

# UNDERSTANDING LABOR LAW

Fourth Edition

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## Fourth Edition

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MATTHEW  BENDER

# *Preface*

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This book examines the multifaceted and complex law of private-sector labor law. It is a broad and interesting field. Labor legislation has shaped our country's labor relations system and labor law remains an important and evolving part of national policy and the framework of rights that defines our society. We think you will enjoy and benefit from its study.

Because the book focuses on relations between management and labor in the private sector, it deals primarily with the National Labor Relations Act, as amended, and its interpretation and application by the federal courts and the National Labor Relations Board. We have sought to include discussion of major cases found in standard casebooks on the subject and, where appropriate, bring in additional cases and other sources to help the reader reach a fuller understanding. We have especially sought to discuss the practical implications of doctrines as well as the interrelationships between them.

The treatise is organized in a format that is consistent with the organization of most Labor Law courses. At the end of each chapter is a section titled "Chapter Highlights." This section is intended to summarize some of the major doctrines discussed in the chapter and should be helpful for review and clarification purposes. Topics chosen for this treatment include matters which our combined teaching experience tells us are frequently misunderstood.

We wish to thank a number of people for the help they provided on this book.

Douglas Ray thanks the many people who made this book possible. I especially thank the research assistants and executive assistants who worked with me during my deanships at Widener, Toledo, and St. Thomas. I am particularly grateful to executive assistants Lin Whalen (first edition,) Paula Garrison, Connie Sweeney, and Linda Triola (second edition,) and Shirley Baker (third edition) and to St. Thomas Law research assistants Maxine Meltzer, Alain Roman, and Jesse Peterson for their help on the fourth edition. I am grateful to my former colleagues at Dorsey & Whitney and my colleagues at the Center for American and International Law for the labor law insights they have shared and to my former labor law students whose questions and interest have expanded my understanding. Finally, I thank my co-authors for their friendship and commitment to legal education.

Professor Sharpe is grateful for the dedicated clerical assistance of Rebecca Wright, who coordinated the development of his chapters and consolidated the entire project. Dawn Richards provided valuable clerical assistance on the second edition and Jennifer Hines on the third edition. Professor Sharpe also benefitted from the excellent research assistance of Geoffrey Ashley and Phil Strzalka. Kevin Shebesta continued this quality of research assistance on the second edition, and Matt Kissling on the third edition. Emily Vassil provided research on the fourth edition. Professor Sharpe received generous financial support while he worked on this project. Case Western Reserve University Law School provided a grant for the completion of this project and the Chicago-Kent College of Law provided facilities and a stimulating intellectual environment during Professor Sharpe's sabbatical, when he commenced writing the first edition. Grants from Case enabled completion of the second and third editions. For Professor Sharpe, any clarity in the presentation of this material reflects an ongoing effort to meet the intellectual

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## *Preface*

demands of enthusiastic students during his years of teaching the subject at Case Western Reserve, the University of Virginia, Wake Forest, George Washington, Arizona State, DePaul, the University of Minnesota, and Seton Hall law schools. A special note of gratitude is due my co-authors, who volunteered their help with my fourth edition revisions in light of my health challenges during this period.

Robert Strassfeld wishes to thank Alice Hunt for her usual exceptional secretarial support and Carrie Nixon and Brian Wassom for their able research assistance for the first edition. He also thanks Anne, Jonathan, and Daniel Strassfeld for their support and forbearance as he focused on the first edition of this book. For her excellent research assistance for the second edition he thanks Catherine Beck. My thanks, as well, to Christopher Diehl who provided similarly superb and thorough research for the third edition, and to Stuart Sparker who did the same for the fourth. For his helpful comments on the fourth edition he thanks Frederick Calatrello. He also thanks Professor Douglas Leslie for nurturing his interest in labor law while in law school and after; Professor Calvin Sharpe, for his support and collegiality over the past twenty-five years; and Dean Douglas E. Ray for his friendship, equanimity, and wisdom. He is grateful, as well, to his past and current labor law students who have made labor law a gratifying subject to teach and who have in countless ways added to and influenced the story he has to tell. He thanks Case Western Reserve University School of Law, which has provided him the opportunity to teach labor law and advanced labor law.

We all wish to express our appreciation to the members of the editorial staff at LexisNexis Matthew Bender for their efforts in the production of this book. We owe a special debt of gratitude to Pali Parekh (Academic Editor) for her leadership and guidance in making this fourth edition a reality and to all others at LexisNexis Matthew Bender whose efforts contributed to this publication.

We would appreciate your suggestions and reactions. Chapters 6, 8, 9, 10, 11, and 12 were the primary responsibility of Douglas Ray; Chapters 2, 3, 5, 7, 13, 16, and 18 were the primary responsibility of Calvin Sharpe; and Robert Strassfeld was primarily responsible for Chapters 1, 4, 14, 15, and 17.

Douglas E. Ray  
Calvin William Sharpe  
Robert N. Strassfeld

# *Dedication*

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DER: To my family and to the memory of my mother, Hazel Ray.

CWS: To my wife, Jan, my children, Kabral, his wife Nikki, and their two children — my beloved grands — Zoe and Isaiah; Adrienne, Stevie and her betrothed Hakim, my niece Moneer, the Sharpe-Jones family and friends, and last but certainly not least Dee — Caregiver Extraordinaire.

RNS: To the memory of my mother, Ruth Strassfeld, and to my father, Meyer Strassfeld, who with their words and deeds taught me the importance of social justice; and in memory of my granduncle Tony, who, because he believed in One Big Union, would have greeted this project with kindhearted skepticism.





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