THE TOP FIFTH CIRCUIT EMPLOYMENT LAW CASES OF 2025

NELA
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OBERTI SULLIVAN

Mark J. Oberti
Ed Sullivan
Oberti Sullivan LLP
712 Main Street, Suite 900
Houston, Texas 77002
(713) 401-3555
mark@osattorneys.com
ed@osattorneys.com

1. *Wright v. Honeywell Intern., Inc.*, 148 F.4th 779 (5th Cir. 2025)

- Wright is Baptist. Honeywell denied Wright's request for a religious exemption to its mandatory COVID-19 vaccination policy and fired him for refusing to get the vaccine.
- Wright sued for religious discrimination under Title VII and lost on summary judgment because the district court found that he had not shown that he had a bona fide sincerely held religious belief that precluded his taking the vaccine. The district court also held that Wright had not informed Honeywell of his religious belief.

1. *Wright v. Honeywell Intern., Inc.*, 148 F.4th 779 (5th Cir. 2025)

The Fifth Circuit reversed and remanded the case, holding that:

- The inquiry into the sincerity of a plaintiff's religious belief is a question of fact, largely a matter of individual credibility, and "must be handled with a light touch, or judicial shyness."
- That the traditional Baptist faith itself does not preclude the taking of a vaccine is irrelevant, because the legal test for protection is whether the plaintiff's refusal is, "in his own scheme of things, religious."
- Moreover, "religious beliefs" include purely "moral or ethical beliefs."

1. *Wright v. Honeywell Intern., Inc.*, 148 F.4th 779 (5th Cir. 2025)

- While merely a preferred practice is not protected, Wright's giving both religious reasons for refusing the vaccine, along with political and personal preference-based (i.e., non-religious) was still protected.

- The district court erred in holding that Wright had not informed Honeywell of his bona fide religious belief. To the contrary, both he and his daughter provided statements explicitly stating that he objected to the vaccine because of his God-given bodily autonomy.

- His daughter also stated that she and her father believed the vaccine was "a claim of the mark of the beast[;] it is man made and goes against our religion."

2. *Carter v. Local 556, Transport Workers Union of America and Southwest Airlines Co.*, 156 F.4th 459 (5th Cir. 2025)

- Carter, an aggressively pro-Trump, pro-life Christian Flight Attendant:
  - (1) repeatedly identified herself on social media as a Southwest Employee and posted extremely graphic images of dead fetuses; and
  - (2) for two years repeatedly sent highly aggressive Facebook messages to the Union's President that attacked her intelligence, accused her of supporting murder (i.e., abortion), and included graphic and sexualized imagery such as woman dressed as vaginas.
- After a complaint from the Union President, Southwest investigated, and Carter told Southwest her actions were based on her religious beliefs.

2. *Carter v. Local 556, Transport Workers Union of America and Southwest Airlines Co.*, 156 F.4th 459 (5th Cir. 2025)

- Southwest fired Carter, claiming that while the anti-abortion related videos she posted on Facebook did not violate its policies, the images she posted of women dressed as vaginas and other offense and aggressive conduct violated its workplace policies.
- Carter filed an arbitration and lost badly. The Arbitrator found that "[t]he use of social media has gotten totally out of hand. [Southwest] has the right to regulate this conduct and has realized the seriousness of what is happening . . . . Enough is enough."

2. *Carter v. Local 556, Transport Workers Union of America and Southwest Airlines Co.*, 156 F.4th 459 (5th Cir. 2025)

- Carter sued Southwest under Title VII for religious discrimination based on two separate claims: (1) intentional religious discrimination based on her religious beliefs; and (2) practice-based discrimination aka failure to accommodate.
- A jury ruled in Carter's favor on both claims, and Southwest appealed.
- The Fifth Circuit reversed and rendered judgment in Southwest's favor as to her claim of religious discrimination based on her religious beliefs.

2. *Carter v. Local 556, Transport Workers Union of America and Southwest Airlines Co.*, 156 F.4th 459 (5th Cir. 2025)

- The Fifth Circuit found no evidence that Southwest had any animus against Carter merely because she was a pro-life Christian, and pointed out that Southwest employed many pro-life Christians, including several who investigated Carter's conduct and participated in the decision to terminate her employment.

- On the other hand, the Fifth Circuit affirmed the jury's verdict in Carter's favor on her practice-based discrimination claim aka failure to accommodate.

2. *Carter v. Local 556, Transport Workers Union of America and Southwest Airlines Co.*, 156 F.4th 459 (5th Cir. 2025)

- The Court found that, as to that claim, it simply boiled down to whether Southwest proved that it would have imposed an undue hardship on Southwest to have tolerated Carter's religiously motivated conduct, even though it may have violated its workplace policies.
- The Court viewed that as a pure fact question for the jury to decide, and the jury decided the issue against Southwest.
- The Court noted that after Carter's trial the U.S. Supreme Court decided *Groff v. DeJoy*, 600 U.S. 447 (2023), which raised the burden on the employer to prove undue hardship and that Southwest lost even under the pre-*Groff*, more pro-employer standard.

2. *Carter v. Local 556, Transport Workers Union of America and Southwest Airlines Co.*, 156 F.4th 459 (5th Cir. 2025)

- The Court agreed with Southwest that it is possible that the effect of accommodating a worker's religious practice has on coworkers can be used to prove undue hardship if the impact imposes a substantial strain on the employer's business. Although Southwest offered such evidence – and built its entire defense theory around that idea – it was ultimately rejected by the jury.

- In an odd footnote (number 3), the Fifth Circuit stated that Carter's Title VII claims arguably should have been dismissed entirely based on the preclusive effects of the arbitrator's decision against Carter. But Southwest did not raise that on appeal, so the argument was forfeited.

3. *Shahrashoob v. Texas A&M Univ.*, 125 F.4th 641 (5th Cir. 2025)

- In 2018, A&M hired Dr. Shahrashoob, an Iranian, as a non-tenured track lecturer and then professor in the Chemical Engineering department.
- A&M assisted Dr. Shahrashoob in her application to obtain permanent residency. A&M learned that Dr. Shahrashoob needed a higher wage to support her application, so in January 2020 it raised her salary and offered her a new professor appointment to run from September 2020 to May 2021.
- In the Spring of 2020, Dr. Shahrashoob claimed national origin discrimination and filed a Charge of Discrimination.

3. *Shahrashoob v. Texas A&M Univ.*, 125 F.4th 641 (5th Cir. 2025)

- In August 2020, A&M offered Dr. Shahrashoob a new, shortened professor appointment to run from September 2020 to January 2021. In response, Dr. Shahrashoob filed a second Charge of Discrimination.
- After Dr. Shahrashoob's shortened appointment ended in January 2021 she was let go.
- Dr. Shahrashoob sued for national origin discrimination and retaliation. Her case was dismissed on summary judgment. The Fifth Circuit affirmed.

3. *Shahrashoob v. Texas A&M Univ.*, 125 F.4th 641 (5th Cir. 2025)

As for her discrimination claim, the Fifth Circuit held that Dr. Shahrashoob failed to make out a *prima facie* case because:

- She failed to show with specific evidence that the non-Iranian individual she claimed "replaced" her, Dr. Alim, actually did replace her.
- She also failed to show that Dr. Alim or anyone else outside of her protected class was similarly situated to her and treated better than her. Indeed, she failed to even show Dr. Alim's job title, responsibilities, supervisor, or who determined his employment status – all necessary factors to establish he was similarly situated.

3. *Shahrashoob v. Texas A&M Univ.*, 125 F.4th 641 (5th Cir. 2025)

- As for her retaliation claim, the Fifth Circuit held that Dr. Shahrashoob failed to make out a fact question on pretext. A&M claimed it shortened her appointment and did not renew her contract because of budget constraints and teaching needs.

- Dr. Shahrashoob could have shown pretext through a combination of closing timing plus a conflict in significant evidence. She did show closing timing. But she failed to show significant record evidence of pretext beyond temporal proximity, unlike, for example, the plaintiff in *Garcia v. Prof. Cont. Servs., Inc.*, 938 F.3d 236 (5th Cir. 2019) where, in addition to temporal proximity, the plaintiff offered other substantial proof of pretext.

4. *Stelly v. Dept. of Public Safety and Corrections,* 149 F.4th 516 (5th Cir. 2025)

- Stelly is a white lieutenant in the Louisiana state police department. He unsuccessfully applied for promotion to captain 31 times. He claimed he was passed over for promotion to captain in favor of minorities because of his race at least two of those times, in violation of Title VII.
- The State of Louisiana alleged that it selected the minority candidates over Stelly in the two situations at issue because it believed them to be better qualified than Stelly based on their superior relevant prior experience – specifically, they had both worked in their respective divisions before their promotions whereas Stelly had not.
- The district court dismissed Stelly's Title VII case on summary judgment on the grounds that he failed to present any evidence of pretext.

4. *Stelly v. Dept. of Public Safety and Corrections,* 149 F.4th 516 (5th Cir. 2025)

- The Fifth Circuit affirmed.
- While Stelly pointed out that he had higher scores on the eligibility test, more awards, and more time in grade as a lieutenant than the two minority candidates, that failed to prove pretext because it was non-responsive to the state's given explanation for deeming the two minority candidates better qualified than Stelly.
- In addition, in other situations, Stelly had been passed over for promotion in favor of at least 22 whites who he had higher eligibility test scores than, thus indicating that, in fact, the scores were not critical to deciding whom to promote to captain and that the promotion of a lower-scoring minority over him for a captain position was not race-based.

4. *Stelly v. Dept. of Public Safety and Corrections,* 149 F.4th 516 (5th Cir. 2025)

- Similarly, the State put on evidence that the other factors Stelly relied on to claim his alleged superior credentials were not typically used by it to evaluate captain promotions.
- Stelly relied on his own self-created statistical report to try to prove racial discrimination in promotions to captain positions. The district court ignored the report in its summary judgment opinion.
- The Fifth Circuit held that it was not error for the district court not to have considered the report because it was riddled with errors that made it unreliable. Furthermore, the Court found that even if the report was considered, it did not rebut the state's legitimate explanation for its promotional decisions.

5. *Turner v. BNSF Railway Co.,* 138 F.4th 224 (5th Cir. 2025)

- Turner was a long-time conductor for BNSF. In 2020, he failed two legally required vision tests administered by BNSF, and BNSF's medical examiner refused to certify him as safe. As a result, BNSF refused to recertify him as a conductor.
- Having a certification is a legal requirement to work as a conductor under regulations promulgated by the Federal Railroad Administration ("FRA") pursuant to the Federal Railroad Safety Act's ("FRSA"). Hence, Turner was not allowed by BNSF to work as a conductor any further.
- Rather than pursue an available appeal through the FRA's three-step appeals process, Turner sued BNSF under the ADA for disability discrimination.
- The trial court dismissed Turner's case on the pleading under Rule 12(c). Turner appealed. The Fifth Circuit affirmed.

5. *Turner v. BNSF Railway Co.*, 138 F.4th 224 (5th Cir. 2025)

- First, the Fifth Circuit found Turner was not "qualified" for this job because he failed certification as required by the FRA's regulations and BNSF's medical examiner refused to certify him as safe to conduct a train under the FRA's regulations. This rendered Turner "unqualified" for his job as a conductor as a matter of law.
- Second, Turner's failure to appeal the recertification denial through the FRA's three-step appeals process meant that he failed to exhaust his administrative remedies, which also barred his claim.
- One justice, Justice Graves, dissented. He disagreed with both grounds for dismissing Turner's case and pointed out that Turner had worked safely with the same condition for years.

6. *Strife v. Aldine Ind. Sch. Dist.,* 138 F.4th 237 (5th Cir. 2025)

- Strife is a disabled veteran. She worked for AISD as a teacher and then in HR. In August 2022 Strife asked to bring a certified service dog to work as an accommodation to assist her with her physical and psychological disabilities and explained in detail why the dog was needed.
- For the next five months AISD sought more information – all of which Strife provided – and then repeatedly asserted the information provided was not good enough to justify the accommodation and imposed new requirements (such as demanding Strife undergo an independent medical exam).
- Eventually, Strife got fed up and sued AISD under the ADA in February 2023, and also sought a TRO and PI ordering AISD to provide the requested accommodation.

6. *Strife v. Aldine Ind. Sch. Dist.,* 138 F.4th 237 (5th Cir. 2025)

- The District Court denied the TRO but instructed the parties to complete the interactive process as soon as possible. Six days later, and before the PI hearing was to occur, AISD finally granted Strife's request to bring a certified service dog to work.
- Despite (finally) getting what she wanted, Strife continued her ADA lawsuit, asserting a myriad of claims, including failure to accommodate, hostile work environment, disability discrimination, retaliation, and interference.
- The District Court threw all of Strife's claims out on a motion to dismiss and then motion for summary judgment. Strife filed an appeal.
- The Fifth Circuit affirmed the District Court's dismissal of Strife's claims for disability discrimination, retaliation, and interference, noting that Strife never even suffered an "adverse employment decision" and did not come close to presenting sufficient evidence to support any of these claims.

6. *Strife v. Aldine Ind. Sch. Dist.,* 138 F.4th 237 (5th Cir. 2025)

On the other hand, the Fifth Circuit found that the District Court had erred in granting AISD's motion to dismiss as to Strife's failure to accommodate claim, because:

- A long enough delay in granting a reasonable accommodation can, in some circumstances, give rise to a claim for unlawful denial of a reasonable accommodation.

- Strife stated such a claim in this case by asserting that: (1) she provided AISD all necessary information; (2) AISD was responsible for the unreasonable delay of approximately six months; (3) AISD sought information that was not necessary to make its decision – including an independent medical examination; and (4) AISD failed to make any offer of reasonable accommodation until suddenly doing so after Strife sued and the District Court judge directed the parties to complete the interactive process as soon as possible and a PI hearing was upcoming.

6. *Strife v. Aldine Ind. Sch. Dist.,* 138 F.4th 237 (5th Cir. 2025)

- In addition, the fact that Strife continued to work and receive her normal pay during the approximately six-month delay did not defeat a reasonable accommodation claim because reasonable accommodations are not restricted to modifications that enable performance of essential job functions.
- Similarly, that Strife did not suffer an "adverse employment action" did not defeat her claim, because such an action is not required to state a failure to accommodate claim under the ADA.

7. *Way v. City of Missouri City*, 133 F.4th 509 (5th Cir. 2025)

- Way was a lawyer for Missouri City. In August 2019, she told her boss, Joyce Iyamu, the City Attorney, that she was suffering from anxiety, explained the harmful effect it was having on her, and asked for accommodations to allow her to cope with her work expectations. Iyamu did not respond. Instead, soon after, Iyamu asked the City's HR Director how she could demote Way.

- In 2020, Way took three FMLA leaves. The last one ended in December 2020. The next month, in January 2021, the City Council terminated Way, claiming that her position was eliminated based on a report Iyamu had given the City Manager in August 2019.

7. *Way v. City of Missouri City*, 133 F.4th 509 (5th Cir. 2025)

- Way sued for failure to accommodate under the ADA/TCHRA, retaliatory discharge under the ADA/TCHRA, and FMLA interference and retaliation.
- The District Court granted summary judgment against all of Way's claims. Way appealed. The Fifth Circuit affirmed as to the dismissal of Way's ADA/TCHRA retaliation claims and her FMLA interference claim but reversed as to her failure to accommodate claim and FMLA retaliation claim.
- As to Way's failure to accommodate claim, she presented sufficient evidence that her anxiety constituted an ADA-defined disability, that she put Iyamu on notice of her anxiety and the workplace limitations it was causing her, and sought an accommodation. She also showed that the City (Iyamu) did not respond by engaging in any interactive process, as is required once an employee provides the requisite notice.
- That was good enough for Way to have presented a case for failure to accommodate and require reversal of the summary judgment on that claim.

7. *Way v. City of Missouri City*, 133 F.4th 509 (5th Cir. 2025)

- Way's ADA/TCHRA retaliation claims failed at the *prima facie* stage primarily due to the long time gaps (seven months to 17 months) between her requests for accommodations and termination.

- However, Way's FMLA retaliation claim was strong enough to survive summary judgment. She easily made out a *prima facie* case. And she presented substantial evidence of pretext, including:

    - Evidence that the City's explanation (a report Iyamu had given the City Manager in August 2019) was false because the information Iyamu had received from a third-part about increasing the efficiency of the legal department in August 2019 before she made her report to the City Manager did <u>not</u> suggest that Way's position should be eliminated.

7. *Way v. City of Missouri City*, 133 F.4th 509 (5th Cir. 2025)

- The City failed to explain the suspicious fact that it terminated Way just one month after her last FMLA leave, but a full 18 months after receiving the alleged report from Iyamu in August 2019.
- This was even more suspicious because between August 2019 and Way's termination in January 2021 the City had adopted multiple other budgets that left Way's position intact.
- Iyamu asked the HR Director how she could demote Way in August 2019, right after she had told her about she was seeking medical treatment for her anxiety. Note: the Fifth Circuit cited this evidence as supporting Way's FMLA retaliation claim even though Way did not even seek FMLA until 2020, and thus this evidence would seem more likely to be relevant to a disability discrimination claim than an FMLA retaliation claim.

8. *Harmon v. Texas Dept. of Crim. Justice,* 158 F.4th 595 (5th Cir. 2025)

- Harmon was a long-time correctional officer for TDCJ in Beaumont. She suffered from diabetes, hypertension, and chronic lower back pain.
- TDCJ correctional officers may take up to 180 days of leave without pay on a rolling 12-month basis.
- Harmon was terminated for exceeding her allotment even though: (1) it was far from clear that she had exceeded her allotment; and (2) she had sent TDCJ's HR representative a doctor's note releasing her to work without restrictions a few days later and before that HR representative had initiated her termination.
- The next month, June 2018, Harmon filed an EEOC Charge over her termination.

8. *Harmon v. Texas Dept. of Crim. Justice,* 158 F.4th 595 (5th Cir. 2025)

- 17 months after her termination, Harmon reapplied at TDCJ and although a different HR representative recommended she be rehired, the prison warden recommended against it and Harmon was not rehired.
- As it turns out, Harmon had filed an internal EEO complaint against the warden about seven months before the end of her employment, accusing him of disability discrimination.
- The warden testified he could not remember why he recommended that Harmon not be rehired and admitted it was surprising she was not rehired given that there was a shortage of correctional officers.
- Harmon sued under the Rehabilitation Act for disability discrimination and retaliation as to her termination and failure to rehire and prevailed on both claims at trial. TDCJ appealed.

8. *Harmon v. Texas Dept. of Crim. Justice,* 158 F.4th 595 (5th Cir. 2025)

- The Fifth Circuit found sufficient evidence to support the jury's finding that TDCJ discriminated and retaliated against Harmon in her termination, holding:
  - Harmon's missing so much work did not render her "unqualified" given TDCJ's extremely lenient leave policy ala *Carmona v. Southwest Airlines* (5th Cir. 2010).
  - The doctor's note Harmon submitted releasing her to work a few days later was not a request for an unreasonable accommodation as a matter of law even if it would have required the TDCJ to give her one day more leave than its lenient policy permitted, especially considering that it was undisputed that: (1) there was a waitlist of correctional officers wanting to work overtime; and (2) it was common for correctional officers to stay over their shift to fill in for a coworker on leave.

8. *Harmon v. Texas Dept. of Crim. Justice,* 158 F.4th 595 (5th Cir. 2025)

- Although Harmon's final doctor's note did not specifically identify her disability, resulting limitations or suggest a reasonable accommodation, it was nevertheless enough to trigger TDCJ's obligation to engage in an interactive process – which it never did – because it was on notice from prior medical notes that reflected all these things and in fact had treated prior such notes as requests for accommodations.

- Importantly, the Fifth Circuit held that Harmon proved disability discrimination through TDCH's failure to accommodate, because when an employer fails to accommodate an employee, and that leads to their termination, proof of intent is *not required* to establish disability discrimination.

- The jury could have found for Harmon based on retaliation even though seven months passed between her EEO complaint and termination based on a plethora of other evidence, including failure to follow proper procedures in Harmon's termination and the warden's yelling at Harmon one day about her accusing him of violating the law.

8. *Harmon v. Texas Dept. of Crim. Justice,* 158 F.4th 595 (5th Cir. 2025)

The Fifth Circuit also found that there was sufficient evidence to establish that Harmon was not rehired in retaliation for her protected complaints even though 16 months passed between her last protected complaint (her post-termination EEOC Charge) and her failure to be rehired, because:

- Temporal proximity is just "one of the elements in the entire calculation."
- The warden admitted he recommended against her rehiring but could recall why despite needing correctional officers at the time.
- A reasonable jury could have concluded that the warden harbored retaliatory animus against her and that his recommendation not to rehire her was a "but for" cause of her not being rehired.

Although Harmon prevailed on liability at the Fifth Circuit, it did reverse and remand as to her backpay calculation.

9. *Rodriguez v. City of Corpus Christi,* 129 F.4th 890 (5th Cir. 2025)

- Rodriguez was the Corpus City Director and Nueces County Public Health District. She was terminated and sued the City for FLSA retaliation, pay discrimination, and a claim for overtime pay under the FLSA.
- The district court granted the City's motion for summary judgment against all of Rodriguez's claim. She appealed. The Fifth Circuit affirmed.
- As for her FLSA retaliation claim, the court found that the email she claimed constituted FLSA-protected activity was not protected because it did not make clear that she was complaining that the City had violated her rights by failing to pay her overtime as mandated by the FLSA. Instead, her email amounted to generalized complaining about her pay that did not frame her complaints in terms of illegality under the FLSA.

9. *Rodriguez v. City of Corpus Christi,* 129 F.4th 890 (5th Cir. 2025)

- Rodriguez's pay discrimination claims under Title VII and the Equal Pay Act failed because she did not identify a proper comparator – i.e., a male who was paid more than her for substantially the same work. In fact, the only male she tendered as a comparator was always paid less than her.
- As for her FLSA overtime claim, Rodriguez admitted she satisfied the "duties test" of an exempt employee but claimed that she was transformed into a non-exempt employee when, as a result of changes caused by COVID-19, in addition to her normal annual salary of $165,000+ paid every two weeks she began receiving overtime pay when she worked more than 40 hours per week.
- This practice was halted after a few months, but Rodriguez claimed that the City was still required by the FLSA to continue paying overtime – making a sort of "no good deed goes unpunished" argument.

9. *Rodriguez v. City of Corpus Christi,* 129 F.4th 890 (5th Cir. 2025)

- The Fifth Circuit rejected that argument because ”an employer may provide an exempt employee with additional compensation without losing the exemption or violating the salary basis requirement, if the employment arrangement also includes a guarantee of at lease the minimum weekly-required amount paid on a salary basis.” 29 U.S.C. § 541.604(a).

- Thus, the temporary additional compensation for work in excess of 40 hours a week, even if paid like FLSA-required overtime, did not destroy Rodriguez’s exempt status because the City still paid her a guaranteed minimum amount on a salary basis.

10. *Lewis v. Bd. of Supvs. Of La. State Univ.*, 134 F.4th 286 (5th Cir. 2025)

- Nick Saban hired Lewis at LSU in 2001 and she eventually became Assistant Athletics Director for Football Recruiting and Alumni Relations.
- After Les Miles replaced Saban as LSU's new head football coach, Lewis claims she witnessed racist and sexist misconduct by Miles and received complaints of sexual assault and harassment against Miles, players, coaches, and staff members. She also claimed she herself was also sexually harassed by an assistant coach.
- Lewis lodged several formal internal complaints about all these things, often with no action taken.
- Lewis alleged that Miles retaliated against her because of her complaints in a variety of ways.

10. *Lewis v. Bd. of Supvs. Of La. State Univ.*, 134 F.4th 286 (5th Cir. 2025)

- In April 2021, Lewis filed an EEOC Charge.
- On November 30, 2021, LSU hired Brian Kelly as its new head football coach.
- In January 2022, Lewis was terminated. 40 other employees were also terminated as part of Kelly's initiative to reorganize the recruiting department and hire his own staff. However, the assistant coach who allegedly sexually harassed and assaulted Lewis was retained by Kelly.
- Lewis sued LSU for Title IX and Title VII retaliation and numerous other claims. She lost on all her claims at trial. She appealed as to the Title IX and Title VII retaliation verdicts, claiming they were not supported by the evidence.

10. *Lewis v. Bd. of Supvs. Of La. State Univ.*, 134 F.4th 286 (5th Cir. 2025)

- The Fifth Circuit affirmed the judgment in LSU's favor.
- It noted there was overwhelming evidence that Kelly decided to terminate Lewis's position – and 40 others - as part of his restructuring of LSU's recruiting department – something commonly done when a new football coach is hired.
- Also, Kelly testified at trial that he did not even know about Lewis's complaints or EEOC Charge when he terminated her position. Although his testimony was subject to some dispute, resolving that dispute was for the jury to decide.
- Lewis claimed that her internal complaints were not investigated because LSU had a "capture and kill" scheme designed to ensure that her complaints went nowhere. The Fifth Circuit found that even if LSU had such a policy, it did not show that she was terminated in retaliation for her complaints.

11. *Gilchrist v. Schlumberger Technology Corp.*, 143 F.4th 620 (5th Cir. 2025)

- The two plaintiffs worked as Measurements While Drilling Field Specialists earning salaries of more than $200,000 a year, but no overtime pay.

- They sued for overtime under the FLSA and, after a bench trial, the district court ruled in their favors. Schlumberger appealed and the Fifth Circuit reversed. The Court found both plaintiffs were exempt under the FLSA's highly compensated employee exemption.

- To qualify as exempt under the HCE exemption under 29 C.F.R. § 541.601, an employee must:

    1. Earn a total annual salary above a regulatory threshold specified in the regulation;

11. *Gilchrist v. Schlumberger Technology Corp.*, 143 F.4th 620 (5th Cir. 2025)

2. Customarily and regularly perform any one or more of the exempt duties of an executive, administrative, or professional employee; and

3. Have within his or her primary duties the performance of office or non-manual work.

The HCE exemption thus requires only that the employee customarily and regularly performs (not primarily performs) exempt duties and requires that the employee performs only any *one or more* of the qualifying administrative (or executive/professional) exempt duties.

11. *Gilchrist v. Schlumberger Technology Corp.*, 143 F.4th 620 (5th Cir. 2025)

Ruling the plaintiffs met the HCE exemption, the Fifth Circuit found the plaintiffs routinely performed administrative duties related to management or general business operations of the employer in two distinct ways.

First, the plaintiffs performed quality control duties, which the federal regulations list as an example of administrative duties related to the management or general business operations of the employer. 29 C.F.R. § 541.201(b).

Second, they acted as advisers to the company's clients, another recognized administrative function under the federal regulations. 29 C.F.R. § 541.201(c).

12. *DeWolff, Boberg & Assocs. v. Pethick,* 133 F.4th 448 (5th Cir. 2025)

- Pethick left his VP of Sales job with DB&A to join a competitor. DB&A sued DB&A for trade secret misappropriation. It lost on summary judgment. DB&A appealed. The Fifth Circuit affirmed.

- The Fifth Circuit first found that DB&A failed to specifically show that any of the information from its Salesforce Database and DOD List constituted a "trade secret."

- DB&A failed to even distinguish which information in its Salesforce Database was public information and which was non-public information.

- While DB&A pointed the Court to an exhibit, the exhibit was heavily redacted, and DB&A failed to submit a sealed, unredacted version of the exhibit.

12. *DeWolff, Boberg & Assocs. v. Pethick,* 133 F.4th 448 (5th Cir. 2025)

- In addition, DB&A failed to show that Pethik ever used, disclosed, or even had possession of, any of its supposed trade secrets.
- While Pethik suspiciously sent an internal email asking for the DOD List shortly before leaving DB&A for the competitor, there is no evidence he ever obtained possession of the DOD List and there was no forensic image of the DOD List on his computer.
- Even more fundamentally, even assuming Pethik had the DOD List, there was no proof he ever used the DOD List or allowed his new employer to use it.

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mark@osattorneys.com
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