Labor and Employment Law Year in Review – Cases in 2025 That Made an Impact

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EEOC Activity

In fiscal year 2025, 93 lawsuits challenging unlawful discrimination were filed.

EEOC Activity: Cases

37 Sex-based Discrmination cases.

30 Americans with Disabilities Act cases.

11 Religious Discrmination cases.

9 Age Discrimination in Employment Act cases.

6 Pregnant Workers Fairness Act cases.

EEOC Activity: Title VII Cases

3 Race and National Origin Cases.

0 cases alleging sex discrimination based on sexual orientation.

0 cases alleging sex discrimination based on gender identity.

EEOC Activity: Title VII Cases

Disparate Impact?

In April 2025, the executive branch directed the EEOC to deprioritize "disparate impact" claims.

By December 2025, the DOJ issued a final rule requiring proof of "intent" as the sole basis for Title VI discrimination claims, effectively eliminating disparate impact as a theory for those cases. (Title VI **prohibits discrimination on the basis of race, color, and national origin** in programs and activities receiving federal financial assistance.)

Under Title VII, disparate impact remains valid, but….not an apparent priority.

Executive Order 14168--*Gender Identity*

- DEFENDING WOMEN FROM GENDER IDEOLOGY EXTREMISM AND RESTORING BIOLOGICAL TRUTH TO THE FEDERAL GOVERNMENT

- Biology is all that matters.
- Two genders: male and female.

Challenges to EEOC: Gender Identity Policies

- A District Court in Texas vacated a recent EEOC Enforcement Guidance.
  - The EEOC issued an Enforcement Guidance on Harassment in the Workplace that concluded that sex-based harassment includes harassment based on sexual orientation or gender identity, including misgendering and denial of access to bathrooms that conform with an employee's gender identity.
- The Court found that the Guidance contravenes Title VII's plain text by proscribing conduct not addressed in Title VII nor governed by binding Supreme Court precedent.
- Since the EEOC acted inappropriately in stretching "sex" to mean gender identity or sexual orientation instead of biological sex, the District Court vacates the relevant portion of the Guidance.
- Nationwide injunction issued, but see *Trump v. CASA* (The Supreme Court curtailed the power of district courts to issue "universal" or nationwide injunctions. This limits the ability of single lawsuits to immediately halt broad federal employment regulations or executive orders.)

Case: *Texas v. Equal Emp. Opportunity Comm'n*, No. 2:24-CV-173-Z, 2025 WL 1414332 (N.D. Tex. May 15, 2025).

Gender Identity Policies

- U.S. Supreme Court Not Sympathetic to Transgenderism
  - In a 6-3 decision, the Court upheld a state law prohibiting gender-affirming care for transgender youth. The majority ruled the law did not constitute sex discrimination because it applied to both boys and girls, a decision noted for its potential impact on future transgender-related employment protections.

Case: United States v. Skrmetti (2025).

Reverse Discrimination Claims

- A heterosexual female state employee brought Title VII reverse discrimination claims against her employer, alleging that she was denied promotion in favor of a lesbian woman and was demoted in favor of a gay man.
- The Sixth Circuit ruled that plaintiff failed to establish a pattern of prejudice.
- Case: *Ames v. Ohio Dep't of Youth Servs*., 87 F.4th 822 (6th Cir. 2023).

Sixth Circuit Approach To Reverse Discrimination: Background Circumstances Test

The court analyzed the claim under the traditional *McDonnell Douglas* approach.

However, the Sixth Circuit held that at the first step of the framework, the employee had failed to meet her prima facie burden because she had not shown “background circumstances” to support the suspicion that the defendant is that unusual employer who discriminates against the majority.

The court reasoned that the employee, as a straight woman, was required to make this showing in addition to the usual ones to establish a prima facie case.

Reverse Discrimination: Supreme Court Weighs In

In a unanimous decision, the Court reversed the Sixth Circuit decision.

Majority-group plaintiffs are not required to meet the heightened evidentiary standard of showing "background circumstances" to establish prima facie case at the first step of *McDonnell Douglas* framework.

Case: *Ames v. Ohio Dep't of Youth Servs.*, 145 S. Ct. 1540 (2025).

Movement to Get Rid of McDonnell Douglas Framework?

- In a concurring opinion, joined by Justice Gorsuch, Justice Thomas writes a harsh review of the *McDonnell Douglas* framework and calls for its disuse.
- He views *McDonnell Douglas* as an atextual, judge-created legal rule that does not serve as an appropriate tool for evaluating Title VII claims at the summary judgment stage.
- Thomas points to Rule 56 as a more straight-forward way to resolve disputes.
- Case: *Ames v. Ohio Dep't of Youth Servs.,* 145 S. Ct. 1540 (2025).

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What Burden of Proof is Required Under FLSA for Employers to Prove Their Employees are Overtime Exempt?

Employees brought suit, alleging that they were denied overtime pay they were entitled to under the Fair Labor Standards Act.

The Fourth Circuit held that EMD did not satisfy the clear and convincing evidence standard, while six other appellate circuits have applied the preponderance of evidence standard.

The Supreme Court determined the preponderance of evidence standard is the burden required for workers to be classified as exempt from federal overtime under FLSA not a clear and convincing evidence standard.

Case: *E.M.D. Sales, Inc. v. Carrera*, 604 U.S. 45, 145 S. Ct. 34, 220 L. Ed. 2d 309 (2025).

Seventh Circuit Clarifies FLSA Burden of Proof for Damages and Liability

The Seventh Circuit affirmed a summary judgement in a FLSA case because the employee's evidence of her daily schedule lacked specifics and suffered from inconsistences so that overtime could not be established. The court used this opportunity to highlight the different burdens in proving liability versus damages under FLSA and correct their own application of the burdens in previous cases.

Liability	Damages
• Typical burden of proof applies. • Under Rule 56, an employee must show what evidence they have that would convince a trier of fact to agree that their employer violated FLSA.	• Just and reasonable inference standard applies. • The Supreme Court's decision in *Anderson* confirms that this relaxed burden of proof applies only to damages issues – not liability issues.

Case: *Osborn v. JAB Mgmt. Servs., Inc.,* 126 F.4th 1250 (7th Cir. 2025).

Circuit Spilt Resolved: Rule 60(b)

In a unanimous opinion, the Supreme Court held that voluntary dismissal without prejudice is a "final proceeding" from which relief from final judgment, order, or proceeding is available.

Under Rule 60(b) a case can be reopened after a voluntary dismissal without prejudice.

Case: *Waetzig v. Halliburton Energy Servs., Inc.,* 145 S. Ct. 690, 221 L. Ed. 2d 143 (2025).

Who is considered a "qualified individual" under the ADA?

To prevail under Title I of the ADA, a plaintiff must plead and prove that she held or desired a job and could perform its essential functions with or without reasonable accommodation, at the time of an employer's alleged act of disability-based discrimination.

An employee who raised an ADA claim after she retired due to disability was not considered a "qualified individual" because she is no longer an employee nor can she hold the job even if she wanted to.

Case: *Stanley v. City of Sanford, Fla.,* 145 S. Ct. 2058 (2025).

Back pay Under the ADA

- An employee was put on temporary leave pending a mental health exam.
- He successfully claimed that his removal violated the ADA, however, the District Court denied his motion for back pay due to the limitation on back pay under 42 U.S.C. § 2000e-5(g)(2) which doesn't allow for back pay when dismissal was for a reason other than discrimination.
- The Seventh Circuit reversed and decided that the employer's violation of § 12112(d)(4)(a) of the ADA counts as discrimination on account of disability even absent evidence that the employee had a disability or perceived disability and thus the § 2000e-5(g)(2) does not bar him from back pay.

Case: *Nawara v. Cook Cnty.*, 132 F.4th 1031 (7th Cir. 2025).

§ 1983: Exhausting Administrative Remedies

A state law that immunizes government conduct otherwise subject to suit under § 1983 is preempted, even where the federal civil rights litigation takes place in state court.

Alabama's requirement to exhaust administrative remedies before filing suit is unenforceable when claimants bring § 1983 claims against the administrative process.

Case: *Williams v. Reed*, 145 S. Ct. 465, 221 L. Ed. 2d 44 (2025).

Who Can Collect Attorney’s Fees Under § 1988(b)

§ 1988(b) allows “prevailing parties” to collect attorney's fees.

The Court defines “prevailing parties” as those who have a court conclusively resolve their claim by enduring relief on the merits that alters the legal relationship between parties permanently.

Preliminary Injunctions or external forces that render the action moot do not make a party prevailing under § 1988(b) and therefore cannot collect attorney's fees for § 1981 claims.

Case: *Lackey v. Stinnie*, 145 S. Ct. 659, 221 L. Ed. 2d 63 (2025).

Executive Action and Supreme Court Response

- The President has taken several actions to reduce the federal government workforce.
- In cases where District Courts have granted plaintiff's preliminary injunctions, the Supreme Court has stayed those orders based on the likelihood of the government succeeding on the merits.

Example 1:

- Supreme Court stayed the District Court's order enjoining the President's removal of Gwynne Wilcox from the NLRB because the Government is likely to show that the NLRB exercises considerable executive power and thus falls within President's Article II powers to fire at will.

Case: *Trump v. Wilcox*, 145 S. Ct. 1415 (2025).

Example 2:

- The President issued EO 14210 which instructed agencies to initiate large-scale, reductions in force.
- At the District Court level, federal unions were granted preliminary injunctions.
- The Supreme Court intervened and stayed the orders because they expect the government to succeed on its argument that the Executive Order is lawful.

Case: *Trump v. Am. Fed'n of Gov't Emps.*, No. 24A1174, 2025 WL 1873449 (U.S. July 8, 2025).

Religion Discrimination Claims Under Title VII

3 ways to claim religious discrimination under Title VII:

1. Intentional discrimination claim based on belief

2. Intentional discrimination claims based on practice **

3. Failure to accommodate claims based on practice **

** Claims based on religious-practice are subject to the undue hardship defense as defined by *Groff* whereas belief-based claims are not.

Case: *Carter v. Local 556, Transp. Workers Union of Am., 156 F.4th 459* (5th Cir. 2025).

Religion Discrimination Claims Under Title VII

- Southwest was found to be in violation of Title VII when they terminated a flight attendant for her public statements and threatening messaging regarding abortion policy positions supported by her Union.
- Southwest failed to establish an undue hardship defense because they could not establish undue hardship under either the old "de minimis" threshold nor the "new" *Groff* standard.
- Further, this case showcases that the Railway Labor Act cannot be used to prevent a claim arising under Title VII.
- The court affirmed an $800,000 in damages award and reinstatement plus attorney's fees for the flight attendant.

Case: *Carter v. Local 556, Transp. Workers Union of Am.,* 138 F.4th 164 (5th Cir. 2025).

Religion Discrimination Claims Under Title VII

- But wait….new decision on request for rehearing! (not en banc review)
- Dramatically different ruling:
  - “We REVERSE the denial **of** Southwest's motion for judgment as a matter **of** law on **Carter's** belief-based **Title** VII claim and RLA retaliation claim and REMAND with instructions for the district court to enter judgment for Southwest.
  - We AFFIRM the judgment against Southwest on **Carter's** practice-based **Title** VII claims.
  - We AFFIRM the dismissal **of Carter's** RLA interference claim against Southwest.
  - We AFFIRM the judgment against the **union** on all claims.
  - We VACATE the permanent injunction in full and REMAND for additional proceedings.
  - We VACATE the contempt sanction against Southwest and remand for additional proceedings.”

Case: *Carter v. Local 556, Transp. Workers Union of Am.,* 138 F.4th 164 (5th Cir. 2025).

Religion Discrimination Claims Under Title VII

The Court of Appeals explains:

1-employee failed to demonstrate by direct evidence that her religious beliefs were a motivating factor in her termination;
2- proffered comparator was not treated more favorably than former employee under nearly identical circumstances;
3-jury instruction regarding the definition of "undue hardship" that would have relieved employer of duty to make religious accommodations for employee under Title VII sufficiently permitted jury to consider the impact on co-workers' morale from employee's purportedly religious conduct;
4- new trial on Title VII claim was not warranted to permit employer to present evidence that accommodating employee's religious practice would have caused it an undue burden;
5-federal court did not have jurisdiction over employee's retaliation and labor-organization interference claims against her former employer and **union** under Railway Labor Act (RLA);
6-permanent injunction entered against **union** was impermissibly vague and overbroad; and
7-contempt sanction entered against employer that imposed requirement that employer's attorneys attend religious-liberty training exceeded scope **of** court's civil contempt authority.

- "Case: *Carter v. Local 556, Transp. Workers Union of Am.,* 138 F.4th 164 (5th Cir. 2025).

Groff v. DeJoy in Action

Teacher refused to refer to students by their preferred names and pronouns given in the school system's role, arguing that it was against his religious beliefs to refer to them differently than their name assigned at birth. To compromise, he instead referred to students by their last names.

The public school corporation argued that this was antithetical to its mission of creating a safe and inclusive environment.

The Court held in *Groff* that an employer must provide a religious accommodation unless it imposes a substantial burden in the overall context of an employer's business.

Groff v. DeJoy in Action

Based on this guidance from *Groff*, the Court ruled that the use of last names only, as an accommodation to the teacher's religious belief, created undue hardship for the school.

Case: *Kluge v. Brownsburg Cmty. Sch. Corp.*, No. 1:19-CV-02462-JMS-KMB, 2024 WL 1885848 (S.D. Ind. Apr. 30, 2024).

Groff v. DeJoy in Action

Seventh Circuit Reverses!

Case: *Kluge v. Brownsburg Cmty. Sch. Corp., : 150 F.4th 792 (7th Cir. 2025).*

[1] district court could not sua sponte define school's mission;

[2] fact issues remained as to whether teacher's use of students' last names only imposed undue burden on corporation's mission;

[3] fact issues remained as to whether teacher's use of students' last names only subjected corporation to unreasonable risk of Title IX liability; and

[4] fact issues remained as to whether teacher's purported belief was sincerely held.

Remanded for further proceedings….

What is the Scope of the EFAA?

- A CVS manager sought clarity from the Third Circuit on what qualifies as a sexual harassment allegation under the Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act.
- The law allows employees to avoid arbitration on claims related to sexual assault and sexual harassment.
- A trial court held that her claim was only gender discrimination, forcing arbitration. However, the employee argues that she also asserted sexual harassment claims.

Case: *Cornelius v. CVS Pharmacy, Inc*., No. CV2301858SDWAME, 2023 WL 6876925 (D.N.J. Oct. 18, 2023).

What is the Scope of the EFAA?

- The Third Circuit agreed that the EFAA did not cover the employee's claims, but they reached that conclusion on different grounds.
- The critical difference is whether the sexual harassment claims arose within the effective date of the EFAA.
- The Third Circuit had to interpret what it means for a dispute to arise.

- Dispute ≠ Injury
  - In the view of the Third Circuit, a dispute arises when an employee registers disagreement – through either an internal complaint, external complaint, or otherwise – with their employer and the employer expressly or constructively opposes that position.

Case: *Cornelius v. CVS Pharmacy Inc.,* 133 F.4th 240 (3d Cir. 2025).

Challenges to EEOC: Abortion Policies

- Seventeen states brought action against the Equal Employment Opportunity Commission challenging lawfulness of regulation implementing the Pregnant Workers Fairness Act.
  - This Act requires reasonable accommodations for employees' pregnancy-related medical conditions, including abortion.
- The states allege that this Act is in violation of the Administrative Procedure Act and unconstitutional under the First Amendment and federalist principles.
- The District Court dismissed the action for lack of standing.
- The 8th Circuit reversed and emphasized that standing exists for the states because they are the object of this agency action, as employers, and are therefore injure by the imposition of new regulatory obligations.
  - The imposition of a regulatory burden itself causes injury.
- The case will be remanded to be decided on its merits.

Case: *State v. Equal Emp. Opportunity Comm'n*, 129 F.4th 452 (8th Cir. 2025).

Major ERISA Win

$38.8 million verdict for participants in a 401(k) plan under ERISA.

Jury determined the plan's board of directors breached their fiduciary duties by causing the plan to pay unreasonable administrative fees.

First jury outcome in an exclusively ERISA based case to award plaintiffs monetary damages.

Case: *Khan v. Bd. of Dirs. of Pentegra Defined Contribution Plan*, S.D.N.Y., No. 7:20-cv-07561, jury verdict 4/23/25.

Questions ?

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