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Volume 100

Issue 5 *Issue 5, A Tribute to Franklin D. Cleckley:  
A Compendium of Essential Legal Principles  
From His Opinions as a Justice on the West  
Virginia Supreme Court of Appeals*

Article 18

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June 1998

## Labor Law

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*West Virginia Supreme Court of Appeals*

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### Recommended Citation

Robin J. Davis & Louis J. Palmer Jr., *Labor Law*, 100 W. Va. L. Rev. (1998).

Available at: <https://researchrepository.wvu.edu/wvlr/vol100/iss5/18>

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Justice Cleckley sought to extend the protections of 42 U.S.C. § 1983 by attaching similar protections on state constitutional grounds. The opinion did this by holding that

[u]nless barred by one of the recognized statutory, constitutional or common law immunities, a private cause of action exists where a municipality or local governmental unit causes injury by denying that person rights that are protected by the Due Process Clause embodied within Article 3, § 10 of the West Virginia Constitution.<sup>356</sup>

#### XIV. LABOR LAW

The case of *Williams v. Precision Coil, Inc.*<sup>357</sup> examined whether employers could provide employees with handbooks that had disclaimers. Justice Cleckley held that “[f]or a disclaimer to be valid, it must be sufficiently clear, conspicuous, and understandable so that employees will know that the handbook provides them with no protection and it only is intended to benefit one side of the employment relationship, i.e., the employer.”<sup>358</sup>

#### XV. TORT LAW

##### A. *Statute of Limitations*

In *Donley v. Bracken*,<sup>359</sup> the cause of action limitation for incompetents found in W. Va. Code section 55-2-15 was construed. *Donley* held “[i]n order for a permanently incompetent person to maintain a viable and timely action under W. Va. Code, 55-2-15 (1923), the lawsuit must be brought within twenty years of the date of the wrongful act and the injury.”<sup>360</sup> The opinion also determined that “[t]he twenty year cap in W. Va. Code, 55-2-15 (1923), is reasonably related to the legislative goal of preventing stale law suits and the failure to impose a similar cap on competent persons does not adversely discriminate against the mentally

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<sup>356</sup> *Id.* at Syl. Pt. 2.

<sup>357</sup> 459 S.E.2d 329 (W. Va. 1995).

<sup>358</sup> *Id.* at Syl. Pt. 6.

<sup>359</sup> 452 S.E.2d 699 (W. Va. 1994).

<sup>360</sup> *Id.* at Syl. Pt. 1.