Supreme Court & Fourth Circuit

Employment Law Developments 2025-2026

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Notable 2025 Supreme Court Cases

- *E.M.D. Sales v. Carrera* (January 15, 2025) – good news for employers defending FLSA-exempt classifications
- *Ames v. Ohio Dept. of Youth Services* (June 5, 2025) – one evidentiary standard for all Title VII plaintiffs
- *Stanley v. City of Sanford, Florida* (June 20, 2025) – roadmap for post-employment ADA claims
- *Trump v. CASA, Inc.* (June 27, 2025) – major limit on District Courts' injunction power

E.M.D. Sales, Inc. v. Carrera

SCOTUS –

(No. 23-217)

Decided Jan. 15, 2025

- **Held**: Employers need only establish an FLSA exemption applies through a "preponderance of evidence," not the higher "clear and convincing evidence" standard. (9-0 decision)
- Reverses an outlier decision by the Fourth Circuit that required a heightened standard of proof for employers.
- Case involved applicability of the FLSA's outside sales exemption, but the reasoning applies to all statutory exemptions.
- Potential broader application: J. Kavanaugh noted the preponderance of evidence standard is the default standard of proof in civil cases.
  - "It is the rare instance when the higher clear and convincing standard has been applied, such as when the standard is expressly set forth in the statute or where important constitutional liberties are at stake."

POP QUIZ

Question 1:

Why is the Sixth Circuit not allowed to make up a requirement to prove a Title VII claim?

Answer:

COUNTERTEXTUALISM

Ames v. Ohio Dept. of Youth Services (No. 23-1039)

SCOTUS, Decided June 5, 2025

- **Issue:** Does a plaintiff who belongs to a majority group need to demonstrate "background circumstances suggesting that the defendant is the unusual employer who discriminates against the majority" in order to establish a *prima facie* case of discrimination under Title VII?
- **Held**: No, Title VII does not support imposing a heightened burden (the "background circumstances" test) on majority-group plaintiffs.
- **Textual Analysis**: Title VII "draws no distinctions between majority-group plaintiffs and minority-group plaintiffs" and "Congress left no room for courts to impose special requirements on majority-group plaintiffs alone."
- **Takeaway**: The decision emphasizes that Title VII's protections are broad and symmetrical and this may invite additional discrimination claims by members of majority groups.

What does this mean for employers?

- Eliminates a barrier that some courts had imposed on “reverse discrimination” claims, confirming that Title VII does not distinguish between majority and minority status when evaluating allegations of intentional discrimination.
- Employers should anticipate that plaintiffs of any background can invoke the same *prima facie* standards when bringing Title VII claims.
- This decision may lead to an increase in claims, including by those challenging DEI initiatives as unlawful discrimination.

POP QUIZ

Question 2:

Why do Justices Thomas and Gorsuch believe that *McDonnell Douglas* may not be appropriate for summary judgment?

Answer:

COUNTERTEXTUALISM

Ames v. Ohio Dept. of Youth Services

(June 5, 2025)

Justice Thomas's Concurrence

- "Atextual Legal Rules and Frameworks"
- "Improper Judicial Lawmaking"
- *McDonnell Douglas* at risk?
  - "Judge made construct"
  - "Evidentiary tool" "developed for courts to use in a bench trial"

Stanley v. City of Sanford, Florida (No. 23-997)

SCOTUS, Decided June 20, 2025

- In *Stanley*, the Court held that the ADA does not protect a former employee who no longer holds or seeks an employment position from disability-based discrimination in post-employment benefits. The employment provisions of the ADA apply only to “qualified individuals” who currently hold or want a position and can perform its essential functions with or without an accommodation.
- Barred a retiree’s ADA discrimination claim over retirement health benefits.

Trump v. CASA, Inc. (No. 24A884)

SCOTUS, Decided June 27, 2025

- The case stemmed from an Executive Order by President Trump attempting to restrict birthright citizenship under the Fourteenth Amendment.
- Significantly narrowed the ability of District Courts to issue “universal” or “nationwide” injunctions—through which enforcement of a federal policy can be halted or blocked across the United States, rather than only as to the parties (plaintiffs) in the case.
- The 6-3 Court majority held that universal injunctions *likely exceed* the equitable authority granted to federal courts under the Judiciary Act of 1789 (signaling that limited avenues for nationwide relief still exist).

Employer Takeaways from Trump v. CASA

- Changed litigation strategy – plaintiffs will now have a much harder time obtaining so-called "universal" injunctions to block federal executive orders and agency actions that they oppose. Plaintiffs must rely more on class actions, associational standing, or suing as states to achieve broad effects.
- Shift in power – reallocates power, giving the executive branch more authority to implement national policies while federal courts offer localized remedies.
- May lead to more state Attorneys General filing suits to block federal actions.

Changing Employment Litigation Landscape

- Federal employment filings continue to climb, from 20,895 in 2022 to 25,367 in 2025
- Trials of employment claims in federal courts have also increased, from 169 in 2024 to 194 in 2025
  - Plaintiffs' winning percentage at trial also increased, from 47% in 2024 to 60% in 2025
- Increase of nuclear verdicts (> $10 million) and "policy-limits" settlement demands incentivizes plaintiffs' counsel to proceed to trial unless they obtain an inflated settlement
- Resulting pushback from employers who more frequently turn to "bet-the-company" approach to high stakes litigation

** Statistics from Lex Machina as of 12/16/25*

Notable 2025-2026 Fourth Circuit Cases

- *Hollis v. Morgan State University* (May 7, 2025)
- *Haggins v. Wilson Air Center* (January 14, 2026)
- *Turner v. Town of Narrows* (January 28, 2026)
- *Duvall v. Novant Health, Inc.* (March 12, 2024)

Hollis v. Morgan State University

(No. 24-1476)

(August 27, 2025)

- Tenure Denial Claim – Summary Judgment for University – reversed, in part
- Unsavory comments offered as direct evidence of discriminatory animus
- Alleged favorable treatment of comparators
- Shifting rationales for denial of tenure

POP QUIZ

Question 3:

Why does Judge Quattlebaum believe the courts should do away with *McDonnell Douglas?*

Answer:

COUNTERTEXTUALISM

Hollis v. Morgan State University

Judge Quattlebaum's Concurrence

- *McDonnell Douglas* is "Counter Textual"
- *Does not apply when there is direct evidence of discrimination (TWA)*
- Supreme Court has never held that *McDonnell Douglas* is the only means of establishing a claim
- Imposes a higher burden than Rule 56
- Predates Title VII jury trials
- Standard should be – "has the plaintiff raised a genuine dispute of material fact as to intentional discrimination"

Haggins v. Wilson Air Center, LLC (No. 24-1010)

(January 14, 2026)

- Plaintiff (Dx – Breast Cancer) was allowed to work from home during the pandemic
- Employer needed her to return to the office
- Employer "exceeded the call of duty" to interact and provide accommodation
- Plaintiff reported to the office only 2 days in 3 months
- Concluded plaintiff was not a "qualified individual" and affirmed summary judgment for the employer

Turner v. Town of Narrows

(No. 25-1298)

Fourth Circuit

January 28, 2026

- Plaintiff applied for position as Parks and Recreation Director
- None of the candidates met all of the stated qualifications
- Younger candidate was hired, and plaintiff claimed age discrimination
- The successful candidate was “well prepared, enthusiastic and interviewed better”
- The plaintiff claimed that the subjective nature of the interviews established pretext

Turner v. Town of Narrows

(No. 25-1298)

Fourth Circuit

January 28, 2026

- Fourth Circuit affirmed summary judgment for the employer
- “The use of subjective criteria is relevant” but it does not prove pretext “standing alone”
- Same questions in all interviews
- No irrelevant questions
- “Cogent, objective reasons” for rejecting plaintiff

Duvall v. Novant Health, Inc.

(No. 22-2142)

Fourth Circuit

March 12, 2024

- Jury found that Duvall had been discriminated against based on his race, sex, or both
- Front pay, back pay, and punitive damages ($10,000,000)
- Duvall claimed that he was fired “merely to achieve racial and gender diversity”
- “Diversity and Inclusion Strategic Plan”
- “Targets,” not quotas to make sure “our work force reflects the community we serve”
- “Diversity & Inclusion Metrics Framework”

Duvall v. Novant Health, Inc.

(No. 22-2142)

Fourth Circuit

March 12, 2024

- Fourth Circuit found that sufficient evidence was presented to support the verdict finding discrimination
- "Fired in the middle of a widescale D&I initiative at Novant Health"
- Demographic data
- Executive bonuses tied to "closing gaps"
- Duvall performed "superbly" and fired "abruptly"
- Reversed award of punitive damages

EEOC's Objectives + Priorities

"[R]ooting out unlawful DEI-motivated race and sex discrimination; protecting American workers from anti-American national origin discrimination; defending the biological and binary reality of sex and related rights, including women's rights to single sex spaces at work; protecting workers from religious bias and harassment, including antisemitism; and remedying other areas of recent under-enforcement."

01.21.25 EEOC Press Release

Areas to Review for Potential DEI Risks

- "DEI" references
- Numeric representation goals
- Mission statements/values (of the organization or of a DEI Council)
- Pronoun policies
- ERGs/affinity groups
- Celebration days (Black History Month, Women's History Month, etc.)
- Workplace training distribution/opportunities, leadership training
- Mentorship, intern and fellowship opportunities
- DEI related philanthropy or scholarships
- External surveys and partnerships
- DEI training
- Diverse slates, diverse hiring panels and other recruiting practices.
- Supplier diversity
- Self-identification of protected characteristics

What Is "Illegal DEI"?

If you are running a program, whether you call it DEI or something else, and you are using race or sex or another protected characteristic in an employment decision, even if it's only just part of the decision… that's unlawful discrimination

–Andrea Lucas

https://www.wsj.com/articles/trumps-employment-bias-fighter-has-dei-in-her-crosshairs-3bdc505d

Questions?

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