

Bornstein, Tim, Ann Gosline, and Marc Greenbaum, eds. *Labor and Employment Arbitration*. 2d ed. New York: Matthew Bender, 1997. 2 vols.

Numerous experts have contributed to this authoritative two-volume loose-leaf work that provides comprehensive coverage of important procedural and substantive elements of labor arbitration. Volume one focuses on the arbitration process, arbitrability, contract interpretation, and specific contract issues subject to arbitration. Volume two covers additional arbitration issues, external statutory and case law affecting labor arbitration, nonunionized employment arbitration, and arbitration as it is applied in selected industries. A detailed index is also provided. This work is kept up to date through periodic supplementation.

Elkouri, Frank, and Edna A. Elkouri. *Elkouri & Elkouri How Arbitration Works*. 5th ed. Marlin M. Volz and Edward P. Goggin, eds. Washington, D.C.: Bureau of National Affairs, 1997.

For more than four decades, this work has been the leading treatise on the practice of labor arbitration. It is authored by expert arbitration practitioners who offer in-depth analyses of the substance and process of arbitration. Topics covered include the history and role of arbitration, arbitration tribunals, arbitrability, techniques used, law and evidence used, and specific contract issues subject to arbitration. Under discharge and discipline, a table of offenses cites arbitration awards according to the severity of penalty imposed. Numerous references to arbitrations and court decisions are provided. The work also provides a table of cases and a subject index.

St. Antoine, Theodore J., ed. *The Common Law of the Workplace: The Views of Arbitrators*. Washington, D.C.: Bureau of National Affairs, 1998.

This work represents an effort by the National Academy of Arbitrators to create a reference source that conveniently restates the principles derived from fifty years of arbitration decisions. The principles are organized under the following headings: practice and procedure, contract interpretation, management and union rights, job assignments, seniority, discipline and discharge, wages and hours, safety and health, fringe benefits, and remedies. Following each stated principle are

comments, illustrations, and citations to articles and books discussing the principle.

Schoonhoven, Ray J., ed. *Fairweather's Practice and Procedure in Labor Arbitration*. 3d ed. Washington, D.C.: Bureau of National Affairs, 1991.

This practice manual thoroughly explains the rationale and history behind the procedures used in a labor arbitration case. Topics covered include submitting a case, selecting an arbitrator, resolving arbitrability issues, obtaining evidence, utilizing witnesses, and conducting a hearing. The work also covers burden of proof, standard of review, due process, remedies, and post-award proceedings. One chapter focuses on arbitration in the nonunionized workplace. Tables of awards and cases by party and an index are also provided.

Arbitration of Common Law and Statutory Disputes

Bales, Richard A. *Compulsory Arbitration: The Grand Experiment in Employment*. Ithaca, N.Y.: ILR Press, 1997.

This is one of the few works dealing exclusively with dispute resolution in the nonunionized workplace. It provides an overview of the practice of arbitration and the statutory and common law basis for mandatory arbitration in employment, followed by an examination of the Equal Employment Opportunity Commission's treatment of compulsory arbitration. It then discusses arbitration in the securities and construction industries and finishes with considerations for drafting enforceable arbitration agreements and policy considerations in arbitration. The work contains bibliographic references and an index.

Bornstein, Tim, Ann Gosline, and Marc Greenbaum, eds. *Labor and Employment Arbitration*. 2d ed. New York: Matthew Bender, 1997.

Described in the previous section, chapter 45 of this book provides a brief overview of the major case law, statutory law, and organizations involved in nonunion employment arbitration.

Schoonhoven, Ray J., ed. *Fairweather's Practice and Procedure in Labor Arbitration*. 3d ed. Washington, D.C.: Bureau of National Affairs, 1991.

Described in the previous section, chapter 21 of this book offers a very short summary of arbitration based on private employment contracts.

Mediation of Workplace Disputes

Few monographic works cover mediation of workplace disputes. Periodical and continuing legal education literature are currently the best sources of information on this topic. The following resources also are available on Westlaw.

Fitzpatrick, Robert B. "Non-Binding Mediation of Employment Disputes: An ADR Method that is Consistent with the American Promise of Fairness." In *Current Developments in Employment Law: ALL-ABA Course of Study*, 1301.

Philadelphia: American Law Institute American Bar Association, Committee on Continuing Professional Education, 1997.

This short article offers an experienced mediator's practical tips for effective employment mediation.

Gourlay, Aimee, and Jenelle Soderquist. "Mediation in Employment Cases is Too Little Too Late: An Organizational Conflict Management Perspective on Resolving Disputes." *Hamline Law Review* 21 (1998): 261–286.

This academic article analyzes the need to institute preventative dispute resolution programs within organizations and recommends strategies for maximizing the benefits of mediation.

Lowry, L. Randolph. "Preparing Your Client . . . for Mediation." *Dispute Resolution Journal* 53 (August 1998): 30.

This article does not specifically cover employment mediation, but it briefly discusses techniques that help parties understand the general goals, outcomes, and process of mediation.

Simon, Howard A., and Yaroslav Sochynsky. "In-House Mediation of Employment Disputes: ADR for the 1990s." *Employment Relations Law Journal* 21 (Summer 1995): 29–51.

After briefly describing various methods of employment dispute resolution, this article compares several existing in-house mediation programs and offers tips on designing similar programs.

What the Business Lawyer Needs to Know About ADR. New York: Practising Law Institute, 1998.

This continuing education publication covers many aspects of alternative dispute resolution. It is useful because it reprints several introductory articles on mediation produced by the American Arbitration Association and the American Bar Association. Included are model mediation standards and practical tips for preparing clients and conducting successful mediation sessions.

Arbitration Awards

Although most arbitration awards are not published, several specialized reporting services provide full texts and summaries of selected awards. Most reports are available in both paper and electronic formats. Each service offers helpful indexes and tables for identifying awards by topic, party, and arbitrator.

Major Sources for Full Texts and Summaries

Labor Arbitration Reports. Washington, D.C.: Bureau of National Affairs, 1946–.

This loose-leaf work is published weekly as a component of the *Labor Relations Reporter* and is the leading source for full texts and summaries of labor

arbitration awards. Preceding the text of each award are headnotes that describe the issues involved in the arbitration. A classification number is assigned to each headnote denoting the subject matter of the award according to the publisher's detailed classification scheme. This numbering scheme is used to group together summaries of awards on the same topic in the publication's digesting system. Each weekly report also contains summaries of the cases, an outline of the classification scheme, and lists of arbitrators and cases in the report. Semiannually, these loose-leaf reports are replaced by a bound volume. A full search of cumulative digests may require consulting several separate digests in loose-leaf format, as well as several paperback and hardbound digests. The loose-leaf volumes of the *Labor Relations Reports* include a "Master Index" covering recent reports. This index offers a section on labor arbitration that contains a topic finder (overview of the classification scheme) and separate cumulative digests for each volume of *Labor Arbitration Reports*. The digest entries contain the summaries that appear in the headnotes described earlier. The Master Index volume contains a digest for both the current loose-leaf reports and for recent bound volumes. It also provides tables listing arbitration awards by arbitrator, party, and contract term. Arbitrator biographies are included as well. The weekly reports and digests are periodically replaced by bound volumes. *Labor Arbitration Reports* is also available in electronic form on LEXIS-NEXIS (LRRLA) from 1980 to date and on Westlaw (LRR-LA) from 1979 to date. The electronic versions offer the advantage of keyword searches of the full texts and summaries. Classification number searches are also possible, but these databases do not provide an outline of the classification scheme, so it may be necessary to consult the Master Index of the paper version of this work in order to identify useful classification numbers.

Labor Arbitration Awards. Chicago: CCH, 1961-.

This loose-leaf work appears monthly. Each issue provides the full texts of selected recent arbitration awards. Each award is preceded by a very short summary and information on the source of the arbitrator's selection. The loose-leaf contains alphabetically arranged topical indexes, one for recent awards and one for earlier awards. The indexes offer short phrases describing awards. Tables listing awards by party and arbitrator, arbitrator biographies, and advisory ethics opinions of the National Academy of Arbitrators are also provided in this volume. Periodically, the contents of the loose-leaf volume are replaced by bound volumes. Each bound volume contains the awards, a topical index, and the party and arbitrator tables covering the awards included.

Labor Arbitration Information System (LAIS). Fort Washington, Pa.: LRP, 1981-.

This monthly loose-leaf service, formerly called *Labor Arbitration Index* (1970-1980), offers the most comprehensive index to labor arbitration awards available. It indexes more than 2,500 awards annually, including those reported in

Labor Arbitration Reports, *Labor Arbitration Awards*, and other publications. Awards are indexed under a topical classification scheme and, for each award, brief summaries indicating the party that won are provided. An alphabetical list of topical categories and a subject index for the classification scheme are offered. Awards also are listed by arbitrator, by employer, and by union. Each year, the monthly indexes and finding lists are replaced by bound volumes. This service also provides selected full texts of awards and summarizes those published elsewhere. Each award is assigned at least one classification number depicting the subject matter of the award. This number can be used to locate other awards on the same topic in the index. *Labor Arbitration Information System* is available in electronic form on Westlaw (LAIS) covering awards back to 1960. This electronic version permits keyword searches of the full texts and summaries. It also permits classification number searches, but to identify a classification number, it may be necessary to consult the paper version of this work since the database does not include a list of these numbers. In addition to Westlaw access to this service, the publisher also publishes *LRP's Arbitration Database on CD-ROM* which provides the full texts of over 66,000 arbitration awards that have appeared since 1978 in the publisher's *Labor Arbitration Information System*. This product also provides biographical data on arbitrators. It is searchable by arbitrator, union, subject, and employer. In addition, the publisher provides a fee-based research service, *Instant Computer Arbitration Search (ICAS)*. This service conducts customized searches in a database of more than 80,000 arbitration awards issued since 1970 in the *Labor Arbitration Information System*.

Other Sources for Full Texts and Summaries

Arbitration in the Schools. New York: American Arbitration Association, 1970–.

This monthly report summarizes selected arbitration awards and fact-finding recommendations involving employees of educational institutions. Semiannual and annual indexes that include lists of arbitrators are provided.

Government Employee Relations Report. Washington, D.C.: Bureau of National Affairs, 1963–.

The weekly "Current Reports" section of this work occasionally contains summaries of arbitrator rulings, usually with citations to sources providing the full text. The rulings are included in the "administrative rulings" portion of this section. The index to the "Current Reports" lists arbitration summaries under the heading "arbitration."

Labor Arbitration in Government. New York: American Arbitration Association, 1972–.

This source provides monthly summaries of arbitration awards involving federal, state, and local government employees (excluding those in schools).

Arbitration Award Summaries. St. Paul, Minn.: Minnesota Bureau of Mediation Services, 1983–.

This monthly source provides summaries of arbitration awards issued in the state. Awards are indexed by arbitrator, subject, employer, and union.

Summary of Labor Arbitration Awards. New York: American Arbitration Association, 1959–.

This monthly service summarizes arbitration awards in the private sector. It provides semiannual and annual indexes listing cases by arbitrator and topic. The full text of these awards is available upon request from the association.

Unpublished Arbitration Awards

ARBIT.

This private database, which contains full texts of selected awards issued since 1960, was originally created by a group of private attorneys. It is now available on Westlaw (ARBIT).

Arbitrator Qualification Reports. Charlotte, N.C.: R. C. Simpson.

This fee-based service provides unpublished awards of arbitrators. To order, contact R.C. Simpson at 5950 Fairview Rd., Charlotte, NC 28210-3104; telephone: (704) 553-0716.

Unpublished Arbitration Decisions. Washington, D.C.: Bureau of National Affairs, 1988–.

This Westlaw database (LA-UNP) contains awards that were not published in the publisher's *Labor Arbitration Reports*. No indexing or summaries are available for these awards.

Citator

Shepard's Labor Arbitration Citations. Colorado Springs, Colo.: Shepards, 1989–.

This work contains references to state and federal cases that generally discuss labor arbitration, and to statutes and regulations that pertain to labor arbitration. It is useful for determining whether awards published in *Labor Arbitration Awards* or *Labor Arbitration Reports* have been cited in subsequent awards in these two publications. It also provides a table of cases and arbitration awards by name of party. Unfortunately, it does not provide information about court decisions that enforce or vacate arbitration awards.

Information about Dispute Resolution Professionals

Publications, Services, and Databases

Arbitrator Qualification Reports. Charlotte, N.C.: R. C. Simpson.

This service provides reports on arbitrators, listing the awards that they have made by subject, recommendations of parties who have used the arbitrator, and lists of published awards by the arbitrator. Unpublished arbitration awards by an arbitrator can be obtained from the publisher. To order, contact R.C. Simpson at 5950 Fairview Rd., Charlotte, NC 28210-3104; telephone: (704) 553-0716.

Arbitrators' Biographies. Chicago: CCH, 1961–.

This directory of arbitrators appears initially in the loose-leaf volume of the *Labor Arbitration Awards* set discussed earlier. It provides alphabetical listings of arbitrators whose awards appear in the service. These listings include address and telephone information, affiliations, current and past positions, publications, issues arbitrated, and the industries involved. Each bound volume of the set contains a directory for the arbitrators whose awards appear in the volume.

Directory of Arbitrators. Washington, D.C.: Bureau of National Affairs, 1937–.

This directory initially appears in loose-leaf format in the labor arbitration section of the Master Index volume of the *Labor Relations Reporter* described earlier. It subsequently appears in the bound cumulative digest and index volumes of this publication. Biographies are arranged alphabetically by name and provide address and telephone information, education, experience, professional affiliations, and lists of cases, contracts arbitrated, and industries involved. The directory is also available on LEXIS-NEXIS (ARBBIO) and on Westlaw (LRR-DIR).

Instant Computer Arbitration Search (ICAS). Fort Washington, Pa.: LRP.

This fee-based service discussed earlier under the *Labor Arbitration Information System* conducts searches on its database of more than 80,000 arbitration awards issued since 1970. Reports with information about individual arbitrators, including summaries of awards arbitrated, biographical data, and statistical analyses by prevailing party of the awards are provided. The awards included in the database are also found in the *Labor Arbitration Information System*. For further information, call (800) 341-7874, ext. 274.

MartindaleHubbell Dispute Resolution Directory. Summit, N.J.: Martindale-Hubbell, 1994–.

This directory provides contact information and practice areas for dispute resolution professionals. Individuals are listed alphabetically under each U.S. geographic jurisdiction. Indexes by practice area and name are also provided.

Other Sources

American Arbitration Association.

This organization is dedicated to dispute resolution through mediation, arbitration, democratic elections, and other voluntary methods. It maintains a "Roster of Neutrals," a list of arbitrators considered by this organization to be experts in arbitration. Names of neutrals may be obtained for a charge from the regional offices of the association which can be found on its Web site at <<http://www.adr.org/>>. For further information, contact the association at 140 W. 51st St., New York, NY 10020; (212) 484-4000.

CPR Institute for Dispute Resolution.

This organization is dedicated to developing new procedures for dispute resolution and providing educational programs to promote alternative dispute resolution. It maintains international and national rosters of seven hundred prominent attorneys, former judges, legally trained executives, and academics available to mediate or arbitrate a business or public dispute. Information on these individuals can be obtained for a fee from the organization's Web site at <<http://www.cpradr.org/panels.htm>>. For further information, contact the institute at 366 Madison Ave., New York, NY 10017-3122; (212) 949-6490.

Federal Mediation and Conciliation Service, Office of Arbitration Services.

This independent government agency promotes sound and stable labor-management relations through mediation and arbitration services. It maintains a roster of approximately 1,641 private arbitrators and provides lists of arbitrators and their qualifications for a fee. Further information about this service is available through its Web site at <<http://www.fmcs.gov>>. For further information, contact the service at 2100 K St., N.W., Washington, DC 20427; (202) 606-8100.

The Mediation Center, Inc.

This organization offers mediation training programs and publications. Its Mediation Information & Resource Center is a Web site that contains a database of self-identified mediators at <<http://www.mediate.com/>>. For further information, contact the center at P.O. Box 51119, Eugene, OR 97405; (541) 345-1456.

Other Resources on Workplace Dispute Resolution

Books

Brand, Norman, ed. *Discipline and Discharge in Arbitration*. Washington, D.C.: Bureau of National Affairs, 1998.

This is a comprehensive treatise on arbitration of employee discipline and discharge under collective bargaining agreements. The first chapter provides a practical guide to advocacy in discipline cases. Other chapters address theories of just

cause, evidentiary and procedural questions, remedies, consideration of external law, and judicial review. Most of the book is devoted to analysis of arbitration decisions, organized according to the basis of the employee's conduct, including attendance, job performance, substance abuse, dishonesty, workplace and off-duty misconduct, and union activities. Each section includes numerous citations to relevant published arbitration awards. The book includes a detailed index and table of court cases cited.

Bognanno, Mario F., and Charles J. Coleman, eds. *Labor Arbitration in America*. New York: Praeger, 1992.

This work reports on the results of a survey conducted in 1986–1987 to collect information about professional arbitrators in Canada and the United States. It profiles their backgrounds, qualifications, earnings, and work. A list of agencies that supplied names of arbitrators and an index are included.

Denenberg, Tia Schneider, and R. V. Denenberg. *Alcohol and Other Drugs: Issues in Arbitration*. Washington, D.C.: Bureau of National Affairs, 1991.

This work discusses legal and policy issues related to alcohol and drug use and abuse in the workplace. It addresses drug testing, evidentiary matters, and work rules. Relevant arbitration and court rulings are excerpted, and a topically arranged table of arbitration rulings and an index are provided.

Dolson, William F., Max Zimny, and Christopher A. Barreca, eds. *Labor Arbitration: Cases and Materials for Advocates*. Washington, D.C.: Bureau of National Affairs, 1997.

This work is a companion to the Zimny training text discussed later. It is intended to be used to conduct simulated arbitrations and contains sample documents, forms, hearing transcripts, and awards. Topics covered include discipline and discharge, seniority, leaves, holidays, strikes, and management rights.

Dunlop, John Thomas, and Arnold M. Zack. *Mediation and Arbitration of Employment Disputes*. San Francisco: Jossey-Bass Publishers, 1997.

This work traces the development of alternative dispute resolution through union contracts and statutory law and examines due process provisions in employer-promulgated dispute resolution systems. It also discusses and advocates use of the Due Process Protocol of Mediation and Arbitration of Statutory Disputes Arising out of the Employment Relationship. The text of the protocol is included along with a Massachusetts state policy implementing it.

Elkouri, Frank, and Edna Asper Elkouri. *Resolving Drug Issues*. Washington, D.C.: Bureau of National Affairs, 1993.

This work provides arbitrators and advocates with helpful scientific and legal information on drug use, abuse, and testing in the employment context. Following an overview of the drugs commonly involved in grievances, commentary on the

applicable constitutional, statutory, regulatory, and case law governing drug cases is provided. Appendixes contain selected executive branch guidelines and orders, and numerous arbitrations involving drug use are cited and analyzed throughout the text. A case table and an index are provided.

Gleason, Sandra E., ed. *Workplace Dispute Resolution: Directions for the 21st Century*. East Lansing, Mich.: Michigan State University Press, 1997.

This work analyzes the history and future of various types of dispute resolution in unionized and nonunionized employment settings. It includes sociological and psychological perspectives from the United States, Europe, and Japan. Bibliographic references and an index are provided.

Hancock, William A., ed. *Corporate Counsel's Guide to Alternative Dispute Resolution in the Employment Context, Business Laws*. 2d ed. Chesterland, Ohio: Business Laws, 1996.

This work is intended as a handbook to assist corporate attorneys in developing alternative dispute resolution policies and programs. It discusses programs in place at several corporations and includes sample forms, policies, and procedures. Appendixes provide information about various organizations and government agencies involved in alternative dispute resolution and their rules for settling disputes. A topical index is included.

Hardin, Patrick, ed. *The Developing Labor Law: The Board, the Courts, and the National Labor Relations Act*. 3d ed. Washington, D.C.: Bureau of National Affairs, 1992.

Although most of this work discusses legal developments surrounding the National Labor Relations Act, chapters 17 and 18 focus on the role of arbitration in labor relations. It is thoroughly indexed and provides extensive footnote references to cases. It is kept current through cumulative supplements.

Hauck, Vern E. *Arbitrating Race, Religion, and National Origin Discrimination Grievances*. Westport, Conn.: Quorum Books, 1997.

This work focuses on arbitration of discrimination grievances based on race, religion, and national origin in both unionized and nonunionized workplaces. Part one of the book discusses the history and practice of arbitration in these types of cases; part two analyzes court rulings and arbitration awards for selected issues in each category of discrimination. A bibliography and index are included.

Hauck, Vern E. *Arbitrating Sex Discrimination Grievances*. Westport, Conn.: Quorum Books, 1998.

This work focuses on arbitration of discrimination grievances related to employment status, employment conditions, sexual harassment, pregnancy, and childbearing. Part one reproduces the text of the author's earlier work covering arbitration of race, religion, and national origin discrimination grievances. Part

two examines specific court decisions and arbitration awards for selected issues for each type of discrimination. Both a bibliography and index are provided.

Hauck, Vern E. *Arbitrating Sexual Harassment Cases*. Washington, D.C.: Bureau of National Affairs, 1995.

This work provides full texts and abstracts of arbitration awards and court decisions from the mid 1940s to the early 1990s related to sexual harassment. Also included are tables of awards and cases arranged by harassment issue, citation, and party names and government policies related to sexual harassment. Brief analyses of the law are reprinted from other sources. Appendixes contain arbitration and ethics rules, statutes, and a test recommended for determining "just cause" discipline. An index and table of cases are also provided.

Hill, Marvin F., and Anthony V. Sinicropi. *Remedies in Arbitration*. 2d ed. Washington, D.C.: Bureau of National Affairs, 1991.

This work first examines the sources of authority for arbitral remedies. It then provides indepth commentary on remedies for discharge and disciplinary cases and remedies for nondisciplinary cases.

Hill Marvin F., and Anthony V. Sinicropi, *Winning Arbitration Advocacy*. Washington, D.C.: Bureau of National Affairs, 1997.

This work is intended to help advocates win arbitration cases. It offers practical tips for successful arbitration advocacy from prehearing through posthearing and identifies common mistakes made by advocates. It also provides information about interest arbitration and for particular types of grievance cases: drug and alcohol, discrimination, and off-duty misconduct. An index and bibliographic references are included.

Koven, Adolph M., and Susan L. Smith. *Just Cause: The Seven Tests*. 2d ed. Revised by Donald F. Farwell. Washington, D.C.: Bureau of National Affairs, 1992.

This book comments on tests developed by arbitrator Carroll R. Daugherty to determine if just cause existed for discharge and disciplinary actions. These tests are notice, reasonable rules and orders, the employer's investigation, proof of misconduct, equality of treatment, and type of penalty. The work includes a detailed index and bibliographic references to cases.

Kramer, Henry S. *Alternative Dispute Resolution in the Workplace*. New York: Law Journal Seminars Press, 1998.

This desk reference for legal counsel, human resources managers, employers, employees, unions, and public interest groups provides legal guidance in the construction and management of alternative dispute resolution systems. It discusses the advantages and disadvantages of each type of system and offers practical advice for successful dispute resolution. Eleven chapters cover the development of alternative dispute resolution and its use for resolving statutory disputes, "at

will" employment disputes, and disputes under collective bargaining agreements. Court-annexed alternative dispute resolution, securities industry applications, privately developed systems, and human resources considerations are also covered. The work includes an index and appendixes with sample alternative dispute resolution agreements, statutes, and rules of practice.

Loughran, Charles S. *How to Prepare and Present a Labor Arbitration Case: Strategy and Tactics for Advocates*. Washington, D.C.: Bureau of National Affairs, 1996.

This one-volume work guides readers through all phases of labor arbitration and serves as an excellent "how to" manual for novice arbitration advocates. Topics covered include selecting an arbitrator, preparing witnesses, assembling evidence, presenting the case, and challenging arbitration awards. It also provides forms, model questions, arbitration and evidence rules, and a bibliography.

McDermott, E. Patrick, and Arthur Eliot Berkeley. *Alternative Dispute Resolution in the Workplace: Concepts and Techniques for Human Resource Executives and Their Counsel*. Westport, Conn.: Quorum Books, 1996.

This work traces the development of alternative dispute resolution in employment, contrasts its benefits to litigation, and introduces a few corporate dispute resolution programs currently in existence. The appendix includes a detailed analysis of the Brown & Root Dispute Resolution Program. A bibliography and index are included.

Nolan, Dennis R. *Labor and Employment Arbitration in a Nutshell*. St Paul, Minn.: West Group, 1998.

This work provides a basic overview of the history and practice of arbitration in union and nonunion workplaces. Topics include arbitration procedure and practice, applicable external laws affecting arbitration, the interplay between arbitration and administrative or judicial tribunals, and issues subject to arbitration. Appendixes provide arbitration rules and forms and selected statutes. Tables of cases and statutes and an index are provided.

Stern, James L., and Joyce M. Najita, eds. *Labor Arbitration Under Fire*. Ithaca, N.Y.: ILR Press, 1997.

This work contains essays by scholars and practitioners that cover the development and impact of private and public sector labor arbitration since the 1960s. Union and nonunion arbitration are discussed from the perspectives of both employers and employees. Included are an index and table of cases.

Wilkinson, John H., ed. *Donovan Leisure Newton & Irvine ADR Practice Handbook*. New York: John Wiley & Sons, 1990.

This work, consisting of contributions by scholars and practitioners, provides both historical background and practical information on general alternative dispute resolution. It outlines the steps involved in arbitration and mediation and rec-

ommends tactics to use. Also included are chapters describing the relationship between alternative dispute resolution and litigation, ethical concerns, client counseling, and implementation of corporate dispute resolution programs. The work provides a case table and topical index and 1993 cumulative supplement.

Zack, Arnold M. *A Handbook for Grievance Arbitration: Procedural and Ethical Issues*. New York: American Arbitration Association and Lexington Books, 1992.

This work, aimed at arbitrators and advocates, presents procedures for conducting arbitrations and the ethical issues involved. It includes a bibliography and an index.

Zack, Arnold M., and Richard I. Bloch. *Labor Agreement in Negotiation and Arbitration*. 2d ed. Washington, D.C.: Bureau of National Affairs, 1995.

This work provides an introduction to techniques for resolving disputes through careful labor contract negotiation and for arbitration when required by labor contracts. It covers preparing and presenting an arbitration case and contract clause issues subject to arbitration. An index and bibliographic references are provided.

Zimny, Max, William F. Dolson, and Christopher A. Barreca, eds. *Labor Arbitration: A Practical Guide for Advocates*. Washington, D.C.: Bureau of National Affairs, 1990.

This work, providing commentary from both union and management experts, is intended primarily as a training tool for beginning arbitration advocates. The topics covered include historical and legal foundations for arbitration, practices and procedures, and the internal and external laws governing arbitration. An index and bibliographic references are provided.

Periodicals

Indexes

Only a few periodicals focus specifically on labor arbitration and other forms of dispute resolution in employment, but general legal periodicals often contain articles on these topics. To identify articles of interest, consult:

Index to Legal Periodicals & Books. Bronx, N.Y.: H. W. Wilson, 1926–.

For articles published since 1980, this index is available on CD-ROM and on LEXIS (ILP) and Westlaw (ILP).

Current Law Index. Los Altos, Calif.: Information Access, 1980–.

This index is also available on CD-ROM as *LegalTrac* and on LEXIS (LGLIND) and Westlaw (LRI).

Alternative Dispute Resolution Journals

DR & the Law: A Report of the American Arbitration Association, the Fordham International Law Journal and the Fordham Urban Law Journal. New York: American Arbitration Association, 1997–.

Formerly *Arbitration and the Law* (1981–1994), each volume of this annual publication contains a section on labor arbitration which includes case digests and short articles. It has an annual index and case table in each volume.

The Dispute Resolution Journal of the American Arbitration Association. New York: American Arbitration Association, 1993–.

Formerly *The Arbitration Journal* (1937–1993), this quarterly journal covers the spectrum of the dispute resolution field, including labor relations. It contains short articles by practitioners and scholars. It is also available on LEXIS-NEXIS (DRJNL) and Westlaw (DRJ) from 1993.

National Academy of Arbitrators, Proceedings of the...Annual Meeting. Washington, D.C.: Bureau of National Affairs, 1948–.

This is an annual compilation of papers and reports presented at the organization's annual meeting. Each volume also has a distinctive title and includes bibliographic references and an index. A cumulative index is separately published in: Gladys W. Gruenberg, Joyce M. Najita, and Dennis R. Nolan, *The National Academy of Arbitrators: Fifty Years in the World of Work* (Washington, D.C.: Bureau of National Affairs, 1998).

Labor and Employment Journals

Berkeley Journal of Employment and Labor Law. Berkeley, Calif.: University of California Press, 1993–.

Formerly titled *Industrial Relations Law Journal* (1976–1992), this semiannual scholarly journal provides comprehensive coverage of employment and labor law. Each volume includes an index and book reviews. It is also available on Westlaw (BERKJELL) from 1984.

Employee Relations Law Journal. New York: Executive Enterprises Publications Co., 1975–.

This quarterly practitioner-oriented journal covers equal opportunity, occupational health and safety, labor management relations, and employee benefits and compensation problems. This journal is available on Westlaw (EMRELLJ) from 1986 to 1996.

Employee Rights and Employment Policy Journal. Chicago: Chicago-Kent College of Law and the National Employee Rights Institute, 1997–.

This semiannual scholarly journal addresses both legal and employment policy issues in the union and nonunion workplace.

Hofstra Labor Law Journal. Hempstead, N.Y.: Hofstra University, 1984–1997.

This quarterly scholarly journal is available on LEXIS-NEXIS (HLABLJ) from 1993 and on Westlaw (HOFLLJ) from 1984.

Industrial and Labor Relations Review. Ithaca, N.Y.: New York State School of Industrial and Labor Relations, Cornell University, 1947–.

This journal covers all aspects of the employment relationship. It is also available on Westlaw (ILBRELREV) from 1989.

Labor Law Journal. Chicago: CCH, 1949–.

This monthly practitioner-oriented journal offers short articles on labor issues. An annual index is provided.

The Labor Lawyer. Chicago: American Bar Association, 1985–.

This journal appears three times per year and is aimed at practitioners, judges, administrators, and the interested public. An annual index is provided. This journal is also available on Westlaw (LABLAW) from 1987.

New York University Annual Conference on Labor. *Proceedings*. New York: New York University, 1997–.

Formerly the *New York University Annual National Conference on Labor* (1977–1996) and the *New York University Annual Conference on Labor* (1948–1976), this annual publication contains the papers presented by scholars, practitioners, and human resources professionals at each conference. Consolidated indexes are available for 1948–1983 (v. 1–35) and 1984–1989 (v. 36–41).

Web Sites

American Arbitration Association.¹ <<http://www.adr.org/>>

The association's Web site is replete with information about alternative dispute resolution. It has separate pages for labor and employment that include ethics and arbitration rules, disciplinary rulings, model procedures, sample forms, articles, practice guides, state and federal statutes, information on the association's regional offices, bibliographies, publication order forms, and links to other Internet sites. It also has a library page that provides access to library research and document services. Information about its roster of neutrals is also available.

CPR Institute for Dispute Resolution.² <<http://www.cpradr.org/>>

The institute's Web site includes a monthly newsletter, model rules and procedures, information for ordering its publications and products, and biographical information on dispute resolution neutrals.

1. See description of American Arbitration Association, *supra* p. 376.

2. See description of CPR Institute for Dispute Resolution, *supra* p. 376.

National Academy of Arbitrators. <<http://www.naarb.org/>>

The academy works to improve understanding and use of labor arbitration through research and educational programs. Its Web site provides information about the organization and its members, its code of ethics and ethics opinions, and the text of the Due Process Protocol for Mediation and Arbitration of Statutory Disputes Arising Out of the Employment Relationship.

Society of Professionals in Dispute Resolution. <<http://www.spidr.org/>>

This organization of arbitrators, mediators, hearing examiners, and dispute resolution fact-finders offers information and educational programs promoting dispute resolution. This site contains information about the organization, its programs, and its publications. It also provides links to discussion lists and other relevant Internet sites.