



REVIEWING THE CASE FILE: A YEAR IN EMPLOYMENT LAW

**Oregon 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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SENATE BILL 916: UNEMPLOYMENT BENEFITS FOR STRIKING WORKERS

- Repeals Oregon's prohibition on unemployment insurance benefits for striking workers, effective January 1, 2026
- Applies to striking workers in both the private and public sectors
- Otherwise eligible workers are not disqualified for any week they are unemployed because of a strike or lockout
- Two-week waiting period before benefits begin
- Benefits capped at 10 weeks
- Employees must repay benefits if later back pay results in an overpayment

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SENATE BILL 426: LIABILITY FOR UNPAID WAGES ON CONSTRUCTION PROJECTS

- Owners and direct contractors are liable for unpaid wages of unrepresented (non-union) employees on construction projects, effective January 1, 2026
- The employee, a third-party representative, or the Attorney General may sue within two years for wages, interest, penalty wages, damages, and attorney fees
- Written notice required; no suit if the violation is cured within 21 days
- Recovery from the subcontractor is allowed.
- Excludes public agencies, an owner's principal residence, and property of five or fewer units

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SENATE BILL 69: PAID LEAVE OREGON AND OFLA AMENDMENTS

- OED may share benefit information so employers can coordinate accrued paid leave with PLO benefits to not exceed 100% wage replacement
- Fitness-for-duty certification allowed before reinstating an employee from PLO medical leave, if applied uniformly
- OFLA sick child leave limited to a child under 18 or an adult dependent child with a qualifying impairment
- Sick child leave for a school or child care closure during a public health emergency may be taken without advance notice

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HOUSE BILL 2248: BOLI'S EMPLOYER ASSISTANCE DIVISION

- Establishes the Employer Assistance Division (EAD) within BOLI, effective September 26, 2025
- EAD communications cannot be disclosed by BOLI and are inadmissible in BOLI proceedings—unless the employer uses them to show good-faith reliance
- No BOLI penalty for good-faith reliance on EAD guidance, unless the employer omitted or misstated material facts
- Proceed cautiously; consult counsel where possible

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ADDITIONAL LEGISLATIVE AND LOCAL UPDATES

CASE FILE



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- SB 808 (Jan. 1, 2026) – Veterans' preference extends to current and former Oregon National Guard members; update applications, policies, and hiring training

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ADDITIONAL LEGISLATIVE AND LOCAL UPDATES

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- SB 808 (Jan. 1, 2026) – Veterans' preference extends to current and former Oregon National Guard members; update applications, policies, and hiring training
- SB 1168 (Jan. 1, 2026) – Per-visit pay ban in home health and hospice expands beyond "nurses" to broadly defined care staff; review visit-based pay models

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- SB 731 (Jan. 1, 2026) – Public employers with bilingual pay differentials must extend them to American Sign Language; update differential policies
- SB 808 (Jan. 1, 2026) – Veterans' preference extends to current and former Oregon National Guard members; update applications, policies, and hiring training
- SB 1168 (Jan. 1, 2026) – Per-visit pay ban in home health and hospice expands beyond "nurses" to broadly defined care staff; review visit-based pay models
- City of Portland (Apr. 10, 2026) – "Family or relationship structure" is a new protected class; update handbooks, "family" definitions, and HR training (group health enrollment may still be limited to spouse or partner and dependents)

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ATHENA V. PELICAN BREWING CO., 345 OR APP 172 (2025), REV ALLOWED, 375 OR 395 (2026)

Hourly employees alleged their meal breaks were routinely shorter than 30 minutes and unpaid. Is the missed pay a wage they can recover in court?

- Pay for a shortened or interrupted meal period is a regular wage, not a penalty
- Six-year statute of limitations (ORS 12.080)
- Penalty wages of up to 30 days' pay if the failure to pay is willful

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PATRICK V. McMENAMINS, INC., 350 OR APP 44 (2026)

Wages at a rate above minimum wage were paid after the regular payday. Does late payment violate Oregon's minimum wage statute?

- No—late payment of above-minimum wages is not a minimum wage violation and does not trigger penalty wages under ORS 653.055
- Timing of pay is governed by Oregon's wage collection statutes (ORS chapter 652), not the minimum wage law
- Late payment can still create separate wage-collection exposure

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MIRKOVIC V. TENASYS CORP., 348 OR APP 70, REV DEN, 375 OR 395 (2026)

An employee asked for a salary increase and was terminated. Is a raise request protected from retaliation under Oregon's wage-discussion law (ORS 659A.355)?

- Yes—asking for a raise is a protected inquiry about the employee's own wages
- The statute is not limited to wage discussions among employees aimed at pay inequity
- Adverse action after a raise request may create retaliation exposure, especially where timing suggests a causal connection
- Train supervisors and decisionmakers not to treat compensation requests as insubordination or disloyalty

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MITCHELL V. BOLI, 349 OR APP 520, ADH'D TO ON RECONS, 352 OR APP 122 (2026)

BOLI held an owner personally liable for aiding and abetting discrimination on a “knew or should have known” theory. What must the agency prove?

- Aiding-and-abetting liability under ORS 659A.030(1)(g) requires actual awareness of the discriminatory conduct
- “Knew or should have known” governs employer liability—not individual liability
- Meaningful limit on personal exposure for supervisors, managers, and business owners
- Individuals remain exposed where they knowingly participate in, direct, or assist unlawful conduct—keep training decisionmakers

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Contact Us

Website: www.millernash.com
Email: mitchell.diesko@millernash.com
Address: 1140 SW Washington St, Ste 700 | Portland, OR 97205
Phone: 503.224.5858