

BARBARA J. FICK
Associate Professor of Law
University of Notre Dame Law School
Notre Dame, Indiana 46544

Professional Employment

- 1983-present Associate Professor of Law, University of Notre Dame Law School
areas of specialization: labor and employment law
employment discrimination law
dispute resolution theory and technique
courses taught: Labor and Employment Law
Employment Discrimination Law
International and Comparative Labor Law
Advanced Topics in Labor Law
Public Sector Labor Law
Regulation of Internal Union Affairs
Negotiation
Dispute Resolution
- 2000 (Spring) Visiting Professor, Faculty of Law, Katholieke Universiteit, Leuven, Belgium
courses taught: Introduction to American Law
American Labor and Employment Law
- 1978-1983 Field Attorney, National Labor Relations Board, Region 4
Philadelphia, Pennsylvania
- 1981-1982 Lecturer -- Law of Industrial Relations
St. Joseph's University, Philadelphia Pennsylvania
- 1976-1978 Associate Attorney, Foley & Lardner
Milwaukee, Wisconsin

EDUCATION

- J.D. 1976 - University of Pennsylvania Law School
Philadelphia, Pennsylvania
- B.A. (*magna cum laude*) 1972 - Creighton University
Omaha, Nebraska
Majors: English Literature and Political Science

PUBLICATIONS

Books:

Fick, *THE AMERICAN BAR ASSOCIATION GUIDE TO WORKPLACE LAW* (2nd ed. forthcoming 2006)

Fick, *THE AMERICAN BAR ASSOCIATION GUIDE TO WORKPLACE LAW* (N.Y.:Times Books, 1997)

Monographs:

Fick, *REVIEW AND ASSESSMENT OF COLLECTIVE LABOR LAW IN EIGHT CENTRAL EUROPEAN COUNTRIES* (Washington, D.C.: Free Trade Union Institute, 1997)

Chapters in Books:

Fick, *Law and the Workplace* in *FAMILY LEGAL GUIDE* (American Bar Ass'n eds.) (N.Y.: Random House, 3d ed. 2004)

Fick, *Federalism and Labour Law: The American Experience* in *FEDERALISM AND LABOUR LAW: COMPARATIVE PERSPECTIVES* (O. Vanachter and M. Vranken, eds.)(Antwerp: Intersentia 2004)

Fick, *Hiring Employees* (Chapter 14); *Laws Affecting Employees* (Chapter 15); *Terminating Employees* (Chapter 16); *Maintaining a Safe Place of Business* (Chapter 17) in *THE AMERICAN BAR ASSOCIATION LEGAL GUIDE FOR SMALL BUSINESS* (N.Y.: Three Rivers Press, 2000)

Fick, *Employment Discrimination: U.S.A.* in *XV WORLD CONGRESS OF LABOUR LAW AND SOCIAL SECURITY, VOLUME I* (R. Blanpain ed.) (Belgium: Peeters, 1998)

Fick, *Law and the Workplace* in *FAMILY LEGAL GUIDE* (American Bar Association eds.) (N.Y.: Times Books, 1994)

Fick, *Federal Labor and Employment Law* in *SPECIALIZED LEGAL RESEARCH* (L. Chanin ed.)(2d ed. 1989)(Boston, MA.: Little, Brown & Co.)
revised with updated material (1992)
revised with updated material (1997)
revised with updated material (2001)

Peer-Reviewed Publications:

Fick, *El Papel Del Derecho en la Consecución de la Igualdad: La Experiencia Norteamericana*, 21 *REVISTA DE DERECHO SOCIAL* 49 (2003)

Fick, *The Law and Practice of Collective Bargaining in the Czech Republic, Hungary and Poland*, 10 *INTERNATIONAL REVIEW OF COMPARATIVE PUBLIC POLICY* 137(1998)

Law Reviews:

Fick, *The Changing Face of the American Workplace* (Foreword for the Symposium Issue on Legal Issues in the Workplace), 12 *NOTRE DAME JOURNAL OF LAW, ETHICS & PUBLIC POLICY* 1(1998)

- Fick, *The Case for Maintaining and Encouraging the Use of Voluntary Affirmative Action in Private Sector Employment*, 11 NOTRE DAME JOURNAL OF LAW, ETHICS & PUBLIC POLICY 159 (1997)
- Fick, *Survey of Recent Developments in Indiana Law: Labor and Employment Law*, 25 INDIANA LAW REVIEW 1311 (1992)
- Fick, *Inherently Discriminatory Conduct Revisited: Do We Know It When We See It?*, 8 HOFSTRA LABOR LAW JOURNAL 275 (1991)
- Fick, *Negotiation Theory and the Law of Collective Bargaining*, 38 UNIVERSITY OF KANSAS LAW REVIEW 81 (1989)
- Fick, *The Political Abuse of Hiring Halls: Comparative Treatment Under the NLRA and the LMRDA*, 9 INDUSTRIAL RELATIONS LAW JOURNAL 339 (1987)
- Fick, *Protecting Worker Complaints After Meyers Industries*, 31 ST. LOUIS UNIVERSITY LAW REVIEW 823 (1987)
- Fick, *Foreword: Health in the Workplace*, 62 NOTRE DAME LAW REVIEW 807 (1987)

Case Analyses:

- Fick, *Time is Money—But is it Compensable Work? An Analysis of *IBP, Inc. v. Alvarez**, PREVIEW OF UNITED STATES SUPREME COURT CASES, Issue No. 1, p. 18 (September 26, 2005)
- Fick, *Does Title IX Protect Academic Whistle Blowers? An Analysis of *Jackson v. Birmingham Board of Education**, PREVIEW OF UNITED STATES SUPREME COURT CASES, Issue No. 3, p. 136 (November 29, 2004)
- Fick, *What is an Employer's Liability for Constructive Discharge under Title VII? An Analysis of *Pennsylvania State Police v. Suders**, PREVIEW OF UNITED STATES SUPREME COURT CASES, Issue No. 6, p. 317 (March 15, 2004)
- Fick, *What is the Time Limit for Filing a Lawsuit? It Depends on What Your Definition of "Arising Under" Is!, An Analysis of *Jones v. Donnelley & Sons**, PREVIEW OF UNITED STATES SUPREME COURT CASES, Issue No. 5, p. 263 (February 16, 2004)
- Fick, *Mixed Up About Mixed Motive: What Will Trigger a "Mixed-Motive" Analysis in Title VII Cases?, An Analysis of *Desert Palace, Inc. v. Costa**, PREVIEW OF UNITED STATES SUPREME COURT CASES, Issue No. 7, p. 425 (April 18, 2003)
- Fick, *Musical Courts: Plaintiff Picks a Court But Can Defendant Trump the Choice? An Analysis of *Breuer v. Jim's Concrete**, PREVIEW OF UNITED STATES SUPREME COURT CASES, Issue No. 6, p. 338 (March 21, 2003)
- Fick, *Reconciling the NLRA and IRCA: Can an Undocumented Worker Receive Back Pay? An Analysis of *Hoffman Plastic Compound Inc. v. NLRB**, PREVIEW OF UNITED STATES SUPREME COURT CASES, Issue No. 4, p. 199 (January 2, 2002)

- Fick, *Can Contested Disciplinary Actions Be Considered in Subsequent Termination Proceedings? An Analysis of United States Postal Service v. Gregory*, PREVIEW OF UNITED STATES SUPREME COURT CASES, Issue No. 1, p. 23 (September 24, 2001)
- Fick, *With All Due Deference: What Constitutes the Exercise of "Independent Judgment" in the Workplace? An Analysis of NLRB v. Kentucky River Community Care*, PREVIEW OF UNITED STATES SUPREME COURT CASES, Issue No. 6, p. 256 (February 13, 2001)
- Fick, *Do Agency Employees Have a Right to Union Representation When Questioned by an OIG Investigator? An Analysis of NASA v. FLRA*, PREVIEW OF UNITED STATES SUPREME COURT CASES, Issue No. 6, p. 345 (March 15, 1999)
- Fick, *Does a Conspiracy to Terminate At-Will Employment Constitute an Injury to Property? An Analysis of Haddle v. Garrison*, PREVIEW OF UNITED STATES SUPREME COURT CASES, Issue No. 2, p. 85 (October 23, 1998)
- Fick, *Who's Responsible!? Employer Liability for Supervisors' Hostile-Environment Sexual Harassment: An Analysis of Faragher v. City of Boca Raton*, PREVIEW OF UNITED STATES SUPREME COURT CASES, Issue No. 6, p. 401 (March 12, 1998)
- Fick, *The Scope of Employer Liability for Employee Exposure to a Hazardous Substance: No Harm, No Foul? An Analysis of Metro-North Commuter R.R. Co. v. Buckley*, PREVIEW OF UNITED STATES SUPREME COURT CASES, Issue No. 5, p. 311 (February 6, 1997)
- Fick, *How to Count to Fifteen: Determining the Jurisdictional Scope of Title VII: An Analysis of Walters v. Metropolitan Educational Enterprises Inc.*, PREVIEW OF UNITED STATES SUPREME COURT CASES, Issue No. 2, p. 75 (October 15, 1996)
- Fick, *Will the Supreme Court Sound the Death Knell for Political Patronage? An Analysis of O'Hare Truck Service, Inc. v. City of Northlake*, PREVIEW OF UNITED STATES SUPREME COURT CASES, Issue No. 6, p. 275 (March 7, 1996)
- Fick, *An Independent Contractor Speaks His Mind: Can He Lose His Government Contract? An Analysis of Heiser v. Umbehr*, PREVIEW OF UNITED STATES SUPREME COURT CASES, Issue No. 3, p. 112 (November 17, 1995)
- Fick, *"If I Knew Then What I Know Now:" The Role of After-Acquired Evidence in Employment Discrimination Cases: An Analysis of McKennon v. Nashville Banner*, PREVIEW OF UNITED STATES SUPREME COURT CASES, Issue No. 2, p. 65 (October 21, 1994)
- Fick, *Professional Employee or Supervisory Employee: Are Nurses Protected by the NLRA? An Analysis of NLRB v. Health Care & Retirement Corp.*, PREVIEW OF UNITED STATES SUPREME COURT CASES, Issue No. 5, p. 187 (February, 1994)
- Fick, *Pretext or Pretext-Plus: What Must a Plaintiff Prove to Win a Title VII Lawsuit? An Analysis of St. Mary's Honor Center v. Hicks*, PREVIEW OF UNITED STATES SUPREME COURT CASES, Issue No. 8, p. 356 (April 1993)
- Fick, *If You're Sexually Harassed, Do You Have to Be Psychologically Injured? An Analysis of Harris v. Forklift Systems*, PREVIEW OF UNITED STATES SUPREME COURT CASES, Issue No. 1, p. 28 (September 1993)

- Fick, *Breaching the Union Constitution: Can A Member Make a Federal Case of It? An Analysis of Wooddell v. IBEW Local Union No. 71*, PREVIEW OF UNITED STATES SUPREME COURT CASES, Issue No. 2, p. 59 (October 1991)
- Fick, *Does Title VII Apply in Saudi Arabia? An Analysis of EEOC v. Arabian American Oil Co.*, PREVIEW OF UNITED STATES SUPREME COURT CASES, Issue No. 5, p. 145 (January 25, 1991)
- Fick, *Free Speech and Compulsory Union Fees: An Analysis of Lehnert v. Ferris Faculty Association*, PREVIEW OF UNITED STATES SUPREME COURT CASES, Issue No. 4, p. 120 (December 14, 1990)
- Fick, *Peer Review: I'll Give You my Opinion if You Don't Tell Anyone What it Is: An Analysis of University of Pennsylvania v. EEOC*, PREVIEW OF UNITED STATES SUPREME COURT CASES, Issue No. 3, p. 80 (Nov. 3, 1989)
- Fick, *Who Pays the Piper if You Cut into the Dance? An Analysis of Independent Federation of Flight Attendants v. Zipes*, PREVIEW OF UNITED STATES SUPREME COURT CASES, Issue No. 14, p. 421 (June 2, 1989)
- Fick, *Of Time Limits, Worksharing and Deferral: An Analysis of EEOC v. Commercial Office Products Co.*, PREVIEW OF UNITED STATES SUPREME COURT CASES, Issue No. 8, p. 226 (January 29, 1988)
- Fick, *Labor Law Preemption: Procedure and Substance: An Analysis of International Longshoremen's Association v. Davis*, PREVIEW OF UNITED STATES SUPREME COURT CASES, Issue No. 10, P. 274 (March 14, 1986)
- Fick, *Can Mother Vote in the Union Election? The Board's Authority to Define the Appropriate Bargaining Unit. An Analysis of NLRB v. Action Automotive, Inc.*, PREVIEW OF UNITED STATES SUPREME COURT CASES, Issue No. 2, p. 45 (October 12, 1984)
- Fick, *Title VII: When is a Pretext Not a Pretext? An Analysis of Westinghouse Electric Corp. v. Vaughn*, PREVIEW OF UNITED STATES SUPREME COURT CASES, Issue No. 29, p. 495 (May 11, 1984)
- Fick, *Labor Racketeering and Labor Law: State Regulation v. Federal Rights: An Analysis of Brown v. Hotel and Restaurant Employees Union Local 54*, PREVIEW OF UNITED STATES SUPREME COURT CASES, Issue No. 25, p. 439 (April 6, 1984)

Book Reviews:

- Fick, *Academics in Court: the Consequences of Faculty Discrimination Litigation*, by George R. LaNoue and Barbara A. Lee, 15 J. OF COLLEGE AND UNIV. LAW 237 (1988)
- Fick, *A Primer on American Labor Law*, by William B. Gould, IV, 41 INDUS. & LAB. REL. REV. 630 (1988)

CONFERENCE PAPERS

“The Role of Trade Unions in Creating and Maintaining a Democratic Society,” presented to the American Sociological Association Collective Behavior/Social Movements Section Workshop held at Notre Dame, Indiana, August 14-15, 2002.

"Discrimination in Employment: United States National Report" presented to the 15th World Congress of Labor Law and Social Security, held in Buenos Aires, Argentina, September 22-26, 1997.

"Review and Assessment of Collective Labor Law in Eight Central European Countries" presented at the Conference on the Promotion of the Defense of Trade Unions Rights in Central and Eastern Europe, sponsored by the International Labor Organization, the International Confederation of Free Trade Unions and the Free Trade Union Institute, at Zakopane, Poland, September 27, 1996.

"The Case For Maintaining and Encouraging the Use of Voluntary Affirmative Action in Private Sector Employment," presented to the Indiana Advisory Committee to the United States Commission on Civil Rights, April 18, 1996.

INVITED LECTURES AND CONFERENCE PRESENTATIONS

“The ILO and the NLRB.” Presentation for the staff of Region 25, NLRB, in Indianapolis on July 12, 2005.

“Compliance and Policy Considerations Impacting Wage-Hour Regulation.” Panel presentation at a conference sponsored by Jones, Day in New York, December 2, 2004.

“Worker Rights in Jordan: Using our Rights to Build our Unions.” Two day seminar presented to trade union leaders in Amman, Jordan on September 20-21, 2004. Funded by the American Center for International Labor Solidarity, Washington, D.C.

“Worker Rights and International Labor Standards.” Two day seminar presented to trade union lawyers and leaders in Astana, Kazakhstan on June 28-29, 2004 and June 30-July 1, 2004. Funded by the American Center for International Labor Solidarity, Washington, D.C.

“ILO Conventions and Law and Practice under Ukrainian Collective Labor Law: Compliance and Conflict.” Two day seminar presented to trade union leaders in Kiev, Ukraine on March 25-26, 2001 and in Dnepropetrovsk, Ukraine on March 28-29, 2001. Funded by the American Center for International Labor Solidarity, Washington, D.C.

“Trade Unions, the World Bank and the International Monetary Fund in Romania.” Two day seminar presented to trade union leaders in Neptun, Romania, July 24-25, 2000. Funded by USAID.

“Core Labor Standards and International Financial Institutions.” Presentation to the Conference to Build Cooperation among South/Central European Trade Unions in Budapest, Hungary, June 10, 2000. Funded by the American Center for International Labor Solidarity, Washington, D.C. and USAID.

“The Role of Law in Achieving Equality: The American Experience.” Invited Presentation for the Faculty and Graduate Students of the Faculty of Law, Universitat Pompeu Fabra, Barcelona, Spain, May 11, 2000.

“Collective Bargaining: Substance and Procedure.” Two and a half day seminar presented to trade union leaders in Brcko, Bosnia, December 13-15, 1999. Funded by the American Center for International Labor Solidarity, Washington, D.C.

“U.S. Challenges: Worker Legislation.” Presentation at Retreats International Summer Institute. Notre Dame, Indiana, July 22, 1999.

“Negotiation and Mediation.” Two and a half day in-house training workshop for the Canadian law firm of McCarthy Tétrault. Mont Gabriel, Quebec, January 28-30, 1999.

“International Labor Standards and the Role of Trade Unions in a Democratic Society.” Two day seminar presented to trade union leaders in Brcko, Bosnia, December 12-13 and December 14-15, 1998. Funded by the American Center for International Labor Solidarity, Washington, D.C.

“Worker Rights and International Labor Standards.” Three day seminar presented to trade union leaders in Sarajevo, Bosnia, August 14-16, 1998 and in Tuzla, Bosnia, August 17-19, 1998. Funded by the American Center for International Labor Solidarity, Washington, D.C.

“An Agenda for Assessing a National Labor Law Regime” Presentation to the Conference for the Promotion of the Defense of Trade Union Rights in Central and Eastern Europe, sponsored by the International Labor Organization, the International Confederation of Free Trade Unions and the Free Trade Union Institute, in Budapest, Hungary on May 17, 1996.

"Sexual Harassment in the Workplace," Presentation at the Labor-Management Summit, sponsored by The Committee for the Advancement of Labor & Management Relations. South Bend, Indiana, April 24, 1996.

"Recent Developments in Title VII and the ADEA," Presentation to the Conference for the First and Seventh Circuits, sponsored by the Federal Judicial Center. Traverse City, Michigan, September 28, 1994.

"The Impact of the Americans with Disabilities Act on Employment and Public Accommodations", Presentation at the Ethical Issues in Legal Practice Seminar, sponsored by the Notre Dame Alumni Association/Alumni Continuing Education. Notre Dame, Indiana, June 19, 1992.

"The Ethics of Negotiations," Presentation at the Ethical Issues in Legal Practice Seminar, sponsored by the Notre Dame Alumni Association/Alumni Continuing Education. Notre Dame, Indiana, June 29, 1990.

"Expansion of Individual Rights: Impact on the Unionized and Non-Unionized Workplace," Presentation to the Conference on Developing Issues in Labor Law, sponsored by the National Labor Relations Board, Region 33 and the College of Law, University of Illinois. Peoria, Illinois, December 6, 1989.

"Ethics of Negotiations," Presentation at the Ethical Issues in Legal Practice Seminar, sponsored by Notre Dame Alumni Association/Alumni Continuing Education. Notre Dame, Indiana, July 9, 1988.

"Investigatory Interviews and Employee Rights Under the National Labor Relations Act, the Collective Bargaining Agreement and the Constitution." Keynote Speech to the State Convention of the Indiana Association of Letter Carriers, sponsored by the Indiana Association of Letter Carriers. Merrillville, Indiana, May 1, 1987.

"Protection of Workers' Complaints After Meyers Industries," Presentation to the National Lawyers Guild Annual Conference, sponsored by the National Lawyers Guild. Denver, Colorado, June 14, 1986.

PROFESSIONAL ACTIVITIES

Peer Reviewer, INTERNATIONAL CONTRIBUTIONS TO LABOUR STUDIES (1994-1998).

Employed as an expert consultant on sexual harassment in academia, *Chontos v. Rhea and Indiana University* (N.D. Ind.) July-September, 1998.

Employed as an expert witness on employer liability in discharge and discipline cases, *Maloney and Creazzo v. U S West*, Civil Action 95-0734 (Adams Cty. Dist. Ct. Colo.) Nov. 1996-Feb. 1997.

Employed as an expert witness on sexual harassment in the workplace, *Ariza et al. v. U S WEST*, Civil Action No. 95-K-1981 (D. Colo.) February-April, 1997.

Testified as expert witness on the operation of union hiring halls, *Moore v. Local 569, IBEW*, Civil Action 85-1719 (S.D. Calif), November 2, 1989.

Mediator, employed by parties in employment case filed with the EEOC; mediation resulted in successful settlement agreement (December, 1993).

Arbitrator, *Miller v. Workforce Development Services of Northern Indiana* (decision submitted September 13, 1993).

Arbitrator, *City of Mishawaka and Mishawaka Firefighters Ass'n Local No. 360* (decision submitted October 1, 1985).

Amicus Brief on behalf of Teamsters for a Democratic Union, in *Pattern Makers' League v. NLRB*, U.S. Supreme Court (November, 1984).

PROFESSIONAL RECOGNITION

Legal Specialist, International Commission for Labour Rights (2002-present)

Member, Editorial Advisory Board, UNIVERSITY OF PENNSYLVANIA JOURNAL OF LABOR AND EMPLOYMENT LAW (1999-present)

Editor, INTERNATIONAL CONTRIBUTIONS TO LABOUR STUDIES (published jointly by Cambridge Political Economy Society, Cambridge University and the University of Notre Dame)(1994-1998)

Contributing Editor, PREVIEW OF UNITED STATES SUPREME COURT CASES (1991-present)
(published by the American Bar Association)

Fellow, Joan B. Kroc Institute for International Peace Studies (1987-present)
University of Notre Dame, Notre Dame, Indiana

Member, George Higgins Labor Research Center (1994-present)
University of Notre Dame, Notre Dame, Indiana