SUPREME COURT CLARIFIES INITIAL BURDEN OF PROOF FOR "REVERSE" DISCRIMINATION CLAIMS

In a decision that clarifies the evidentiary standards for all employment discrimination claims, on June 5, 2025, the United States Supreme Court issued a unanimous decision in *Ames v. Ohio Department of Youth Services* (No. 23-1039). This ruling directly impacts how "reverse" discrimination claims are evaluated, emphasizing that Title VII protects all individuals equally, regardless of their majority or minority group status.

Prior to the decision in *Ames*, a split existed among federal circuit courts regarding the initial burden of proof for plaintiffs bringing "reverse" discrimination claims under Title VII. These are cases where an individual who is a member of a historically advantaged group (e.g., a white employee, a male employee) alleges discrimination based on a protected characteristic. Some circuits, including the Sixth Circuit where the *Ames* case originated, and the Seventh Circuit where Wisconsin is located, applied a heightened "background circumstances" rule. Under this rule, a plaintiff from a majority group was required to show additional background circumstances to support the suspicion that their employer was the "unusual employer who discriminates against the majority."

This extra hurdle was not imposed on plaintiffs from historically disadvantaged groups. The plaintiff in *Ames*, a heterosexual female, alleged she was denied a promotion and demoted due to her sexual orientation in favor of gay candidates. Her claim was initially dismissed for failing to meet this heightened background circumstances test.

The unanimous Court rejected the background circumstances rule, holding that it is inconsistent with the plain text of Title VII and the Court's longstanding precedent. The Court emphasized that Title VII's disparate-treatment provision makes it unlawful "to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions or privileges of employment, because of such individual's race, color, religion, sex, or national origin." Justice Jackson, who authored the decision, stated that "Title VII's disparate-treatment provision draws no distinction between majority-group plaintiffs and minority-group plaintiffs," and "Congress left no room for courts to impose special requirements on majority-group plaintiffs alone."

Therefore, the standard for proving disparate treatment under Title VII does not vary based on whether the plaintiff is a member of a majority or minority group, and all claims of discrimination under Title VII must be evaluated under the same evidentiary burden, typically the three-step burden-shifting framework established in *McDonnell Douglas Corp. v. Green*. The *Ames* decision reinforces the need for consistent, non-discriminatory employment

practices across the board.

As always, O'Neil Cannon is here for you. We encourage you to reach out with any labor and employment questions, concerns, or legal issues you may have.

CHAMBERS AND PARTNERS RECOGNIZES FAUST AND O'NEIL CANNON FOR M&A EXCELLENCE

We're proud to announce that Attorney Pete Faust and O'Neil Cannon's mergers and acquisitions team have been recognized by *Chambers and Partners* as among the top in Wisconsin for M&A and general corporate law.

O'Neil Cannon is one of only seven Wisconsin firms ranked by *Chambers and Partners* in this category. Faust, the firm's president and managing shareholder, is one of just 23 Wisconsin attorneys to earn individual recognition for excellence in M&A.

In addition to Faust, O'Neil Cannon's mergers and acquisitions team includes Dino Antonopoulos, JB Koenings, Britany Morrison, Chad Richter, Jason Scoby, James DeJong, Brady Dettmann, Cate Heerey, Michael Kennedy, Jason Meehan, Samuel Nelson, and Nancy Wilson.

Chambers and Partners, a London-based research firm, evaluates law firms and attorneys across 185 countries. Each year, more than 200 researchers conduct thousands of interviews with lawyers and clients to identify and rank the leading professionals in the legal field.

O'NEIL CANNON ELECTS DINO ANTONOPOULOS, JESSICA HASKELL, AND RYAN RIEBE AS SHAREHOLDERS

O'Neil Cannon is pleased to announce that attorneys Dino Antonopoulos, Jessica Haskell, and Ryan Riebe have been elected as shareholders of the firm.

Antonopoulos is a member of the firm's Business and Real Estate Practice Groups. With nearly 20 years of experience, Antonopoulos has established a strong reputation as a corporate and real estate transactional attorney. Known for his exceptional communication

skills, dedicated client advocacy, and proven track record of success, he continues to deliver favorable results. Learn more about Antonopoulos.

Haskell is a member of the firm's Banking, Receivership, and Creditors' Rights Practice Group. In addition to her legal work, she serves as Chair of the Milwaukee Bar Association's Bankruptcy Section and is a board member of the State Bar of Wisconsin's Bankruptcy, Insolvency, and Creditors' Rights Section and the Wisconsin Network of the International Women's Insolvency & Restructuring Confederation. Learn more about Haskell.

Riebe is a member of the firm's Litigation Practice Group. He advises individuals and businesses on a wide range of litigation matters, representing clients in state and federal courts as well as in mediation and arbitration. Learn more about Riebe.

We are proud to welcome these attorneys to our shareholder group and look forward to their continued contributions to the firm's success.

FAUST RECOGNIZED IN M&A POWER LIST

Corporate attorney Pete Faust has been recognized in Wisconsin Law Journal's M&A Power List, a list "comprised of attorneys hand-picked as power players in the M&A space."

Faust, the President and Managing Shareholder of O'Neil Cannon, has closed hundreds of successful mergers, acquisitions and financing deals. He advises buyers, sellers, lenders and investors on a full range of business law matters, from entity formation and securities issues to corporate governance and exit strategies. Faust's clients, ranging from entrepreneurs to established institutions, rely on his practical approach and extensive transactional experience.

O’NEIL CANNON WINS WISCONSIN SUPREME COURT CASE

Wisconsin Supreme Court Case

O’Neil Cannon recently secured a victory before the Wisconsin Supreme Court. On January 22, 2025, the court ruled in favor of O’Neil Cannon’s client in *Morway v. Morway*. This case underscores the importance of understanding the finality of court orders and the associated timelines for filing appeals.

Case Background

David and Karen Morway finalized their divorce on March 25, 2019, in Ozaukee County, Wisconsin. As part of the divorce decree, David was obligated to pay monthly spousal maintenance to Karen. In May 2022, anticipating the expiration of his employment contract with the Utah Jazz, David filed a motion to modify or terminate his spousal maintenance obligations, citing a substantial change in his financial circumstances. The family court commissioner initially reduced David’s maintenance payments, but Karen appealed this decision. Following a three-day trial, the circuit court issued an oral decision on April 19, 2023, denying David’s motion. This decision was formalized in a written order on May 24, 2023.

Procedural Posture

On September 1, 2023, David sought to appeal the circuit court’s May 24 order, along with two other subsequent orders dated June 27 and August 28. However, the court of appeals dismissed his appeal as untimely, determining that the May 24 order was final for purposes of appeal under Wisconsin Statute § 808.03(1), despite the entry of the subsequent orders. According to this statute, a party has 90 days to file a notice of appeal from a final order. David’s notice of appeal as to the May 24 order was filed beyond this 90-day window, leading to the dismissal.

Supreme Court’s Analysis

The central issue before the Wisconsin Supreme Court was whether the May 24 order constituted a “final order” under § 808.03(1). David contended that the order was not final because it lacked explicit finality language and did not dispose of all matters in litigation. He also argued that the order’s finality was ambiguous, suggesting that it should be liberally construed to preserve his right to appeal.

The Wisconsin Supreme Court disagreed with David’s arguments. The court emphasized that

an order is considered final if it disposes of the entire matter in litigation as to one or more of the parties. In this case, the May 24 order explicitly denied David's motion to modify or terminate maintenance, thereby resolving the substantive issue before the court. The absence of explicit finality language did not render the order ambiguous, nor did it affect its finality. Consequently, the Wisconsin Supreme Court held that the order was final and that David's appeal was untimely.

Implications

The *Morway v. Morway* decision serves as a crucial reminder for litigants and attorneys regarding the importance of understanding when a court order is deemed final. Even in the absence of explicit finality language, or incorrect language, an order that resolves all substantive issues is considered final for purposes of appeal. Failing to recognize this can result in missed deadlines and the forfeiture of the right to appeal.

In conclusion, *Morway v. Morway* reinforces the principle that the finality of a court order hinges on whether it disposes of all substantive matters in litigation. Litigants must remain vigilant in recognizing such finality to protect their appellate rights.

Greg Lyons argued the case before the Wisconsin Supreme Court. In addition to Lyons, the briefs were submitted by Jean Ansay and Ryan Riebe.

IMPORTANT UPDATE FOR PAYPAL AND VENMO USERS: IRS ADJUSTS 1099-K REPORTING THRESHOLDS

The IRS has issued new guidance on its phased rollout of 1099-K reporting requirements. This impacts millions of users of platforms like PayPal, Venmo, Etsy, and eBay. These updates build on the IRS's December 2023 announcement, where it delayed the implementation of a $600 reporting threshold due to concerns over taxpayer confusion and administrative burdens.

As we discussed in our December 2023 post, the IRS had originally planned to drop the 1099-K reporting threshold from $20,000 (and 200 transactions) to $600, but after industry pushback and legislative discussions, it introduced a gradual transition to ease compliance. The latest update confirms the reporting thresholds leading up to 2026.

Recap: What Happened in Late 2023?

In December 2023, we covered the IRS's decision to postpone the $600 reporting threshold in response to widespread concerns that taxpayers would erroneously receive 1099-Ks for personal transactions. The IRS acknowledged that transactions such as splitting a dinner bill or selling personal items at a loss could trigger unnecessary tax forms, creating confusion.

At that time, the IRS signaled its intention to transition to a $5,000 threshold for 2024, allowing time for further adjustments. The latest update now provides a clearer roadmap:

- **2024:** $5,000 reporting threshold
- **2025:** $2,500 reporting threshold
- **2026 and beyond:** $600 reporting threshold

The gradual approach aims to ensure that small business owners and independent contractors have time to adjust. It also gives third-party payment platforms time to refine their compliance procedures. However, the phased implementation is not without controversy. Many e-commerce platforms and lawmakers continue to push for a permanent threshold increase to prevent confusion.

Key Updates for 2024

Lower Thresholds, Same Reporting Rules
For tax year 2024 (filed in 2025), only business-related transactions that total $5,000 or more will trigger a 1099-K form. While this is a significant reduction from the prior $20,000/200 transaction threshold, the IRS has emphasized that:

- **Personal transactions remain exempt.** If you send money to a friend for dinner or receive a gift through Venmo, it should not be reported.
- **Business-related payments will be reported.** If you sell products or services and receive payments through PayPal, Venmo, or similar platforms, those payments may be subject to reporting once they exceed the $5,000 threshold.

No IRS Penalties for 2024 Non-Compliance by Platforms

To ease the transition, the IRS has confirmed it will not impose penalties on third-party platforms that fail to comply with backup withholding requirements during 2024. This provides companies like PayPal, Venmo, and Etsy additional time to adjust their reporting systems.

Future Thresholds: Plan Ahead

By 2026, even causal sellers will be impacted. For example, if you sell a used couch for $700 on Facebook Marketplace, you could receive a 1099-K—even if you sold at a loss. Selling

personal items at a loss does not create taxable income. However, receiving a tax form could still create confusion and require additional documentation to correct.

Legislative Uncertainty and IRS Criticism

The phased implementation of the 1099-K threshold has not been without controversy. While many taxpayers welcome the delay, some lawmakers and tax professionals believe the IRS has overstepped its authority by postponing the $600 threshold beyond the timeline set by the American Rescue Plan Act of 2021.

- E-commerce platforms like eBay and Etsy continue to lobby Congress to raise the threshold permanently, arguing that the $600 rule will lead to unnecessary tax forms for millions of casual sellers.
- Lawmakers from both parties have introduced bills proposing thresholds of $5,000, $10,000, or even $20,000, but Congress has yet to pass a long-term fix.
- Political debates continue, with some lawmakers framing the delayed IRS rollout as a tax policy shift that could have major implications for future administrations.

Despite this uncertainty, taxpayers should prepare for the likelihood that the $600 threshold will take effect in 2026 unless Congress acts.

How This Affects You

Business Transactions & Purchase Price Allocation Matter

If you’re a small business owner, freelancer, or independent contractor, the 1099-K will report your total payments received through payment apps. However, not all funds received may be taxable.

For example:

- If you earn $6,000 providing graphic design services through PayPal, that entire amount will be reported to the IRS and subject to self-employment tax.
- However, if $2,000 of that total was a personal gift from family, those funds should be flagged as personal transactions to avoid misclassification.

Properly labeling transactions as “personal” or “business” in your payment apps can prevent errors when 1099-Ks are issued.

Preventing Incorrect 1099-K Filings

If you receive a 1099-K in error (for instance, for personal transactions), you should:

- Request a corrected form from the issuing platform.

- Provide supporting documentation (e.g., receipts, bank statements) to clarify taxable vs. non-taxable transactions.

What Should Taxpayers Do Now?

- **Keep detailed records of all transactions** to ensure proper tax reporting. Many payment platforms allow transaction labeling, which can help prevent issues later.
- **Review any 1099-K forms you receive** and dispute any misclassified transactions.
- Consult a tax professional if you are a small business owner, freelancer, or independent contractor, as the new thresholds could impact your tax liability.

As we highlighted in our December 2023 article, the IRS is steadily reducing the 1099-K reporting threshold, requiring online sellers, freelancers, and small businesses to be more proactive in managing their tax reporting obligations. While personal transactions remain exempt, it's essential to track income sources carefully to avoid potential IRS issues.

Meanwhile, Congress continues to debate long-term solutions, but taxpayers should prepare for the likelihood that the $600 rule will take effect in 2026 unless legislative action is taken.

If you need guidance on tax compliance or reporting strategies, contact us, the O'Neil Cannon Tax Team, for assistance.

ATTORNEYS CHRISTINA RUUD AND CATE HEEREY HAVE JOINED O'NEIL CANNON

Attorneys Christina Ruud and Cate Heerey, both experienced Milwaukee attorneys, have joined O'Neil Cannon.

Ruud is a member of the firm's Business and Real Estate Groups. She concentrates her practice in commercial real estate with an emphasis on all aspects of acquisition and disposition transactions, real estate development and financing, and complex commercial leasing. Ruud also regularly represents owners of large real estate portfolios in all facets of asset management and provides contract drafting services to real estate brokerage firms.

Heerey is a member of the firm's Business Law Practice Group. Her primary focus is mergers and acquisitions, representing clients in the lower end of the middle market. Heerey specializes in drafting, reviewing, and negotiating a variety of contracts, including, purchase agreements, supply and distributions agreements, master service agreements and terms and conditions.

We are pleased to welcome Ruud and Heerey to the firm.

O'Neil Cannon, founded in Milwaukee in 1973, is a full-service law firm that focuses on meeting the many needs of businesses and their owners. Our experienced attorneys work with businesses and their owners at all stages of the business life cycle, helping them start, grow, and transition their businesses. We also assist business owners with their personal legal needs, including tax and estate planning and family law. For more information about the services we provide, please visit our website.

THE WILAW QUARTERLY NEWSLETTER

Newsletter Article Highlights:

- What to Expect for Tax Policy in 2025 After Trump's Election Victory
- Judge Blocks DOL Increase to Salary Thresholds for Exempt Workers

Firm News:

- Founder Dino Antonopoulos of Antonopoulos Legal Group Joins O'Neil Cannon
- Super Lawyers Recognizes 30 O'Neil Cannon Attorneys
- O'Neil Cannon Ranked in 2025 "Best Law Firms"

Click the image below to read more.

ATTORNEY BRADY DETTMANNHAS JOINED O'NEIL CANNON

Attorney Brady Dettmann graduate of Marquette University Law School, has joined O'Neil Cannon's Business Law Practice Group.

Dettmann has experience in mergers and acquisitions, corporate and partnership taxation, non-profit organizations, and general corporate matters. While in law school, Dettmann worked as a judicial intern for Justice Hagedorn of the Wisconsin Supreme Court. Dettmann also worked as a legal intern for the U.S. Department of Veterans Affairs, Office of General Council.

Hamilton's experience extends to clients across various industries, ranging from mergers and acquisitions and business corporate transactions to intellectual property matters, including licensing agreements, sports/esports affairs, and content creation. During law school, Hamilton held legal internships focused on esports transactional practices and served as a mediator through the Marquette Mediation Clinic.

We are pleased to welcome Dettmann and Hamilton to the firm.

O'Neil Cannon, founded in Milwaukee in 1973, is a full-service law firm that focuses on meeting the many needs of businesses and their owners. Our experienced attorneys work with businesses and their owners at all stages of the business life cycle, helping them start, grow, and transition their businesses. We also assist business owners with their personal legal needs, including tax and estate planning and family law. For more information about the services we provide, please visit our website.

CORPORATE TRANSPARENCY ACT BLOCKED AGAIN

The U.S. Fifth Circuit Court of Appeals reinstated a nationwide injunction on the reporting of beneficial ownership information under the Corporate Transparency Act. The injunction issued by a Texas federal court in early December had been overturned last week by a different Fifth Circuit panel.

For now, reporting companies are (again) no longer required to report beneficial ownership information, but reporting of beneficial ownership under the CTA could be required in the future. The Fifth Circuit will hear arguments regarding the CTA reporting obligations on March 25, 2025. The Financial Crimes Enforcement Network has indicated that reporting companies may continue to submit beneficial ownership information on a voluntary basis. Given the uncertainty about what may happen in the appeal process, reporting companies should continue to gather beneficial ownership information in order to ensure compliance with any future reporting deadlines.

O'Neil Cannon will continue to monitor and provide further updates regarding the CTA. Please reach out to a member of the O'Neil Cannon team if you have questions related to the CTA.