

# Employment Law Corner

## Monthly Report



March 2026

### March Updates

[FLSA Compliance: The Three Mistakes That Cost Employers Millions](#)

## Workplace Pulse: Your Quarterly Employment Litigation Update

Staying ahead of employment law compliance is one of the most complex challenges facing employers today. This quarterly update tracks emerging legal developments at the federal, state, and local levels—delivering in-depth case law analysis, trend alerts, and actionable guidance so your organization can adapt before problems arise.

Also inside: answers to the most pressing employment law questions submitted this quarter by clients using our Employment Counsel On-Call Triage Service.

## **Q4 2025 Litigation Roundup**

*Recent Q4 2025 rulings reinforce a consistent message: employment law never stands still. The cases below highlight critical legal standards every employer should understand—from retaliation and pretext analysis to disability accommodation obligations.*

### Pretext and Retaliation

#### **Welch v. Heart Truss & Eng'g Corp.** (October 2025)

The plaintiff alleged termination based on disability discrimination and retaliation for asserting workers' compensation rights. The court evaluated four key legal principles common to retaliation and pretext claims:

**Honest Belief Rule:** An employer who honestly and reasonably believes in the facts underlying its termination decision cannot be found to have acted with pretext—even if its investigation was imperfect.

**Comparators and Disparate Treatment:** To establish pretext through disparate treatment, a plaintiff must identify similarly situated employees outside the protected class who were treated more favorably for substantially identical conduct. Welch offered no such comparator evidence.

**Temporal Proximity and Causation:** The court reaffirmed that timing alone—without additional corroborating evidence—is insufficient to establish pretext or causation between protected activity and termination.

**Discriminatory Statements and Animus:** Statements by decision-makers must reflect actual discriminatory or retaliatory intent. Mere awareness of a protected characteristic or activity does not constitute animus.

**Key Takeaway:** *Employers should document the honest, fact-based rationale behind employment decisions and conduct consistent investigations—even imperfect processes can withstand scrutiny when the belief is genuine and reasonable.*

### Disability Discrimination: Accommodation Obligations

**Puopolo v. Massachusetts Port Authority** (November 2025 – 106 Mass. App. Ct. 1111)

The plaintiff alleged that Massport failed to provide a reasonable accommodation for his disability. The accommodation offered—permitting the plaintiff to leave his shift immediately upon notifying supervisors during a medical flare-up—was found by the court to be objectively reasonable.

The court held that the plaintiff’s failure to communicate any concerns about the accommodation was fatal to his claim. An employee who accepts an accommodation without raising objections cannot later argue it was inadequate.

**Key Takeaway:** *Employers should document all accommodation discussions and encourage open, ongoing communication. Employees bear a responsibility to raise concerns—silence on the adequacy of an accommodation can defeat a subsequent ADA claim.*

### Pretext Analysis: FMLA and ADAAA Retaliation

**Plump v. Gov’t Emps. Ins. Co. (GEICO)** (December 2025 – 161 F.4th 1222)

Plaintiff Dion Plump alleged retaliation under the Family and Medical Leave Act (FMLA) and the Americans with Disabilities Act Amendments Act (ADAAA) following his termination. GEICO’s stated reason—failure to obtain a required New York insurance license—was upheld as legitimate and non-pretextual.

The court emphasized that to survive pretext analysis, a plaintiff must demonstrate that the employer’s stated reason is factually false or lacks credibility—typically by exposing inconsistencies or contradictions. Temporal proximity between protected leave and termination, without additional supporting evidence, was again held insufficient.

**Key Takeaway:** *Consistent, documented, and legitimate performance or compliance-based reasons for termination—especially those predating any protected activity—provide the strongest defense against FMLA and ADAAA retaliation claims.*

## **Hot Topics: Your Q4 2025 Employment Law Questions Answered**

*Each quarter, our Employment Counsel On-Call Triage Service fields thousands of employer questions. Below are representative Q&As from Q4 2025 covering age discrimination, ADA accommodation, and FMLA notice obligations.*

### **Q: An employee recently told management he plans to retire soon. Can we accelerate his departure now that we know his retirement timeline?**

A: Compelling or requiring an employee to retire earlier than intended—or terminating employment shortly after retirement plans are disclosed—carries significant legal exposure under the Age Discrimination in Employment Act (ADEA). The ADEA prohibits adverse employment actions based on age for employees 40 and older, and either scenario could constitute direct evidence of age-based discrimination. If the company wishes to move forward, a voluntary retirement incentive with meaningful financial consideration is the appropriate path. This requires a carefully drafted separation agreement that includes: clearly defined terms and consideration, mandatory consideration and revocation periods (as required under the Older Workers Benefit Protection Act), unambiguous waiver language, and documented evidence that the offer is genuinely voluntary with no adverse consequences for declining.

### **Q: An employee is requesting an ADA accommodation for time off to undergo IVF treatments. Is IVF covered under the ADA?**

A: IVF itself is not covered under the ADA, but it is covered under the Pregnant Workers Fairness Act (PWFA). The ADA addresses accommodations for disabilities, while the PWFA broadly covers conditions related to pregnancy, childbirth, and related medical conditions—including leave for IVF treatments under current regulations. Note: The current administration has targeted these PWFA regulations for rollback, but they remain in effect as of this writing. As with other accommodation requests, employers may request documentation of the amount of leave required and may evaluate whether granting the leave constitutes an undue hardship.

### **Q: After an employee voluntarily discloses that she suffers from migraines, are we required to ask whether previous absences were migraine-related and offer FMLA?**

A: Yes—under the FMLA, an employee is not required to use specific language or formally request FMLA leave. Once an employer has notice that an employee may have a qualifying medical condition, the employer is obligated to offer FMLA leave. In this scenario: the employee's prior absences alone were insufficient to trigger FMLA notice obligations. However, once the employee disclosed a potentially FMLA-qualifying condition (migraines), that disclosure—combined with a history of frequent absences—was sufficient to put the employer on notice. If the employee applies and is approved for FMLA, it may be possible to retroactively designate prior absences related to migraines toward the FMLA allotment.

*This update is for informational purposes only and does not constitute legal advice. For guidance specific to your organization, please contact your employment counsel.*

## Do You Have Questions?

**We can help!** Our **Employment Counsel On-Call Triage Service** is a perfect resource for employers of all sizes looking to receive guidance on employment law and HR-related questions. We work with clients day in, day out to help them navigate complex legal issues and implement best practices. We receive unique questions every day through the **On-Call Service** and are ready to tackle any issue where you need help!

### **Who We Are:**

- We represent employers exclusively from coast to coast in all facets of employment law and litigation. Our mission is solving problems and anticipating issues so you can concentrate on your business.
- We are constantly searching for the trends and upcoming issues in the law that will impact our clients. We want our clients to be informed and ready. Our familiarity with the workplace and our approach sets us apart from other law firms, making us well equipped to handle your unique needs.
- We are not like other firms: Anyone can tell you what the law states and its limits. That is easy. We find creative solutions within those restrictions that move your business forward. We seek to minimize your risk so you can get back to business. Learn how we can help your business: **Foley & Foley PC attorneys specialize in Employment and Labor Law in the Public and Private Sectors (foleylawpractice.com).**

### **Meet Timothy Kenneally**

Attorney Tim Kenneally has practiced law with Foley & Foley PC since 2008 and has been a litigator his entire career. Attorney Kenneally's practice involves the representation of clients in matters involving employment and labor law, data security/personal information protection, insurance, contracts and litigation.

For more info, check out his full bio [here!](#)



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