

# Live from Workplace Horizons 2025: Litigating Employment Cases: Effective Strategies for Agency Actions

By Sierra Vierra, Lindsey White &

June 12, 2025

## Meet the Authors



### Sierra Vierra

Principal  
(916) 288-3008  
[Sierra.Vierra@jacksonlewis.com](mailto:Sierra.Vierra@jacksonlewis.com)



### Lindsey White

Principal  
410-415-2015  
[Lindsey.White@jacksonlewis.com](mailto:Lindsey.White@jacksonlewis.com)

## Related Services

Employment Litigation

## Details

June 12, 2025

Welcome to a special edition of We get work®, recorded live from Workplace Horizons 2025 in New York City, Jackson Lewis' annual Labor and Employment Law Conference. Over 500 representatives from 260 companies gathered together to share valuable insights and best practices on workplace law issues impacting their business today. Here's your personal invitation to get the insights from the conference, delivered directly to you.



## Transcript

### INTRO

*You're listening to a special edition of We get work®, recorded live from Workplace Horizons 2025 in New York City, Jackson Lewis' annual Labor and Employment Law Conference. Over 500 representatives from 260 companies gathered together to share valuable insights and best practices on workplace law issues impacting their business today. Here's your personal invitation to get the insights from the conference delivered directly to you. We'll see you in 2026.*

### CONTENT

#### Alitia Faccone

Senior Director, Business Development

Welcome to Workplace Horizons 2025 and our Live from Workplace Horizons podcast studio. Thank you for joining us. In the studio with us this afternoon are Marla Presley, principal in the Pittsburgh office of Jackson Lewis, Lindsey White, principal in the Baltimore office of Jackson Lewis, and from Salt Lake City, Sierra Vierra.

Marla, why don't you start by telling us a little bit about yourself and your practice? This session is unique because you all actually do a little bit of a different thing for our clients. Marla, over to you first.

#### Marla Presley

Principal, Pittsburgh

Thank you. I am a litigator in the Pittsburgh office, and I handle every type of litigation with a focus on wage and hour litigation against private companies brought by employees and the Department of Labor.

**Faccone**

Lindsey, how about you?

**Lindsey White**

*Principal, Baltimore*

I am a litigator. I have a robust advice and counsel practice, but I would say I primarily litigate, and my background is as an EEOC trial attorney. I get looped into a lot of EEOC-specific actions.

**Faccone**

Sierra, how about you?

**Sierra Vierra**

*Principal, Salt Lake City*

I'm also a litigator; I am seeing a trend here. I do workplace health and safety law, primarily practice in California, but I also represent employers across the country.

**Faccone**

The title of your presentation was, not surprisingly, 'Litigating Employment Cases.' How about that? But really, more importantly, 'Effective Strategies for Agency Actions.' We know there's an awful lot happening at the agency level these days.

Lindsey, why don't you tell us a little bit about your presentation, what you covered and what you wanted to share with our attendees?

**White**

We focused on OSHA, EEOC and Department of Labor litigation and actions. Each of us shared some developments at the agency level with the new administration. There have been many developments for each of the individual agencies, and my colleagues can speak more in detail about their specific agencies. We also talked about strategies for both preventing and defending against agency litigations and investigations.

**Faccone**

Sierra, let's talk about OSHA litigation first. What are some of the major issues and trends that are facing employers right now?

**Vierra**

One of the big things we talked about was just making sure employers know their rights and the rights of their employees during an OSHA inspection. That tends to be one of the biggest issues that we have to handle when a client or a case comes our way: making sure the agency isn't overstepping.

Right now, we also have a lot of uncertainty as far as what this new administration is going to do with its enforcement practices and how states with state plans are going to respond.

**Faccone**

And the EEOC?

**White**

There have been many changes at the EEOC. Number one, with many of the agencies, there were voluntary retirement offers. We're seeing a lot of investigators and other staff opting for that. Lower numbers of investigators mean less attention to any one action.

We're also seeing at the EEOC that we have a new acting chair, who was appointed by President Trump and has announced a pretty radical shift in priorities. We're seeing a lot of enforcement of DEI plans and people who complain about DEI programs as whistleblower or retaliation actions. We're seeing a lot of those types of cases.

We're also seeing the EEOC voluntarily dismissed all of its gender identity litigation. It's our understanding that the commission is accepting charges on that basis, but not really enforcing or pursuing any litigation. We've also seen a proclamation to eradicate anti-American bias. That's going to be an increased focus for the EEOC in the years to come.

**Faccone**

The DOL, Marla?

**Presley**

We see some overlap between the DOL and OSHA. There have been big changes. There's a new Secretary of Labor. You would expect with a new administration some changes, but we're seeing a very big pendulum swing here. I would echo Sierra's characterization of things as very uncertain.

One of the focuses of our presentation today from the DOL perspective is, as it pertains to some of these agency investigations and audits, that employers really need to arm themselves with the knowledge and the resources to the extent that these audits and investigations continue or even go on an uptick to be prepared if the DOL comes knocking.

**Faccone**

Given the breadth of your presentation and all the things that you covered, what issues were really resonating with employers? What did they want to know about? What did they ask you? Lindsey?

**White**

We got a lot of questions on EEOC practice and what to do in certain situations. It seems to us that the different offices are taking different approaches. For example,

historically, the agency has not offered mediation ever if a position statement had been filed – it's only pre-position statements. Now, we're hearing an uptick in mediation being offered after the position statement is submitted, which we suspect is a result of fewer personnel to help actually investigate cases. People were really interested in sharing their experiences with the different agencies and hearing from other participants.

**Faccione**

The decrease in the number of attorneys at the EEOC and other agencies, do employers view that as good news or are they just really uncertain as to what's going to happen?

**White**

Just speaking from the EEOC perspective, there is a decrease in concentrated investigations. It's always been the case that the EEOC cannot truly investigate the number of charges it receives. It will receive a charge, get a position statement and there will be some determination. In recent years, it's been a form letter that says, basically, we're closing the investigation, we make no finding and here's the notice of right to sue. We're seeing more of that action where the EEOC is meeting its statutory mandate to receive the information, but cannot really analyze it, conduct investigations and interviews, get additional information and make an actual finding.

**Faccione**

A lot of folks have sat in those chairs at this table over the past couple of days, and we're hearing things like patience and proactivity. What would you say to the clients could be some key takeaways at the OSHA level, the EEOC level and with the DOL? What's the most important thing for clients to know right now, Marla?

**Presley**

At the risk of sounding salescall-ish right now, even though on the DOL side, a lot of investigators similarly took the buyout, we're hearing from our insiders at the DOL that overtime, for example, is an apolitical issue. It's not an area of enforcement where we would expect, with this administration, to see a decline in investigations or lawsuits. Employers need to be prepared at all times to take appropriate action if there is a complaint or an unannounced, random audit.

One of the things that we shared as a group and some of the attendees shared with us is that the DOL enforces not just wage and hour laws, but the FMLA, for instance. We're seeing investigators go in to investigate a FMLA complaint, and when an employer turns over records, they use that as the back door to get the records that they need to say, you also have systemic wage and hour violations. We cautioned the group that before you turn over anything, even if the issue seems simplistic at first, you really need to involve your in-house team and your external counsel. Because you don't know, I would say that almost never is an investigator looking at a document with blinders on and saying, 'Okay, this just pertains to the FMLA, so I'm going to ignore those wage and hour violations.'

**Faccione**

Sierra, what about you?

### **Vierra**

On the OSHA front, employers need to continue to be proactive in promoting a good safety culture at their work site by making sure that they have a comprehensive safety program, that they're doing regular training, and keeping good records of those trainings.

Another thing, again, at the risk of sounding sales pitchy, call your counsel if you do have OSHA show up. Oftentimes, OSHA will show up for a very limited inspection, but depending on what they learn during their inspection, they may expand the scope. You need to work with your in-house and external counsel to ensure that a fair inspection is conducted.

### **Faccone**

Lindsay on the EEOC front, key takeaways?

### **White**

There are so many key takeaways, but number one, if you have either an internal complaint or a charge of discrimination that dovetails with one of the priorities that the EEOC is currently focused on, you need to be really proactive about that. Make sure that you're handling it appropriately, even if it's something that hasn't yet turned into, for example, a termination, if it might raise one of these issues.

In addition, we have a lot of clients who are in conciliation, which is the EEOC's version of pre-suit settlement. These cases are just sitting because there's no quorum, so the EEOC can't authorize systemic or large-scale litigation. They can still authorize individual suits or smaller suits. The long game is patience. It's so easy to say, we know that they can't authorize this, so we just want to take action and get it off the plate. For right now, let's not be the test case. Let's see how this all plays out. Hopefully, in a couple of months, we will have a little more clarity.

### **Faccone**

Let the dust settle, as it were. Sierra, Lindsay and Marla, thank you so much for joining us today at We get work® Live from Workplace Horizons 2025, and enjoy the rest of the conference. Thank you.

### **OUTRO**

*Thank you for joining us on We get work®. Please tune into our next program where we will continue to tell you not only what's legal, but what is effective. We get work® is available to stream and subscribe to on Apple Podcasts, Spotify and YouTube. For more information on today's topic, our presenters and other Jackson Lewis resources, visit [jacksonlewis.com](https://www.jacksonlewis.com).*

©2025 Jackson Lewis P.C. This material is provided for informational purposes only. It is not intended to constitute legal advice nor does it create a client-lawyer relationship between Jackson Lewis and any recipient. Recipients should consult with counsel before taking any actions based on the information contained within this material. This material may be considered attorney advertising in some jurisdictions. Prior results do not guarantee a similar outcome.

Focused on employment and labor law since 1958, Jackson Lewis P.C.'s 1,000+ attorneys located in major cities nationwide consistently identify and respond to new ways workplace law intersects business. We help employers develop proactive strategies, strong policies and business-oriented solutions to cultivate high-functioning workforces that are engaged and stable, and share our clients' goals to emphasize belonging and respect for the contributions of every employee. For more information, visit <https://www.jacksonlewis.com>.