

DARK CLOUDS FADING LIGHT



A REVIEW OF RECENT U.S. SUPREME COURT CIVIL JUSTICE AND REGULATORY CASES

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A Review of Recent U.S. Supreme Court Civil Justice and Regulatory Cases

INTRODUCTION

As any careful observer of recent U.S. Supreme Court cases knows, “The scales of justice have been tipped in favor of Corporate America.”¹ That’s to put it mildly. Indeed, the Roberts Court has been tipping those scales for quite some time.² Yet nothing compares to the breadth and hypocrisy of several Court decisions this past term, which have overturned or weakened significant public protection rulings, laws and norms.³ These new decisions undercut the public’s ability to rely on the government to protect their health and safety. They also confirm the unfortunate truth that the Court views certain legal rights guaranteed by the U.S. Constitution as more important for Corporate America than they are for everyday Americans.

One of the most blatant areas of hypocrisy this past term concerns how the Court views the Seventh Amendment to the U.S. Constitution, which ensures the right to civil jury trial. When harmed individuals have tried to enforce their Seventh Amendment rights to block onerous and unfair corporate-forced arbitration practices, the Court has been blind to any Seventh Amendment problems.⁴ But this latest term, when wrongdoers, including a corporation, sought to enforce their Seventh Amendment rights after a federal agency held them accountable through well-established agency adjudication, the Court brazenly ruled the other way, finding Seventh Amendment violations.⁵ All of these decisions are leading to new cases, some of which will be argued this year, where corporations hope to build on the extremist 2023/2024 term to further destroy regulations and legal rights that should protect us all but don’t.⁶ The dark clouds are closing in, if they haven’t engulfed us already.

That said, there were various points of light in the most recent term, dwindling though they may be, which included several unanimous decisions that rejected corporate positions as well as cases where the Court allowed good lower court judgments to stand. While these were critically important cases for everyday Americans to win, none significantly changed current law and, as a result, have received far less attention than those that destroyed longstanding rights and protections. Nonetheless, they are important to acknowledge and we are pleased to spotlight them here.

This report presents an overview of the Supreme Court's 2023/2024 term and upcoming 2024/2025 term, describing some of the important civil justice, agency power and judiciary matters considered or scheduled to be considered this year. It contains three sections:

- I. Written Decisions and Rulings;
- II. Cases Where the Court Declined to Intervene;
- III. Upcoming Cases This Term (to date).

Cases are listed alphabetically. Instances where a corporation or bad actor failed to persuade the Court are designated with an asterisk (*), although that designation can be somewhat subjective based on certain factual scenarios.

Given the number of cases the Court either took up or, in particular, declined to take up,⁷ this is not an exhaustive list even within the scope of its limited subject matter. However, it does provide a comprehensive overview of important cases to which we, as well as other organizations with whom CJ&D works, are paying close attention.

I. WRITTEN DECISIONS AND RULINGS

AstraZeneca UK Ltd. v. Atchley

In October 2017, hundreds of U.S. service members, civilians and their families sued 21 U.S. and European pharmaceutical and medical equipment companies – including AstraZeneca Pharmaceuticals LP, Pfizer, GE Healthcare USA, Johnson & Johnson and F. Hoffman-La Roche Inc. – seeking damages under the Anti-Terrorism Act and state law for funding terrorist attacks during the Iraq War. (The victims allege that the companies gave an Iraqi health agency payments and gifts in exchange for lucrative medical supply contracts knowing it was controlled by a militia group.) The lower court granted the defendants’ motion to dismiss; in January 2022, the D.C. Circuit reversed and remanded. In June 2024, the justices sent the case back to the D.C. Circuit with instructions to reconsider the dispute in light of *Twitter v. Taamneh*. In that case, the Court had dismissed claims against Twitter over its aiding an Islamic State group via algorithms and content recommendations.⁸

* *Bissonnette v. LePage Bakeries Park St., LLC*

Neal Bissonnette and Tyler Wojnarowski were franchisees who spent at least 40 hours per week driving delivery trucks and performing other services for subsidiaries of Flowers Foods, a multibillion-dollar company that manufactures Wonder Bread among other products. Flowers classified them as “independent contractors” rather than employees, depriving them of important state and federal wage and employee protections. When they filed a class action against Flowers in August 2019, the company sought to compel arbitration under the Federal Arbitration Act (FAA). In a unanimous April 2024 decision, the U.S. Supreme Court agreed with the workers, finding that arbitration could not be compelled because of the FAA’s “transportation worker” exception.⁹

* *Cantero v. Bank of America*

A number of homeowners with Bank of America (BoFA) mortgages were required to deposit money in escrow accounts so the company would be able to pay their property taxes and insurance premiums. New York law required the bank to pay homeowners the interest on this money, but BoFA wouldn’t comply, saying it was “preempted” by federal banking law and thus invalid. This is even though more recent federal law, namely the 2010 Dodd-Frank Wall Street

Reform and Consumer Protection Act (Dodd-Frank Act) passed in response to the 2008 financial crisis,¹⁰ clearly permits such state laws. In 2018, homeowners filed class action suits against BofA, which the 2nd Circuit tossed as it agreed with the bank's preemption analysis. But in a unanimous May 2024 decision, the justices ordered the 2nd Circuit to redo its preemption analysis (which if allowed to stand would have ended up invalidating "virtually all state laws that regulate national banks"), giving the homeowners another chance to win their case.¹¹

** Coinbase, Inc. v. Suski*

Coinbase users David Suski, Jaimee Martin, Jonas Calsbeek and Thomas Maher brought a class action against the company for telling millions of consumers through murky advertising that they had to purchase or sell the cryptocurrency Dogecoin "in order to enter a [2021] seven-figure sweepstakes, when in fact, they could enter for free." Coinbase sought to compel arbitration. However, there was a question whether users had "agreed to" forced arbitration: The general user agreement had such a clause, yet the agreement specific to the sweepstakes made no mention of forced arbitration. In May 2024, the U.S. Supreme Court unanimously denied Coinbase's motion, ruling that it is up to the courts, not arbitrators, to decide which of the two contracts governs.¹²

** Consumer Financial Protection Bureau v. Community Financial Services Association of America, Ltd.*

The Consumer Financial Protection Bureau (CFPB) was established by Congress in 2010 as part of the Dodd-Frank Act. Like most every agency that oversees American financial markets, the CFPB is not funded through the congressional appropriations process, which is mentioned in the Constitution.¹³ Instead, it's funded through the Federal Reserve System.¹⁴ In an effort to destroy the CFPB, trade associations representing payday lenders and credit-access businesses brought a lawsuit over an agency rule on high-interest consumer loans that challenged this funding mechanism as unconstitutional. In May 2024, the U.S. Supreme Court, by a 7-2 vote, rejected their arguments, upheld the CFPB's funding mechanism and remanded the case for further proceedings.¹⁵

Corner Post, Inc. v. Board of Governors of the Federal Reserve System

The Administrative Procedure Act (APA) provides a six-year statute of limitations to challenge agency action.¹⁶ It had long been understood that this meant six years after final agency action in order to prevent endless litigation over regulations. However, in July 2021, North Dakota

truck stop and convenience store Corner Post sued to challenge a 2011 Federal Reserve regulation covering purchases by debit card customers, arguing that the six-year statute of limitations should start running from the date of the company's legal injury. In a 6-3 July 2024 decision, the U.S. Supreme Court agreed, remanding the case and holding that an APA claim challenging an agency action first comes into being when the plaintiff has been injured by final agency action, essentially guaranteeing that new litigation challenging agency rules will never stop.¹⁷

** Department of Agriculture Rural Development Rural Housing Service v. Kirtz*

Reginald Kirtz got a housing loan from the Rural Housing Service of the U.S. Department of Agriculture. The agency then falsely told credit reporting service TransUnion that his account was past due, damaging his credit score and ability to secure loans at affordable rates. He sued the agency for Fair Credit Reporting Act violations, which raised questions about sovereign immunity. In February 2024, the U.S. Supreme Court ruled unanimously that sovereign immunity did not apply and the federal government could be sued for violating the Act.¹⁸

** Food and Drug Administration v. Alliance for Hippocratic Medicine*

In 2022, four medical associations and several individual doctors sought a preliminary injunction to stop access to the abortion pill mifepristone, arguing that the FDA improperly approved it more than 20 years ago. In April 2023, the district court agreed and issued a nationwide injunction that ordered mifepristone off the market. Later, the 5th Circuit ruled that the groups and doctors were likely to succeed in showing that "U.S. Food and Drug Administration steps in 2016 and 2021 that eased how the drug...is prescribed and distributed" were unlawful. In June 2024, the justices unanimously reversed and remanded,¹⁹ ruling that the plaintiffs "lacked the necessary legal standing to pursue the case, which required that they show they have been harmed in a way that can be traced to the FDA."²⁰

** Harrington v. Purdue Pharma L.P.*

Non-debtor releases are provisions in corporate bankruptcy plans that shield parties like company executives from liability even though those individuals did not themselves file for bankruptcy. This loophole allows bad actors to use a corporation's bankruptcy to avoid culpability for their own wrongdoing. The Sackler family – multibillionaire owners of Purdue Pharma, the maker of OxyContin – tried to use this mechanism to dodge full accountability to opioid victims. The U.S. Justice Department sought to block the bankruptcy settlement given

the liability shield. In a June 2024 5-4 decision, the U.S. Supreme Court agreed, invalidating the non-debtor releases and allowing suits against the Sacklers to proceed.²¹

Loper Bright Enterprises, Inc. v. Raimondo, Relentless, Inc. v. Department of Commerce

Commercial fishing companies challenged a 2020 National Marine Fisheries Service (NMFS) rule requiring industry to pay for ship monitors to prevent overfishing. The rule was established to implement the federal Magnuson–Stevens Fishery Conservation Management Act. (NMFS reimbursed companies for the costs of these observers; the monitoring program ended in 2023 due to funding issues.) Although the statute was vague regarding such costs, both the D.C. Circuit and First Circuit found that the agency had acted within its authority under *Chevron v. Natural Resources Defense Council*, a 40-year-old U.S. Supreme Court decision directing courts to defer to a federal agency’s reasonable interpretation of a statute.²² In June 2024, by a vote of 6-3, the justices disagreed, overruling *Chevron*. The new ruling directs judges to independently determine if an agency has acted within its statutory authority instead of deferring to the agency’s interpretation of a statute.²³ The dissent explains the enormous potential negative impact of this case on public health and safety.²⁴ However, it should be noted that there are some circumstances where co-opted federal agencies have been captured by the very industries they should be regulating and therefore may not have properly protected the public. In those cases, the authority of judges to second-guess agencies may work in the public’s favor.²⁵

Macquarie Infrastructure Corp. v. Moab Partners, L.P.

Macquarie Infrastructure Corporation, through its subsidiary, operates large bulk liquid storage terminals that store liquid commodities including fuel oil. In 2016, the company knew about a recently-enacted international fuel standard (set to go into effect in 2020) that would negatively impact Macquarie’s most profitable segment – fuel oil storage – yet didn’t mention this in its public offering documents. Instead, the company “waited two years before publicly announcing a drop-off in customers due to the decline in fuel sales. The announcement led the stock price to drop 41%.” In February 2019, Moab Partners sued the company for omitting material information in its public offering. In April 2024, the justices remanded the case, unanimously finding against Moab and holding that “a corporation’s failure to disclose certain information about its future business risks, absent any affirmative statement that would make such silence misleading, cannot itself be the basis of a private securities fraud claim.”²⁶

Moody v. NetChoice, LLC

Both Florida and Texas enacted statutes regulating large social media companies and other internet platforms in 2021. These laws made it more difficult for platforms to moderate what users post, required them to explain to users why content is removed and allowed individual users to sue platforms for damages over censorship in direct contradiction to Section 230 of the federal Communications Decency Act. Two trade associations representing tech platforms challenged both statutes in court. In May 2022, the 11th Circuit upheld an injunction of Florida's law; in September 2022, the 5th Circuit reversed an injunction of Texas' law. In a unanimous July 2024 decision, the Court vacated and remanded, finding that both lower courts failed to properly examine the broad First Amendment challenges to these statutes.²⁷

** Muldrow v. City of St. Louis, Missouri*

Sergeant Jaytona Muldrow worked as a plainclothes officer for the St. Louis, Missouri Police Department's specialized Intelligence Division. In 2017, she was ousted from her position and reassigned elsewhere after her boss asked to replace her with a male officer. While her rank and pay did not decrease, she lost responsibilities and other perks and her schedule became more difficult. She sued for sex discrimination under Title VII, but the case was dismissed by lower courts that ruled she "had to – but could not – show that the transfer caused her a 'materially significant disadvantage.'" The U.S. Supreme Court unanimously disagreed in April 2024, finding that in a Title VII employment discrimination case, the victim "need only show that they suffered some harm with respect to an identifiable term or condition of employment, but that harm need not be significant."²⁸

** Murray v. UBS Securities, LLC*

Trevor Murray worked as a research strategist for UBS, which required him to make certain certifications to customers about the firm's securities business. UBS fired him after reporting to his supervisor that "two leaders of the UBS trading desk were engaging in what he believed to be unethical and illegal efforts to skew his independent reporting." In April 2014, Trevor sued UBS under the whistleblower protection provision of the Sarbanes-Oxley Act (SOX). He prevailed at trial, with a jury awarding \$653,300 in back pay and \$250,000 in non-economic damages in 2017. On appeal, the 2nd Circuit vacated the verdict and remanded the case for a new trial, ruling that the jury instructions should have required the jury to find "retaliatory intent" before finding for him. In February 2024, the U.S. Supreme Court unanimously disagreed, holding that whistleblowers suing under SOX don't need to show that their employer acted with retaliatory intent when firing them in order to be protected by the federal law.²⁹

Ohio v. Environmental Protection Agency

The EPA has well-established authority to reduce ozone emissions coming from “upwind” industries in order protect downwind states from pollution. In furtherance of this authority, it asked upwind states for plans to reduce such emissions. In 2023, the EPA rejected 21 of these state plans; two states failed to present plans at all. The EPA then issued its own “good neighbor” rule to limit pollutants from these 23 upwind states. Ohio, Indiana and West Virginia, as well as several corporations and trade associations, sued in the D.C. Court of Appeals to invalidate the EPA’s plan. That court declined to put the rule on hold while litigation continued. But in a June 2024 5-4 decision, the U.S. Supreme Court blocked implementation of the regulation as the case proceeded,³⁰ restricting the EPA’s ability to protect public health during potentially years of future litigation.³¹

Securities and Exchange Commission v. Jarkesy

The 2010 Dodd-Frank Act allows the Securities and Exchange Commission to impose civil penalties following internal SEC enforcement actions, as it did against investment advisor George Jarkesy, Jr. and his firm, Patriot28, LLC. The SEC had adjudicated the case in-house. The 5th Circuit found that this adjudication violated the Seventh Amendment’s right to civil jury trial. In a June 2024 6-3 decision, the Supreme Court agreed, holding that “[w]hen the SEC seeks civil penalties against a defendant for securities fraud, the Seventh Amendment entitles the defendant to a jury trial.”³² This ruling not only shattered an important SEC enforcement tool to curb wrongdoing but also will lead to the elimination of similar enforcement tools for other agencies.³³

** Smith v. Spizzirri*

In July 2021, Wendy Smith, Michelle Martinez and Kenneth Turner – current and former drivers for the on-demand delivery service IntelliQuick – filed suit against the company and its operators for misclassifying them as independent contractors instead of employees, allowing IntelliQuick to evade state and federal wage and benefit laws. The defendants moved to compel arbitration. The lower courts then dismissed the case instead of doing what the plaintiffs asked – *i.e.*, to stay the court proceeding pending arbitration. In May 2024, the justices unanimously agreed with the plaintiffs, holding that “federal courts do not have discretion to toss a case once it’s decided that the claims belong in arbitration” per the “[s]tatutory text, structure, and purpose” of the FAA.³⁴

Starbucks Corporation v. McKinney

In 2022, a Starbucks in Memphis fired seven workers who were trying to unionize. After the firings, the National Labor Relations Board filed an administrative complaint, alleging Starbucks had engaged in unfair labor practices, with the agency's regional director then obtaining a preliminary injunction reinstating the workers as the case proceeded. However, in a unanimous June 2024 decision, the U.S. Supreme Court ruled that federal courts must use a stricter legal standard when deciding whether to grant injunctions that reinstate workers. This ruling will make it "harder for courts to quickly halt labor practices contested as unfair under federal law."³⁵

Truck Insurance Exchange v. Kaiser Gypsum Company, Inc.

As part of its Chapter 11 bankruptcy reorganization, building manufacturer Kaiser Gypsum proposed a \$50 million trust to settle thousands of personal injury asbestos lawsuits. Kaiser's primary insurer Truck Insurance Exchange, which would be partly funding the settlement, argued that it should be allowed to object to it. In February 2023, the 4th Circuit held that the insurer could not block the plan. In an 8-0 decision issued in June 2024, the justices allowed Truck to intervene, ruling that U.S. bankruptcy law provides insurers with "a broad right to weigh in on bankruptcies that may put them on the hook for paying claims," thereby allowing Truck to further delay compensation to thousands of injured victims while also inviting other insurers to use the same tactic in future bankruptcy cases involving mass-tort liability.³⁶

II. CASES WHERE COURT DECLINED TO INTERVENE

Abelar v. International Business Machines Corporation

Twenty-six IBM employees were fired in 2017 and 2018 and replaced with younger workers, suggesting age bias. Their employment agreements had contained forced arbitration and confidentiality clauses, including a deadline for initiating arbitration. When the employees pursued arbitration after the deadline, their claims were dismissed as untimely, prompting the workers to sue IBM in court over the deadline's enforceability. In July 2022, the district court granted IBM's motions to dismiss and to seal documents obtained by the employees' counsel in other arbitration proceedings. The 2nd Circuit affirmed in August 2023. In February 2024, the justices denied review, leaving the workers with no recourse regarding their age bias claims.³⁷

* *Allstates Refractory Contractors, LLC v. Su*

In 2019, the Occupational Safety and Health Administration (OSHA) cited and fined general contractor Allstates for serious safety violations. The company then sued OSHA, arguing in a September 2021 complaint that the agency's authority to issue workplace safety standards violated the U.S. Constitution's separation of powers. Both the district court and 6th Circuit upheld the constitutionality of the power delegated to OSHA. In July 2024, the justices turned away Allstates' appeal.³⁸

* *Amazon.com, Inc. v. Miller*

In February 2021, Jennifer Miller filed a class action on behalf of "Amazon Flex" delivery drivers whose tips were not given to them in violation of Washington state consumer protection laws. Their employment agreements contained forced arbitration clauses. The district court denied Amazon's motion to compel arbitration, ruling that the employees were exempt from arbitration under the Federal Arbitration Act's "transportation worker" exception. In September 2023, the 9th Circuit affirmed. In April 2024, the justices denied Amazon's petition for review, allowing the claims to go to court instead of arbitration.³⁹

** Bartlett v. Baasiri*

In January 2019, over 1,100 victims – U.S. servicemembers wounded by terror attacks in Iraq caused by proxies of Hezbollah, as well as relatives of U.S. servicemembers injured or killed in those attacks – sued Lebanese banks for laundering Hezbollah money. After the suit was filed, the U.S. government labelled one of the banks a “Specially Designated Global Terrorist,” which led Lebanon’s central bank to liquidate it and acquire its assets. The question then became whether this bank was now an instrumentality of Lebanon and entitled to foreign sovereign immunity. In August 2023, the 2nd Circuit sent the case back to the district court to address the issue. In April 2024, the justices refused to take up the question, allowing the suit to return to the lower court.⁴⁰

** BP America Production Co. v. Parish of Cameron, Louisiana*

Cameron Parish and the Louisiana Department of Natural Resources filed a \$7 billion lawsuit against BP and other companies in state court, claiming their actions over decades violated coastal use permits for oil and gas operations and led to land erosion. In October 2023, the companies filed an emergency petition with U.S. Supreme Court Justice Alito to block the start of the suit, arguing that “the trial should be moved because Cameron Parish residents have ‘a substantial personal and financial interest in rendering a verdict for their home parish.’” Alito referred the case to the full court; in November 2023, it declined to intervene, allowing the case to go forward.⁴¹

** Brinker International, Inc. v. Steinmetz*

After hackers stole credit card and personal data from 4.5 million Chili’s restaurant patrons, customers brought a class action against the company. The district court certified a nationwide class, a separate California class and approved the plaintiffs’ damages methodology. The 11th Circuit upheld the damages model but ordered the lower court to clarify existing class definitions or conduct a new analysis of them. In April 2024, the justices denied Chili’s request for review, allowing the class action to proceed.⁴²

** CK Sales Co., LLC v. Canales*

Margarito Canales and Benjamin Bardzik worked as delivery drivers for baked goods manufacturers, sellers and distributors. In June 2021, they brought a class action against the companies for misclassifying them as independent contractors, which allowed the employers to

skirt wage and hour laws and protections. The lower courts denied the companies' motion to compel arbitration, ruling that the drivers were exempt from arbitration under the Federal Arbitration Act's "transportation worker" exception. In April 2024, the justices agreed, allowing the workers to continue suing in court.⁴³

DiCroce v. McNeil Nutritionals, LLC

In May 2022, Kristin DiCroce filed a class action against Johnson & Johnson subsidiary McNeil Nutritionals for marketing Lactaid to treat the disease of lactose intolerance, making it more expensive than other products on the market, when in fact Lactaid was merely a dietary supplement and never approved by the FDA to treat a disease. The district court tossed the suit in November 2022. The 1st Circuit affirmed the following year, ruling in part that Kristin's suit was preempted by the federal Food, Drug and Cosmetic Act, which allowed only the FDA to pursue such false advertising and deceptive trade practice claims. In April 2024, the justices let the lower court decision stand, refusing to weigh in on whether Kristin's claims were preempted.⁴⁴

Doe v. Snap, Inc.

For nearly a year and a half, high school science teacher Bonnie Guess-Mazock sexually assaulted John Doe after using Snapchat to groom him. Doe eventually overdosed on prescription drugs given to him, or paid for, by Guess-Mazock. She pled guilty to sexual assault. In February 2022, Doe's legal guardian sued Snapchat's owner, Snap, for negligence. The district court dismissed the case due to Snap's immunity under Section 230 of the Communications Decency Act. In June 2023, the 5th Circuit affirmed. In July 2024, the justices rejected Doe's petition, declining to review the case.⁴⁵

** Domino's Pizza, LLC v. Carmona*

In June 2020, drivers Edmond Carmona, Abraham Mendoza and Roger Nogueira – Domino's employees who delivered pizza ingredients to California franchisees – filed a class action suit against the company for violating state labor law. Domino's sought to compel arbitration, pointing to agreements with each of the workers. The district court denied the motion, ruling that the employees were exempt from arbitration under the Federal Arbitration Act's "transportation worker" exception; the 9th Circuit agreed. In April 2024, the justices left the 9th Circuit's decision intact, allowing the workers' case to go forward in court.⁴⁶

** E.I. du Pont de Nemours & Co. v. Abbott*

Thousands of victims have sued DuPont for contaminating the Ohio River with C8, a forever chemical that has caused widespread health problems including cancer. After three bellwether trials, Travis Abbott, whose testicles had to be removed due to testicular cancer, filed suit as did his partner Julie. In March 2020, the jury awarded Travis \$40 million on his negligence claims.⁴⁷ The 6th Circuit upheld the verdict as well as the results of the bellwether trials binding litigation against the company. In November 2023, the justices declined to review the decision.⁴⁸

** Home Depot v. Blue Cross Blue Shield Association, Behenna v. Blue Cross Blue Shield Association*

In October 2020, a group of employers and individual policyholders with Blue Cross Blue Shield coverage reached a nationwide class action settlement with the insurance giant, resolving antitrust claims that the company had conspired to drive up health insurance costs. Under the settlement – which was approved by both a district court and the 11th Circuit in August 2022 and October 2023, respectively – Blue Cross agreed to pay \$2.67 billion in damages as well as change certain policies and establish a monitoring period. Home Depot and some individuals objected to the settlement. In June 2024, the justices let the settlement stand.⁴⁹

** HomeServices of America, Inc. v. Burnett*

In April 2019, a class of Missouri-area home sellers sued HomeServices of America, two other Berkshire Hathaway subsidiaries and additional real estate defendants, because the brokerages were artificially inflating commissions for home sales. Before trial, the Berkshire companies sought to force the consumers' claims into arbitration. The trial judge ruled that the dispute wasn't subject to arbitration and the 8th Circuit agreed, saying that "'courts – not arbitrators – determine whether a party has waived its right to arbitration through default,' and that HomeServices effectively waived its right to arbitrate by actively litigating the case for close to a year before filing its motion." The home sellers' suit proceeded, and in October 2023, the jury issued a \$1.8 billion verdict. The Berkshire subsidiaries sought U.S. Supreme Court review on the arbitration issue. In April 2024, the justices denied cert, letting the verdict stand.⁵⁰

Israelitt v. Enterprise Services LLC

Army veteran Jeffrey Israelitt, who has terrible toe and foot injuries and pain as a result of his military service, worked as a senior cybersecurity architect for former Hewlett Packard

subsidiary Enterprise Services. He was fired in 2014 and pursued damages in May 2018 for violations of the Americans with Disabilities Act (ADA), asserting discrimination because of his impairment and retaliation for seeking certain accommodations. The district court allowed only the retaliation claim to proceed, also ruling that he had no right to a civil jury trial under the Seventh Amendment since ADA retaliation claims don't allow for money damages (*i.e.*, only equitable relief). After a bench trial, the judge found in favor of Enterprise; the 4th Circuit agreed. In April 2024, the justices left the appellate decision as is, ending Jeffrey's case.⁵¹

* *Jakob v. Cheeks*

Mikel Neil and his passenger were killed when his car crashed into a tree in Missouri as he was being chased by police after allegedly running a red light. His mother filed suit against the officers, who were later fired, for pursuing him at high speeds, trying to force him off the road and then fleeing the scene without rendering aid. The 8th Circuit held that the officers were not immune because they had a clearly established duty to provide aid. In March 2024, the justices denied cert, allowing the case to proceed.⁵²

King v. Brownback

In 2014, James King, a college student, was mistaken for a fugitive by two federal plainclothes officers, who proceeded to try to arrest him. James thought he was being mugged and tried to run. The officers beat him unconscious; onlookers thought he would die. James was charged with resisting arrest but a jury acquitted him. He then sued the officers for constitutional violations as well as their employer, the United States, for Federal Tort Claims Act (FTCA) violations. The district court dismissed all claims, finding it lacked jurisdiction on the tort claims and the officers had qualified immunity on the constitutional claims. James dropped the FTCA claims, but the 6th Circuit still ruled that "the lower court's dismissal of federal tort claims against the U.S. nullified King's continued constitutional claims against the individual officers." In October 2023, the U.S. Supreme Court declined to take up the case, effectively dismissing James' constitutional claims.⁵³

Lujan Claimants v. Boy Scouts of America

As part of the Boy Scouts of America 2020 bankruptcy, it agreed to settle with more than 82,000 abuse victims in amounts ranging from \$3,500 to \$2.7 million. While more than 86% of survivors agreed to the settlement, over 140 claimants opposed it because the agreement barred them from suing other parties, "such as churches that ran scouting programs, local Boy

Scouts councils and insurers that provided coverage to the Boy Scouts organization.” In February 2024, the justices allowed the \$2.46 billion settlement to move forward, rejecting an emergency stay request.⁵⁴ (Notably, the U.S. Supreme Court invalidated non-debtor releases in a later written decision, *Harrington v. Purdue Pharma L.P.*)

* *Lyft, Inc. v. Seifu*

Lyft required its drivers to accept a “Terms of Service” agreement that contained a forced arbitration clause. Former Lyft driver Million Seifu sued the company for misclassifying him and other drivers as independent contractors rather than employees, allowing Lyft to avoid California employee protections. Under state law, he was allowed to file both individual claims (for himself) and nonindividual claims (for violations against others). Lyft moved to compel arbitration. In March 2023, a state appeals court ruled that, even though Million’s individual claims were forced into arbitration, his nonindividual claims could remain in court. In June 2024, the justices let the decision stand.⁵⁵

Mckesson v. Ford

An unidentified protestor at a Black Lives Matter (BLM) demonstration threw a heavy object that hit Baton Rouge police officer John Ford. He sued DeRay Mckesson, a BLM leader, for negligence in organizing and leading the protest. A district court dismissed the case in September 2017, but “the 5th Circuit in 2023 revived it, finding that the First Amendment did not bar the negligence claim.” In April 2024, the justices declined to hear DeRay’s appeal, allowing the lawsuit to proceed.⁵⁶

* *Medical Transportation Management, Inc. v. Harris*

Isaac Harris, Darnell Frye and Leo Franklin were non-emergency medical transportation drivers. In July 2017, they brought a putative class action and Fair Labor Standards Act collective action against Medical Transportation Management (MTM) for violations of federal and District of Columbia wage laws. The lower court affirmed certification of the collective action and certified an issue class “on the questions of whether MTM is a joint employer or a general contractor.” In July 2023, the D.C. Circuit remanded certification of the issue class but declined review of the collective action certification. In February 2024, the justices refused to weigh in, allowing the suit to go back to district court to determine whether the drivers had enough in common to proceed as a class.⁵⁷

Muslow v. Louisiana State University

Katherine Muslow and Meredith Cunningham were attorneys with the Louisiana State University Health Sciences Center in New Orleans. In mid-2019, their positions were eliminated as the school consolidated its legal department. They sued the university and some of its employees for gender discrimination and retaliation under Title VII and the Equal Pay Act plus retaliation under 42 U.S.C. § 1983, a federal civil rights statute. The 5th Circuit allowed only the Title VII and Equal Pay Act retaliation claims against the school to proceed. In January 2024, the justices refused to intervene.⁵⁸

O’Grady v. United States

During the 2017 Lolo Peak Fire, firefighters conducted necessary controlled burns, which ended up destroying Brian O’Grady’s Montana property. He lived in Colorado and was not notified ahead of time. He sued the Forest Service under the Federal Tort Claims Act. In February 2022, the district court held that the claims were barred and granted summary judgment for the Forest Service. That decision was affirmed by the 9th Circuit in March 2023, which ruled that “federal officials can’t be sued for failing to inform property owners about fire-suppression activities on or near their properties.” In November 2023, the justices declined to review the decision.⁵⁹

** PHH Mortgage Corporation v. Guthrie*

Marine Corps veteran Mark Anthony Guthrie’s debts were discharged in a 2016 bankruptcy proceeding. Nonetheless, PHH Mortgage continued improper collection efforts against him over property it held an interest in, property that Mark Anthony was no longer personally liable for per the bankruptcy discharge order. Mark Anthony sued PHH; the lower court sided with the company. On appeal, the 4th Circuit partly reversed, advancing Mark Anthony’s claims that PHH was violating the Fair Credit Reporting Act and state law. In April 2024, the justices declined review of the 4th Circuit decision, allowing Mark Anthony to continue his case.⁶⁰

** Precision Drilling Corp. v. Tyger*

Rodney Tyger and Shawn Wadsworth sued on behalf of roughly 1,000 current and former rig hands who worked on oil and gas drilling platforms for Precision Drilling Corp. They were not being paid for time spent changing into and out of protective gear mandated to safely do their jobs. In March 2022, the district court granted Precision’s motion for summary judgment; in

August 2023, the 3rd Circuit vacated and remanded, providing a broader framework than the lower court for determining when gear-changing activities are compensable. In June 2024, the justices let the 3rd Circuit's decision stand.⁶¹

Stafford v. International Business Machines Corporation

IBM fired 52-year-old Elizabeth Stafford in June 2018. She signed a severance agreement with a forced arbitration clause. After winning an age discrimination claim before an arbitrator, she asked a court to unseal the award in order to let others know details about IBM's liability. The court sided with Elizabeth, finding that "IBM has failed to identify factors that overcome the strong presumption of public access and weigh in favor of sealing the entire Final Award." The 2nd Circuit reversed in August 2023, and in February 2024, the justices refused to review the decision, keeping Elizabeth's arbitration win confidential.⁶²

** Tug Hill Operating LLC v. Rogers*

Lastephen Rogers worked for about a year and a half for Tug Hill Operating, a Texas-based oil and natural gas exploration and production company. But his contract was with RigUp, Inc., the company that connected him to Tug Hill for a fee. That contract contained a forced arbitration clause; there was no such contract between Lastephen and Tug Hill. In December 2023, Lastephen sued Tug Hill for wage violations. The 4th Circuit blocked the company from forcing him to arbitrate his claims. In February 2024, the justices let the decision stand.⁶³

** Visa Inc. v. National ATM Council*

In October 2011, two groups of consumers and roughly 3,400 independent, non-bank ATM operators sued Visa and Mastercard for anti-competitive practices leading them to pay excessive fees on withdrawals from ATMs not affiliated with their bank. In September 2021, a federal court allowed the consumers and operators to band together in class actions. The D.C. Circuit affirmed in July 2023. In April 2024, the justices declined Visa and Mastercard's appeal, allowing the cases to proceed with class action status.⁶⁴

III. UPCOMING CASES

Bouarfa v. Mayorkas

Amina Bouarfa and her three children are U.S. citizens but her husband is not. The U.S. Department of Homeland Security (DHS) approved a visa for him (as her immediate relative) but then revoked it more than two years later, separating the family. They sued in court. The issue is whether the visa revocation – which is a discretionary act (and thus not generally subject to court review) – can in fact be reviewed since it was revoked based on nondiscretionary criteria. In other words, if DHS denied the visa initially, it would be reviewable; the agency’s determination that it made a mistake granting the visa should not eliminate that right. The district court dismissed the suit and the 11th Circuit affirmed.⁶⁵ Argument is scheduled for October 10, 2024.

City and County of San Francisco v. Environmental Protection Agency

Under the Clean Water Act (CWA), the city of San Francisco is required to have a permit for discharging pollution connected to its sewer and stormwater runoff systems into the Pacific Ocean. In 2019, the state of California and the Environmental Protection Agency issued a permit to one of the city’s water treatment systems that imposes generic discharge prohibitions (and subjects the permit-holder to enforcement actions) without identifying specific discharge limits. San Francisco believes the permit violates the CWA; the Court will decide the breadth of the agency’s authority to issue such a permit.⁶⁶ Argument is scheduled for October 16, 2024.

E.M.D. Sales v. Carrera

This case will decide the burden of proof (preponderance of the evidence vs. clear and convincing evidence) that employers must meet to prove that their workers should be exempt from overtime pay under the Fair Labor Standards Act. The case was brought by sales representatives who were working 60 hours per week for a Washington, D.C. area food distributor but didn’t receive overtime pay because the company deemed them “outside salesmen.”⁶⁷ Argument is scheduled for November 5, 2024.

Facebook, Inc. v. Amalgamated Bank

This case stems from two scandals. The first involved British political consulting firm Cambridge Analytica harvesting and maintaining personal data from millions of Facebook users, which Facebook had known about for over two years yet failed to inform affected users. The second involved Facebook allowing third-party apps to access users' Facebook friend data without consent. In the wake of these incidents, the company's stock price dropped significantly two times, totaling more than \$200 billion in market capitalization. Shareholders sued Facebook because its SEC filings had said that third-party misuse of personal data was a mere *hypothetical* risk that could harm the company. This was despite the fact that Facebook knew of Cambridge Analytica's misconduct when it made the statement. On the other hand, there was no known risk of ongoing or future business harm. The district court dismissed the shareholders' claims; the 9th Circuit allowed the case to move forward.⁶⁸ Argument is scheduled for November 6, 2024.

Food and Drug Administration v. Wages and White Lion Investments, LLC

Since the Tobacco Control Act was passed in 2009, which required companies to prove that their products were appropriate to protect public health, the FDA has denied millions of applications for flavored vapes and other products. Two companies seeking to market flavored vapes are saying the agency changed the requirements for new flavors without notice. The 5th Circuit agreed.⁶⁹ A December 2024 argument is anticipated.

Lackey v. Stinnie

The issue in this case is whether someone who wins a preliminary injunction (but not yet a ruling on the merits) may get attorney's fees under U.S. Code § 1988 if the lawsuit later becomes moot. The case was brought by residents suing over suspension of their drivers' licenses due to failure to pay certain court fines and fees. They obtained a preliminary injunction stopping suspension of their licenses, and soon after, the Virginia legislature repealed the rule that had allowed this practice. When plaintiffs tried to recoup attorney's fees, a lower court denied the request but the 4th Circuit reversed.⁷⁰ Argument is scheduled for October 10, 2024.

Medical Marijuana, Inc. v. Horn

The Racketeer Influenced and Corrupt Organizations Act (RICO) allows triple damages for business and property harm caused by criminal “racketeering” activity. This case will decide whether personal injury harm (stemming from being misled into purchasing a health supplement) can also be subject to RICO suits. A commercial truck driver began taking a CBD product to relieve pain from a car accident, relying on numerous company marketing communications that the product did not contain THC. This was apparently false, and after failing a random drug test, he was fired.⁷¹ Argument is scheduled for October 10, 2024.

NVIDIA Corp. v. E. Ohman J:or Fonder AB

The Private Securities Litigation Reform Act (PSLRA)⁷² restricts the legal rights of defrauded shareholders by barring investors from bringing fraud claims against a corporate entity without a very large amount of evidence. The 9th Circuit revived investors’ claims over chipmaker Nvidia’s crypto mining sales after deciding that PSLRA’s pleading requirements were met. Nvidia disagreed and the Court took the case.⁷³ Argument is scheduled for November 13, 2024.

Royal Canin U.S.A. v. Wullschleger

This lawsuit concerns whether a class action belongs in state or federal court when an amended complaint removes statements (*i.e.*, references to federal law) that initially put it in federal court. The case is against Royal Canin and Purina for misleadingly labeling pet foods as prescription even though they contained no actual medication, tricking pet owners into purchasing the higher-priced products which they thought would treat their pets’ medical conditions. While the 8th Circuit said the proper venue was Missouri state court, the companies want the suit to proceed in federal court.⁷⁴ Argument is scheduled for October 7, 2024.

Seven County Infrastructure Coalition v. Eagle County, Colorado

The Court will determine whether the National Environmental Policy Act requires an agency to study environmental impacts beyond the immediate effects of the action that the agency has authority to regulate. The case involves a challenge to the U.S. Surface Transportation Board’s approval of a new rail line to connect an isolated oil-rich part of Utah to the national rail network so the oil can be transported. The D.C. Circuit revoked approval, ruling that the agency was required to consider a full range of environmental effects of increased oil drilling and refining, such as greenhouse gas emissions, amplified wildfire risk and spills in critical habitats,

irrespective of the fact that the Board itself doesn't regulate these matters. With circuits split on the question, the U.S. Supreme Court granted cert.⁷⁵ A December 2024 argument is anticipated.

Stanley v. City of Sanford, Florida

It is settled law that Title VII of the Civil Rights Act, which prohibits employment discrimination, extends to former employees. However, that question has never been settled when discrimination claims are brought under the Americans with Disabilities Act (ADA). Sanford, Florida firefighter Karyn Stanley was forced to take early disability retirement at age 47. The city then changed its policy, allowing her only two years of free health insurance instead of promised longer-term coverage. The Court will decide if she can sue her former employer under the ADA for discrimination in post-employment benefits.⁷⁶ A December 2024 argument is anticipated.

Williams v. Washington

This case will decide whether state administrative remedies must be exhausted before bringing civil rights claims under 42 U.S.C. § 1983 when the state administrative agency itself may be violating civil rights. The suit comes out of Alabama, where over a dozen people "experienced extreme delays and other irregularities" after filing unemployment claims with the state's Department of Labor. The Alabama Supreme Court threw out their case, saying the victims hadn't exhausted their administrative remedies with the very agency that delayed their claims in the first place.⁷⁷ Argument is scheduled for October 7, 2024.

NOTES

¹ Gabriel Rubin, “Corporate America revels in Supreme Court windfall,” *Reuters*, July 23, 2024, <https://www.reuters.com/breakingviews/corporate-america-revels-supreme-court-windfall-2024-07-23/>. See also, People’s Parity Project, *Protecting Workers’ Rights and Democracy from the Courts: A Practical Guide to Court Reform* (June 2024), <https://peoplesparity.org/wp-content/uploads/2024/06/Protecting-Workers-Rights-and-Democracy-from-the-Courts-A-Practical-Guide-to-Court-Reform.pdf>

² “It has now become common for the Court to second-guess laws passed by Congress: in the less than 20 years of the Roberts Court, the Supreme Court has struck down 29 federal laws in whole or in part.” People’s Parity Project, *Protecting Workers’ Rights and Democracy from the Courts: A Practical Guide to Court Reform* (June 2024), <https://peoplesparity.org/wp-content/uploads/2024/06/Protecting-Workers-Rights-and-Democracy-from-the-Courts-A-Practical-Guide-to-Court-Reform.pdf>

³ See, e.g., Lydia DePillis, “Who Won Big in the Supreme Court’s Latest Term? The ‘Regulated Community.’” *New York Times*, August 9, 2024, <https://www.nytimes.com/2024/08/09/business/supreme-court-regulated-community.html>

⁴ See, e.g., U.S. Senate Judiciary Committee press release, “Durbin Delivers Opening Statement During Senate Judiciary Committee Hearing on the Effects of Forced Arbitration,” April 9, 2024, <https://www.judiciary.senate.gov/press/releases/durbin-delivers-opening-statement-during-senate-judiciary-committee-hearing-on-the-effects-of-forced-arbitration>

⁵ See later discussion of *Securities and Exchange Commission v. Jarkesy*, 144 S.Ct. 2117 (2024).

⁶ See, e.g., Jaime L.M. Jones, Brenna E. Jenny and Matt Bergs, “‘Jarkesy,’ ‘Loper Bright’ create new opportunities for offense in the health care industry,” *Westlaw Today*, September 4, 2024, <https://www.reuters.com/legal/litigation/jarkesy-loper-bright-create-new-opportunities-offense-health-care-industry-2024-09-04/>. As one *Reuters* columnist put it, “A gold rush already is underway. Law firms and in-house corporate attorneys scoured compliance documents for rules worth challenging. Existing litigation also was injected with uncertainty, leading some judges to issue injunctions on pending regulations and government programs. A laundry list of Washington-based trade associations, which spearhead legal initiatives for their respective industries, urged President Joe Biden’s administration to refrain from issuing new rules given the heightened chance they would be knocked down. There are about 150 under review at various agencies that would have an economic impact of at least \$200 million apiece.” Gabriel Rubin, “Corporate America revels in Supreme Court windfall,” *Reuters*, July 23, 2024, <https://www.reuters.com/breakingviews/corporate-america-revels-supreme-court-windfall-2024-07-23/>

⁷ “In a typical year, over 8,000 petitions are filed with the Supreme Court for review of lower court decisions. The Court denies review in the vast majority of cases, and, in recent years, has issued full opinions in fewer than 100 cases each term.” Georgetown Law Library, “Supreme Court Research Guide,” <https://guides.ll.georgetown.edu/c.php?g=316498&p=2114300>

⁸ Alyssa Aquino, “Justices Undo Terror Victims’ Win, Citing Twitter Decision,” *Law360*, June 24, 2024, <https://www.law360.com/healthcare-authority/articles/1850751/justices-undo-terror-victims-win-citing-twitter-decision>; Mike Scarcella, “US Supreme Court gives pharma companies a chance to thwart terrorism-funding lawsuit,” *Reuters*, June 24, 2024, <https://www.reuters.com/legal/us-supreme-court-gives-pharma-companies-chance-thwart-terrorism-funding-lawsuit-2024-06-24/>; *Atchley v. AstraZeneca UK Limited*, 22 F.4th 204 (2022),

vacated and remanded, 144 S.Ct. 2675 (2024); *Atchley v. AstraZeneca UK Limited*, Case No. 1:17-cv-02136 (D.D.C.) (complaint, October 17, 2017).

⁹ The Federal Arbitration Act exempts the “contracts of employment of seamen, railroad employees, or any other class of workers engaged in foreign or interstate commerce.” 9 U.S.C. § 1. Daniel Wiessner, “US Supreme Court lets broad array of transport workers sidestep arbitration,” *Reuters*, April 12, 2024, <https://www.reuters.com/legal/us-supreme-court-throws-out-ruling-arbitration-job-disputes-2024-04-12/>; *Bissonnette v. LePage Bakeries Park St., LLC*, 49 F.4th 655 (2022), *vacated and remanded*, 144 S.Ct. 905 (2024); *Bissonnette v. LePage Bakeries Park St. LLC*, 2019 WL 7563610 (amended class and collective action complaint).

¹⁰ 12 U.S.C. 53.

¹¹ Jon Hill, “High Court Calls For 2nd Circ. Redo In BofA Preemption Fight,” *Law360*, May 30, 2024, <https://www.law360.com/articles/1842409/high-court-calls-for-2nd-circ-redo-in-bofa-preemption-fight>; “Supreme Court gives homeowners another chance in escrow dispute with Bank of America,” *Associated Press*, May 30, 2024, <https://apnews.com/article/supreme-court-mortgage-escrow-bank-america-a7629abd04d7a0af0978239c1305dc41>; *Cantero v. Bank of America, N.A.*, 49 F.4th 121 (2022), *vacated and remanded*, 144 S.Ct. 1290 (2024); *Cantero v. Bank of America, N.A.*, 2018 WL 8805260 (first amended class action complaint); *Hymes v. Bank of America, N.A.*, Case No. 2:18-cv-02352 (E.D.N.Y.) (class action complaint, April 20, 2018).

¹² Jeff Overly, “Wow Such Basic: Justices Back Crypto Fans In Dogecoin Duel,” *Law360*, May 23, 2024, <https://www.law360.com/articles/1814868/wow-such-basic-justices-back-crypto-fans-in-dogecoin-duel>; *Suski v. Coinbase, Inc.*, 55 F.4th 1227 (2022), *aff’d*, *Coinbase, Inc. v. Suski*, 144 S.Ct. 1186 (2024); Aislinn Keely, “Dogecoin Fans Urge Justices To Let Court Hear Coinbase Row,” *Law360*, January 24, 2024, <https://www.law360.com/articles/1789182/dogecoin-fans-urge-justices-to-let-court-hear-coinbase-row>; *Suski v. Marden-Kane, Inc.*, 2022 WL 103541 (order regarding motions to compel arbitration and to dismiss, January 11, 2022); *Suski v. Coinbase Global, Inc.*, Case No. 3:21-cv-04539 (N.D. Cal.) (class action complaint, June 11, 2021).

¹³ “No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.” U.S. Const., Art. I, § 9, Cl. 7.

¹⁴ Consumer Financial Protection Bureau, “Strategy, budget and performance,” <https://www.consumerfinance.gov/about-us/budget-strategy/> (viewed September 16, 2024).

¹⁵ *Community Financial Services Association of America, Ltd. v. Consumer Financial Protection Bureau*, 51 F.4th 616 (2022), *rev’d and remanded*, 144 S.Ct. 1474 (2024); Jeff Neal, “Consumer Financial Protection Bureau on trial,” *Harvard Law Today*, September 29, 2023, <https://hls.harvard.edu/today/supreme-court-preview-consumer-financial-protection-bureau-v-community-financial-services-association-of-america/>

¹⁶ 28 U.S.C. § 2401(a). (“Except as provided by chapter 71 of title 41, every civil action commenced against the United States shall be barred unless the complaint is filed within six years after the right of action first accrues.”)

¹⁷ *North Dakota Retail Association v. Board of Governors of the Federal Reserve System*, 55 F.4th 634 (2022), *rev’d and remanded*, *Corner Post, Inc. v. Board of Governors of the Federal Reserve System*, 144 S.Ct. 2440 (2024); John Kruzell and Andrew Chung, “US Supreme Court wrestles with bid to challenge debit card ‘swipe fee’ rule,” *Reuters*, February 20, 2024, <https://www.reuters.com/legal/us-supreme-court-weighs-bid-challenge-debit-card-swipe-fee-rule-2024-02-20/>; *Corner Post, Inc. v. Board of Governors of the Federal Reserve System*, 2021 WL 6880945 (amended complaint).

¹⁸ Alonzo Martinez, “Supreme Court Upholds Consumer Rights: Federal Government Liable For FCRA Violations,” *Forbes*, March 27, 2024, <https://www.forbes.com/sites/alonzomartinez/2024/02/13/supreme-court-upholds-consumer-rights-federal-government-liable-for-fcra-violations/>; “Federal Agencies May Be Sued Under the Fair Credit Reporting Act, High Court Says,” *National Law Journal*, February 8, 2024, <https://www.law.com/nationallawjournal/2024/02/08/federal-agencies-may-be-sued-under-the-fair-credit->

[reporting-act-high-court-says](#); *Kirtz v. Trans Union LLC*, 46 F.4th 159 (2022), *aff'd*, *Department of Agriculture Rural Development Rural Housing Service v. Kirtz*, 144 S.Ct. 457 (2024); *Kirtz v. Trans Union LLC*, Case No. 2:20-cv-05231 (E.D. Pa.) (complaint, October 20, 2020).

¹⁹ Andrew Chung, “US Supreme Court preserves access to abortion pill mifepristone,” *Reuters*, June 13, 2024, <https://www.reuters.com/legal/us-supreme-court-will-not-restrict-access-abortion-pill-2024-06-13/>; Theresa Schliep, “Abortion Medication Case Ends ‘With A Whimper’ At High Court,” *Law360*, June 13, 2024, <https://www.law360.com/articles/1834689/abortion-medication-case-ends-with-a-whimper-at-high-court>; *Alliance for Hippocratic Medicine v. U.S. Food and Drug Administration*, 78 F.4th 210 (2023), *rev'd and remanded*, *Food and Drug Administration v. Alliance for Hippocratic Medicine*, 144 S.Ct. 1540 (2024); Sarah McCammon, “Judges’ dueling decisions put access to a key abortion drug in jeopardy nationwide,” *NPR*, April 8, 2023, <https://www.npr.org/2023/04/07/1159220452/abortion-pill-drug-mifepristone-judge-texas-amarillo>

²⁰ Andrew Chung, “US Supreme Court preserves access to abortion pill mifepristone,” *Reuters*, June 13, 2024, <https://www.reuters.com/legal/us-supreme-court-will-not-restrict-access-abortion-pill-2024-06-13/>. Per the opinion written by Justice Kavanaugh, “Under Article III of the Constitution, a plaintiff’s desire to make a drug less available for others does not establish standing to sue. ...Here, the plaintiff doctors and medical associations are unregulated parties who seek to challenge FDA’s regulation of others. Specifically, FDA’s regulations apply to doctors prescribing mifepristone and to pregnant women taking mifepristone. But the plaintiff doctors and medical associations do not prescribe or use mifepristone. And FDA has not required the plaintiffs to do anything or to refrain from doing anything.” Because they “do not prescribe, manufacture, sell, or advertise mifepristone or sponsor a competing drug, the plaintiffs suffer no direct monetary injuries from FDA’s actions relaxing regulation of mifepristone. Nor do they suffer injuries to their property, or to the value of their property, from FDA’s actions. Because the plaintiffs do not use mifepristone, they obviously can suffer no physical injuries from FDA’s actions relaxing regulation of mifepristone.” *Food and Drug Administration v. Alliance for Hippocratic Medicine*, 144 S.Ct. 1540 (2024).

²¹ John Kruzell, “US Supreme Court blocks Purdue Pharma bankruptcy settlement,” *Reuters*, June 27, 2024, <https://www.reuters.com/legal/us-supreme-court-blocks-purdue-pharma-bankruptcy-settlement-2024-06-27/>; Abbie VanSickle, “Supreme Court Jeopardizes Opioid Deal, Rejecting Protections for Sacklers,” *New York Times*, June 27, 2024, <https://www.nytimes.com/2024/06/27/us/supreme-court-opioid-settlement.html>; *Purdue Pharma, L.P. v. City of Grande Prairie (In re Pharma L.P.)*, 69 F.4th 45 (2023), *rev'd and remanded*, *Harrington v. Pharma L.P.* 144 S.Ct. 2071 (2024).

²² *Chevron v. Natural Resources Defense Council*, 104 S. Ct. 2778 (1984).

²³ Eli Sanders, “A Supreme Court Justice Warned That a Ruling Would Cause ‘Large-Scale Disruption.’ The Effects Are Already Being Felt.” *ProPublica*, September 23, 2024, <https://www.propublica.org/article/supreme-court-chevron-deference-loper-bright-guns-abortion-pending-cases>; Amy Howe, “Supreme Court strikes down Chevron, curtailing power of federal agencies,” *SCOTUSblog*, June 28, 2024, <https://www.scotusblog.com/2024/06/supreme-court-strikes-down-chevron-curtailing-power-of-federal-agencies/>; Juan-Carlos Rodriguez, “Supreme Court Strikes Down Chevron Deference,” *Law360*, June 28, 2024, <https://www.law360.com/articles/1796324>; Mark Sherman, “The Supreme Court weakens federal regulators, overturning decades-old Chevron decision,” *Associated Press*, June 28, 2024, <https://apnews.com/article/supreme-court-chevron-regulations-environment-5173bc83d3961a7aaabe415ceaf8d665>; *Relentless, Inc. v. Department of Commerce*, 62 F.4th 621 (2023), and *Loper Bright Enterprises, Inc. v. Raimondo*, 45 F.4th 359 (2022), *vacated and remanded*, *Loper Bright Enterprises, Inc. v. Raimondo*, 144 S. Ct. 2244 (2024); Amy Howe, “Supreme Court likely to discard Chevron,” *SCOTUSblog*, January 17, 2024, <https://www.scotusblog.com/2024/01/supreme-court-likely-to-discard-chevron/>

²⁴ In a dissent joined by Justices Sotomayor and Jackson, Justice Kagan noted “that at last count, Chevron was cited in more than 18,000 federal-court decisions,” making it “part of the warp and woof of modern government,

supporting regulatory efforts of all kinds – to name a few, keeping air and water clean, food and drugs safe, and financial markets honest.” She explained that “Chevron is as embedded as embedded gets in the law” and warned of “large-scale disruption,” arguing that the majority’s decision “gives courts the power to make all manner of scientific and technical judgments. It gives courts the power to make all manner of policy calls, including about how to weigh competing goods and values. ...It puts courts at the apex of the administrative process as to every conceivable subject – because there are always gaps and ambiguities in regulatory statutes, and often of great import. What actions can be taken to address climate change or other environmental challenges? What will the Nation’s health-care system look like in the coming decades? Or the financial or transportation systems? What rules are going to constrain the development of A.I.? In every sphere of current or future federal regulation, expect courts from now on to play a commanding role. It is not a role Congress has given to them, in the [Administrative Procedure Act] APA or any other statute. It is a role this Court has now claimed for itself, as well as for other judges.”

²⁵ See, e.g., *In re: Fosamax (Alendronate Sodium) Products Liability Litigation*, 2024 WL 4247311; Bobby Magil, “Loper-Bright May Be Double-Edged Sword Limiting Deregulation Too,” *Bloomberg Law*, August, 19, 2024, <https://news.bloomberglaw.com/environment-and-energy/loper-bright-may-be-double-edged-sword-limiting-deregulation-too>

²⁶ Jessica Corso, “Justices Limit Shareholder Suits Over Corporate Disclosures,” *Law360*, April 12, 2024, <https://www.law360.com/articles/1806902/justices-limit-shareholder-suits-over-corporate-disclosures>; *Moab Partners, L.P. v. Macquarie Infrastructure Corp.*, 2022 WL 17815767, *vacated and remanded*, *Macquarie Infrastructure Corp. v. Moab Partners, L.P.*, 144 S.Ct. 885 (2024); *City of Riviera Beach General Employees Retirement System v. Macquarie Infrastructure Corporation*, 2019 WL 2488802 (consolidated class action complaint).

²⁷ Bobby Allen and Nina Totenberg, “Supreme Court puts Florida and Texas social media laws on hold,” *NPR*, July 1, 2024, <https://www.npr.org/2024/07/01/nx-s1-4991108/supreme-court-netchoice>; Ali Sullivan and Katie Buehler, “Social Media Laws Need More Analysis, Justices Say,” *Law360*, July 1, 2024, <https://www.law360.com/articles/1812366/social-media-laws-need-more-analysis-justices-say>; *NetChoice, LLC v. Paxton*, 49 F.4th 439 (2022) and *NetChoice, LLC v. Attorney General, State of Florida*, 34 F. 4th 1196 (2022), *vacated and remanded*, *Moody v. NetChoice, LLC*, 144 S.Ct. 2383 (2024).

²⁸ Daniel Wiessner, “Amazon must face bias claims by Black worker placed on improvement plan,” *Reuters*, May 31, <https://www.reuters.com/legal/litigation/amazon-must-face-bias-claims-by-black-worker-placed-improvement-plan-2024-05-31/>; *Muldrow v. City of St. Louis, Missouri*, 30 F.4th 680 (2022), *vacated and remanded*, 144 S.Ct. 967 (2024).

²⁹ Sarah Jarvis, “High Court Sides With Whistleblower Against UBS,” *Law360*, February 8, 2024, <https://www.law360.com/articles/1765445/high-court-sides-with-whistleblower-against-ubs>; *Murray v. UBS Securities, LLC*, 43 F.4th 254 (2022), *rev’d and remanded*, 144 S.Ct. 445 (2024); *Murray v. UBS Securities, LLC*, 2014 WL 2207034 (amended complaint).

³⁰ Justice Barrett wrote in her dissent, which was joined by Justices Sotomayor, Kagan and Jackson, “Given the number of companies included and the timelines for review, the court’s injunction leaves large swaths of upwind states free to keep contributing significantly to their downwind neighbors’ ozone problems for the next several years – even though the temporarily stayed [State Implementation Plan] disapprovals may all be upheld and the [Federal Implementation Plan] may yet cover all the original states.” *Ohio v. Environmental Protection Agency*, 144 S.Ct. 2040 (2024) (Barrett, J., dissenting). U.S. Senator Tom Carper (D-Del.), Chairman of the Senate Environment and Public Works Committee, also criticized the decision, stating in a press release: “This extreme court is once again chipping away at EPA’s ability to do its job as Congress directed it to do with the Clean Air Act. Today’s decision is not only unnecessary as Justice Barrett points out in the dissent, but it also ignores the reality that air pollution knows no state boundaries and is a violation of the Golden Rule. The court’s radical decision today

hamstrings EPA's life-saving efforts to crack down on air pollution and puts the health of millions of Americans at risk." Press release from the Office of U.S. Senator Tom Carper, "Carper Statement on Supreme Court Ruling in Ohio v. Environmental Protection Agency," June 27, 2024,

<https://www.epw.senate.gov/public/index.cfm/2024/6/carper-statement-on-supreme-court-ruling-in-ohio-v-environmental-protection-agency>

³¹ Katie Buehler and Keith Goldberg, "Supreme Court Freezes EPA's 'Good Neighbor' Rule," *Law360*, June 27, 2024, <https://www.law360.com/articles/1812331/supreme-court-freezes-epa-s-good-neighbor-rule>; Andrew Chung, "US Supreme Court blocks EPA's 'Good Neighbor' air pollution plan," *Reuters*, June 27, 2024,

<https://www.reuters.com/legal/us-supreme-court-blocks-epas-good-neighbor-air-pollution-plan-2024-06-27/>;

Matthew Daly, "What it means for the Supreme Court to block enforcement of the EPA's 'good neighbor' pollution rule," *Associated Press*, June 27, 2024, <https://apnews.com/article/supreme-court-epa-good-neighbor-air-pollution-ea23421c78999293267339faf4453cdb>;

Amy Howe, "Supreme Court blocks EPA's 'Good Neighbor' air pollution rule," *SCOTUSblog*, June 27, 2024, <https://www.scotusblog.com/2024/06/supreme-court-blocks-epas-good-neighbor-air-pollution-rule/>;

Press release from the Office of U.S. Senator Tom Carper, "Carper Statement on Supreme Court Ruling in Ohio v. Environmental Protection Agency," June 27, 2024, <https://www.epw.senate.gov/public/index.cfm/2024/6/carper-statement-on-supreme-court-ruling-in-ohio-v-environmental-protection-agency>; *Utah v. Environmental Protection Agency*, 2023 WL 6285159, *stay granted*, *Ohio v. Environmental Protection Agency*, 144 S.Ct. 2040 (2024).

³² *Jarkesy v. Securities and Exchange Commission*, 34 F.4th 446 (2022), *aff'd and remanded*, *Securities and Exchange Commission v. Jarkesy*, 144 S.Ct. 2117 (2024).

³³ Ronald Mann, "Justices limit major SEC tool to penalize fraud," *SCOTUSblog*, June 28, 2024,

<https://www.scotusblog.com/2024/06/justices-limit-major-sec-tool-to-penalize-fraud/>

³⁴ Caroline Simson, "Justices Say Courts Must Stay Suits Sent To Arbitration," *Law360*, May 16, 2024, <https://www.law360.com/articles/1835087>; *Forrest v. Spizzirri*, 62 F.4th 1201 (2023), *rev'd and remanded*, *Smith v. Spizzirri*, 144 S.Ct. 1173 (2024); *Forrest v. Spizzirri*, Case No. CV2021-010875 (Maricopa County Super. Ct., Ariz.) (complaint, July 9, 2021).

³⁵ Andrew Chung, "US Supreme Court backs Starbucks over fired pro-union workers," *Reuters*, June 13, 2024, <https://www.reuters.com/legal/us-supreme-court-backs-starbucks-over-fired-pro-union-workers-2024-06-13/>;

Noam Scheiber and Santul Nerkal, "Supreme Court, in Starbucks Ruling, Curbs Labor Regulator's Authority," *New York Times*, June 13, 2024, <https://www.nytimes.com/2024/06/13/business/economy/supreme-court-starbucks-nlr.html>; *McKinney v. Starbucks Corporation*, 77 F.4th 391 (2023), *vacated and remanded*, *Starbucks Corporation v. McKinney*, 144 S.Ct. 1570 (2024).

³⁶ Dietrich Knauth, "US Supreme Court backs insurers' right to speak up in bankruptcy," *Reuters*, June 6, 2024, <https://www.reuters.com/legal/government/us-supreme-court-backs-insurers-right-speak-up-bankruptcy-2024-06-06/>;

Ganesh Setty, "In Reversal, Justices Say Insurer Has Standing In Ch. 11 Case," *Law360*, June 6, 2024, <https://www.law360.com/articles/1840251/in-reversal-justices-say-insurer-has-standing-in-ch-11-case>; *Hanson Permanente Cement, Inc. v. Kaiser Gypsum Company, Inc. (In re Kaiser Gypsum Co.)*, 60 F.4th 73 (2023), *rev'd and remanded*, *Truck Insurance Exchange v. Kaiser Gypsum Company, Inc.*, 144 S. Ct. 1414 (2024); Dietrich Knauth, "US Supreme Court appears to back insurers' participation in bankruptcy," *Reuters*, March 20, 2024, <https://www.reuters.com/legal/government/us-supreme-court-appears-back-insurers-participation-bankruptcy-2024-03-19/>

³⁷ Grace Elletson, "Ex-IBM Workers Can't Get Justices To Tackle Age Bias Battle," *Law360*, February 20, 2024, <https://www.law360.com/classaction/articles/1804465/ex-ibm-workers-can-t-get-justices-to-tackle-age-bias-battle>;

In re: IBM Arbitration Agreement Litigation, 76 F.4th 74, *cert. denied*, *Abelar v. International Business Machines Corporation*, 144 S.Ct. 827 (2024); *In re: IBM Arbitration Agreement Litigation*, 2022 WL 2752618; Daniel Wiessner, "Judge upholds IBM workers' arbitration pacts in age bias litigation," *Reuters*, July 14, 2022,

<https://www.reuters.com/legal/litigation/judge-upholds-ibm-workers-arbitration-pacts-age-bias-litigation-2022-07-14/>

³⁸ Andrew Chung, “US Supreme Court rejects challenge to workplace safety agency,” *Reuters*, July 2, 2024, <https://www.reuters.com/legal/us-supreme-court-rejects-challenge-workplace-safety-agency-2024-07-02/>; *Allstates Refractory Contractors, LLC v. Su*, 79 F.4th 755 (2023), *cert. denied*, 144 S.Ct. 2490 (2024); *Allstates Refractory Contractors, LLC v. Walsh*, 625 F. Supp. 3d 676 (2022); *Allstates Refractory Contractors, LLC v. Walsh*, Case No. 3:21-cv-01864-JZ (N.D. Ohio) (complaint, September 30, 2021).

³⁹ Daniel Wiessner, “US Supreme Court turns away trio of cases on worker arbitration exemption,” *Reuters*, April 22, 2024, <https://www.reuters.com/legal/government/us-supreme-court-turns-away-trio-cases-worker-arbitration-exemption-2024-04-22/>; *Miller v. Amazon.com, Inc.*, 2023 WL 5665771, *cert. denied*, *Amazon.com, Inc. v. Miller*, 144 S.Ct. 1402 (2024); *Miller v. Amazon.com, Inc.*, 2021 WL 5847232; *Miller v. Amazon.com, Inc.*, Case No. 2:21-cv-00204 (W.D. Wa.) (complaint, February 17, 2021).

⁴⁰ Rae Ann Varona, “Justices Deny Review Of Hezbollah-Tied Bank’s Immunity,” *Law360*, April 29, 2024, <https://www.law360.com/personal-injury-medical-malpractice/articles/1830641/justices-deny-review-of-hezbollah-tied-bank-s-immunity>; *Bartlett v. Baasiri*, 81 F.4th 28 (2023), *cert. denied*, 144 S.Ct. 1456 (2024); Bernie Pazanowski, “Lebanese Bank That Allegedly Helped Hezbollah May Avoid Suit,” *Bloomberg Law*, August 24, 2023, <https://news.bloomberglaw.com/us-law-week/lebanese-bank-that-allegedly-helped-hezbollah-may-avoid-suit>; *Bartlett v. Baasiri*, Case No. 1:19-cv-00007 (E.D.N.Y.) (complaint, January 1, 2019).

⁴¹ Juan Carlos-Rodriguez, “BP And Shell Lose Bid To Stay Louisiana Coastal Erosion Trial,” *Law360*, November 7, 2023, <https://www.law360.com/articles/1764377/bp-and-shell-lose-bid-to-stay-louisiana-coastal-erosion-trial>; *Parish of Cameron v. Auster Oil & Gas, Inc.*, 371 So. 3d 460 (2023), *cert. denied*, *BP America Production Company v. Parish of Cameron, Louisiana*, 144 S.Ct. 413 (2023); Mark Schleifstein, “BP, Shell, Hilcorp ask U.S. Supreme Court to halt Cameron Parish coastal erosion suit,” *Times-Picayune*, October 25, 2023, https://www.nola.com/news/environment/oil-firms-ask-supreme-court-to-halt-cameron-coastal-suit/article_658fdf16-736b-11ee-a0c5-bf6dca295a52.html

⁴² Allison Grande, “High Court Won’t Revisit Class Cert. In Chili’s Data Breach Row,” *Law360*, April 29, 2024, <https://www.law360.com/articles/1830866/high-court-won-t-revisit-class-cert-in-chili-s-data-breach-row>; *Green-Cooper v. Brinker International, Inc.*, 73 F.4th 883 (2023), *cert. denied*, *Brinker International, Inc. v. Steinmetz*, 144 S.Ct. 1457 (2024); Skye Witley, “Chili’s Customer Data Breach Classes Need Redo, 11th Cir. Says,” *Bloomberg News*, July 11, 2023, <https://www.bloomberglaw.com/bloomberglawnews/privacy-and-data-security/X85PCCO4000000>

⁴³ Daniel Wiessner, “US Supreme Court turns away trio of cases on worker arbitration exemption,” *Reuters*, April 22, 2024, <https://www.reuters.com/legal/government/us-supreme-court-turns-away-trio-cases-worker-arbitration-exemption-2024-04-22/>; *Canales v. CK Sales Co., LLC*, 67 F.4th 38 (2023), *cert. denied*, *CK Sales Co., LLC v. Canales*, 144 S.Ct. 1391 (2024); Daniel Wiessner, “Massachusetts bakery distributors exempt from arbitrating wage claims,” *Reuters*, May 5, 2023, <https://www.reuters.com/legal/litigation/mass-bakery-distributors-exempt-arbitrating-wage-claims-2023-05-05/>; *Canales v. LePage Bakeries*, 2023 WL 7165039.

⁴⁴ Shweta Watwe, “High Court Passes on Consumer Lactaid Labeling Preemption Suit,” *Bloomberg*, April 15, 2024, <https://news.bloomberglaw.com/privacy-and-data-security/high-court-passes-on-consumer-lactaid-labeling-preemption-suit>; *DiCroce v. McNeil Nutritionals, LLC*, 82 F.4th 35 (2023), *cert. denied*, 144 S.Ct. 1382 (2024); Henrik Nilsson, “1st Circ. Sides With J&J Subsidiary In Lactaid False Ad Suit,” *Law360*, September 19, 2023, <https://www.law360.com/articles/1723050>

⁴⁵ Ali Sullivan, “Thomas Warns Of ‘Danger In Delay’ In Snapchat Abuse Case,” *Law360*, July 2, 2024, <https://www.law360.com/articles/1854413/thomas-warns-of-danger-in-delay-in-snapchat-abuse-case>; *Doe v. Snap, Inc.*, 88 F.4th 1069 (2023), *cert. denied*, 144 S.Ct. 2493 (2024); *Doe v. Snap, Inc.*, 2023 WL 4174061; *Doe v. Snap, Inc.*, 2022 WL 2528615 (memorandum and opinion); *Doe v. Snap, Inc.*, Case No. 4:22-cv-00590 (S.D. Tex.) (complaint, February 24, 2022).

⁴⁶ Daniel Wiessner, “US Supreme Court turns away trio of cases on worker arbitration exemption,” *Reuters*, April 22, 2024, <https://www.reuters.com/legal/government/us-supreme-court-turns-away-trio-cases-worker-arbitration-exemption-2024-04-22/>; *Carmona v. Domino’s Pizza, LLC*, 73 F.4th 1135 (2023), *cert. denied*, *Domino’s Pizza, LLC v. Carmona*, 144 S.Ct. 1391 (2024); *Carmona v. Domino’s Pizza, LLC*, Case No. 30-2020-01145146-CU-OE-CXC (Orange County Super. Ct., CA) (complaint, June 26, 2020).

⁴⁷ The jury also awarded Julie \$10 million for loss of consortium but that amount was reduced to \$250,000 because of the Ohio Tort Reform Act. *In Re: E.I. du Pont de Nemours and Company Personal Injury Litigation*, 54 F.4th 912 (2022).

⁴⁸ Emily Field, “High Court Won’t Review DuPont PFAS MDL Ruling,” *Law360*, November 20, 2023, <https://www.law360.com/articles/1724999/high-court-won-t-review-dupont-pfas-mdl-ruling>; *Abbott v. E.I. du Pont de Nemours & Co. (In re E.I. du Pont de Nemours & Co. C-8 Personal Inj. Litig.)*, 54 F.4th 912 (2022), *cert. denied*, *E.I. du Pont de Nemours & Co. v. Abbott*, 144 S.Ct. 16 (2023); *In Re: E.I. du Pont de Nemours and Company Personal Injury Litigation*, 2021 WL 1795312. Justice Thomas dissented from the denial of certiorari, “saying that a multidistrict litigation is designed to streamline proceedings before trial, not to resolve the merits of numerous cases ‘in one fell swoop. ...It is quite a stretch to use a mechanism designed to handle only pretrial proceedings to instead resolve multiple elements of a claim based on a few nonbinding bellwether trials.” Emily Field, “High Court Won’t Review DuPont PFAS MDL Ruling,” *Law360*, November 20, 2023, <https://www.law360.com/articles/1724999/high-court-won-t-review-dupont-pfas-mdl-ruling>, discussing *E.I. du Pont de Nemours & Co. v. Abbott*, 144 S.Ct. 16 (2023) (Thomas, J., dissenting).

⁴⁹ Matthew Perlman, “Justices Won’t Hear Objections To \$2.67B BCBS Deal,” *Law360*, June 24, 2024, <https://www.law360.com/articles/1849183/justices-won-t-hear-objections-to-2-67b-bcbs-deal>; Mike Scarcella, “US Supreme Court rejects challenge to \$2.7 bln Blue Cross settlement,” *Reuters*, June 24, 2024, <https://www.reuters.com/legal/government/us-supreme-court-rejects-challenge-27-bln-blue-cross-settlement-2024-06-24/>; *In re: Blue Cross Blue Shield Antitrust Litigation MDL 2406*, 85 F.4th 1070 (2023), *cert. denied*, *Home Depot U.S.A., Inc. v. Blue Cross Blue Shield Association*, 144 S.Ct. 2687 (2024), and *Behenna v. Blue Cross Blue Shield Association*, 144 S.Ct. 2686 (2024); Megan Butler, “11th Circuit upholds \$2.7 billion Blue Cross antitrust settlement,” *Courthouse News Service*, October 25, 2023, <https://www.courthousenews.com/11th-circuit-upholds-2-7-billion-blue-cross-antitrust-settlement/>; *In re: Blue Cross Blue Shield Antitrust Litigation*, Master File No. 2:13-cv-20000-RDP, MDL 2406, 2022 WL 4587618 (final order and judgment granting approval of subscriber class action settlement); *In re: Blue Cross Blue Shield Antitrust Litigation*, Master File No. 2:13-cv-20000-RDP, MDL 2406 (settlement agreement, August 30, 2020), <https://www.bcbssettlement.com/admin/services/connectedapps.cms.extensions/1.0.0.0/asset?id=36668bb7-ef49-45b6-bbd5-93bc9b3e70b5&languageId=1033&inline=true>

⁵⁰ David Holtzman, “Justices Won’t Hear Brokerage’s Arbitration Claim In Fees Suit,” *Law360*, April 15, 2024, <https://www.law360.com/real-estate-authority/residential/articles/1789315/justices-won-t-hear-brokerage-s-arbitration-claim-in-fees-suit>; *Burnett v. National Association of Realtors*, 75 F.4th 975 (2023), *cert. denied*, *HomeServices of America, Inc. v. Burnett*, 144 S.Ct. 1347 (2024); Dave Gallagher, “HomeServices takes commissions fight to Supreme Court,” *Real Estate News*, February 5, 2024, <https://www.realestatenews.com/2024/02/05/homeservices-takes-commissions-fight-to-supreme-court>; Mike Scarcella, “Berkshire’s HomeServices asks US Supreme Court to hear antitrust case,” *Reuters*, February 5, 2024, <https://www.reuters.com/legal/government/berkshires-homeservices-asks-us-supreme-court-hear-antitrust-case-2024-02-05/>; *Sitzer v. National Association of Realtors*, Case No. 4:19-cv-00332-SRB (W.D. Mo.) (complaint, April 29, 2019).

⁵¹ Emmy Freedman, “High Court Turns Away Ex-HP Worker’s Disability Bias Suit,” *Law360*, April 22, 2024, <https://www.law360.com/articles/1828025/high-court-turns-away-ex-hp-worker-s-disability-bias-suit>; *Israelitt v. Enterprise Services LLC*, 78 F.4th 647 (2023), *cert. denied*, 144 S.Ct. 1392 (2024); *Israelitt v. Enterprise Services LLC*

(petition for writ of certiorari, January 12, 2024), https://www.supremecourt.gov/DocketPDF/23/23-776/295638/20240112132314288_23-%20Israelitt%20Petition%20FINAL_01.11.24.pdf; *Israelitt v. Enterprise Services LLC*, 2022 WL 672158.

⁵² Mike Curley, “High Court Won’t Hear Cops’ Immunity Appeal In Crash Death,” *Law360*, March 4, 2024, <https://www.law360.com/personal-injury-medical-malpractice/articles/1809440/high-court-won-t-hear-cops-immunity-appeal-in-crash-death>; *Cheeks v. Belmar*, 80 F.4th 872, *cert. denied*, *Jakob v. Cheeks*, 144 S.Ct. 1030 (2024); *Neil v. Belmar*, 2018 WL 11430355 (complaint, December 17, 2018).

⁵³ James Farrell, “Supreme Court won’t revisit Michigan police beating claims in mistaken arrest case,” *Courthouse News Service*, October 30, 2023, <https://www.courthousenews.com/supreme-court-wont-revisit-michigan-police-beating-claims-in-mistaken-arrest-case/>; *King v. United States*, 49 F.4th 991 (2022), *cert. denied*, *King v. Brownback*, 144 S.Ct. 10 (2023). In a statement accompanying the denial of certiorari, Justice Sotomayor wrote, “The text, purpose, and effect of the FTCA, as well as principles of common-law claim preclusion, all indicate that the judgment bar might not apply to claims brought in the same lawsuit. Indeed, applying the judgment bar in such circumstances produces unfair and inefficient results. James King now cannot litigate his claims that officers unconstitutionally stopped, searched, assaulted, and hospitalized him, even though the Sixth Circuit previously concluded that these claims could proceed to a jury trial. He cannot advance these compelling claims solely because he brought them together with his FTCA claim, which was dismissed for unrelated reasons. This broad application of the judgment bar incentivizes piecemeal litigation. ...This case presents a consequential statutory interpretation question that has divided the courts of appeals. That question still ‘deserves much closer analysis and, where appropriate, reconsideration.’ In an appropriate future case, this Court should decide this issue.” Statement of U.S. Supreme Court Justice Sonia Sotomayor regarding denial of a writ of certiorari, October 20, 2023, <https://www.courthousenews.com/wp-content/uploads/2023/10/order-list-supreme-court-sotomayor-statement.pdf>

⁵⁴ Dietrich Knauth, “US Supreme Court lets \$2.46 billion Boy Scouts sex abuse settlement proceed,” *Reuters*, February 22, 2024, <https://www.reuters.com/legal/us-supreme-court-lets-246-billion-boy-scouts-sex-abuse-settlement-proceed-2024-02-22/>; Hilary Russ, “Full Supreme Court Won’t Halt Boy Scouts’ Ch. 11 Plan,” *Law360*, February 22, 2024, <https://www.law360.com/articles/1805800/full-supreme-court-won-t-halt-boy-scouts-ch-11-plan>

⁵⁵ Max Kutner, “Supreme Court Won’t Revisit Calif. Law Arbitration Issue,” *Law360*, June 17, 2024, <https://www.law360.com/employment-authority/articles/1844185>; *Seifu v. Lyft, Inc.*, 89 Cal. App. 5th 1129 (2023), *cert. denied*, *Lyft, Inc. v. Seifu*, 144 S.Ct. 2658 (2024); *Seifu v. Lyft, Inc.*, Case No. BC712959 (L.A. County Super. Ct., Cal.) (complaint, July 5, 2018).

⁵⁶ *Ford v. Mckesson*, 2024 WL 3367216; Andrew Chung, “US Supreme Court rejects Black Lives Matter activist’s appeal over protest incident,” *Reuters*, April 15, 2024, <https://www.reuters.com/world/us/us-supreme-court-rejects-black-lives-matter-activists-appeal-over-protest-2024-04-15/>; *Doe v. Mckesson*, 71 F.4th 278 (2023), *cert. denied*, *Mckesson v. Doe*, 144 S.Ct. 913 (2024); *Doe v. Mckesson*, 272 F.Supp.3d 841 (2017).

⁵⁷ Abby Wargo, “High Court Won’t Pick Up Medical Drivers’ Class Status Row,” February 20, 2024, *Law360*, <https://www.law360.com/employment/articles/1804628/high-court-won-t-pick-up-medical-drivers-class-status-row>; *Harris v. Medical Transportation Management, Inc.*, 77 F.4th 746 (2023), *cert. denied*, *Medical Transportation Management, Inc. v. Harris*, 144 S.Ct. 818 (2024); *Harris v. Medical Transportation Management, Inc.*, 2021 WL 3472381.

⁵⁸ Patrick Hoff, “Ex-LSU Attys Denied High Court Review Of Pay Bias Suit,” *Law360*, January 8, 2024, <https://www.law360.com/articles/1783241/ex-lsu-attys-denied-high-court-review-of-pay-bias-suit>; *Muslow v. Louisiana State University*, 2023 WL 5498952, *cert. denied*, 144 S.Ct. 573 (2024).

⁵⁹ Madeline Lyskawa, “Justices Won’t Take Up Wildfire Negligence Liability Suit,” *Law360*, November 6, 2023, <https://www.law360.com/productliability/articles/1763875/justices-won-t-take-up-wildfire-negligence-liability->

suit; *Schurg v. United States*, 63 F.4th 826 (2023), cert. denied, *O’Grady v. United States*, 144 S.Ct. 379 (2023); *Schurg v. United States*, 584 F. Supp. 3d 893 (2022).

⁶⁰ Nate Beck, “Supreme Court Declines To Hear ‘Unusual’ FCRA Case,” *Law360*, April 29, 2024, <https://www.law360.com/articles/1830118/supreme-court-declines-to-hear-unusual-fcra-case>; *Guthrie v. PHH Mortgage Corporation*, 79 F.4th 328 (2023), cert. denied, *PHH Mortgage Corporation v. Guthrie*, 144 S.Ct. 1458 (2024); *Guthrie v. PHH Mortgage Corporation*, 2022 WL 706923; *Guthrie v. PHH Mortgage Corporation*, Case No. 7:20-cv-00043-BO (Onslow County Superior Court, NC) (complaint, January 31, 2020).

⁶¹ Jon Steingart, “Justices Won’t Mull Worker-Friendly Ruling On Preshift Pay,” *Law360*, June 3, 2024, <https://www.law360.com/classaction/articles/1840233/justices-won-t-mull-worker-friendly-ruling-on-preshift-pay>; *Tyger v. Precision Drilling Corp.*, 78 F.4th 587 (2023), cert. denied, *Precision Drilling Corp. v. Tyger*, 144 S.Ct. 2604 (2024); *Tyger v. Precision Drilling Corp.*, 594 F.Supp.3d 626 (2022); *Tyger v. Precision Drilling Corp.*, Case No. 4:11-cv-01913-MWB (M.D. Pa.) (complaint, October 17, 2011).

⁶² Patrick Hoff, “Justices Turn Away Push To Unseal IBM Age Bias Award,” *Law360*, February 26, 2024, <https://www.law360.com/employment-authority/articles/1806637/justices-turn-away-push-to-unseal-ibm-age-bias-award>; *Stafford v. International Business Machines Corporation*, 78 F.4th 62, cert. denied, 144 S.Ct. 1011 (2024); *Stafford v. International Business Machines Corporation*, 2022 WL 1486494.

⁶³ Irene Spezzamonte, “Justices Won’t Weigh Nonsignatory Arbitration Issue,” *Law360*, February 20, 2024, <https://www.law360.com/energy/articles/1804414/justices-won-t-weigh-nonsignatory-arbitration-issue>; *Rogers v. Tug Hill Operating, LLC*, 76 F.4th 279 (2023), cert. denied, *Tug Hill Operating, LLC v. Rogers*, 144 S.Ct. 818 (2024); *Rogers v. Tug Hill Operating, LLC*, Case No. 5:21-cv-199 (N.D.W. Va.) (complaint, December 3, 2021).

⁶⁴ Katie Buehler, “Justices Allow Class Action Over ATM Fees To Proceed,” *Law360*, April 15, 2024, <https://www.law360.com/classaction/articles/1822509>; Mike Scarcella, “US Supreme Court declines Visa, Mastercard appeal in ATM class action,” *Reuters*, April 15, 2024, <https://www.reuters.com/legal/government/us-supreme-court-declines-visa-mastercard-appeal-atm-class-action-2024-04-15/>; *National ATM Council, Inc. v. Visa Inc.*, 2023 WL 4743013, cert. denied, *Visa Inc. v. National ATM Council, Inc.*, 144 S.Ct. 1381 (2024); *National ATM Council, Inc. v. Visa Inc.*, 2021 WL 4099451; *Burke v. Visa*, Case No. 1:11-CV-01882 (D.C. Dist. Ct.) (complaint, October 24, 2011); *National ATM Council, Inc. v. Visa Inc.*, Case No. 1:11-CV-01803 (D.C. Dist. Ct.) (complaint, October 12, 2011).

⁶⁵ Kimberly Strawbridge Robinson, “US Supreme Court to Review ‘Sham Marriage’ Immigration Finding,” *Bloomberg Law*, April 29, 2024, <https://news.bloomberglaw.com/us-law-week/justices-consider-juridical-review-for-sham-marriage-finding>; *Bouarfa v. Mayorkas*, No. 23-583 (argument October 15, 2024), <https://www.scotusblog.com/case-files/cases/bouarfa-v-mayorkas/>; Kalvis Golde, “Couple seeks review of revoked visa,” *SCOTUSblog*, February 5, 2024, <https://www.scotusblog.com/2024/02/couple-seeks-review-of-revoked-visa/>; *Bouarfa v. Mayorkas*, 2022 WL 2072995.

⁶⁶ Juan-Carlos Rodriguez, “Calif. Backs EPA’s High Court Fight To Keep SF Water Limits,” *Law360*, September 3, 2024, <https://www.law360.com/articles/1875860/calif-backs-epa-s-high-court-fight-to-keep-sf-water-limits>; Amy Howe, “Court schedules first cases for 2024-25 term,” *SCOTUSblog*, July 26, 2024, <https://www.scotusblog.com/2024/07/court-schedules-first-cases-for-2024-25-term/>; Amy Howe, “Supreme Court takes Clean Water Act case,” *SCOTUSblog*, May 28, 2024, <https://www.scotusblog.com/2024/05/supreme-court-takes-clean-water-act-case/>; *City and County of San Francisco v. Environmental Protection Agency*, No. 23-753 (argument October 16, 2024); *City and County of Francisco. v. U.S. Environmental Protection Agency*, 75 F.4th 1074 (2023).

⁶⁷ Amy Howe, “Supreme Court adds four cases to next term’s docket,” *SCOTUSblog*, June 17, 2024, <https://www.scotusblog.com/2024/06/supreme-court-adds-four-cases-to-next-terms-docket/>; Daniel Wiessner, “US Supreme Court will review test for applying wage law exemptions,” *Reuters*, June 17, 2024, <https://www.reuters.com/legal/government/us-supreme-court-will-review-test-applying-wage-law-exemptions->

[2024-06-17/](#); *E.M.D. Sales, Inc. v. Carrera*, No. 23-217 (argument November 5, 2024),

<https://www.scotusblog.com/case-files/cases/e-m-d-sales-inc-v-carrera/>

⁶⁸ Sarah Jarvis, “Justices To Hear Meta Investor Suit Over Risk Disclosures,” *Law360*, June 10, 2024,

<https://www.law360.com/articles/1845930/justices-to-hear-meta-investor-suit-over-risk-disclosures>; John Kruzel,

“US Supreme Court to hear Facebook bid to scuttle shareholder lawsuit,” *Reuters*, June 10, 2024,

<https://www.reuters.com/legal/us-supreme-court-hear-facebook-bid-scuttle-shareholder-lawsuit-2024-06-10/>;

Greg Stohr, “Meta Gets Supreme Court Review on Investor Data-Harvesting Suit,” *Bloomberg*, June 10, 2024,

<https://www.claimsjournal.com/news/national/2024/06/10/324105.htm>; John Elwood, “Required SEC disclosures

and erroneous DNA evidence,” *SCOTUSblog*, June 6, 2024, [https://www.scotusblog.com/2024/06/required-sec-](https://www.scotusblog.com/2024/06/required-sec-disclosures-and-erroneous-dna-evidence/)

[disclosures-and-erroneous-dna-evidence/](https://www.scotusblog.com/2024/06/required-sec-disclosures-and-erroneous-dna-evidence/); *Facebook, Inc. v. Amalgamated Bank*, No. 23-980 (argument November

6, 2024), <https://www.scotusblog.com/case-files/cases/facebook-inc-v-amalgamated-bank/>; *Amalgamated Bank v.*

Facebook, Inc. (In re Facebook, Inc. Sec. Litig.), 84 F.4th 844 (2023).

⁶⁹ Greg Stohr and Tiffany Kary, “FDA Efforts to Curb Flavored Vapes Draw Supreme Court Review,” *Bloomberg*

News, July 2, 2024, [https://news.bloomberglaw.com/us-law-week/fda-efforts-to-curb-flavored-vapes-draw-](https://news.bloomberglaw.com/us-law-week/fda-efforts-to-curb-flavored-vapes-draw-supreme-court-review)

[supreme-court-review](https://news.bloomberglaw.com/us-law-week/fda-efforts-to-curb-flavored-vapes-draw-supreme-court-review); *Food and Drug Administration v. Wages and White Lion Investments, LLC*, No. 23-1038

(argument date TBD), [https://www.scotusblog.com/case-files/cases/food-and-drug-administration-v-wages-and-](https://www.scotusblog.com/case-files/cases/food-and-drug-administration-v-wages-and-white-lion-investments-llc/)

[white-lion-investments-llc/](https://www.scotusblog.com/case-files/cases/food-and-drug-administration-v-wages-and-white-lion-investments-llc/)

⁷⁰ Ryan Knappenberger, “Federal ghost gun ban gets full SCOTUS consideration,” *Courthouse News Service*, April

22, 2024, <https://www.courthousenews.com/federal-ghost-gun-ban-gets-full-scotus-consideration/>; *Lackey v.*

Stinnie, No. 23-621 (argument October 8, 2024), <https://www.scotusblog.com/case-files/cases/lackey-v-stinnie/>

⁷¹ Justin Jouvenal, “Supreme Court to hear cases on veterans’ benefits, pet food and visas next term,” *Washington*

Post, April 29, 2024, <https://www.washingtonpost.com/politics/2024/04/29/supreme-court-cases-next-term/>;

Medical Marijuana v. Horn, No. 23-365 (argument October 15, 2024), [https://www.scotusblog.com/case-](https://www.scotusblog.com/case-files/cases/medical-marijuana-inc-v-horn/)

[files/cases/medical-marijuana-inc-v-horn/](https://www.scotusblog.com/case-files/cases/medical-marijuana-inc-v-horn/)

⁷² 15 U.S.C. § 78u-4.

⁷³ Jessica Corso, “Justices To Hear Nvidia Case On Securities Pleading Standard,” *Law360*, June 17, 2024,

<https://www.law360.com/articles/1847339/justices-to-hear-nvidia-case-on-securities-pleading-standard>; *NVIDIA*

Corp. v. E. Ohman J:or Fonder AB, No. 23-970 (argument November 13, 2024), [https://www.scotusblog.com/case-](https://www.scotusblog.com/case-files/cases/nvidia-corp-v-e-ohman-jor-fonder-ab/)

[files/cases/nvidia-corp-v-e-ohman-jor-fonder-ab/](https://www.scotusblog.com/case-files/cases/nvidia-corp-v-e-ohman-jor-fonder-ab/)

⁷⁴ Justin Jouvenal, “Supreme Court to hear cases on veterans’ benefits, pet food and visas next term,” *Washington*

Post, April 29, 2024, <https://www.washingtonpost.com/politics/2024/04/29/supreme-court-cases-next-term/>;

Alison Frankel, “Dog food fight is on at the US Supreme Court,” *Reuters On the Case*, March 20, 2024,

<https://www.reuters.com/legal/government/dog-food-fight-is-us-supreme-court-2024-03-20/>; *Royal Canin U.S.A.*

v. Wullschleger, No. 23-677 (argument October 7, 2024), [https://www.scotusblog.com/case-files/cases/royal-](https://www.scotusblog.com/case-files/cases/royal-canin-u-s-a-inc-v-wullschleger/)

[canin-u-s-a-inc-v-wullschleger/](https://www.scotusblog.com/case-files/cases/royal-canin-u-s-a-inc-v-wullschleger/)

⁷⁵ Amy Howe, “Court adds seven cases to next term’s docket,” *SCOTUSblog*, June 24, 2024,

<https://www.scotusblog.com/2024/06/court-adds-seven-cases-to-next-terms-docket/>; Juan-Carlos Rodriguez,

“Justices Will Review Request To Rein In NEPA Requirements,” *Law360*, June 24, 2024,

<https://www.law360.com/articles/1818428/justices-will-review-request-to-rein-in-nepa-requirements>;

Seven County Infrastructure Coalition v. Eagle County, Colorado, No. 23-975 (argument date TBD),

<https://www.scotusblog.com/case-files/cases/seven-county-infrastructure-coalition-v-eagle-county-colorado/>;

John Elwood, “Nine new relists as the court approaches the finish line,” *SCOTUSblog*, June 20, 2024,

<https://www.scotusblog.com/2024/06/nine-new-relists-as-the-court-approaches-the-finish-line/>; *Eagle County,*

Colorado v. Surface Transportation Board, 82 F.4th 1152 (2023).

⁷⁶ Lilah Burke, “Ex-Worker’s High Court ADA Suit Raises Future Benefits Questions,” *Bloomberg Law*, June 26, 2024,

<https://news.bloomberglaw.com/daily-labor-report/ex-workers-high-court-ada-suit-raises-future-benefits->

questions; *Stanley v. City of Sanford, Florida*, No. 23-997 (argument date TBD), <https://www.scotusblog.com/case-files/cases/stanley-v-city-of-sanford-florida/>; *Stanley v. City of Sanford, Florida*, 83 F.4th 1333 (2023).

⁷⁷ Constitutional Accountability Center, *Williams v. Washington*,

<https://www.theconstitution.org/litigation/williams-v-washington/> (viewed August 15, 2024); Lauren Ban, "US Supreme Court to determine whether exhaustion of state administrative remedies is required before filing federal civil rights claim," *JURISTnews*, January 13, 2024, <https://www.jurist.org/news/2024/01/us-supreme-court-to-determine-whether-exhaustion-of-administrative-remedies-is-required-before-filing-federal-civil-rights-claim/>; *Williams v. Washington*, No. 23-191 (argument October 7, 2024), <https://www.scotusblog.com/case-files/cases/williams-v-washington/>