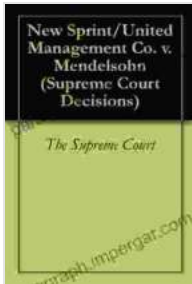


# Unleash the Power of Legal Insights: New Sprint United Management Co Mendelsohn Supreme Court Decisions



## New Sprint/United Management Co. v. Mendelsohn (Supreme Court Decisions Book 1)

★★★★★ 5 out of 5

Language	: English
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Text-to-Speech	: Enabled
Screen Reader	: Supported
Enhanced typesetting	: Enabled
Word Wise	: Enabled
Print length	: 9 pages
Lending	: Enabled



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**SPRINT/UNITED MANAGEMENT CO. v. MENDELSON: THE SUPREME COURT APPEARS TO HAVE PUNTED ON THE ADMISSIBILITY OF "ME TOO" EVIDENCE OF DISCRIMINATION. BUT DID IT?**

Mitchell H. Rubenstein\*

**INTRODUCTION AND BACKGROUND**

Employment discrimination continues to infect many employers. However, finding the source of the infection has never been easy.<sup>1</sup> The

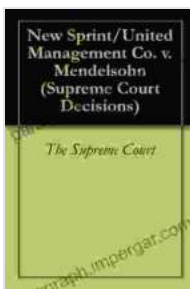
\*Adjunct Professor of Law, St. John's Law School and New York Law School; Senior Counsel, New York State United Teachers; affiliated with American Federation of Teachers, National Education Association, AFL-CIO. Fellow, Adjunct Law Professor, Rutgers-Camden University School of Industrial and Labor Relations; J.D. with distinction, Rutgers University School of Law.

Professor Rubenstein welcomes comments. He can be reached at New York State United Teachers, 52 Broadway, 10th Floor, New York, NY, 10004-2121, 533-6300, [mrubenstein@gmail.com](mailto:mrubenstein@gmail.com). The views expressed in this article are entirely the author's and may not necessarily represent the views of any organization that he is affiliated with.

An Professor Charles K. Sullivan recently stated, there is "widespread scholarly consensus" that discrimination remains prevalent in the American workplace.<sup>2</sup> Charles K. Sullivan, *The Problem from the Ash: Proving Discrimination by Comparison*, 39 ALA L. REV. (forthcoming 2009) (manuscript at 16). The availability of [http://papers.ssrn.com/sol3/cases.cfm?abstract\\_id=399099](http://papers.ssrn.com/sol3/cases.cfm?abstract_id=399099) links Professor Sullivan explains that the continuing prevalence of discrimination has been documented in the legal literature in three main forms: statistical, perceptual, and field experiments, and field experiments which demonstrate that employer's actually discriminate. He then cites to a number of academic studies supporting each of these propositions. *Id.* at 17-18.

See *Conroy v. Univ. of South Ala.*, 825 F.2d 944, 597 (11th Cir. 1987) (finding that employer's discrimination against female and male); *Hullinck v. American Gymnasium Co.*, 895 F.2d 1010, 893 F.2d 1010 (11th Cir. 1990) (finding that employer's policy of not hiring pregnant women discriminatory); *Alto-Chalmers Corp. v. NLRB*, 734 F.2d 1417, 1423 (7th Cir. 1984) (finding that employer's policy of denying discrimination and posing to an alleged deficiency as a result of disciplining the employee for the discipline imposed).

Plaintiffs alleging discrimination in the workplace face a battle to find their plaintiffs in just about any other type of litigation. See Kenneth M. Clermont & Nicholas J. Schwab, *How Long must Discrimination Plaintiffs Wait in Federal Courts*, 11 J. EMPIR. & LEGAL STUD. 429, 444-44 (2004). In cases where employment discrimination plaintiffs manage to prevail, they face a higher reversal rate as compared with other forms of civil actions. *Id.* at 440-452; see also Sullivan, *supra* note 1, at 16 & n.87 (citing that few employment discrimination cases result in plaintiff verdicts and collecting scholarly literature

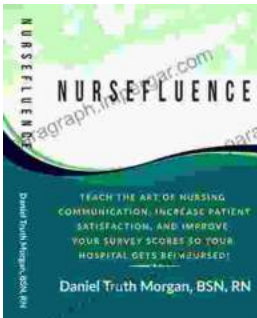


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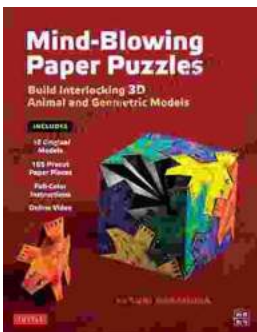
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