



REVIEWING THE CASE FILE: A YEAR IN EMPLOYMENT LAW



**Federal Legal
Update**

DISCLAIMER

The information and related discussion is not intended as legal advice and is for general informational and educational purposes only. While we hope it is informative, it also does not fully address the complexity of the issues or steps employers must take under applicable laws—which are also subject to change, even frequently, with or without prior notice. You should not act upon any information provided without seeking professional legal counsel tailored to your specific situation. For legal advice on these or related issues, please consult qualified legal counsel directly.



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ROOM



CASE FILE



FLOWERS FOODS, INC. V. BROCK, 608 U.S. ___, 146 S. CT. 1358 (2026)

- Exemption to the Federal Arbitration Act for “interstate commerce”
- Expansion of the definition of “interstate commerce”
- An employee does not need to cross the state line or interact with a vehicle that crosses state lines to invoke the exemption

CASE FILE



***JULES V. ANDRE BALAZS PROPS.*, 608 U.S. 200, 146 S. CT. 1209 (2026)**

- Motion to stay pending arbitration granted
- Arbitration occurred between parties and they went back to court to confirm award
- Trial court retained jurisdiction to confirm or vacate an award when it earlier stayed the case

CASE FILE



AVERY V. TEKSYSTEMS, INC., 165 F.4TH 1219 (9TH CIR. 2026)

- Class action based on wage and hour in class certification process
- After case filed, employer requested potential class members sign arbitration agreement
- District court had authority to invalidate arbitration agreement as part of the class certification process
- Federal Arbitration Act respects the supervisory role of courts

FEDERAL LABOR STANDARDS ACT AND WAGE CLAIMS



CASE FILE



***Francisco v. Valencia*, No. 1:24-CV-00332-CL, 2025 WL 4111112 (D. Or. Nov. 13, 2025)**

- Farmworkers grew and trimmed marijuana on southern Oregon ranch
- Allege failure to pay wages and comply with farmworker protections
- Employer's defense: operation was illegal
- Court denied summary judgment
- Workers' lack of marijuana handler permit was separate from failure to pay
- Cutting off wage protection would reward employers for operating in illegal markets

CASE FILE



***Nwauzor v. GEO Grp., Inc.*, 127 F.4th 750 (9th Cir. 2025)**

- GEO Group runs ICE detention center in Tacoma under federal contract and paid detainee workers \$1 per day to cook, clean, and maintain facility
- Jury awarded workers \$17,287,063.05 in back pay; State awarded \$5,950,340 Ninth Circuit affirmed
- Washington's minimum wage law applies
- Status: cert petition pending (No. 25-828); Supreme Court requested input from Solicitor General

ADVERSE EMPLOYMENT ACTIONS



CASE FILE



***Diemert v. City of Seattle*, 25-1188, 2026 WL 2903699 (9th Cir. Sept. 28, 2026)**

- White man who worked for the Human Services Department of the City of Seattle
- City sponsors Race and Social Justice Initiative and affinity groups, requires participation in trainings and events
- Court holds sufficiently “numerous, frequent, and severe” incidents to create hostile work environment
- Follows *Ames* – no distinction between treatment of majority-group and minority-group plaintiffs

CASE FILE



HOLLIS V. R&R RESTAURANTS, INC., 159 F.4TH 677 (9TH CIR. 2025)

- Retaliation claim under the Fair Labor Standards Act
- Do not have to be employed by defendant at time of “adverse action”
- Retaliatory conduct is not limited to adverse employment actions, just adverse actions generally
- Must show adverse action by an employer subsequent or contemporaneous with protected activity
- Conduct is retaliation if it is harmful to a point that it would dissuade a reasonable worker
- Cannot justify an adverse action by desire to avoid future litigation

CASE FILE



XU V. LIGHTSMYTH TECHS., INC., NO. 6:20-CV-01201-MC, 2025 WL 2770511 (D. OR. SEPT. 25, 2025)

- Must examine facts in light of *Muldrow v. City of St. Louis* (U.S. 2024)
- Standard: employer's action causes "some harm respecting an identifiable term or condition of employment"
- Aggregated trivial acts on their own are insufficient to be an adverse employment action
- There must be a connection to the individual's protected status

CASE FILE



***MAEVE V. CENTENNIAL SCH. DIST. NO. 28J, NO. 3:24-CV-01427-SB,
2025 WL 3564217 (D. OR. DEC. 12, 2025)***

- Transgender HS Teacher sued school district for wrongful discharge, violations of Title VII, ADA, FMLA, and Oregon law
- Case at motion to dismiss case
- When a complaint sufficiently links a protected activity to an adverse action, can go beyond the pleading stage

CASE FILE



BRAGG V. KINGERY, NO. 6:25-CV-1430-MC, 2025 WL 3719669 (D. OR. DEC. 23, 2025)

- Claim for retaliation under ORS 659A.030 and First Amendment retaliation in public employment context
- Statements made after employment cannot affect employment
- An adverse employment action must “materially affect the compensation, terms, conditions, or privileges of employment
- There must be an existing employment relationship for conduct to support a retaliation claim and to be an adverse employment action

PLAYERS

WHO?

Contact Us

Website: www.millernash.com

Email: melissa.rawlinson@millernash.com
abigail.yeo@millernash.com

Address: 1140 SW Washington St, Ste. 700 Portland, OR 97205

Phone: 503.224.5858

WHAT?

WHERE?



REVIEWING THE CASE FILE: A YEAR IN EMPLOYMENT LAW



**Oregon Legal
Update**

OREGON FEDERAL COURT VERDICTS

Federal court: 5 jury trials

- Defense verdicts: 3
- Plaintiff verdicts: 2

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

HEATHER HENDER
Plaintiff,
v.
NIKE, INC., and Oregon Corporation,
Defendant.

Case No. 3:18-cv-01477-AB
VERDICT FORM

We, the jury being duly empaneled and sworn in the above-entitled case, do unanimously find as follows:

QUESTION 4: If you found that Defendant NIKE willfully violated the Federal Equal Pay Act, what are Plaintiff Hender's damages, if any?
\$ 19,139.52

QUESTION 15: What amount of punitive damages, if any, should Plaintiff Hender be awarded for Defendant NIKE's violation of Title VII?
\$ 7.5 million

QUESTION 16: What amount of punitive damages, if any, should Plaintiff Hender be awarded for Defendant NIKE's violation of the Oregon Equal Pay Act and/or ORS 659A.030?
\$ 7.5 million



Range of
Damages

\$1,308,000

\$15,019,739.52*

OREGON STATE COURT VERDICTS

State court: 11 jury trials

- Defense verdict: 5
- Plaintiff verdicts: 6



Range of
Damages

\$35,000

\$170,000

\$170,000

\$800,000

\$1,604,992

\$4,765,186



OREGON STATE COURT PLAINTIFF VERDICTS



Washington County
\$800,000

Marion County
\$1,604,992

Multnomah County
\$35,000
\$170,000
\$170,000
\$4,765,186

