

COURT REPORT

October 2025



Eleventh Circuit Court of Appeals

ADA - Discrimination & Retaliation

***Bodie-Jernigan v. School Board of Broward County, Florida*, 2025 WL 2741931 (11th Cir. Sept. 26, 2025)**

This case involves a secondary school teacher who suffered from kidney function, prior cardiac surgery, and prediabetes. In response to the spread of the COVID-19 pandemic, the school system transitioned all classes to an online format in early 2020. However, later in the fall of that same year, the school system returned to in-person instruction for students. This prompted the teacher to request accommodations for remote work, which the school system approved. After a few months passed, the school system informed the teacher that her remote work arrangements were set to expire. The teacher attempted to ask for an extension to continue working remotely, but the principal declined to engage in the conversation. Concerned for her health, the teacher opted to go on unpaid leave rather than return to work in-person. She sued the school system, alleging claims of discrimination and retaliation under the Americans with Disabilities Act (“ADA”). The trial court granted the school system’s motion, dismissing the teacher’s second amended complaint for failure to state a claim, and the teacher appealed to the 11th Circuit.

On appeal, the Court affirmed the trial court’s ruling. The Court rejected the teacher’s argument that she made a proper pleading of discrimination under the ADA. To make a discrimination claim under the ADA, a plaintiff must allege that (1) she has a disability; (2) she is a qualified individual; and (3) she was subjected to unlawful discrimination because of her disability. *Holly v. Clairson Indus., L.L.C.*, 492 F.3d 1247, 1255-56 (11th Cir. 2007). Here, the Court found the teacher did not satisfy the second element by failing to show she was a qualified individual. A qualified individual is someone who can perform the essential functions of her job with or without reasonable accommodation. 42 U.S.C. § 12111(8). In this instance, the teacher asserted she was capable of performing the essential duties of her position remotely, but she did not provide any factual support demonstrating how she could effectively maintain classroom discipline or foster an active learning environment which were key responsibilities of her job. Without pleading sufficient facts, the Court held the teacher failed to state a discrimination claim.

Next, the Court addressed the retaliation claim. To state a retaliation claim, a plaintiff must allege that (1) she engaged in statutorily protected activity; (2) she suffered an adverse employment action; and (3) there was a causal connection between the protected activity and the adverse action. *Harper v. Blockbuster Entm’t Corp.*, 139 F.3d 1385, 1388 (11th Cir. 1998). Here, the Court found the teacher’s retaliation claim did not satisfy the second element because she did not show she suffered an adverse employment action. To properly allege an adverse employment action, the complaint must include facts showing the employer took an action that was materially adverse, that is, one that caused injury or harm that would dissuade a reasonable employee from engaging in the protected activity. *Ounjian v. Globoforce, Inc.*, 89 F.4th 852, 858 (11th Cir. 2023) (citations omitted).

The teacher claimed she was subjected to adverse employment action when she was forced to take an unpaid leave of absence. However, the Court found the teacher's own statements contradicted this claim when she admitted that the school system expected her to resume her on-site duties, but she would only do so if her accommodations request for virtual work was approved. After the request was denied, the teacher voluntarily chose to take unpaid personal leave rather than comply with the school's order. Based on this, the Court found the teacher did not make a showing of an adverse employment action. Because she failed to state plausible discrimination and retaliation claims under the ADA, the 11th Circuit upheld the trial court's dismissal in favor of the school system.

First Amendment - Retaliation

***Oakes Farms Food v. Distribution Services, LLC v. Adkins*, --- F.4th ----, 2025 WL 2658447 (11th Cir. Sept. 17, 2025)**

This case involves a farm owner who supplied produce to a local school system in Florida. During the peak of COVID-19 in 2020, the farm owner posted controversial statements on his Facebook about the pandemic and other political issues. The school system developed concerns about food safety after hearing about the farm owner's remarks online, and it requested the farm owner to provide documentation of the farm's COVID-19 protocols. After the farm owner replied to the request, the superintendent deemed his response as inadequate and terminated the produce contract with the farm. The farm owner sued the school system and its board members, alleging retaliation under the First Amendment. He claimed the school system cancelled his contract because of his political speech online. The trial court awarded summary judgment to the school system and the farm owner appealed.

On review, the appellate court upheld the trial court's ruling. To prevail on a First Amendment claim of unlawful retaliation, the plaintiff must show (1) that he spoke as a citizen on a matter of public concern, (2) his right to speak outweighed the government's interests, and (3) the speech played a substantial part in the adverse employment action. *See Green v. Finkelstein*, 73 F.4th 1258, 1263 (11th Cir. 2023).

Here, the Court found the farm owner passed the first prong because he spoke as a citizen on a matter of public concern when posting about controversial political topics on his personal Facebook page. However, the Court found the farm owner did not pass the second prong, holding that the school system's interests in ensuring food safety outweighed the farm owner's speech rights. The school system had legitimate concerns about the farm's COVID-19 protocols, especially after the farm owner publicly dismissed the seriousness of the pandemic on his social media. The Court highlighted evidence which demonstrated that the school system's interests in preserving food safety for its students was the true basis for terminating the contract, and these interests outweighed the farm owner's right to free expression. The farm owner asserted the school system's interests about food safety were pretextual, but he did not provide enough evidentiary support for this argument. Thus, the 11th Circuit affirmed the trial court's ruling in favor of the school system.

Sovereign & State Agent Immunity

***Ex Parte Riche*, --- So. 3d ----, 2025 WL 2679931 (Ala. Sept. 19, 2025)**

This case involves an employee who managed a stadium owned by a local school system. Part of the employee's duties were to inspect the property and report hazards. In the fall of 2021, the employee noticed a crack in the stadium walkway and reported it for repair. He placed an orange cone and sand in the crack to mark the hazard. Sometime later, there was a football game hosted at the stadium where a spectator tripped into the crack and fell, suffering several injuries. The spectator sued the employee in both his official and individual capacities. She asserted claims of negligence, wantonness, premises liability, negligent and/or wanton undertaking, and combining and concurring negligence. The employee initially filed a motion for summary judgment which was denied by the trial court. At the appellate court level, the employee petitioned for a writ of mandamus.

On appeal, the employee argued he was entitled to sovereign immunity regarding the claim against him in his official capacity. The Court agreed. Alabama law prescribes that "an officer, employee, or agent of the state, including, but not limited to, an education employee, acting in his or her official capacity is immune from civil liability in any suit pursuant to Article I, Section 14, of the Constitution of Alabama of 1901." Ala. Code § 36-1-12(b). Here, the Court held it was undisputed that the employee was employed by the school board, making him an education employee. As such, the spectator's claims against the employee in his official capacity were barred by sovereign immunity.

Next, the employee argued he was entitled to state-agent immunity on the claim against him in his individual capacity. The Court once again agreed. Alabama law sets forth that education employees are immune from civil liability in their individual capacities for acts that involve "exercising judgment in the discharge of duties imposed by statute, rule, or regulation... in educating students." Ala. Code § 36-1-12(c)(5). The Court addressed that "educating students" was not only restricted to teachers and classroom instruction but also extended to supervising and educating students in all aspects of the educational process, clarifying this was applicable to classified personnel. The Court found the employee's actions here constituted supervising and educating students. It further held that the employee exercised his judgment when he tried to address the hazardous crack in the stadium walkway, making him immune from his discretionary acts. The spectator did not show there was an applicable exception to the employee's state-agent immunity, and therefore the Court granted the petition for writ of mandamus in favor of the employee.

Editor's Note: Court Report does not typically include court cases at the circuit court level but given the potential implications of the issue presented, we do so here.

Countywide Tax Distributions - Charter Schools

Empower Schools of Alabama v. Eric G. Mackey, 03-CV-2025-901464, Circuit Court of Montgomery County, Alabama (Sept. 18, 2025)

In early September, a group of charter schools sued the State Superintendent, asserting they were not included on the annual countywide tax distribution letters sent to county revenue commissioners for the distribution of countywide taxes to school systems located in each county. The plaintiffs claimed they were excluded from the distribution lists, despite fulfilling all legal requirements and providing necessary enrollment data, and this exclusion resulted in a loss of funding for the students they educate. Among the remedies the plaintiffs sought were compelling the State Superintendent to include them as local educational agencies on the distribution letters, the establishment of a constructive trust to hold their share of funds, and a temporary restraining order and permanent injunction to prevent further financial harm.

Following a hearing in mid-September, the Court denied the plaintiff's request for a temporary restraining order and preliminary injunction. The Court found the plaintiffs failed to demonstrate they would suffer immediate and irreparable harm because they had not previously received countywide tax revenue nor relied on it. The Court expressed that the plaintiffs would not experience budget shortfalls, and it considered the harm local public schools would endure and the cuts that would result if their allocation was reduced. Because the plaintiffs did not meet their burden, the Court denied their request.

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