

25-6176
No. 23-

IN THE SUPREME COURT OF THE UNITED STATES

FILED

AUG 18 2025

OFFICE OF THE CLERK
SUPREME COURT U.S.

MELANIE NICOLE MOORE,

Petitioner,

v.

POOCHES OF LARGO, INC. et al.

Respondents

ORIGINAL

On Petition for a Writ of Certiorari to the United States

Court of Appeals for the Eleventh Circuit

PETITION FOR A WRIT OF CERTIORARI

Melanie Nicole Moore,

Petitioner, *Pro Se*

General Delivery

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QUESTIONS PRESENTED

1. Whether the district court's characterization of Petitioner's unpaid wage complaint as "merely" a contract dispute rather than a violation of the FLSA- despite wages falling below the statutory minimum, improperly narrowed the statutory remedial scheme and stripped the Petitioner of the Act's retaliation protection, in conflict with the standard established in *Kasten v. St.-Gobain Performance Plastics Corp.*, 563 U.S. 1 (2011).
2. Whether the Eleventh Circuit erroneously affirmed the trial court's failure to recognize a baseless lawsuit as actionable retaliation, thereby dismissing the entire action premised on the flawed calculation of the limitations period from the date of termination, nullifying the jury's verdict in favor of Petitioner on the wage claim, and barring all recovery over a 16-day variance, in conflict with the willfulness standard established in *McLaughlin v. Richland Shoe Co.*, 486 U.S. 128 (1988)

PARTIES TO THE PROCEEDING

PETITIONER: Melanie Nicole Moore, a former veterinary technician employed by Pooches of Largo, Inc. (dba "Petland Largo")

RESPONDENTS:

Pooches of Largo, Inc., a Florida Corporation engaged in the operation of a retail pet store in Largo, Florida.

Luis Marquez is the President, owner and operator of Petland Largo

RELATED PROCEEDINGS

1. United States Court for the Middle District of Florida (M.D. Fla.)

Melanie Moore v. Pooches of Largo, Inc. and Luis Marquez, Owner

No. 8:20-cv-02184MSS-SPF (September 26, 2023)

2. United States Court of Appeals for the Eleventh Circuit

Melanie Moore v. Pooches of Largo, Inc. and Luis Marquez, Owner

No. 23-13568 (May 20, 2025)

3. Miami-Dade County Court

Pooches of Largo, Inc. v. Melanie Moore

No. 2019-018268-CA-01 (October 16, 2019)

The Miami-Dade case is relevant because it was a baseless post-employment retaliatory defamation action that was never served but remained open in court records for more than a year until it was dismissed for failure to prosecute in xxx, 2020- one month after the filing of the FLSA action in the District Court.

OPINIONS BELOW

The Opinion of the United States Court of Appeals for the Eleventh Circuit is unpublished but is attached as Appendix A, No. 23-13568 (May 20, 2025)

The Florida Middle District Court's Order on the Motion to Dismiss dismissing the original retaliation claim is unpublished and attached as Appendix B1, No. 8:20-cv-02184-T-35-SPF (M.D. Fla. July 28, 2021).

The Order Granting Judgment Notwithstanding the Verdict (JNOV) is an endorsed order attached as Appendix C, Doc. 129, No. 8:20-cv-02184-MSS-SPF (M.D. Fla. September 26, 2023).

This Appendix also includes the unpublished Final Judgment, Doc. 130.

JURISDICTIONAL STATEMENT

This Court has jurisdiction to review the judgment of the United States Court of Appeals for the Eleventh Circuit pursuant to 28 U.S.C. § 1254(1).

The judgment of the Court of Appeals was entered on May 20, 2025. The time for filing a Petition for a Writ of Certiorari was extended for 60 days, by order of Scott S. Harris, Clerk of the Court, making the Petition due on November 9, 2025.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fair Labor Standards Act of 1938, as amended

29 U.S.C. § 215(a)(3)

It shall be unlawful for any person . . . to discharge or in any other manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this chapter, or has testified or is about to testify in any such proceeding, or has served or is about to serve on an industry committee.

29 U.S.C. § 255(a)

A cause of action arising out of a willful violation may be commenced within three years after the cause of action accrued.

29 U.S.C. § 216(b)

Any employer who violates the provisions of section 206 or section 207 of this title shall be liable to the employee or employees affected in the amount of their unpaid minimum wages, or their unpaid overtime compensation, as the case may be, and in an additional equal amount as liquidated damages. Any employer who violates the provisions of section 215(a)(3) of this title shall be liable for such legal or equitable relief as may be appropriate to effectuate the purposes of section 215(a)(3)...

I. STATEMENT OF THE CASE

A. Factual and Procedural History

Petitioner was employed by Respondent Pooches of Largo, Inc., as a Veterinary Technician salaried at \$35,000 a year (App'x. E-1, E-2, E-3). After three weeks of full-time work (App'x. E-4, schedules for weeks 2 and 3), Petitioner received her first paycheck for \$205, representing an approximate \$2,000 shortfall of her earned wages – an amount drastically below the applicable federal minimum wage requirements for the approximately 100 hours Petitioner worked (she was often asked to stay later than scheduled or work on her days off). Petitioner used an electronic time clock to record her hours.

Within minutes of receiving this check, Petitioner engaged in a confluence of internal protected activities: (App'x. E-6)

- She complained to her supervisor about the \$2,000 shortfall.
- She protested the employer's retroactive reduction of her wages for work already performed.
- She characterized the conduct as "illegal."
- She asserted her intent to "hire an attorney."

Approximately **30 minutes** after this internal complaint, the Petitioner was summarily terminated, on her day off work, via a text message from her supervisor. This termination message confirmed the employer's understanding of the

complaint's legal nature, stating they would **“have our legal department look into the wage disagreement.”** (App’x. E-6)

Moreover, Petitioner was scheduled for a full week of work for the week following her termination, which was posted and distributed on the morning of the day she was terminated, indicating there were no plans to terminate prior to her unpaid wage complaint.

The Petitioner’s text complaint to her supervisor was textbook example of a complaint that meets the *Kasten* standard. An employer receiving a complaint about unpaid hours is reasonably put on notice of a potential FLSA violation. The Eleventh Circuit’s decision to require more creates a circuit split and an untenable barrier for workers who do not have the legal sophistication to frame their grievances in precise statutory language.

Six weeks after termination and still no pay, Petitioner retained counsel who sent Respondents a per-suit notice containing claims for breach of contract an retaliatory termination under the Florida Whistleblower Act (PWA) and gave a deadline of December 20, 2018 by which to resolve or he would file and “vigorously” pursue these claims in court (App’x. E-7). In response, Respondent, Luis Marquez, engaged in a pattern of deceit that culminated in an egregious act of fraud on the court. Respondent falsely claimed that Petitioner was only a part-time “kennel technician” earning \$8.45 per hour—a deliberate misrepresentation of her FLSA-covered salaried position to conceal wage theft. (App’x. E-8)

In addition, Respondent falsely accused the Petitioner of "altering" a wage agreement, claiming it was her own attorney who provided the document.

Respondents offered Petitioner less than she was owed in unpaid wages, but only if she agreed to drop all claims. The Petitioner declined, and the Respondents did not pay her owed wages.

These misrepresentations caused Petitioner's counsel to lose confidence in her case as he believed the Respondent's lies over his own client, causing him not to file her case on the deadline asserted in his pre-suit notice and leading to his abrupt withdrawal nine months later without ever filing the case, forcing the Petitioner to proceed *pro se* after spending approximately three months attempting to secure new representation to no avail for employment actions that occurred a year earlier. Meanwhile, the clock continued to run on the limitations period. Further complicating the problem, there were no legal aid services available to assist Petitioner in the recovery of her unpaid wages due to pandemic closures and lockdown mandates.

Petitioner's former attorney later testified at trial that these misrepresentations caused him to believe the Petitioner was "lying." – a devastating blow to the Petitioner's credibility in front of the jury. (App'x. D-2, p. X). and to withdraw his representation nine months later without ever filing her case (App'x. E-9).

The Eleventh Circuit, in affirming the dismissal of the tortious interference claim at the pleading stage stated "Moore's claim fails. Her allegations relied on speculation and were not grounded in factual support. The emails attached to her complaint

reflected settlement negotiations, not evidence of a conspiracy...the claim was properly dismissed.” The reviewing court effectively sanctioned the conduct of a corporate employer engaging in systemic wage theft, his attorney, and Petitioner’s own attorney in obstructing Petitioner’s access to the courts to recover her wages and run the clock on the limitations period, forcing her to proceed *pro se* and then subjecting her to procedural gamesmanship and abusive, dilatory litigation tactics as retribution for appearing without representation and barring all recovery for a victim of admitted wage theft.

The Eleventh Circuit’s view of this case has gravely undermined the fundamental protective and remedial purpose of the FLSA intended to protect workers and instead used it to injure a worker and protect the employer who effectively stole her wages, her employment, her housing, and her health and enabled the employer to walk away with her stolen wages and impunity. The courts below instituted a form of modern-day slavery by forcing the Petitioner to labor without pay and sanctioning the Respondents’ use of a deceptive job posting to do it, promising a salary they never intended to pay for a position they asserted at trial- never even existed, in direct conflict with their assertions in the defamation action – “Ms. Moore was a veterinary technician for the store.” (App’x. E-11), in Respondent Marquez’s Affidavit in support of summary judgment, “ Ms. Moore was hired in early August 2018 after applying for a job through Indeed.com. To the best of our knowledge, it was a full-time Veterinary Technician job paying \$35,000 annually as claimed by Ms. Moore.” (Dkt. 66-1, p. 1

Pervasive Post-Employment Retaliation: Approximately one week after Petitioner's counsel withdrew his representation, Respondent sent Petitioner a Cease and Desist Letter falsely accusing her of posting a "defamatory" picture of dogs in cages on a Facebook page, demanded she take down the page immediately, and threatened to sue her. The letter claimed they had "been in communication with Facebook" who allegedly confirmed the picture was posted from Petitioner's computer (App'x. E-14). Responsive discovery later confirmed this was a lie- "There were no communications with Facebook." (App'x. C-6).

When Petitioner subsequently emailed Respondents' counsel requesting to see the wage agreement she was accused of tampering with, counsel responded instead by attaching a defamation complaint filed in state court, falsely accusing her of attempting to "extort" her employer through her attorney (apparently in reference to the pre-suit notice) and then taking to Facebook out of revenge for not submitting to her "extortion" demands." The action, filed but with no attempt to formally serve the Petitioner, remained open in court records for the next year, appearing on pre-employment screenings at a time when Petitioner sought new employment, damaging her professional reputation and employability.

The action was filed **fifteen months** before the FLSA action and was administratively dismissed (without opposition) one month *after* the FLSA filing, placing it squarely within the FLSA's two-year limitations period.

Admission of Retaliation and Deceit: The employer subsequently admitted in discovery to terminating the Petitioner for her wage complaint and further

admitted that no inquiry was ever conducted into Petitioner's unpaid wage complaint- a willful violation of the FLSA in itself, demonstrating immediate and knowing malice. (App'x. C-6)

B. The Retaliation Claim Error

In response to the FLSA action, respondents moved to dismiss the action in its entirety at the pleading stage, claiming Petitioner's internal complaint was not "protected activity" under the FLSA or Whistleblower Act, but "merely" a contract dispute, while ignoring the Respondents' subsequent acts of obstruction, malice, and continuing retaliation in its most extreme forms.

At the time of her internal complaint, the Petitioner had no knowledge of any "contract" in the legal sense. The underlying motive for her complaint was the \$2000 shortfall that left her unable to pay her rent. Her primary concern was *survival*, not legal semantics. She had no reason to know or to believe at that time that this was intentional wage theft rather than simply a payroll error, given that she was new and this was her first paycheck.

For the Court to characterize a complaint where 90% of Petitioner's wages were missing as a complaint about a broken promise was to ignore the stark reality of wage theft for workers who rely on their paychecks to sustain their existence. The Respondents' wage theft led directly to eviction and the loss of her belongings three weeks after her termination. This case painfully demonstrates the real-world consequences for victims of wage theft that extend beyond any immediate economic harm.

In addressing the motion to dismiss, the District Court dismissed the FLSA and Whistleblower retaliation claims at the pleading stage for failure to state a claim, holding that the Petitioner's internal complaint was not "protected activity" but "merely" a contract dispute, despite the employer's subsequent acts of obstruction and malice. The Petitioner had no knowledge of any "contract" in the legal sense at the time of her complaint and her primary concern at that time was the \$2000 she was shorted on her paycheck. Her primary concern at the time of her complaint was *survival*, not legal semantics. For the Court to hold otherwise is to ignore the stark reality of wage theft for a worker who relied on her paycheck to sustain her existence.

C. The Willfulness/Evidentiary Error

The minimum wage claim proceeded to a jury trial, where the Petitioner was forced to proceed without any discovery materials or employment records to support her claims as the Respondents refused to produce a single document requested (App'x. C-5) during the condensed eight-week discovery period over the Christmas holiday in the Court's *sua ponte* Scheduling Order (App'x. C-3). The Order foreclosed any assistance compelling discovery after the close of the discovery window. (C-3, p.4)

Instead, Respondents attempted to introduce fabricated time and pay records emailed to the Petitioner for the first time on the eve of trial, including post-hoc work schedules reflecting part-time hours on which the name of the other employees were not those with whom she worked and did not match the names on her own copies of the staff schedules retained from her employment. Fortunately, a

last-minute continuance allowed Petitioner time to have these post-discovery post hoc fabrications excluded from admission at trial.

At the outset of trial day one, the defense moved to exclude all of Petitioner's evidentiary documents as "unauthenticated" - raising the issue for the first time that day despite the document being filed in the record with the complaint three and a half-years prior. In response, the Court "cherry-picked" Petitioner's exhibits, excluding approximately half of her documents, including the work schedules that were the only evidence of her full-time hours and precluding the jury from hearing evidence of the Respondents' post-employment continued retaliatory and obstructive conduct. This on-the-fly exclusion left holes in the full story and destroyed Petitioner's presentation of her case to the jury and her ability to effectively convey the willful nature of the Respondents' conduct over the five years during which she sought to recover her unpaid wages.

When the jury concluded that respondents failed to pay minimum wage but also found no willful violation of the FLSA with regards to the unpaid wages, largely due to the fact that the defense presented the jury with a false narrative, falsely claiming again that Petitioner was a part-time kennel technician again and not owed any wages, effectively causing a trial by ambush. Although the Court excused the jury and admonished defense counsel, he continued to make the same misrepresentations for the remainder of the two-day trial. The defense called no witnesses and presented no evidence or case in chief.

After nearly four years in the district court on this matter, the jury returned a finding of "no willfulness," upon which the trial court dismissed the entire case with prejudice over a minor **16-day variance** in the two-year limitations period based on the date of Petitioner's termination- as a direct result of the Court's failure to recognize the two-years of continuing retaliatory conduct in its most extreme forms that would have put the accrual date squarely within the two-year limitations period for non-willful violations. By failing to recognize the Respondents' egregious post-employment continued retaliatory conduct, the erroneous finding of no willfulness was dispositive of the entire case. (App'x. D-3)

When the reviewing court subsequently affirmed, it denied all redress to a victim of proven wage theft who became unemployed, lost her housing, and became disabled as a direct result of these protracted actions. The Eleventh Circuit sanctioned these errors below, creating a legal standard that insulates employers from liability for both wage retaliation and willful violations with the force of law, thereby incentivizing Respondents and similar employers to engage in wage theft and extreme retaliation, using this case to create a blueprint for how to do so with impunity. By affirming the flawed legal interpretations below, the Eleventh Circuit protects malicious employers at the expense of workers, particularly those in Florida, Alabama, and Georgia – a condition that demands this Court's correction to prevent further harm.

II. ARGUMENT

1. The Eleventh Circuit's "Magic Words" Standard Directly Violates FLSA Protected Activity Precedent

The ruling of the Courts below—that the Petitioner’s internal complaint was merely a non-protected “contract dispute” and unprotected because she did not explicitly use the language, “minimum wage” (App’x. C-2), establishes a legally indefensible standard that directly conflicts with this Court’s controlling precedent in *Kasten v. St.-Gobain Performance Plastics Corp.*, 563 U.S.1 (2011), which established a practical, functional standard for what constitutes a “protected” complaint under the Act. Petitioner’s internal complaint fully satisfied that standard, but the vagaries of judicial interpretation in this case unraveled the FLSA at its core.

The Undisputed Protected Acts and Retaliatory Termination

The record is irrefutable: the Petitioner was terminated, on her day off, approximately **30 minutes** after engaging in a confluence of four specific actions: (1) complaining about a \$2,000 shortfall (2) protesting a retroactive reduction in her rate of pay and (3) “illegal” pay practices, and (4) asserting her intent to “hire an attorney.”

This instantaneous termination, upon the first sign of an internal wage complaint, is compelling evidence of the Respondents’ retaliatory motive and intent to evade scrutiny as it is difficult to conceive conduct that could be more illustrative of “reckless disregard” and bad faith. The trial court’s dismissal of the retaliation claims effectively rewarded the Respondents for being so swift to terminate that

the Petitioner did not even have time to do the math, thereby reinforcing their belief that there are no consequences under federal law and that the cost of noncompliance is outweighed by the profits generated from systemic wage theft. Respondents demonstrated capacity for retaliation is highly effective in silencing aggrieved workers. This is the first instance where an aggrieved employee effectively exposed the systemic exploitation of workers by Respondents, who own more than twenty Petland franchises nationwide. The implications of this case and the harm that will undoubtedly be inflicted on similarly situated workers going forward are far-reaching and extend beyond the harm that resulted to this single Petitioner and must be corrected. Left unaddressed, the federal endorsement of such egregious and exploitative labor practices and procedural gamesmanship to achieve a malicious purpose will undoubtedly lead to exponential harm to the nation's workforce.

The Lower Court's Fatal Mischaracterization

The Eleventh Circuit erred by dismissing this confluence of protected activity as a simple "contract dispute" because the Petitioner did not use the "magic words" *minimum wage*. This finding is indefensible because the employer's own text message confirmed they understood the complaint as a "wage disagreement" requiring their "legal department" to intervene. Moreover, the employer later admitted in discovery that they fired the Petitioner for her wage complaint¹- a

¹ "Plaintiff was terminated for making baseless, unprofessional accusations against the Defendants." (Inter. No.2) App'x. C-6, p.1

direct admission of retaliation that the courts failed to properly address under the *Kasten* standard. (App'x. C-6), which requires only that a complaint be "sufficiently clear and detailed for a reasonable employer to understand it... as asserting rights under the Act."

II. The Erroneous Jury Finding of "No Willfulness" was Dispositive, Shielding Malicious Conduct

The trial court's decision to severely limit the evidence presented to the jury on the question of willfulness and subsequently dismiss the entire case based on the jury's finding of "no willfulness," misapplied the *McLaughlin* standard and rewarded the employer's bad faith and obstruction.

The Willfulness Standard Requires Considering Reckless Disregard

The statute of limitations for an FLSA claim is extended from two years to three years if the employer's violation is found to be "willful" (29 U.S.C. § 255(a)). This Court defined willfulness in *McLaughlin v. Richland Shoe Co.*, 486 U.S. 128 (1988), as whether the employer knew or showed reckless disregard for the matter of whether its conduct was prohibited by the statute.

The most potent and unmistakable evidence of **reckless disregard** in this entire case was the Respondent's conduct *after* the initial violation:

Intentional Deception of Counsel: Misrepresenting Petitioner's job title and wage rate to her attorney, leading to the attorney's nine-month delay and subsequent withdrawal. This testimony provides conclusive evidence of a deliberate

attempt to obstruct the judicial process and conceal the FLSA violation. (App'x. D-2) Respondents deprived petitioner of her representation, forcing her to proceed *pro se* and then engaged in procedural gamesmanship to obtain an unfair advantage over the *pro se* Petitioner, causing a case arising from \$2000 in wages and three weeks of employment to drag on from nearly four years while readily admitting they owed wages but persisting until it reached trial in order evade liability on a procedural technicality rather than correct their own payroll debt..

Deliberate Deceit: Admitting in discovery that no promised "legal department" inquiry was ever conducted, proving that it was only made to delay the Petitioner from acting while she waited for the underpayment to be corrected. The Respondents also stated that an investigation was "unnecessary" demonstrating that they knew Petitioner was shorted pay and that it was intentional. (App'x. C-6). The Petitioner was deprived of her representation by the Respondents' lies and then the procedural maneuvering and refusal to produce the records that would have proven her claims punished the Petitioner for having to proceed without representation, creating a David and Goliath situation in which an unrepresented victim of wage theft and retaliation is doomed to fail from the outset against a high-dollar corporate attorney experienced in procedural maneuvering and engaging in conduct that would never be tolerated by an unrepresented party and should not be tolerated at all - by any litigant or representative, in a system that purports to seek truth and dispense justice.

This was not a case of harmless error. The culmination of events denied Petitioner a fair trial and led directly to an unjust outcome. What transpired in this case is not justice. It is a chronicle of how a party's deliberate obstruction and misrepresentations, facilitated by procedural missteps and culminating in a significant legal error, can defeat the remedial purpose of the FLSA. The severely truncated discovery period, Respondents' complete obstruction of that process, and the Court's last-minute exclusion of half of her evidence on the morning of trial, made it impossible for her, proceeding *pro se*, to effectively prove her case and prevented the jury from seeing the full picture of respondents' bad-faith conduct, which was the most powerful evidence of willfulness, thereby dooming her claim under the two-year statute of limitations, resulting in a manifest injustice that federal courts have a duty to correct.

The Power of "Under or Related To"

Under the statutory language of the FLSA anti-retaliation statute (29 U.S.C. § 215(a)(3)):

*"...because such employee has filed any complaint **under or related to this chapter...**"* the petitioner's internal complaint fundamentally **related to** the core subject matter of the FLSA—the lawful payment of earned compensation.

The Eleventh Circuit chose to ignore the broad, remedial meaning of "**related to**" and instead applied a narrow, hyper-technical reading that demanded the Petitioner prove the *specific statutory violation* (like minimum wage or overtime)

with “**magic words**,” and wrapped her factual complaint in a “**contractual cloak**” because she did not explicitly use the words that would have protected her from the retaliation that followed.

The core of this dispute was never about an employer’s broken *promise* (a contract), it was about a violation of the *law* (the FLSA). This distinction was entirely artificial and legally flawed because every wage dispute is technically a “contract dispute” because it involves promised compensation. If the Eleventh Circuit’s logic were correct, **no employee could ever file an internal FLSA complaint** unless they first consulted an attorney to use the correct statutory language.

The Petitioner directly challenges this artificial distinction by arguing that the Court’s approach **conflicts with *Kasten***, which explicitly rejected the “magic words” requirement and that the complaint was about a payment so low it *necessarily* violated minimum wage, making it “**related to**” the Act by economic reality. Most crucially, the Eleventh Circuit’s creation of this “contract dispute” loophole **frustrates the remedial purpose** of the FLSA by chilling legitimate wage complaints across the entire Circuit in direct conflict with this Court’s precedence and other circuits who follow its direction, creating two distinct standards for FLSA protections depending on the geography of the lawsuit. These technical failures are precisely what the Petitioner is respectfully requesting that this Court correct.

This Court’s intervention is urgently needed to resolve the widespread Circuit conflict regarding the definition of “protected activity” under the Fair Labor

Standards Act and to determine the proper application of the willfulness standard when faced with a continuous, post-termination pattern of retaliation and obstruction. Absent this Court's clarification, the anti-retaliation and remedial provisions of the FLSA will remain unevenly enforced across the nation. The 4.5 million victims of wage theft in this nation every year deserve this Court's guidance to clarify that an employee's complaint about unpaid wages, irrespective of any secondary contractual agreements or "magic words" are always protected under the FLSA, thereby safeguarding the rights of every working person in the country. The decision of the Eleventh Circuit conflicts with this Court's precedent, undermines the core protections of the FLSA, and sanctions a miscarriage of justice. Left uncorrected.

This case presents a dangerous erosion of worker protections under the Fair Labor Standards Act. By establishing a "magic words" test for protected activity and refusing to recognize clear evidence of post-employment retaliation, the Courts used these errors to create an unjust procedural bar that extinguished a meritorious wage claim. This Court's intervention is necessary to correct these cascading errors and restore the vitality of the FLSA's anti-retaliation provisions.

This case is an opportunity for this Court to close the gap between contract law and the FLSA by creating a new precedent for federal judges to uniformly interpret the law in a way that aligns with the Acts protective, remedial, and humanitarian purpose.

III. CONCLUSION AND PRAYER FOR RELIEF

For the foregoing reasons, the judgment of the United States Court of Appeals for the Eleventh Circuit should be reversed, or in the alternative, the Petition for a Writ of Certiorari should be granted.

Petitioner, Melanie Nicole Moore, hereby declares under penalty of perjury that the foregoing is true and correct.

Executed on this 5th day of November 2025.

Respectfully submitted,

/s/Melanie Nicole Moore
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tolerated at all - by any litigant or representative, in a system that purports to seek truth and dispense justice.

Weaponizing the Legal System as Retaliation: Respondents' sent Petitioner a Cease and Desist letter one week after her attorney's abrupt withdrawal falsely accusing her of posting a "defamatory" picture of dogs in cages on Facebook and threatening to sue her, stating "We have been in touch with Facebook to confirm the computer used to create the page, etc." (App'x. E-14). Respondents subsequently admitted in discovery that "There were no communications between Defendants and Facebook." (App'x. C-6, p.5), revealing the retaliatory motive for the Cease-and-Desist letter. Section 203(d) of the FLSA also defines "employer" to include "any person acting directly or indirectly in the interest of an employer in relation to an employee" and explicitly prohibits legal representatives from retaliating against workers who complain about wage matters. *Arias v. Raimondo*, No. 15-16120 (9th Cir. 2017).

Malicious Prosecution: When Petitioner emailed defense counsel requesting to see the wage agreement she was accused of "altering," counsel responded instead with a baseless state court defamation complaint filed (App'x. E-10) filed in a jurisdiction 350 miles away seeking \$15,000 in damages for the Facebook picture from the Petitioner, who had become homeless as the direct consequence of respondents' wage theft. The defamation complaint falsely accused her of attempting to "extort" her former employer through her attorney (App'x. E-11)- a clear attempt to cause professional reputation harm at a critical time when

Petitioner sought employment to regain her stability. Not only did the Respondents' wage theft cause her to lose her housing, and become homeless, but the subsequent prolonged retaliatory conduct inflicted after her employment ended made sure that she remained so.

The action, filed in mid-2019 – *fifteen months* prior to the FLSA action but never served (App'x. E-12), remained open in court records for a year until it was administratively dismissed for failure to prosecute approximately one month *after* the FLSA case was filed, making the timeliness of Petitioner's retaliation claim indisputable (App'x. E-13). The failure of the courts below to recognize baseless legal threats and litigation as actionable retaliation under the FLSA allowed the respondents to walk away with Petitioner's stolen wages and effectively chilled other victims of wage theft from speaking up by demonstrating that there are no legal consequences under federal law for employers who steal wages and that the consequences to workers who speak up outweigh any benefit derived from doing so – precisely the message Respondents intended to send when they spent six years and thousands of dollars to avoid paying \$2000 in wages they readily admitted owing. The Court's below played a critical role in delivering that message.

This entire pattern of malicious and obstructive legal warfare demonstrates a reckless indifference, not just to the initial minimum wage violation, but to the Petitioner's right to pursue her claims and remedies under **29 U.S.C. § 216(b)**.

When combined with the three-year campaign of lying to the courts about Petitioner's job title and hours to conceal wage theft, this conduct is the very

definition of “reckless disregard.” The lower court’s refusal to recognize this as willfulness defies logic and precedent. Allowing this to stand would effectively render the three-year statute of limitations meaningless, as it is difficult to conceive a more compelling fact pattern for willfulness.

The Dispositive Error of Evidentiary Exclusion

By precluding the jury from considering this extensive evidence of post-termination bad faith, the trial court effectively prevented the jury from making a true and unfettered finding of “no willfulness.”

The resulting verdict of “no willfulness” was dispositive: because the jury failed to find the violation was willful, the two-year statute of limitations was applied instead of the three-year limit. This application allowed the court to dismiss the entire case on a technical **16-day variance**. This judicial result—where the employer’s deliberate deceit created the limitations defense that led to dismissal—is a fundamental error that grants the employer an unjust reward for its malicious obstruction, contravening the remedial purpose of the FLSA.

The Eleventh Circuit trivialized Petitioner’s wage complaint as a mere disagreement over a broken promise rather than a statutory violation - “She was promised more and paid less.” (App’x. A, p.10), thereby allowing employers to “contract around” the FLSA. Again, this flawed interpretation protects employers at the expense of workers and undermines the protections for workers the Act was

intended to provide through the statute's broad language, making the lower court's ruling so indefensible.

This was not a case of harmless error. The culmination of events denied Petitioner a fair trial and led directly to an unjust outcome. What transpired in this case is not justice. It is a chronicle of how a party's deliberate obstruction and misrepresentations, facilitated by procedural missteps and culminating in a significant legal error, can defeat the remedial purpose of the FLSA. The severely truncated discovery period, Respondents' complete obstruction of that process, and the Court's last-minute exclusion of half of her evidence on the morning of trial, made it impossible for her, proceeding *pro se*, to effectively prove her case and prevented the jury from seeing the full picture of respondents' bad-faith conduct, which was the most powerful evidence of willfulness, thereby dooming her claim under the two-year statute of limitations, resulting in a manifest injustice that federal courts have a duty to correct.

The Power of "Under or Related To"

Under the statutory language of the FLSA anti-retaliation statute (29 U.S.C. § 215(a)(3)):

*"...because such employee has filed any complaint **under or related to this chapter...**"* the petitioner's internal complaint fundamentally **related to** the core subject matter of the FLSA—the lawful payment of earned compensation.

The Eleventh Circuit chose to ignore the broad, remedial meaning of "**related to**" and instead applied a narrow, hyper-technical reading that demanded the Petitioner prove the *specific statutory violation* (like minimum wage or overtime) with "**magic words**," and wrapped her factual complaint in a "**contractual cloak**" because she did not explicitly use the words that would have protected her from the retaliation that followed.

The core of this dispute was never about an employer's broken *promise* (a contract), it was about a violation of the *law* (the FLSA). This distinction was entirely artificial and legally flawed because every wage dispute is technically a "contract dispute" because it involves promised compensation. If the Eleventh Circuit's logic were correct, **no employee could ever file an internal FLSA complaint** unless they first consulted an attorney to use the correct statutory language.

The Petitioner directly challenges this artificial distinction by arguing that the Court's approach **conflicts with *Kasten***, which explicitly rejected the "magic words" requirement and that the complaint was about a payment so low it *necessarily* violated minimum wage, making it "**related to**" the Act by economic reality. Most crucially, the Eleventh Circuit's creation of this "contract dispute" loophole **frustrates the remedial purpose** of the FLSA by chilling legitimate wage complaints across the entire Circuit in direct conflict with this Court's precedence and other circuits who follow its direction, creating two distinct standards for FLSA protections depending on the geography of the lawsuit. These

technical failures are precisely what the Petitioner is respectfully requesting that this Court correct.

This Court's intervention is urgently needed to resolve the widespread Circuit conflict regarding the definition of "protected activity" under the Fair Labor Standards Act and to determine the proper application of the willfulness standard when faced with a continuous, post-termination pattern of retaliation and obstruction. Absent this Court's clarification, the anti-retaliation and remedial provisions of the FLSA will remain unevenly enforced across the nation. The 4.5 million victims of wage theft in this nation every year deserve this Court's guidance to clarify that an employee's complaint about unpaid wages, irrespective of any secondary contractual agreements or "magic words" are always protected under the FLSA, thereby safeguarding the rights of every working person in the country. The decision of the Eleventh Circuit conflicts with this Court's precedent, undermines the core protections of the FLSA, and sanctions a miscarriage of justice. Left uncorrected.

This case presents a dangerous erosion of worker protections under the Fair Labor Standards Act. By establishing a "magic words" test for protected activity and refusing to recognize clear evidence of post-employment retaliation, the Courts used these errors to create an unjust procedural bar that extinguished a meritorious wage claim. This Court's intervention is necessary to correct these cascading errors and restore the vitality of the FLSA's anti-retaliation provisions.

This case is an opportunity for this Court to close the gap between contract law and the FLSA by creating a new precedent for federal judges to uniformly interpret the law in a way that aligns with the Acts protective, remedial, and humanitarian purpose.

III. CONCLUSION AND PRAYER FOR RELIEF

For the foregoing reasons, the judgment of the United States Court of Appeals for the Eleventh Circuit should be reversed, or in the alternative, the Petition for a Writ of Certiorari should be granted.

Petitioner, Melanie Nicole Moore, hereby declares under penalty of perjury that the foregoing is true and correct.

Executed on this 5th day of November 2025.

Respectfully submitted,

/s/Melanie Nicole Moore
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