LITIGATING AFTER MULDROW, HAMILTON & AMES: LET'S GO TO TRIAL!

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CHAPTER 3

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I. INTRODUCTION

Title VII of the Civil Rights Act makes it unlawful for an employer "to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin."[1] This requires an employee to demonstrate they experienced "differences in treatment that injure" them to bring a discrimination claim.[2] This treatment must be *because of* a protected trait, and it must *affect* "the terms and conditions" of employment.[3] If you are reading this paper, you probably already know all that.

However, for decades, federal courts interpreted the statutory "terms and conditions" language to require plaintiffs to plead and prove substantial harm to take a case to trial and win it.[4] Courts demanded challenged employment discrimination actions be significant, material, concrete, *and* tangible to qualify as "adverse employment" actions, the name given to this threshold requirement for a discrimination claim.[5] But where an adverse employment action traditionally required plaintiffs to prove termination, demotion, significant pay reduction, or other major changes to their employment relationship, adverse employment action now has a drastically expanded new meaning which lowers that bar significantly.[6]

The potential breadth of employment discrimination litigation has undergone a seismic shift over the last two years. Three decisions paved this transformation: The Supreme Court's ruling in *Muldrow v. City of St. Louis*,[7] the Fifth Circuit's *en banc* decision in *Hamilton v. Dallas County*,[8] and the Supreme Court's ruling in *Ames v. Ohio Department of Youth Services*;[9] each fundamentally altering what constitutes an actionable adverse employment action under federal anti-discrimination law.

Together, these decisions establish that plaintiffs need only show "some harm" to the terms or conditions of employment to bring a successful employment discrimination case.[10] And this harm need not be significant or material. For employment discrimination litigators practicing in the Fifth Circuit in particular, these decisions have blown open the courthouse doors to categories of claims that courts would have summarily dismissed just three years ago.

But while these decisions technically lowered the legal threshold for establishing actionable discrimination, the practical effect remains unknown because cases involving minimal economic harm continue to face significant practical challenges. This article examines the doctrinal revolution wrought by *Muldrow*, *Ames*, and *Hamilton*, surveys how Fifth Circuit district courts are interpreting these standards, and analyzes the persistent gap between legal standards and litigation practicalities.

II. *HAMILTON V. DALLAS COUNTY*: THE FIFTH CIRCUIT'S PRE-*MULDROW* STEP TOWARD REFORM

Decided eight months before *Muldrow*, the Fifth Circuit's *en banc* decision in *Hamilton v. Dallas County* addressed whether a sex-based schedule policy was a sufficiently justiciable adverse employment action under Title VII.[11]

Nine female correctional officers brought a lawsuit against the Dallas County Sheriff's Department for adopting a sex-based scheduling policy under which "only male officers are given full weekends off," and "female employees are not given full weekends off and can only receive weekdays and/or partial weekends off."[12] The district court granted the County's motion to dismiss noting "an adverse employment action for Title VII discrimination claims consists of

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[1] 42 U.S.C. § 2000e-2(a)(1); *See Muldrow v. City of St. Louis*, 601 U.S. 346, 354 (2024).
[2] *Bostock v. Clayton County*, 590 U.S. 644, 681 (2020).
[3] *Muldrow*, 601 U.S. at 354.
[4] *Id.* at 365 (Thomas, J., concurring).
[5] *See id.*; *see also Hamilton v. Dal. Cty*., 79 F.4th 494, 500 (5th Cir. 2023) ("Noting that "[o]ur court strictly construes adverse employment actions to include only 'ultimate employment decisions,' such as 'hiring, granting leave, discharging, promoting, or compensating.'").
[6] *See generally Muldrow*, 601 U.S. 346.
[7] *See id.*
[8] *See generally Hamilton*, 79 F.4th at 506 ("To adequately plead an adverse employment action, plaintiffs need not allege discrimination with respect to an 'ultimate employment decision.' Instead, a plaintiff need only show that she was discriminated against, because of a protected characteristic, with respect to hiring, firing, compensation, or the 'terms, conditions, or privileges of employment'— just as the statute says.").
[9] 87 F.4th 822, 824 (6th Cir. 2023).
[10] *See Muldrow*, 601 U.S. at 364.
[11] *See generally Hamilton*, 79 F.4th at 506.
[12] *Id.*

'ultimate employment decisions such as hiring, granting leave, discharging, promoting, and compensation.'"[13] The scheduling policy denying women weekends off was not an ultimate employment decision—thus failing to establish the adverse-employment action element of a Title VII discrimination case.[14]

The Fifth Circuit's first panel begrudgingly agreed with this view because precedent compelled it, but urged the full court to "reexamine [its] ultimate-employment decision requirement."[15] The *en banc* Fifth Circuit agreed to do so.[16] In its review of the lower court's decision, the full Fifth Circuit stated it had "little difficulty concluding" these officers had plausibly alleged a violation of their "terms, conditions, or privileges of employment," given "[t]he days and hours that one works are quintessential 'terms or conditions' of one's employment."[17] By switching from the county's previous seniority-based scheduling system to one entirely based on sex, the county thus denied the officers the "privilege" of better scheduling *because of* their sex.[18] The Fifth Circuit held this was now sufficiently actionable under the text of Title VII, effectively overturning all the prior precedent holding otherwise.[19] So, moving forward courts should no longer rely on citations to pre-Hamilton (i.e., pre-2023) Fifth Circuit precedent addressing whether employer conduct constitutes an adverse action or not.

However, the Fifth Circuit cautioned practitioners that Title VII's adverse action requirements do not permit liability for "de minimis workplace trifles,"[20] while also refusing to address the precise level of minimum workplace harm plaintiffs must allege or suffer to establish a claim.[21] The Fifth Circuit left that question - what is a *de minimis* adverse action post-*Hamilton* – for lower courts and us practitioners to consider.

III. *MULDROW V. CITY OF ST. LOUIS*: ELIMINATING THE "SIGNIFICANT" HARM REQUIREMENT FOR ADVERSE ACTION NATIONWIDE

The Supreme Court's March 2024 decision in *Muldrow v. City of St. Louis* represents the most significant recalibration of employment discrimination standards in decades.[22] Justice Kagan authored the unanimous opinion in which the Court held Title VII plaintiffs need not show a challenged employment action caused "significant" harm or was "materially adverse" to establish unlawful discrimination.[23] Instead, plaintiffs need only demonstrate "some harm" respecting the terms or conditions of employment, rather than the previous "significant harm, serious harm, or substantial harm" standard most courts had adopted.[24]

Muldrow was brought by Jatonya Clayborn Muldrow who served as a sergeant in the St. Louis Police Department. She worked as a plainclothes officer in the specialized Intelligence Division specializing in public corruption and human trafficking.[25] Muldrow enjoyed an unmarked take-home vehicle, FBI credentials, and some received FBI authority.[26] When a new Intelligence Division commander arrived at the unit, he asked to transfer Muldrow out of the unit and replace her with a male police officer.[27] The department quickly transferred her to a uniformed position in another district. And while she retained her rank, pay, and supervisory role, she lost "her responsibilities, perks, and schedule."[28] Instead of working with other high-ranking officials on high-status priorities, Muldrow was now relegated to supervising day-to-day activities of neighborhood patrol officers.[29] The new position involved different work—but did not change otherwise.

The district court granted summary judgment for the employer.[30] The trial court reasoned Muldrow could not meet the heightened-injury standard that her transfer effected a significant change in working conditions producing a

[13] *Id.* at 498.
[14] *Id.*
[15] *Id.*
[16] *See generally Hamilton*, 79 F.4th at 498.
[17] *Id.* at 503.
[18] *Id.*
[19] *Id.* at 505.
[20] *Id.*
[21] *See generally Hamilton*, 79 F.4th at 505.
[22] *See generally id.*
[23] *Id.* at 346.
[24] *Id.* at 365 (Thomas, J., concurring).
[25] *Id.* at 350.
[26] *Id.*
[27] *Muldrow*, 601 U.S. at 351.
[28] *Id.*
[29] *Id.*
[30] *Id.* at 352.

"material employment disadvantage."[31] The Circuit Court stated: "[S]he experienced no change in salary or rank.[32] And the Eighth Circuit affirmed, holding Muldrow had not established that 'materially significant disadvantage' requirement to prove discrimination under Title VII, once again noting that the transfer 'did not result in a diminution to her title, salary, or benefits.'"[33]

The Supreme Court unanimously reversed this position.[34] The Court emphasized this language does not require the discriminatory action be "significant…or serious, or substantial, or any similar adjective suggesting that the disadvantaged employee must exceed a heightened bar."[35] Justice Kagan wrote: "To demand 'significance' is to add words—and significant words, as it were—to the statute Congress enacted. It is to impose a new requirement on a Title VII claimant, so that the law as applied demands something more of her than the law as written."[36] And thus, the Court solidified its new "some harm" approach; Muldrow, and similar plaintiffs, simply need to show only some injury respecting their employment terms or conditions.[37]

The practical implications of this decision are substantial. The universe of actionable employment actions grew exponentially across the country, now covering lateral transfers not involving pay or rank reductions, changes in job duties an employee reasonably finds less desirable, alterations in work schedules or locations imposing some burden, changes in supervisory relationships, and modifications to job responsibilities affecting the nature or quality of the employment relationship. But a new key inquiry arose here and everywhere: how far does "some harm" go?

IV. *AMES V. OHIO DEPARTMENT OF YOUTH SERVICES*: EQUALIZING STANDARDS FOR REVERSE DISCRIMINATION CLAIMS

The Supreme Court's decision in *Ames v. Ohio Department of Youth Services*,[38] completes the triumvirate of cases reshaping employment discrimination standards. While *Muldrow* and *Hamilton* addressed what may constitute an adverse employment action, *Ames* addressed *who* can bring discrimination claims and under what standards.

Marlean Ames worked for the Ohio Department of Youth Services as an administrator in 2014.[39] In 2017, Ames was assigned a new supervisor who was gay.[40] In 2019, Ames applied and interviewed to be the department's Chief of Quality.[41] The Department chose not to hire her for that position and instead demoted her and replaced her with a gay man, and hired a gay woman as the Chief of Quality.[42] Ames is heterosexual.[43]

Ames filed suit against the Ohio Department of Youth Services for reverse sex discrimination.[44] Reversing the Sixth Circuit Court of Appeals, the Supreme Court emphasized that Title VII's statutory language prohibiting discrimination drew no distinction based on the plaintiff's demographic status.[45] As the Court put it, the statute protects "individuals," not groups.[46] This restored a single, unified standard: majority-group plaintiffs must satisfy the same elements as any other plaintiff, no more and no less.

By holding that majority-group plaintiffs are not required to meet the Sixth Circuit's former heightened evidentiary standard when establishing a case of discrimination, *Ames*, along with *Muldrow* and *Hamilton* signifies a movement towards a more employee-protective approach. *Hamilton* expanded the limits of actionable employer conduct;[47] *Muldrow* lowered the injury threshold;[48] and *Ames* ensured that majority-group plaintiffs could enter the litigation framework on equal terms.[49]

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[31] *Id.*
[32] *Id.*
[33] *Muldrow*, 601 U.S. at 352–53.
[34] *Id.* at 353.
[35] *Id.* at 355.
[36] *Id.*
[37] *Id.* at 359.
[38] 605 U.S. 303 (2025).
[39] *Id*. at 305.
[40] *Id*.
[41] *Id*.
[42] *Id*.
[43] *Id*.
[44] *Ames*, 605 U.S. at 305.
[45] *See id* at 305–06.
[46] *Id* at 310.
[47] *See generally Hamilton*, 79 F. 4th 494.
[48] *See generally Muldrow*, 601 U.S. 346.
[49] *See Ames*, 310–11.

V. FIFTH CIRCUIT APPLICATIONS: HOW DISTRICT COURTS ARE INTERPRETING THE NEW STANDARDS

The months following *Hamilton* and *Muldrow* have produced revealing decisions demonstrating how Fifth Circuit district courts are reconciling these newly relaxed standards. While the Fifth Circuit has yet to issue numerous published opinions addressing the scope of adverse employment actions post-*Muldrow*, some district courts throughout the circuit have begun embracing the "some harm" standard while simultaneously grappling with where to draw the line between actionable discrimination and de minimis workplace grievances.

The following cases explore how courts interpret and apply this new framework. Some reveal the practical expansion of what counts as an adverse employment action—denied training opportunities,[50] demeaning work assignments,[51] and prevented work access now clear the threshold.[52] Others demonstrate the limits—COVID-19 protocols, designated eating areas, and mask requirements fall short.[53] These decisions show courts are taking *Hamilton* and *Muldrow* seriously and concurrently gatekeeping to prevent what they see as potentially trivial workplace disputes from consuming judicial resources. This case law demonstrates that while the legal standard has shifted dramatically, courts are actively developing the contours of what "some harm" means today.

A. What Clears the De Minimis Threshold

Courts are now drawing the lines between employment actions clearing the *de minimis* threshold and those falling short. In *Harrison v. Brookhaven School District*,[54] the Fifth Circuit held a Black female education administrator stated a viable discrimination claim when the school district promised and then refused to pay for her to attend a training program for prospective superintendents.[55] The court found this cleared the "*de minimis* injury" threshold, construing the denial as falling within Title VII's reach.[56]

Similarly, in *Johnson-Lee v. Texas A&M University-Corpus Christi*, the court found a Black employee given work assignments not part of her job duties—including domestic chores—met the *de minimis* threshold.[57] The assignment of tasks outside the scope of employment, particularly when those tasks carry demeaning or servile connotations, constituted sufficient harm to the terms and conditions of employment.[58]

And in *Miles v. Port Arthur ISD*,[59] the court held preventing work assignments after protected activity could constitute an adverse employment action for purposes of a retaliation, not discrimination, claim.[60] The court emphasized the ultimate inquiry is whether the employer knew of the protected activity, and that close temporal proximity combined with employer knowledge can establish the causal link necessary to survive a motion to dismiss.[61] While close temporal proximity may be lacking, the court explained, knowledge of the protected activity combined with the alleged adverse action supports a plausible inference of causation at the pleading stage.[62]

B. What Falls Short: Sambrano v. United Airlines

The Northern District of Texas considered *Hamilton* and drew a clear line in *Sambrano v. United Airlines, Inc.*[63] The plaintiffs in *Sambrano* alleged United Airlines' masking and testing protocol "altered the conditions and terms of [their] employment."[64] Plaintiffs alleged they were required to provide regular COVID-19 test results, their workstations were sprayed with Lysol "making it hard for [them] to breathe," they were "needlessly banished to eat outdoors," and required to wear an N-95 respirator as opposed to a KN-95 or cloth mask.[65]

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[50] *See Harrison v. Brookhaven*, 82 F.4th 427, 430 (5th Cir. 2023).
[51] *See Johnson-Lee v. Tex. A&M Univ.-Corpus Christi*, 739 F.Supp.3d 709, 718–19 (S.D. Tex. 2024).
[52] *See Miles v. Port Arthur ISD*, 772 F.Supp.3d 770, 790 (E.D. Tex. 2025).
[53] *See Sambrano v. United Airlines, Inc*., 707 F.Supp.3d 652, 664 (N.D. Tex. 2023).
[54] 82 F.4th 427, (5th Cir. 2023).
[55] *Id* at 430.
[56] See *id* at 431.
[57] 739 F.Supp.3d 709, 718–19 (S.D. Tex. 2024).
[58] *See id*.
[59] *See generally* 772 F. Supp. 3d 770 (E.D. Tex. 2025).
[60] *Id.* at 789–90.
[61] *See id.*
[62] *See id.*
[63] *See generally* 707 F. Supp. 3d 652 (N.D. Tex. 2023).
[64] *Id.* at 664.
[65] *Id.*

The court acknowledged these personnel-management decisions may have altered the plaintiffs' terms, conditions, and privileges of employment.[66] But the court found this drastically different from the $2,000 out-of-pocket expenditure in *Harrison* or the inability to take weekends off in *Hamilton*.[67] A requirement to eat in designated areas, wear an FDA-approved mask at work, and submit COVID-19 test results did not clear the de minimis threshold.[68] The plaintiffs were not fired, their compensation was not changed, and United's unpaid leave policy did not affect these plaintiffs' terms, conditions, or privileges of employment the way the plaintiffs in *Harrison* and *Hamilton* were affected.[69]

The court specifically distinguished these employees with others who were actually placed on indefinite unpaid leave, explaining they clearly suffered more than a *de minimis* adverse employment action—being deprived of their livelihood until such time as United saw fit for them to return to work.[70] The same could be said for employees who lost responsibilities or were forced to change jobs.[71] But the plaintiffs who were never terminated or placed on unpaid leave did not clear this hurdle.[72]

Sambrano revealed the practical limits of *Hamilton* and *Muldrow*. While these decisions have eliminated the "significant" or "material" harm requirements, not all threshold requirements have been eliminated. The court importantly notes: "[T]rial courts should not be in the business of scrutinizing these details of personnel management in such extraordinary circumstances. . . [t]he law does not take account of trifles."[73] In short, elimination of the "significant harm" requirement will not transform every workplace inconvenience or squabble into actionable discrimination. Courts remain empowered to draw a line in the sand and distinguish between employment actions truly affecting the terms and conditions of employment in meaningful ways and workplace policies simply imposing minimal inconvenience.

C. PIPs and Administrative Leave: Questions Remain

Many questions remain as to what will constitute an adverse employment action. In *Yates v. Spring Independent School District*,[74] the Fifth Circuit avoided answering whether placing someone on a performance improvement plan or putting them on administrative leave inherently constituted an adverse employment decision.[75] The court instead focused on the plaintiff's failure to combat the employer's proffered nondiscriminatory reason for termination as pretextual.[76]

But, even this non-answer is significant. PIPs and administrative leave are common precursors to termination, and many employees view them as adverse employment actions affecting job security and reputation and involve lawyers at this stage of discipline. The Fifth Circuit chose not to decide whether these actions clear the *de minimis* threshold post-*Hamilton* and *Muldrow*, instead resolving the case on pretext grounds. This leaves this important question unanswered and creates uncertainty for both plaintiffs and defendants evaluating potential claims.

D. Synthesis of Fifth Circuit District Court Applications

These cases reveal several patterns in how Fifth Circuit courts interpret *Hamilton* and *Muldrow*.

First, courts distinguish between employment actions with professional or economic consequences—denied training opportunities, assignment of demeaning tasks, prevention of work assignments, loss of responsibilities—and workplace policies imposing minimal burdens like designated eating areas or mask requirements. The former clear the *de minimis* threshold; the latter do not.

Second, important questions remain unanswered. The Fifth Circuit has avoided deciding whether common precursor actions like PIPs and administrative leave constitute adverse employment actions under the new standards. This creates uncertainty and leaves room for continued litigation over what counts as actionable discrimination.

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[66] *Id.* ("These, just as any personnel-management decisions, may have altered Hamilton and Castillo's terms, conditions, and privileges of employment. But unlike the $2,000 out-of-pocket expenditure in *Harrison* or the inability to take weekends off in Hamilton, the requirement to eat in designated areas, wear an FDA-approved mask at work, and submit COVID-19 test results do not clear the de minimis threshold.").
[67] *See id.*
[68] *Id.*
[69] *See Sambrano*, 707 F. Supp. 3d at 664 (N.D. Tex. 2023).
[70] *Id.* at 665.
[71] *Id.*
[72] *See id.*
[73] *Id.* at 664.
[74] 115 F.4th 414 (5th Cir. 2024).
[75] *Id*. at 422.
[76] *Id* at 421–22.

VI. THE FUTURE OF DISCRIMINATION LITIGATION IN LIGHT OF THESE CHANGES AND POTENTIAL CHANGES TO THE *MCDONNELL DOUGLAS* FRAMEWORK

The doctrinal revolution wrought by *Ames*, *Hamilton*, and *Muldrow* may represent only the opening salvo in a broader transformation of employment discrimination law. A growing judicial movement, led prominently by Justice Thomas, seeks to dismantle the *McDonnell Douglas* burden-shifting framework entirely.[77] While this movement aims itself at ensuring equal treatment for reverse discrimination plaintiffs, such a change would fundamentally reshape summary judgment practice and dramatically expand employer liability across all categories of discrimination claims.

A. The Attack on McDonnell-Douglas: From Structured Analysis to "Convincing Mosaic"

For over fifty years, the *McDonnell Douglas* framework has structured employment discrimination litigation but it finds no support in the statutory text of Title VII or Chapter 21 of the Texas Labor Code.[78] Today, this judge-created framework appears increasingly vulnerable. Justice Thomas has repeatedly argued that *McDonnell-Douglas* represents impermissible judicial legislation, creating complex procedural requirements found nowhere in Title VII's text.[79] In his concurrence in *Muldrow*, Justice Thomas emphasized the Court's duty to strip away decades of "judicial glosses" that have "no basis in the statutory text."[80] Justice Thomas and other textualists would seek to extend this to *McDonnell-Douglas*. Chief Justice Blacklock of the Texas Supreme Court similarly criticized *McDonnell-Douglas* as part of what he termed the "labyrinthine dictates of employment law" in his recent concurrence in *Texas Tech University Health Sciences Center*.[81]

The proposed alternative to *McDonnell-Douglas*—variously described as a "convincing mosaic" or "totality of the circumstances" test—would abandon *McDonell-Douglas*'s structured analysis in favor of a more holistic evaluation of whether discrimination occurred.[82]

B. The Reverse Discrimination Catalyst and Unintended Consequences

The push to abolish *McDonnell-Douglas* may stem significantly from concerns that reverse discrimination plaintiffs face unique obstacles under current doctrine, as they did in *Ames*. The *McDonnell-Douglas* framework itself—particularly the prima facie case requirement—creates practical challenges for majority plaintiffs. Some commentators suggest the movement to overturn *McDonnell-Douglas* represents an effort to remedy these perceived inequities, reflecting broader political tensions surrounding diversity, equity, and inclusion initiatives.[83] The current EEOC Chair has indicated heightened scrutiny of DEI programs and greater receptivity to discrimination claims by majority-group employees.[84]

But here lies the fundamental tension: while the impetus for doctrinal reform may focus on reverse discrimination claims, the law must apply equally to all plaintiffs regardless of demographic status.[85] Any doctrinal reform designed to facilitate reverse discrimination claims will necessarily apply with equal force to traditional discrimination plaintiffs.[86] This creates a significant tension between the movement pushing back against DEI initiatives by making discrimination cases easier to bring to trial, and pro-business initiatives attempting to shield employers from additional liability.

A "convincing mosaic" or totality-of-the-circumstances test would likely prove more difficult for employers to satisfy at summary judgment. Rather than identifying specific deficiencies in the plaintiff's *prima facie* case, defendants may need to demonstrate that *no reasonable jury* could find discrimination based on the totality of circumstances. The result would be more employment discrimination cases heading to trial. Combined with *Hamilton* and *Muldrow*'s expansion of what constitutes an actionable adverse employment action, the elimination of *McDonnell-Douglas* would create a dramatically more plaintiff-friendly litigation environment.

VII. CONCLUSION

In summary, get ready to try your employment discrimination cases! The trilogy of *Ames v. Ohio Department of Youth Services*, *Hamilton v. Dallas County*, and *Muldrow v. City of St. Louis* represents a watershed moment in

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[77] *See Muldrow*, 601 U.S. at 365 (Thomas, J., concurring).
[78] *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973).
[79] *See Muldrow*, 601 U.S. at 365 (Thomas, J., concurring).
[80] *Id*.
[81] *Tex. Tech Univ. Health Scis. Ctr. v. Apodaca*, 689 S.W.3d 909, 931 (Tex. 2024) (Blacklock, J., concurring).
[82] *See Ortiz v. Werner Enters., Inc*., 834 F.3d 760, 765 (7th Cir. 2016) (discussing "convincing mosaic" approach).
[83] *See generally Ames*, 605 U.S. 303.
[84] *See* EEOC Chair Statement on DEI Initiatives (2025).
[85] *Ames*, 605 U.S. at 310.
[86] *Id*.

employment discrimination law. These decisions have swept away decades of judicial gloss requiring plaintiffs demonstrate significant, material, or tangible adverse employment actions. They have eliminated heightened background circumstances requirements for reverse discrimination plaintiffs. They have returned employment discrimination law to the statutory text prohibiting discrimination with respect to the terms, conditions, or privileges of employment without imposing judge-made thresholds of materiality or significance.

For employment discrimination plaintiffs in the Fifth Circuit, these decisions have opened courthouse doors previously closed. Lateral transfers now support viable claims. So do shift changes, job duty modifications, and denied professional development opportunities. Reverse discrimination plaintiffs alleging employers favor minorities or women can proceed under the same standards as traditional discrimination plaintiffs without establishing unusual background circumstances. The legal landscape has shifted dramatically in discrimination plaintiffs' favor.

But Fifth Circuit district court decisions demonstrate the expansion is not limitless. Courts are still drawing meaningful lines between actionable discrimination and *de minimis* workplace grievances. The requirement to eat in designated areas, wear masks, and submit COVID-19 tests falls short of the threshold in *Sambrano*. The denial of training opportunities clears it in *Harrison*. Assignment of demeaning tasks outside job duties meets it in *Johnson-Lee*. These cases show the "some harm" standard from *Muldrow* means what it says—courts require meaningful differences in employment terms causing injury to the employee.

For plaintiffs' attorneys, *Ames*, *Hamilton*, and *Muldrow* provide powerful tools for surviving dispositive motions and reaching juries in cases courts would have dismissed under prior law. These decisions should inform case evaluation, discovery strategy, and trial preparation. But they do not fundamentally alter the cost-benefit analysis governing which cases private plaintiffs firms will accept or the strategic considerations informing settlement negotiations. Attorneys must continue to evaluate cases based on the strength of discriminatory intent evidence, the amount of provable damages, the quality of the plaintiff as a witness, and the likelihood of prevailing before a jury in the relevant venue.

For defense attorneys, these decisions require adjustment of motion practice and early case assessment strategies. Motions to dismiss and summary judgment motions succeeding under heightened adverse employment action standards will fail under *Muldrow*'s "some harm" framework. Defendants will likely have to invest more in discovery and prepare more cases for trial rather than obtaining early dismissals. But the fundamental strength of employer defenses has not diminished. Legitimate business reasons for challenged employment actions remain viable defenses. Mixed-motive frameworks still apply. And causation requirements continue to provide robust defenses against discrimination claims lacking evidence of discriminatory intent.

The new landscape created by *Ames*, *Hamilton*, and *Muldrow* has lowered the legal threshold for employment discrimination claims while leaving the practical threshold, so far, largely unchanged. This divergence between legal standards and practical realities will continue to shape employment discrimination litigation in the Fifth Circuit for years to come. Understanding both the doctrinal revolution and the persistent practical constraints is essential for attorneys advising clients, evaluating cases, and developing litigation strategies in this evolving area of law.