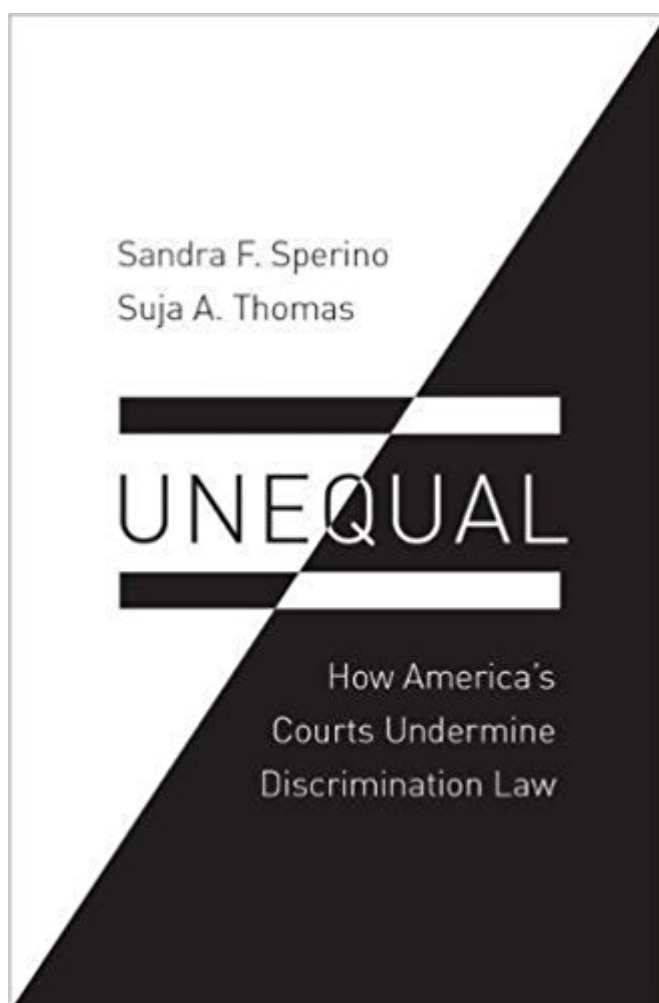


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Unequal: How America's Courts Undermine Discrimination Law (Law And Current Events Masters)



Synopsis

It is no secret that since the 1980s, American workers have lost power vis-à-vis employers through the well-chronicled steep decline in private sector unionization. American workers have also lost power in other ways. Those alleging employment discrimination have fared increasingly poorly in the courts. In recent years, judges have dismissed scores of cases in which workers presented evidence that supervisors referred to them using racial or gender slurs. In one federal district court, judges dismissed more than 80 percent of the race discrimination cases filed over a year. And when juries return verdicts in favor of employees, judges often second guess those verdicts, finding ways to nullify the jury's verdict and rule in favor of the employer. Most Americans assume that that an employee alleging workplace discrimination faces the same legal system as other litigants. After all, we do not usually think that legal rules vary depending upon the type of claim brought. The employment law scholars Sandra A. Sperino and Suja A. Thomas show in *Unequal* that our assumptions are wrong. Over the course of the last half century, employment discrimination claims have come to operate in a fundamentally different legal system than other claims. It is in many respects a parallel universe, one in which the legal system systematically favors employers over employees. A host of procedural, evidentiary, and substantive mechanisms serve as barriers for employees, making it extremely difficult for them to access the courts. Moreover, these mechanisms make it fairly easy for judges to dismiss a case prior to trial. Americans are unaware of how the system operates partly because they think that race and gender discrimination are in the process of fading away. But such discrimination still happens in the workplace, and workers now have little recourse to fight it legally. By tracing the modern history of employment discrimination, Sperino and Thomas provide an authoritative account of how our legal system evolved into an institution that is inherently biased against workers making rights claims.

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Customer Reviews

"This is must-read for all who care about workplace fairness and realizing the promise of our nation's civil rights laws." - David Lopez, Former General Counsel of the Equal Employment Opportunity Commission, Partner, Outten and Golden "In this important book, Professors Sperino and Thomas painstakingly and poignantly disclose how courts have broken the promise of America's workplace civil rights laws." - Seth Harris, Former Acting and Deputy Secretary of Labor, Visiting Lecturer, Cornell Institute for Public Affairs "Our civil rights laws make grand promises of equality and opportunity, but those promises are betrayed every day in courthouses throughout the Nation. By telling the stories of the real people who have been denied the rights Congress guaranteed them, Sperino and Thomas clearly illustrate the gap between promise and reality. This book is essential reading for scholars, lawyers, and any citizen who cares about our fundamental national commitment to equal rights." - Sam Bagenstos, Frank G. Millard Professor of Law, University of Michigan Law School "Professors Sperino's and Thomas's book goes well beyond the academic articles that recite the virtual repeal of the civil rights laws (mine among them). They give content to the discussion-meaningful, detailed content-about the specific cases, their fact patterns, and the dismissive manner in which the courts too often deal with them. It is an eye opening account of how doctrine-procedural and substantive-has gone far afield from the language of the civil rights laws and the goals it was intended to accomplish. It is an important work, required reading for practitioners, scholars and judges." - Nancy Gertner, Former federal judge, Senior Lecturer on Law, Harvard University

Sandra F. Sperino is Professor of Law at the University of Cincinnati. Suja A. Thomas is Professor of Law at the University of Illinois.

In this excellent book, Sperino and Thomas provide a wealth of detail about the ways that lower courts deploy technical rules to dismiss claims of discrimination. In a well-organized slim volume they persuasively argue that each of a host of technical doctrines developed to guide anti-discrimination law analysis today often serve as an obstacle to the fair evaluation of plaintiffs'

claims. This book should be required reading for those who care about the future of anti-discrimination law, including policy-makers, judges and attorneys. Even those who come from different ideological perspectives will learn much from this book, which lays out concisely many of the guiding doctrines of anti-discrimination law today.

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