

# THE SMALL BUSINESS DOCKET

Issue 22 | October 2022

## AMICUS (FRIEND OF THE COURT) CASES

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### *Halstead Bead v. Richards* – Challenging Louisiana’s Complicated Sales Tax Regime

- Where → United States Court of Appeals for the Fifth Circuit
- Issue → Did the district court correctly determine it lacked jurisdiction to hear a remote seller’s constitutional challenge to Louisiana’s sales tax because of the Tax Injunction Act?
- NFIB Position → No. Our brief explains to the court how Louisiana’s complicated sales tax system burdens all businesses – both in-state brick and mortar businesses and out-of-state remote sellers, like Halstead Bead.

### *Ohio v. Environmental Protection Agency (EPA)* – Fighting California’s Electric Car Mandate

- Where → United States Court of Appeals for the D.C. Circuit
- Issue → Can EPA permit California to impose highly restrictive greenhouse gas emission standards, i.e., an electric car mandate?
- NFIB Position → No. Our brief argues that the “major-questions doctrine” precludes EPA’s allowance of California’s standards, and that EPA failed to consider the nationwide effects of California’s proposed emission standards. The brief also notes for the court the impact of high energy costs on small businesses.

## NEW RESOURCE FOR SMALL BUSINESS!

### NFIB Wage and Hour Guide

Minimum wage laws and formulas for determining exempt or nonexempt status are challenging for employers. That’s why NFIB developed the [NFIB Guide to Wage and Hour Laws](#), which is intended to help small businesses comply with the Fair Labor Standards Act. Download your FREE copy at [nfib.com/legal](https://nfib.com/legal).



***“Life Starts All Over Again When it Gets Crisp in the Fall.”***

***- F. Scott Fitzgerald***

### *Texas v. Yellen* – Supporting States’ Rights to Lower Taxes

- Where → United States Court of Appeals for the Fifth Circuit
- Issue → Is the American Rescue Plan’s Tax Mandate provision unconstitutional?
- NFIB Position → Yes. NFIB’s amicus argues that the district court properly enjoined enforcement of the Tax Mandate. The Mandate is a federal intrusion in the states’ sovereign realm of tax policy and is an unduly coercive condition on federal funds. Further, it harms small businesses by preventing states from reducing their tax burden during the pandemic.

### *Kuciemba v. Victory Woodworks* – Limiting Employer Liability

- Where → California Supreme Court
- Issue → Should California deem claims deriving from a workplace injury – in this case an employee’s spouse’s Covid-illness - as only compensable by workers’ compensation and bar private negligence claims?
- NFIB Position → Yes. We argue that California courts should not impose tort liability on small businesses for third-party claims potentially arising from the workplace. We argue that these derivative claims are part of the workers’ compensation bargain, and the State should not impose a duty on employers to protect non-employees from “take-home” COVID-19.



# THIS MONTH'S HELPFUL RESOURCES



## Webinars:

- [What's Your Digital Marketing Success Plan?](#) – 10/5/2022

## Blog Articles:

- [Time Off to Vote – Most States Allow Employees to Take Leave](#) – 10/21/2022
- [U.S. Department of Labor Proposes Rule Changes on the Classification of Independent Contractors](#) – 10/14/2022
- [NPPC v. Ross – Supreme Court to Consider Whether California Can Regulate Food Production for Entire Nation](#) – 10/3/2022
- [NFIB Jumps into Lawsuit to Stop Oregon Climate Protection Program](#) – 9/30/2022

## NFIB Comments/Miscellaneous:

- [NFIB Letter to the Chairperson of the Federal Trade Commission Urging the FTC to Not Restrict the Ability of Small Businesses to Maintain Business Premises Security and Use/Sell Basic Transactional Information](#) – 10/12/2022

## Small Business Support Line:

- In October, the most frequently inquired about topics were:
  1. Employee Retention Tax Credit
  2. Legislative/Legislation-Related Questions
  3. Non-ERTC Tax Issues
- Reach out to the SBLC at [info@nfib.org](mailto:info@nfib.org) or better yet, give us a call at (800) 552-NFIB.

## CONTACT

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### **NFIB Small Business Legal Center**

555 12th Street, NW, 10th Floor

Washington, DC 20004

[legalcenter@nfib.org](mailto:legalcenter@nfib.org)



1-800-552-NFIB



[NFIB.com/foundations/legal-center/](https://www.nfib.com/foundations/legal-center/)

- **Beth Milito** – Executive Director  
(202) 406-4443 | [elizabeth.milito@nfib.org](mailto:elizabeth.milito@nfib.org)
- **Rob Smith** – Staff Attorney  
(202) 314-2027 | [rob.smith@nfib.org](mailto:rob.smith@nfib.org)
- **William Klepp** – SBLC Member Outreach Coordinator  
(202) 314-2070 | [william.klepp@nfib.org](mailto:william.klepp@nfib.org)

*The NFIB Small Business Legal Center is a 501(c)(3) public interest law firm, which serves as the voice for small businesses in the nation's courts and a legal resource for small business owners nationwide. As a nonprofit, our work depends on the generosity of our donors.*

*To help us continue our fight for small business owners across the country, you can make a tax-deductible donation by going to [www.nfib.com/sblcgive/](https://www.nfib.com/sblcgive/).*