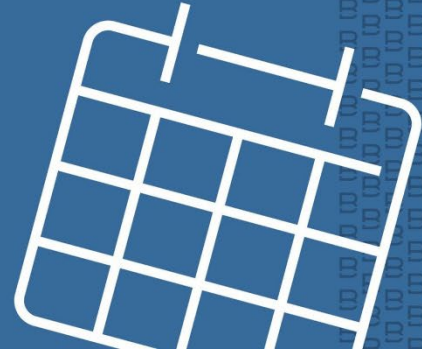


The Work Week

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Supreme Court Takes Aim at Employment Law: Three Cases to Watch in the 2026–2027 Term

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The United States Supreme Court is back in session today, and the Court's 2026–2027 docket features three significant employment-law cases for the upcoming term. From procedural technicalities to the constitutional limits of federal enforcement, these upcoming rulings will impact how employers defend lawsuits, how education-sector workers sue for discrimination, and how federal agencies issue workplace penalties.

Here is what employers need to know about the three major employment-law cases currently before the high court.

1. A "Use It or Lose It" Warning: *Younge v. Fulton Judicial Circuit District Attorney's Office*

While *Younge* centers on a technical rule of civil procedure, its tactical implications for employment defense are profound. Dr. Jasmine Younge sued her employer for pregnancy discrimination, and the employer prevailed on summary judgment by raising a statutory exemption. The catch? The employer failed to plead this affirmative defense in its original answer or before court deadlines expired.

The Supreme Court will clarify whether an employer forfeits an affirmative defense if they fail to raise it in an answer at the very beginning of a lawsuit. A ruling against the employer will impose a strict "use it or lose it" standard. Corporate legal teams and HR compliance officers will have to thoroughly identify every possible defense—such as statutory exemptions, statutes of limitations, or failure to exhaust remedies—at the absolute outset of a lawsuit, or risk losing their best defenses entirely.

2. Reining in Agency Power: *Department of Labor v. Sun Valley Orchards*

Following the Supreme Court's landmark *SEC v. Jarkesy* ruling in 2024 granting defendants the right to a jury trial in cases prosecuted by the Security Exchange Commission, federal agency enforcement power faces another major test in *Sun Valley Orchards*. In this case, the Department of Labor ("DOL") used its internal Administrative Law Judges to fine a farm owner over \$550,000 for H-2A visa violations. The Third Circuit ruled the agency's in-house adjudication unconstitutional, holding that civil penalties require a trial by jury in a federal court. The Supreme Court will now decide if the DOL can continue to issue financial penalties through its internal administrative process.

This case could trigger a massive shift in wage-and-hour and visa compliance enforcement. If the Court curbs the DOL's internal authority, the government will be forced to litigate violations in federal district courts before a jury. This would significantly slow down agency enforcement actions and give employers facing federal penalties a much stronger, more protected legal footing.

3. Cracking the Caps on Title IX: *Crowther v. Board of Regents of the University System of Georgia*

For decades, workplace discrimination claims at federally funded educational institutions have primarily been litigated under Title VII of the Civil Rights Act. However, in *Crowther*, two former employees of Georgia public colleges bypassed Title VII to sue for sex discrimination and retaliation under Title IX of the Education Amendments of 1972.

The Supreme Court is stepping in to resolve a deep circuit split over whether private employees have an implied right to sue under Title IX. If the Court rules in favor of the employees, workers at federally funded schools and universities will gain a powerful alternative path to litigation. Unlike Title VII, Title IX allows plaintiffs to completely bypass filing an EEOC charge. Title IX also does not contain Title VII's statutory caps on compensatory and punitive damages. This could drastically increase financial exposure and lawsuit volume for education sector employers.

At Bassford Remele, we regularly monitor important changes in case law and legislation and advise our clients on the same. We'll provide updates when *Younge*, *Sun Valley Orchards*, and *Crowther* are decided, including the ramifications for employers thereafter.

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