

The Brief

WINTER 2026

NFIB at the Supreme Court: Four Major Decisions Coming Soon

The NFIB Legal Center begins the year with several key cases pending before the United States Supreme Court.

First, we filed an amicus (“friend-of-the-court”) brief in [Enbridge Energy LP v. Nessel](#) to support business-friendly court procedures. The case considers whether district courts can waive the thirty-day deadline for defendants to move cases to federal court. Small businesses often benefit from federal judges, and our brief asserts they have the right to transfer cases. We argue government plaintiffs should not use unfair tactics to prevent this.

We also filed a brief in [Pung v. Isabella County](#), which asks if the government can seize real estate because of unpaid property taxes and sell it for less than fair market value, destroying the landowner’s equity in the property. This practice is known as “home equity theft,” which the Supreme Court ended in [Tyler v. Hennepin County](#) thanks to NFIB’s advocacy. Our brief argues that property owners should be fairly compensated after tax lien sales.

In [Flowers Foods, Inc. v. Brock](#), we filed a brief defending the right to arbitration. The case involves local delivery workers who want to be considered interstate transportation workers so that their arbitration clause can’t be enforced. However, arbitration is essential for small businesses, serving as an alternative to the costly and time-consuming legal process. Our brief asks the Court to safeguard arbitration for small businesses nationwide.

Finally, we filed a brief in [Montgomery v. Caribe Transport II, LLC](#) to protect the transportation industry from unfair lawsuits. After an accident, an injured driver sued the truck driver who injured him, as well as the freight broker who hired the truck driver, claiming that the truck driver was negligently hired. However, federal law does not allow this claim. Our brief argues that if freight brokers are exposed to additional liability, businesses will suffer and transportation costs will skyrocket.

Thanks to the generous support of our donors, the NFIB Legal Center has been able to fight government overreach and gamesmanship in the courts, ensuring that small business owners can be victorious.

To keep up with our amicus work and the outcome of these cases please visit the Legal Center’s website at: **[NFIB.com/legal](https://www.nfib.com/legal)**

NFIB Small Business Legal Center: 2025 Achievements and 2026 Outlook



In 2025, the NFIB Small Business Legal Center experienced a busy and successful year. The legal team worked tirelessly to address a range of issues challenging several significant regulations. These included disputes over the Federal Trade Commission's (FTC) rule limiting auto-renewals, restrictions on employer free speech, a land grab by state authorities, and a governor's mandate for project labor agreements. Additionally, the Legal Center filed 37 amicus briefs in federal and state courts across the country.

The work accomplished in 2025 was made possible through the support and financial contributions of NFIB members like you. These resources were essential in enabling the Legal Center to fight for small business interests in courts across the nation. Looking ahead, the coming year promises to be equally demanding, and the Legal Center remains committed to advocating for and winning on behalf of small businesses.

DEFENDING FEDERAL DEREGULATORY EFFORTS

The Trump Administration has pledged to roll back several labor mandates, including the burdensome overtime rule and independent contractor rule, which were both paused by the courts. The NFIB Small Business Legal Center's ongoing litigation will help maintain pressure on agencies and provide the legal analysis and support to achieve permanent withdrawal of these rules.

STATE AND LOCAL LEGAL BATTLES

As we begin 2026, small businesses across the country face a wave of proposals in state legislatures that could make it harder to operate, grow, and create jobs. From new compliance burdens to mandates that would raise costs without improving outcomes, the landscape is shifting quickly — and not always in ways that favor small businesses. Anti-business groups are expected to push for additional state and local regulations, such as paid leave and higher minimum wages. In some instances, these regulations may be enacted in ways that violate state constitutions, opening the door to legal challenges. The Legal Center is ready to defend against these actions in court.

ADDRESSING FRIVOLOUS LAWSUITS

The legal environment remains challenging as the trial bar continues to introduce new legal theories, particularly under the Americans with Disabilities Act (ADA), in lawsuits targeting small-business websites and mobile apps.

This “entrepreneurial” approach has often seemed more focused on generating attorney fees than on protecting people with disabilities. We will continue our work defending small businesses against frivolous lawsuits and unwarranted legal actions.

OUR DONORS DRIVE OUR SUCCESS

These battles are not theoretical. They have real-world consequences for the long-term stability of the small businesses that anchor our communities. While the challenges are significant, our advocacy remains strong because of your support. Your investment in the Legal Center enables us to fight for fair, workable policies and to defend small employers from costly, burdensome mandates.

Thank you for standing with us — and with the millions of small businesses that keep our economy running. Together, we'll continue protecting small business owners' freedom to own, operate, and grow their businesses.

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NFIB Legal Center Achieves Victory Against Unlawful State Labor Bills

The NFIB Legal Center recently filed amicus briefs in a trio of cases that will preserve current private-sector labor law against States' attempts to steal federal authority and impose radical reforms.

For nearly a century, the National Labor Relations Act (NLRA) has provided the National Labor Relations Board (NLRB) with exclusive authority over private sector-labor relations. Recently, the NLRB was without a quorum for several months, meaning that it couldn't make new labor rules. States like New York and California are attempting to use this circumstance as an opportunity to seize that authority for themselves.

On September 5, 2025, New York Governor Kathy Hochul signed [S.8034A](#) into law, amending the New York State Labor Relations Act (NYSLRA). Before the amendment, the law gave authority to a state agency, the Public Employment Relations Board (PERB), to oversee public sector labor relations. But now, PERB has authority over private sector employees until the NLRB "successfully asserts jurisdiction"—meaning, NLRB has to get a court order to stop PERB.

Two lawsuits were filed challenging the New York law: [Amazon.com Services LLC v. NY Public Employment Relations Board](#), and [NLRB v. New York State Public Employment Relations Board](#). The NFIB Legal Center filed amicus briefs in both cases, arguing that the NLRA provides the NLRB with exclusive authority over labor relations in the private sector. After we filed our brief in the *Amazon* case, the federal court issued a preliminary injunction, which stopped the New York law from taking effect.

New York is not the only State to attempt this unlawful power grab. California has likewise joined in. On September 30, 2025, less than a month after New York's law was enacted, Governor Gavin Newsom signed [AB 288](#). As the California law has it, the NLRB has "impliedly" ceded its jurisdiction when it lacks a quorum, and therefore, California's PERB can step in to regulate private-sector employees. It also includes a provision that the NLRB's authority will go to PERB if the NLRB has "lost its independence." But as federal law mandates, state agencies can only step in when the NLRB declines—by decision or by rule, not by implication or a "loss of independence"—to assert jurisdiction.

A challenge to the law came quickly with [NLRB v. State of California](#), filed in the U.S. District Court for the Eastern District of California. The NFIB Legal Center wrote an amicus brief supporting the challenge. We argued that for a state like California to step in, the NLRB needs to affirmatively decline jurisdiction. In addition, we

pointed out that if other states adopt similar laws, it will result in a patchwork system that is difficult for businesses to navigate.

Thankfully, the court agreed with us. Chief District Judge Troy Nunley held that "[t]he NLRA itself anticipates periods where the Board lacks a quorum," and that California cannot "nullify the Board" just because the Board's "independence is lost." He concluded that "the risk of conflicting jurisdiction and resolutions"—in other words, chaos—was too high, and issued a preliminary injunction, which stopped the most significant parts of the California law from being enforced.

The NFIB Legal Center helped stop the New York and California laws. Meanwhile, our State Government Relations team continues to challenge unlawful labor bills. NFIB remains committed to ensuring fair and predictable labor laws for small business owners.

Save the Date: Upcoming Legal Center Webinars You Won't Want to Miss

In 2026, the NFIB Legal Center will keep running its monthly webinars to offer small business owners useful resources and expert advice.

Join us on March 4, 2026, for an interactive session where you can pose your tax questions and receive real-time, expert responses in the Legal Center's annual favorite "Ask the CPA" webinar with Micah Fraim, CPA at Fraim, Cawley & Company.

On April 1, 2026, Jim Wilson, Founder and Principal Attorney of Wilson Law Group PLC, will discuss essential topics for small business owners regarding buying, selling, and expanding a business. This webinar will provide practical guidance, highlight key considerations, and common pitfalls to avoid—empowering you to make informed decisions.

Register for upcoming Legal Center webinars and access all our free, on-demand webinars at [NFIB.com/webinars](https://www.nfib.com/webinars).

New Year, New Laws

We witnessed some major changes to federal employment law in 2025. In an effort to keep small business owners informed about policies that directly affect their operations, the NFIB Legal Center updated its [*Guide to Federal Employment Law*](#). The new and improved guide covers the various laws that regulate small businesses and the relationship between employers and employees. The guide is broken down into 3 sections to cover labor laws, discrimination laws, and job/worker protection laws. The updated Guide to Federal Employment Law, along with several other free legal guides, can be found at NFIB.com/legal-guides.

Additionally, the NFIB Legal Center kicked off 2026 by hosting our January webinar, which focused on labor and employment issues impacting small businesses. Given the changes to federal employment laws, the January webinar featured expert guidance from labor and employment attorney Anthony Dalimonte, who shared strategies to ensure compliance with federal labor laws and how to protect your business from employee lawsuits. Watch the January webinar and all our free, on-demand webinars by visiting NFIB.com/Webinars.

FREE WEBINAR

New Year, New Laws; How to Protect Your Business from Employee Lawsuits
Now Available On-Demand



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SBLC MEDIA MENTIONS

November 19, 2025

[U.S. Environmental Protection Agency \(EPA\) Press Release](#)

In a press release, the EPA announced a proposed rule that would clearly define the definition of “waters of the United States” (WOTUS) under the Clean Water Act. NFIB President Brad Close is quoted: “NFIB appreciates that the proposed rule seeks to fully implement and adhere to the Supreme Court’s decision in *Sackett v. EPA*, fosters economic prosperity for small businesses by providing WOTUS clarity and predictability, and appropriately balances state versus federal government authority, putting an end to the longstanding practice of federal bureaucratic overreach regarding WOTUS.”

December 10, 2025

[Federal Newswire](#)

Federal Newswire applauds the amicus brief submitted by NFIB with other business groups in the case *Michael Pung v. Isabella County, Michigan* before the U.S. Supreme Court. Beth Milito, Vice President and Executive Director of NFIB’s Legal Center is quoted: “Small business property owners deserve to be fairly compensated when the government seizes their property, even if that seizure is to compensate a debt to the government. Home equity theft allows decades of equity to be erased over even miniscule amounts of debt. Diminishing a property’s worth to a fraction of fair market value would be devastating for any small business owner. NFIB urges the Court to reverse the appellate court’s decision and end this predatory, unjust practice.”

December 19, 2025

[Federal Newswire](#)

Federal Newswire highlights NFIB’s amicus brief filed in the case *Flowers Foods, Inc., et al. v. Angelo Brock* at the U.S. Supreme Court. The case concerns the enforceability of arbitration agreements. Beth Milito commented on the significance of the case for small businesses, stating that, “Small businesses rely on arbitration agreements as an alternative to the costly, time-consuming legal process. If this new interpretation is upheld, thousands of small business owners could be taken to court while the legal system redefines this long-upheld standard one case at a time. Meanwhile, small businesses everywhere will be caught in the crosshairs.”

December 25, 2025

[Small Business Trends](#)

Small Business Trends references NFIB’s amicus brief filed in the U.S. Supreme Court case *Michael Pung v. Isabella County, Michigan*. “The NFIB, joined by several other business groups, asserts that small business owners should receive fair recompense reflective of their property’s true value, especially when facing the harsh realities of tax-related foreclosures.”

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The NFIB Small Business Legal Center, a 501(c)(3) public interest law firm, protects the rights of America’s small business owners by serving as the voice of small business in the courts and the legal resource for small business owners nationwide. It is not a legal defense fund for small business, but a legal tool to affect precedent-setting legal decisions that will influence small business’ bottom line.

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