KENTUCKY LAW UPDATE

2025

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Federal Court Update

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FEDERAL COURT UPDATE
JULY 1, 2024-JUNE 30, 2025
Lori J. Reed

I. FEDERAL RULES AMENDMENTS

Amendments to the following rules were adopted by the U.S. Supreme Court and transmitted to Congress on April 23, 2025. The amendments are set to go into effect on December 1, 2025. The full Congressional Rules Package is available for download at https://www.uscourts.gov/sites/default/files/document/2025_congressional_package_final.pdf.

A. Appellate Rules 6 and 39

B. Bankruptcy Rules 3002.1 and 8006

C. Official Bankruptcy Forms 410, 410C13-M1, 410C13-M1R, 410C13-N, 410C13-NR, 410C13-M2, and 410C13-M2R

D. Civil Rules 16, 26, and new Rule 16.1

II. NOTICE OF PROPOSED AMENDMENTS TO THE SIXTH CIRCUIT LOCAL RULES AND INTERNAL OPERATING PROCEDURES

Access the proposed amendments to the Sixth Circuit Local Rules and Internal Operating Procedures at https://www.ca6.uscourts.gov/sites/ca6/files/Rules%20Amendment%20Public%20Notice%206-30-25%20final.pdf. Comments should be submitted by October 1, 2025, to Office of the Clerk, United States Court of Appeals for the Sixth Circuit, 540 Potter Stewart U.S. Courthouse, 100 East Fifth Street, Cincinnati, Ohio 45202-3988 or via email at RulesComments@ca6.uscourts.gov.

III. SIXTH CIRCUIT COURT OF APPEALS

A. Abortion

Tennessee v. Becerra, 131 F.4th 350 (6th Cir. 2025)

In 2021, the federal Department of Health and Human Services (HHS) promulgated a rule requiring Title X recipients to provide neutral, nondirective counseling and referrals for abortions to patients who request it. After outlawing abortion, Tennessee would only commit to conducting counseling and referrals for services considered legal in the state. HHS determined Tennessee was out of compliance and discontinued the grant. The district court denied Tennessee's motion for a preliminary injunction because it held the state does not have a strong likelihood of success on the merits of its claim and the remaining injunction factors weigh in favor of HHS. The Sixth Circuit affirmed. The district court reasonably concluded that Congress unambiguously authorized HHS to regulate Title X eligibility and the conditions of the

grant were not ambiguous. The state knowingly and voluntarily accepted those terms, and the court did not abuse its discretion in finding the state is unlikely to succeed on the merits of its Spending Clause claim. In addressing the state's APA claim, the Sixth Circuit noted that while *Loper Bright*[1] allows challenges based on new agency actions interpreting statutes, specific agency actions that were already resolved under *Chevron* analysis will not automatically fall. Tennessee is unlikely to succeed on its claim that the 2021 rule violates the APA because its counseling and referral requirement is consistent with the meaning of 42 U.S.C. §300a-6.

B. Arbitration

Memmer v. United Wholesale Mortgage, LLC, 135 F.4th 398 (6th Cir. 2025)

Memmer sued her former employer for discrimination including allegations of sexual harassment. UWM moved to dismiss the lawsuit and compel arbitration under the parties' employment agreement. The district court granted the motion, and Memmer appealed to the Sixth Circuit. She argued the arbitration agreement is invalid and that she has a right to go to court notwithstanding any valid agreement under the Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act of 2021 (EFAA). UWM argued the EFAA does not apply because Memmer's claims accrued before the law was enacted. As a matter of first impression, the Sixth Circuit held the EFAA applies to claims that accrue after its date of enactment and to disputes, understood as controversies, that arise after that date. It reversed and remanded to the district court to apply the correct interpretation of the EFAA to this case.

C. Banking and Financial Institutions

1. *Michigan First Credit Union v. T-Mobile USA, Inc.*, 108 F.4th 421 (6th Cir. 2024).

The Electronic Fund Transfer Act (EFTA) requires financial institutions to reimburse their customers for unauthorized electronic transfers of money from customers' accounts. Michigan First had to reimburse its customers for unauthorized electronic fund transfers due to a cellphone scam involving T-Mobile customers. Michigan First filed suit to recover the reimbursed funds from T-Mobile. The district court dismissed the complaint because it failed to state a claim for indemnification or contribution under the EFTA or state law. The Sixth Circuit affirmed. There is no express right to indemnification or contribution in the EFTA. The Court found relevant factors weighed against finding an implied right to indemnification or contribution for financial institutions under the EFTA. It noted the Act was meant to benefit consumers, not financial institutions. There is also no basis in federal common law to provide a right to indemnification or contribution in an EFTA action. Michigan First cannot bring similar claims under state law because it is preempted by the EFTA.

[1] *Loper Bright Enterprises v. Raimondo*, 144 S.Ct. 2244 (2024).

2. *Berry v. Experian Information Systems, Inc.*, 115 F.4th 528 (6th Cir. 2024).

Berry filed suit arguing Experian negligently or willfully published information on his credit report showing he owed spousal and child support. Berry submitted court documents showing he no longer had outstanding support obligations, but Experian continued to show he had a balance due with the state office of child support. The district court granted Experian's motion for judgment on the pleadings, holding the Fair Credit Reporting Act required Experian to report information received from the state office of child support that showed a balance. The Sixth Circuit reversed. It found Berry sufficiently pleaded that Experian did not adopt reasonable procedures to ensure maximum accuracy and did not reasonably reinvestigate his claim after he challenged the report's accuracy. The Court remanded to the district court for further proceedings consistent with its opinion.

D. Black Lung

Ken Lick Coal Company v. Director, Office of Workers' Compensation Programs, U.S. Department of Labor, 129 F.4th 370 (6th Cir. 2025)

The Black Lung Benefits Act allows coal miners to file a second claim for benefits after their first claim was denied if they identify changed circumstances. However, a stipulation a party made while litigating the first claim will be binding in the later proceedings. An ALJ required Ken Lick Coal to pay a miner's benefits solely because of a stipulation the company made that it was the responsible operator when litigating the miner's earlier claim. The Sixth Circuit held this stipulation addressed the law rather than the facts, so the ALJ had the power to disregard it. The ALJ made clear he would not have required Ken Lick to pay benefits apart from the stipulation. The Court granted Ken Lick's petition for review and transferred liability to the Black Lung Disability Trust Fund.

E. Civil Procedure

1. *Friends of George's, Inc. v. Mulroy*, 108 F.4th 431 (6th Cir. 2024).

Tennessee's Adult Entertainment Act (AEA) makes it an offense to perform adult cabaret entertainment in public or in the potential presence of minors. Friends of George's (FOG), a theater that performs drag shows, filed suit claiming the AEA is facially unconstitutional. The district court declared the AEA unconstitutional in its entirety and permanently enjoined district attorney general Mulroy from enforcing it anywhere within his jurisdiction. Mulroy appealed, and the Sixth Circuit reversed and remanded with instructions for the district court to dismiss the action. The Court held FOG did not have standing for a pre-enforcement challenge because it failed to demonstrate it intends to engage in conduct that the AEA arguably proscribes. Even if FOG had successfully alleged an intent to engage in such conduct, it failed to show a certain impending threat of prosecution. With no pre-enforcement injury, FOG does not have standing.

2. *Patton v. Fitzhugh*, 131 F.4th 383 (6th Cir. 2025).

Rutherford County, Tennessee requires pre-trial detainees to prove in a state court hearing that any bail funds equal to or in excess of $75,000 were not derived directly or indirectly from criminal activities. Patton requested permission to post $100,000 to cover outstanding bail but had to wait for the state court to schedule a hearing to determine the source of the funds before he could be released. He filed a putative class action suit in federal court alleging the local rule violated his and the class's due process and Eighth Amendment rights. The Sixth Circuit reversed the district court's judgment dismissing Patton's claims on jurisdictional grounds and remanded for proceedings consistent with its opinion. There is no debate that Patton's amended complaint sufficiently alleged facts demonstrating that he had standing when he first filed suit. Because Patton pleaded guilty and was released from pretrial custody, his claims are moot absent an applicable exception. The Court held those claims fall within the "inherently transitory" exception to mootness for class action claims. In a class action case, for a claim to be capable of repetition, it is not necessary for the named plaintiff's claim to be capable of repetition. Even if the named plaintiff has no continuing interest in their claim on the merits, they still have an interest in the claims of the class that they are entitled to represent. Until the district court enters an order on class certification, Patton retains his interest in representing the putative class. He may appropriately argue that those claims fall within the "inherently transitory" exception to the mootness doctrine. In addition, a class certification motion need not be pending for a class action claimant to assert the "inherently transitory" exception to mootness.

3. *Carman v. Yellen*, 112 F.4th 386 (6th Cir. 2024).

Amendments to 26 U.S.C. §6050I now require reporting of certain cryptocurrency transactions to the federal government. Plaintiffs filed suit arguing the statute is facially unconstitutional and enforcement of the law should be enjoined. The district court found their Fourth Amendment, First Amendment, Fifth Amendment vagueness, enumerated powers, and Fifth Amendment self-incrimination claims were not ripe. The Sixth Circuit affirmed with regards to plaintiffs' vagueness and self-incrimination claims. Forthcoming regulations may narrow the statute's scope ameliorating some of plaintiffs' complaints, and self-incrimination claims are not ripe until a claim of privilege is actually made. The Court found plaintiffs' enumerated powers, Fourth Amendment, and First Amendment claims are ripe. The enumerated powers claim was ripe the moment Congress passed the law as no one disputes it will apply to plaintiffs. The Court accepted plaintiffs' argument at this stage of litigation that merely disclosing their transactions to the government impedes their First Amendment associational rights. Because plaintiffs have shown they will be subject to the reporting requirements in some way and will pay compliance costs, the district court should have proceeded to the merits on those claims. The Court affirmed in

part, reversed in part, and remanded to the district court for proceedings consistent with its opinion.

4. *Fire-Dex, LLC v. Admiral Insurance Company*, 139 F.4th 519 (6th Cir. 2025).

Firefighters filed suit against Fire-Dex alleging its products exposed them to carcinogens. The suits were consolidated in multi-district litigation in South Carolina. Fire-Dex had general commercial liability insurance from Admiral. Admiral claimed its policies did not cover the firefighters' lawsuits and filed a declaratory judgment action in Ohio federal court asking it to declare the same. 28 U.S.C. §2201(a) states district courts "may" issue declaratory relief, which allows them to decline to exercise their lawful jurisdiction in certain circumstances. The district court did such with Admiral's request, and the Sixth Circuit affirmed. Fire-Dex then filed suit against Admiral in state court. Admiral removed the case to federal court. Although the parties again satisfied diversity jurisdiction, the federal court remanded Fire-Dex's claim for declaratory relief and Admiral's counterclaim for declaratory relief back to state court. It stayed Fire-Dex's damages claims for breach of contract and bad faith pending resolution of the state court litigation. Admiral appealed to the Sixth Circuit. Fire-Dex's claim is a "mixed action" that seeks both coercive relief (damages) and declaratory relief. The Court found that when coercive and declaratory claims in a mixed action are tightly linked, it would most likely be an abuse of discretion for a district court to abstain on the declaratory claims. If no traditional abstention doctrine applies to the coercive claim, the district court must exercise jurisdiction over that claim. It would still have discretion to decline to decide the declaratory claim. However, that discretion will often be abused if the declaratory claim turns on the same issues as the coercive claim. Applying that rule to the instant case, the Court held the district court erred. No traditional abstention doctrine supported not exercising jurisdiction over the damages claims, and one of those claims turned on the exact same legal issues as the declaratory claims. The Sixth Circuit vacated the district court's order and remanded for further proceedings consistent with its opinion.

5. *Carbone v. Kaal*, 2025 WL 1720375 (6th Cir. June 20, 2025).

Carbone, a Connecticut resident, filed suit against two Swiss organizations and individuals who live in California, Illinois, and Switzerland for defamation and other tortious conduct. He claimed defendants used websites to publish defamatory statements about him. He filed suit in Ohio because the Swiss organizations maintained servers there that hosted their websites. Carbone claimed the allegedly improper statements about him would have passed through the Ohio servers. Nothing else connected any of the parties to Ohio. The district court dismissed his complaint for lack of personal jurisdiction, and the Sixth Circuit affirmed. Carbone failed to show defendants purposefully availed themselves of the privilege of conducting activities in Ohio. Maintaining servers in Ohio is not sufficient to create a substantial connection with the state because defendants did not select Ohio as the

location for the servers. The third-party agent who constructed their website made that decision based on cost and his experience. In addition, the complaint failed to allege anyone in Ohio read the alleged defamatory statements, that those statements concerned conduct occurring in Ohio, or that Carbone suffered an injury in Ohio.

F. Communications

1. *In re MCP No. 185*, 124 F.4th 993 (6th Cir. 2025).

The Sixth Circuit held that broadband internet service providers offer only an "information service" under 47 U.S.C. §153(24), and the FCC lacks statutory authority to impose its net neutrality policies as them as common carriers pursuant to the "telecommunications service" provision of the Communications Act. The Act also does not allow the FCC to classify mobile broadband, a subset of broadband internet service – as a "commercial mobile service" under Title II of the Act.

2. *Lyngaas v. United Concordia Companies, Inc.*, 2025 WL 1625517 (6th Cir. June 9, 2025).

Lyngaas sued dental insurance provider United Concordia Companies, Inc. (UCCI) for sending unsolicited faxed advertisements to his dental practice in violation of the Telephone Consumer Protection Act. The district court granted summary judgment to UCCI, finding the faxes were not advertisements because UCCI's profit incentive was too remote. The Sixth Circuit reversed, holding UCCI's faxes were advertisements under the Act. UCCI facially promoted direct sales by its third-party partners, and its profit motive was sufficiently direct because it sent the promotions as part of a negotiated marketing agreement. Liability for third-party sales falls on the fax's sender rather than the seller of the product. It remanded to the district court for further proceedings consistent with its opinion.

G. Computer Fraud and Abuse Act

Abu v. Dickson, 107 F.4th 508 (6th Cir. 2024)

While in the process of selling a business to Abu, Dickson's IT administrator created email accounts for the buyers to use and permitted their employees to use the accounts. When the parties began the process of unwinding the deal, Dickson's IT administrator preserved some of the emails from those accounts for the pending litigation. Abu filed suit in federal court alleging Dickson and his company violated the Computer Fraud and Abuse Act and the Stored Communications Act by accessing those emails. Each side moved for summary judgment, and the district court ruled in Dickson's favor. Abu appealed, and the Sixth Circuit affirmed. The Act's computer trespass provision covers anyone who intentionally accesses a computer without authorization or exceeds authorized access in obtaining information. In this case, Dickson's IT administrator had undisputed authorization to add and remove the

business's user accounts and change passwords. In addition, the administrator had no notice that accessing the emails in question would violate any limitations on his authorization. He did not intentionally bypass any code-based barriers and accessed the email using his regular administrator credentials. In addition, Abu did not identify any contract between the parties that limited the administrator's access to the relevant computer systems. Because the Stored Communications Act contains the same theory of liability, Abu's claim under that Act fails for the same reasons.

H. Constitutional Law

1. *Mackey v. Rising*, 106 F.4th 552 (6th Cir. 2024).

Rising served as a part-time city commissioner in Michigan. Mackey, a local resident, posted statements about Rising on Facebook that Rising considered false. Rising called Mackey's mother and allegedly threatened to "hurt" Mackey if he did not delete the post. Mackey filed suit under 42 U.S.C. §1983, arguing Rising's threat of violence violated the First Amendment because he made it in his capacity as a city commissioner to stifle Mackey's speech. Mackey argued because Rising used the city's insurance to pay for his defense, he had waived or should be judicially estopped from raising a lack of state action defense. The Sixth Circuit affirmed the district court's grant of summary judgment to Rising. Although city commissioners qualify as state actors, Rising's alleged threat was not state action because he did not possess state authority as a commissioner to threaten violence against Mackey or his mother. Michigan insurance law supports Rising's argument that he could ask the city's insurance provider to defend him while also asserting he did not make the telephone call at issue in his official capacity.

2. *Gore v. Lee*, 107 F.4th 548 (6th Cir. 2024).

Tennessee birth certificates identify the biological sex of the child at birth. Plaintiffs are transgender individuals born in Tennessee whose gender identity conflicts with the sex listed on their birth certificates. The state limits amendments to birth certificates by requiring proof of an error with limited exceptions for adoption and name changes due to marriage or other reasons. Tennessee does not allow changes to the sex listed on the birth certificate. Plaintiffs filed suit against the state governor and the commissioner of its department of health, arguing this policy violates their equal protection and due process rights under the Fourteenth Amendment. They requested the court to require Tennessee to adopt an amendment procedure that permits changes whenever individuals self-report that their gender identity conflicts with the biological sex listed on their birth certificate. The district court rejected Plaintiffs' claims, and the Sixth Circuit affirmed. The Court found there is no fundamental right to a birth certificate recording gender identity rather than biological sex. Because Tennessee's policy treats both sexes the same and rationally correlates to its interest in consistency and historical accuracy, there is no equal protection violation.

3. *Noble v. Cincinnati & Hamilton County Public Library*, 112 F.4th 373 (6th Cir. 2024).

   Noble shared an insensitive meme regarding the Black Lives Matter protests on his Facebook page. He removed the picture less than 24 hours after posting it. His co-workers at the public library saw the post, however, and complained to management. After an investigation, the library terminated Noble's employment as a security guard. Noble filed suit alleging defendants terminated him in retaliation for exercising his First Amendment right to free speech. He sought damages under §1983 and a declaratory judgment under 28 U.S.C. §2201 *et seq.* that defendants acted unconstitutionally. The district court granted summary judgment to defendants, finding the library's actions did not violate Noble's rights to free speech as a public employee. He appealed, and the Sixth Circuit reversed. It found Noble spoke on a matter of public concern and his free speech interests outweigh the efficiency interests of the government as his employer. No evidence showed Noble's speech hindered library operations or that anyone other than a few of his Facebook friends saw the meme. Without evidence Noble posed a threat or risk to his co-workers, his speech alone was not enough to fire him. The Court remanded with instructions for the district court to grant summary judgment to Noble on his retaliation claim.

4. *Fortin v. Commissioner of Social Security*, 112 F.4th 411 (6th Cir. 2024).

   Following the Supreme Court's decision in *Lucia v. Securities and Exchange Commission*,[2] which held administrative law judges are inferior officers who must be appointed under the Appointments Clause, the acting-Commissioner of the Social Security Administration ratified and adopted all prior ALJ appointments as her own. Fortin filed suit arguing that the Commissioner's actions were invalid, and the ALJ lacked authority to deny his disability claim. The district court granted summary judgment to the Commissioner and the Sixth Circuit affirmed. The Court joined the Third and Eighth Circuits to hold the Vacancies Reform Act does not require the sitting President to issue a succession order as long as a previous President did so. President Obama's succession order remained effective during the Trump administration and directed Berryhill to assume the acting Commissioner role following Colvin's resignation and again after Saul's nomination. It also held an acting officer encumbers their permanent position even if that permanent position is backfilled, whether properly or improperly, by another acting officer. Berryhill did not violate her DCO position while a colleague backfilled her as acting DCO. In addition, the ratification bar in 5 U.S.C. §3348(d) does not apply because Berryhill's post-*Lucia* order both ratified appointment of the prior ALJs and appointed them anew. Adopting the appointments as her own acted prospectively and ensured the ALJs had a valid appointment even if their initial appointment could not be ratified.

[2] 585 U.S. 237, 251 (2018).

5. *Slaybaugh v. Rutherford County, Tennessee*, 114 F.4th 593 (6th Cir. 2024).

The Slaybaughs' son barricaded himself in their home after murdering his ex-girlfriend. They alleged police caused over $70,000 in damages to their home while attempting to arrest him. Their homeowners insurance carrier denied their claim because the damage was caused by a civil authority. Both the town and the county also refused to compensate them. The Slaybaughs filed a §1983 action in federal court alleging the police effected a taking under the Fifth Amendment and the state Constitution when they severely damaged their home during the arrest. The district court granted defendants' Fed. R. Civ. P. 12(b)(6) motion to dismiss for failure to state a claim, and the Slaybaughs appealed. The Sixth Circuit affirmed. It held that in cases where police damage property while carrying out a lawful search or arrest, property owners are not entitled to compensation under the Takings Clause for the damage if the officers' conduct is reasonable. Plaintiffs offered no evidence that the arrest was unlawful or that the officers unreasonably executed the search and arrest warrants while arresting their son. The district court properly dismissed plaintiffs' state law claim because the Tennessee Supreme Court has construed the state's Takings Clause as offering the same protections as the federal version.

6. *Zillow, Inc. v. Miller*, 126 F.4th 445 (6th Cir. 2025).

When Zillow requested information from Kentucky property valuation administrators (PVAs), they determined the request had a commercial purpose and quoted Zillow thousands of dollars in fees under KRS 61.874(a), (c) and KRS 133.047(4)(b). The statute allows public agencies to charge reasonable fees for staff costs in reproducing public records if the applicant is seeking them for a commercial purpose. All applicants can avoid paying fees if they retrieve the records in person. Zillow filed suit against the PVAs and the Kentucky Department of Revenue, arguing the Kentucky Open Records Act violates the First and Fourteenth Amendments both facially and as-applied. The Sixth Circuit found the district court should not have begun with Zillow's facial challenge without first considering whether its First Amendment rights were actually injured. It held Zillow failed to demonstrate the law impermissibly discriminates based on content in violation of the First Amendment. Zillow's equal protection claim fails under rational basis review because a rational basis supports Kentucky's difference in fees for commercial and non-commercial requestors. Based on its conclusion that the commercial-purpose fee statute is constitutional as applied to Zillow, the Court reversed the district court's grant of partial summary judgment to Zillow, vacated the permanent injunction entered by the district court, and remanded with instructions for the district court to grant summary judgment to the PVAs.

7. *Ermold v. Davis*, 130 F.4th 553 (6th Cir. 2025).

Davis, who was a Kentucky county clerk, refused to issue a marriage license to plaintiffs David Moore and David Ermold. She is opposed to same-sex marriage based on religious grounds. They sued Davis under §1983 claiming she violated their constitutional right to marriage. The district court entered judgment for plaintiffs on liability, and a jury awarded them compensatory damages. The Sixth Circuit affirmed. It held the law of the case doctrine prevented it from considering Davis's qualified immunity defense. Davis cannot raise a Free Exercise Clause defense because she is being held liable for state action, which is not protected by the First Amendment. Kentucky's RFRA statute[3] cannot shield her from liability because the state government is not a party to this action. The district court correctly denied Davis's motion for judgment as a matter of law. Plaintiffs provided sufficient evidence to sustain the jury's verdict. The Court refused to consider Davis's request for remittitur because she failed to preserve the argument prior to this appeal.

8. *Franz v. Oxford County School District*, 132 F.4th 447 (6th Cir. 2025).

Victims of a school shooting in Michigan filed this action against school officials claiming defendants violated their constitutional rights to due process. Defendants moved for judgment on the pleadings arguing they were entitled to qualified immunity because plaintiffs had not alleged facts showing a constitutional violation. The district court dismissed most of the claims but held the school counselor's statement to the shooter's parents that he would call child protective services if they did not get counseling for him within 48 hours potentially supported a constitutional claim. Defendants and plaintiffs appealed and cross-appealed. The Sixth Circuit affirmed in part and reversed in part. Under the theory of state-created dangers, a state official must make an affirmative act that creates or increases the risk that a victim will be harmed by a private actor. This risk must pose a specific danger to a specific victim rather than danger to the public generally. The Court agreed with the district court that two of the acts at issue could not support liability. When school officials gave the shooter his backpack and sent him back to class, they put plaintiffs in no worse of a position than the one they would have been in if defendants had taken no action. In addition, defendants' failure to tell other officials about a risk the shooter might hurt others does not support liability because failures to act are not affirmative acts. The Court reversed as to the school counselor's actions. When a state official can reflect before they act, they violate due process when they perceive a substantial risk of serious harm and respond to it with reckless or callous indifference. While the school counselor's actions showed he perceived a substantial risk of harm, his demand that parents seek counseling for the shooter showed his attempts to mitigate that risk rather than increase it. The Court found nothing in the record showed defendants

[3] KRS 446.350.

took any actions that shock the conscience. It remanded the cases to the district court with instructions to dismiss.

9. *C.S. v. McCrumb*, 135 F.4th 1056 (6th Cir. 2025).

In November 2021, a student shot and killed four classmates at Oxford High School in Oakland County, Michigan. Plaintiff C.S. attended Kerr Elementary School in Durand, Michigan, less than an hour's drive from the Oakland school district. In February 2022, Kerr scheduled a "Hat Day" as part of a kindness initiative for its students. C.S., who was a third grader, wore a black baseball cap displaying an AR-15 style rifle and the phrase "COME AND TAKE IT." The principal felt the hat could cause a disruption amongst students who recently transferred from the Oakland school district following the shooting three months earlier. School officials called C.S.'s parents and asked them to bring her a different hat to wear, which they declined to do. The parents thereafter filed suit on behalf of C.S. under §1983 alleging First and Fourteenth Amendment violations and seeking declaratory and injunctive relief. The district court granted summary judgment to defendants, noting the principal's finding that the hat was inappropriate for the school setting and risked causing a disturbance among students. The district court stressed the presence of students who transferred from Oakland and were undergoing trauma therapy along with the young age of C.S. and her classmates were important factors in evaluating the reasonableness of the principal's determination. C.S. appealed, and the Sixth Circuit affirmed. The Court noted it was not suggesting that the generalized potential for students' discomfort, offense, or other psychological distress, without more, is enough for schools to ban speech on topics like the Second Amendment.

10. *Lawson v. Creely*, 137 F.4th 404 (6th Cir. 2025).

Lawson appealed the grant of summary judgment to defendants, her public school co-workers, on her claim that they and the local board of education violated her Fourth Amendment rights. Lawson worked as a guidance counselor at Franklin County High School in 2016. She forgot to remove a handgun from her bag and took it with her to school. After Lawson behaved erratically at work, co-workers accessed her office and looked in her handbag to see what medications she was taking. They also observed the handgun, which was reported to authorities later that day. The school suspended Lawson the following day without pay pending an investigation. The superintendent and school resource officer photographed the handgun in her bag and took custody of the bag and its contents. Lawson was charged with unlawful possession of a weapon on school property. She accepted the prosecutor's offer to discontinue prosecution if she resigned her position at the school. Lawson thereafter filed a §1983 action alleging violation of her Fourth Amendment rights. The district court granted summary judgment to defendants, and Lawson appealed to the Sixth Circuit. It affirmed the district court as to defendants Creely and Franke although on different grounds. It held they lacked state authority for their conduct and did not act under color

of state law, which is required for a §1983 claim. The Court affirmed the district court's holding that the superintendent seized Lawson for Fourth Amendment purposes but properly conducted an investigative stop under *Terry v. Ohio*,[4] resulting in no constitutional violation. Lawson also consented to the search of her bag and initiated it herself. Finally, the Court held the school board is not liable under *Monell*[5] because no violation of Lawson's constitutional rights occurred.

11. *Thomas v. Montgomery*, 140 F.4th 335 (6th Cir. 2025).

Plaintiffs filed a class action complaint against members of the Tennessee Board of Parole alleging the state's use of a computer test to determine parole eligibility violated their right to due process. The district court held plaintiffs failed to state a plausible claim for relief because the state's parole statutes do not confer a protected liberty interest in parole. In addition, even if they had a liberty interest in parole, plaintiffs received the required due process in their parole hearing. The Board provided them with a hearing and explained why it was denying parole. The Sixth Circuit affirmed but noted plaintiffs identified serious concerns with the computer test used by the Board.

12. *Kanuszewski v. Michigan Department of Health & Human Services*, 2025 WL 1752516 (6th Cir. 2025).

Michigan collects blood samples from newborns and tests them for various diseases. Plaintiff parents filed suit claiming the newborn screening program constitutes a non-consensual taking and keeping of the babies' blood for the state's profit in violation of their Fourth and Fourteenth Amendment rights. The district court initially dismissed plaintiffs' claims but the Sixth Circuit reversed and remanded several claims.[6] The district court then granted judgment for plaintiffs on nearly all of their claims and ordered defendants to destroy or return the babies' stored blood spots and data collected under the newborn screening program. On appeal, the Sixth Circuit reversed the district court's judgment in plaintiffs' favor on all Fourteenth and Fourth Amendment claims and vacated the injunction requiring defendants to destroy the stored data. The Court held defendants' actions in storing the anonymous blood spots and using them for purposes beyond the children's medical diagnosis or treatment does not impede plaintiffs' fundamental right to direct their children's medical care. The Court reversed the district court's order granting summary judgment to plaintiffs and held defendants' storage and use of the dried blood spots and data do not violate plaintiffs' Fourteenth Amendment

[4] 392 U.S. 1 (1968).

[5] *Monell v. Department of Social Services of City of New York*, 436 U.S. 658 (1978).

[6] *See Kanuszewski v. Michigan Department of Health & Human Services*, 927 F.3d 396 (6th Cir. 2019) (*Kanuszewski I*).

substantive due process rights. The Court also held most of defendants' conduct does not qualify as a search under the Fourth Amendment because it was not an attempt to find something or obtain information. Plaintiffs' other claim concerning defendants' use of the blood spots for victim identification is not justiciable because defendants never used or attempted to use the blood spots for that purpose. A claim that depends on contingent future events is not constitutionally ripe. Plaintiffs also lack standing on this claim because they have not suffered an injury in fact. Plaintiffs' Fourth Amendment seizure claim fails because they failed to prove they have a possessory interest in the dried blood spots and data.

13. *Fitzpatrick v. Hanney*, 138 F.4th 991 (6th Cir. 2025).

Hanney, an animal control officer, obtained a warrant to search Belinda Fitpatrick's home for evidence of animal cruelty and neglect. Before returning to her home with the warrant, he invited Simon, a local housing code official, to join him during the search. After doing so, Simon red-tagged Fitzpatrick's home as unfit for human occupancy. Fitzpatrick thereafter sued Hanney, Simon, and the city of Lansing, Michigan, alleging they each violated her Fourth Amendment rights and that Hanney and Simon also violated her Fourteenth Amendment rights. Simon moved to dismiss based on qualified immunity. The district court denied Simon's motion, finding on the facts alleged that he had plausibly violated Fitzpatrick's clearly established constitutional rights. Simon filed an interlocutory appeal with the Sixth Circuit. The Court rejected Fitzpatrick's claims that Simon violated her established Fourth Amendment rights when he searched her home without a separate warrant for housing code violations. It held Simon is entitled to qualified immunity on the Fourth Amendment claim because it was not clearly established that he was searching for items different from those authorized by Hanney's warrant.[7] As to the Fourteenth Amendment due process claim, the Court noted Fitzpatrick never challenged the condition of her home as described in the affidavit supporting the warrant nor did she meaningfully question whether those conditions created unsanitary or unsafe living conditions. Even if Fitzpatrick had raised the issue, the district court improperly assessed whether the complaint's allegations plausibly proved a clearly established Fourteenth Amendment violation because the record shows a reasonable building inspector could conclude exigent circumstances existed. The Court held Simon is entitled to qualified immunity on Fitzpatrick's pre-deprivation notice claims under the Fourteenth Amendment. It reversed the district court's decision and remanded with instructions to dismiss the claims against Simon.

[7] *See U.S. v. Garcia*, 496 F.3d 495, 509 (6th Cir. 2007).

14. *McIntosh v. City of Madisonville, Kentucky*, 126 F.4th 1141 (6th Cir. 2025).

The city condemned a mobile home owned by Plaintiffs and demolished it a month later. Plaintiffs filed suit under §1983 alleging the city deprived them of their due process rights to notice and an opportunity to be heard before demolishing the home. The district court granted the city's motion for summary judgment. The Sixth Circuit reversed, finding there were triable issues of material fact regarding whether the city provided Plaintiffs with an adequate hearing before destroying their property. While the city code states property owners have a right to a hearing before a local appeals board over grievances with the building inspector's decisions, an official told Plaintiffs the city does not have an appeals board to hear that type of claim. The Court found this sufficient to permit a reasonable juror to characterize the promise of a hearing as illusory.

I. Contracts

Avantax Wealth Management, Inc. v. Marriott Hotel Services, Inc., 108 F.4th 407 (6th Cir. 2024)

Avantax scheduled a conference to be held at the Gaylord Opryland Resort in June 2021. The contract contained a force majeure clause excusing the parties from performance without liability under certain circumstances. In March 2021, Avantax sent a letter to the hotel terminating the agreement under the force majeure clause. It argued that because a letter from the hotel earlier that month limited their event to a maximum of 300 people under current COVID-19 restrictions, the hotel would be unable to allow for an event with a minimum of 1,200 attendees as set forth in the agreement. The hotel thereafter sent Avantax a bill for $1.3 million for canceling the contract which reflected 100 percent of the planned hotel room costs and 75 percent of the food and beverage minimum. Avantax did not pay the amount. At the end of April, the Nashville Metro Public Health Department stated all pandemic restrictions would be lifted on May 14, 2021. All pandemic restrictions were lifted by June 2021. Avantax filed a declaratory judgment action seeking a declaration that its termination of the contract was proper and that the hotel was not entitled to any costs related to the termination. Marriott filed a counterclaim against Avantax for breach of contract. The district court granted Avantax's motion for summary judgment and denied Marriott's motion for summary judgment on the grounds Avantax properly terminated the contract under the force majeure clause. Marriott appealed, and the Sixth Circuit affirmed. The contract supported Avantax's interpretation that the force majeure clause allowed for termination of the contract when the hotel could not be used as contractually intended. Avantax had valid grounds to invoke the force majeure clause at the time it terminated the contract, which required written notice of termination within 10 days after learning of the basis for such termination. When Avantax terminated the contract in March 2021, it had reasonable grounds to believe holding the June conference would be illegal or impossible.

J. COVID-19

1. *Odell v. Kalitta Air, LLC*, 107 F.4th 523 (6th Cir. 2024).

During the pandemic, Kalitta Air implemented a vaccine mandate for its employees. It provided religious and medical accommodations to the mandate by allowing employees three and 12 months, respectively, of unpaid leave after which they would be terminated if not vaccinated. Plaintiffs filed suit under Title VII of the Civil Rights Act and the Americans with Disabilities Act (ADA) claiming the mandate discriminated against them on the basis of their religious beliefs and/or disabled status. The district court held that because plaintiffs were subject to a collective bargaining agreement, the Railway Labor Act (RLA) precluded it from hearing their claims, which must go through arbitration as minor disputes. Plaintiffs appealed and the Sixth Circuit affirmed. The Court held plaintiffs' Title VII and ADA claims of failure to accommodate, require interpretation of the collective bargaining agreement, and the RLA precluded the district court from hearing them.

2. *Sturgill v. American Red Cross*, 114 F.4th 803 (6th Cir. 2024).

The American Red Cross denied Sturgill's request for a religious accommodation to its COVID-19 vaccine mandate. It found she was medically rather than religiously opposed to the vaccine and terminated her employment. Sturgill filed suit, arguing the Red Cross's decision constituted a failure to accommodate her religious beliefs in violation of Title VII of the Civil Rights Act of 1964. The district court dismissed her claim under Fed. R. Civ. P. 12(b)(6), holding she did not plausibly allege a *prima facie* case sufficient to support a failure to accommodate claim. The Sixth Circuit affirmed in part, reversed in part, and remanded for further proceedings. It held the district court erred in elevating the pleading standard to require a *prima facie* case. Sturgill's claim plausibly alleged the Red Cross failed to accommodate her religious objection to the vaccine mandate, and the district court erred in holding it did not. The Court affirmed the district court's finding that Sturgill's complaint sets forth only a claim for failure to accommodate and not a standalone religious discrimination claim based on disparate treatment.

3. *National Labor Relations Board v. Metro Man IV, LLC*, 113 F.4th 692 (6th Cir. 2024).

The COVID-19 virus struck a nursing home owned by Metro Man IV, LLC in 2020. Facing staff shortages, Metro Man implemented temporary hazard pay and hired non-certified nursing aides. The National Labor Relations Board found the exigent circumstances created by the virus excused Metro Man from its initial obligations to bargain with the union. However, the Board held Metro Man failed to bargain with the union regarding the effects of its unilateral decisions and the decisions themselves when the emergency ended. The Board petitioned the Sixth Circuit for enforcement of its order

pursuant to 29 U.S.C. §160(e). The Court found the exigent circumstances caused by COVID entirely excused Metro Man's alleged failure to engage in effects-bargaining regarding implementation of the pay increase and decisional-bargaining regarding recission of the increase. The Court affirmed the Board's finding with respect to Metro Man's failure to engage in effects-bargaining regarding its decision to hire non-certified nursing aides. The Sixth Circuit granted the Board's motion in part and denied in part and remanded the matter back to the Board for further proceedings and orders consistent with its opinion.

4. *DeVore v. University of Kentucky Board of Trustees*, 118 F.4th 839 (6th Cir. 2024).

   Plaintiff retired from her job at the University of Kentucky to avoid complying with its COVID-19 test or vaccinate policy. She then filed suit under §1983, arguing the University violated Title VII of the Civil Rights Act of 1964 by failing to accommodate her sincerely held religious beliefs. The district court granted summary judgment to the University, and the Sixth Circuit affirmed. Plaintiff offered no evidence to show how complying with the policy would conflict with her religious beliefs or practices. The Court noted that Plaintiff never identified in the record what religion she practices.

5. *Cooperrider v. Woods*, 127 F.4th 1019 (6th Cir. 2025).

   In March 2020, Cooperrider, who owned a coffee shop and bar in Lexington, complained on social media about Governor Beshear's executive order requiring masks indoors and prohibiting indoor dining and drinking. In November 2020, the Kentucky Department of Alcoholic Beverage Control (ABC) suspended his shop's liquor license. When the ABC officially revoked it in 2022, Cooperrider filed suit against the Governor, the ABC Commissioner, and other executive-branch officials alleging First Amendment and due process violations. The district court granted defendants' motions to dismiss and Cooperrider appealed. The Sixth Circuit affirmed the district court's holding that the majority of Cooperrider's claims are barred by absolute, qualified, and sovereign immunity and that his remaining substantive due process claim fails the Rule 12(b)(6) standard. The Court held the district court improperly granted defendants Beshear, Perry, and Duke qualified immunity on Cooperrider's First Amendment retaliation claim. The complaint successfully states a claim that defendants violated Cooperrider's clearly established First Amendment right to criticize the state government without retaliation. The Court remanded to the district court for further proceedings consistent with its opinion.

6. *Maryville Baptist Church v. Beshear*, 132 F.4th 453 (6th Cir. 2025).

   Maryville Baptist Church sought and obtained a preliminary injunction against Governor Beshear's COVID-19 restrictions on religious gatherings. Beshear thereafter allowed places of worship to reopen, and the Kentucky

General Assembly passed a law limiting the governor's ability to issue similar COVID-19 orders in the future. The church's action was thereafter dismissed as moot. It moved for attorney's fees as a "prevailing party" under 42 U.S.C. §1988(b). The district court denied the motion on the grounds the church was not a prevailing party, and it appealed. While the appeal was pending, the U.S. Supreme Court held in *Lackey v. Stinnie*[8] that a party who receives a preliminary injunction and whose case becomes moot before the court reaches a final judgment does not count as a prevailing party under §1988. The Sixth Circuit thereafter affirmed the district court's decision denying the church attorney fees.

7. *Poffenbarger v. Kendall*, 137 F.4th 563 (6th Cir. 2025).

Plaintiff, a first lieutenant in the Air Force Reserve, filed suit alleging the Air Force's COVID-19 vaccine mandate, as applied to him, violated the Religious Freedom Restoration Act (RFRA) and the First Amendment. The Air Force later rescinded the mandate, and the district court dismissed the action as moot. The Sixth Circuit affirmed the dismissal on different grounds. It held the case is not moot because the Court still has the power, subject to the government's defense of sovereign immunity, to grant the relief Plaintiff seeks – receipt of the pay and retirement points for the drill weekends he missed when the Air Force assigned him to inactive duty. It construed the retrospective compensation for a previous legal wrong that plaintiff seeks as money damages. Plaintiff's claim for lost drill pay and retirement points is therefore barred because RFRA does not waive the federal government's immunity from claims against it for money damages.

K. Criminal Law

1. *U.S. v. O'Hara*, 114 F.4th 557 (6th Cir. 2024).

After pleading guilty to fraud, O'Hara was ordered to pay over $300,000 in restitution to his mother. However, she died before sentencing, leaving him the sole beneficiary of the estate. At the time of sentencing, both parties and the court knew she had died and that O'Hara was likely the sole beneficiary. O'Hara has paid no restitution since his release from prison in 2021. The district court asked the government whether he should be excused from the restitution obligation. The government requested the district court substitute the Crime Victims Fund in place of the estate. The district court construed the request as a motion to amend the judgment and granted the request. O'Hara moved to correct the sentence under Fed. R. Crim. P. 35(a), arguing the court was without authority to modify the 2019 judgment four years after it became final. The district court denied the motion, and O'Hara appealed. The Sixth Circuit reversed and remanded, holding the district court did not have authority to modify the judgment to substitute a new payee.

[8] 145 S.Ct. 659 (2025).

2. *U.S. v. Williams*, 113 F.4th 637 (6th Cir. 2024)

   The Sixth Circuit held 18 U.S.C. §922(g)(1), which prohibits felons from possessing firearms, does not violate the Second Amendment. Governments may use class-based legislation to disarm people it considers dangerous as long as those people have the opportunity to prove that they are not. Because Williams' criminal history shows that he is dangerous, his as-applied challenge fails.

3. *U.S. v. Gailes*, 118 F.4th 822 (6th Cir. 2024).

   The Sixth Circuit held that 18 U.S.C. §922(g)(9), which prohibits those convicted of domestic violence misdemeanors from possessing firearms, is facially constitutional consistent with the Second Amendment.

4. *U.S. v. Kincaide*, 119 F.4th 1074 (6th Cir. 2024).

   Swain, a criminal defendant in Kentucky state court, moved to intervene in Kincaide's federal criminal case, claiming a First Amendment right to access a sealed document. The document is a docket entry titled "plea agreement supplement" that Swain thought might contain a cooperation agreement that would aid his defense in state court. The district court denied his request. It held General Order 2010-06, which requires that all plea supplements be sealed, complies with the First Amendment because it is the narrowest method of achieving the government's compelling interest in protecting the safety of those who cooperate in criminal proceedings. The Sixth Circuit affirmed, holding no qualified First Amendment right of access attaches to cooperation agreements.

5. *U.S. v. Gray*, 121 F.4th 578 (6th Cir. 2024).

   After he lied about his health to the Department of Veterans Affairs to receive disability benefits, Gray was convicted of fraud. The district court sentenced him to five years in prison and ordered him to pay over $264,000 in restitution. On appeal, the Sixth Circuit affirmed the conviction and sentence but vacated the restitution order. The district court calculated restitution based on benefits payments beginning in 2004, but the indictment only charged Gray with conspiring to defraud the government from 2015 to 2019. The restitution order should not have covered losses before January 2015. The Court remanded for recalculation of the amount due in restitution.

6. *U.S. v. Taylor*, 127 F.4th 1008 (6th Cir. 2025).

   A jury convicted Taylor of possession of a controlled substance with intent to distribute, possession of a firearm in furtherance of drug trafficking, and being a felon in possession of a firearm. On appeal, he challenged the district court's limitation of his cross-examination of a government witness under the Sixth Amendment Confrontation Clause. The Sixth Circuit reversed and

remanded for a new trial. The district court limited Taylor's ability to cross-examine the witness about matters going to bias, prejudice, or his motivation to testify. In addition, the district court prevented Taylor from admitting any similar testimony targeted at the witness's bias or motive for testifying. This failed to reveal the penalties the witness faced, the penalty he received, or whether he sought or anticipated leniency for his cooperation in Taylor's case. The government's interest in preventing unfair prejudice is outweighed by Taylor's significant interest in testing the witness's bias and motivation. Because the prosecution's case hinged on this witness testimony, the Court held this could not constitute harmless error.

7. *U.S. v. Silvers*, 129 F.4th 332 (6th Cir. 2025).

Silvers shot and killed his estranged wife, an active member of the U.S. Army, on base at Fort Campbell. He was convicted and the district court sentenced him to life in prison. On appeal, Silvers argued the district court erred in taking judicial notice of the fact Fort Campbell is within the United States' special maritime and territorial jurisdiction without submitting that question to the jury. Four of the seven counts against him required as an element of the offense that the crime took place within this jurisdiction. The Sixth Circuit affirmed his conviction and sentence. The Court found that the existence of special maritime or territorial jurisdiction of the United States is a legislative fact rather than an adjudicative one. A district court may determine the legal question of the existence *vel non* of federal jurisdiction and direct a jury to take judicial notice of the existence of that jurisdiction without violating *Gaudin*[9] or *Apprendi*.[10] The district court did not err in denying Silvers' motion to dismiss a juror when it was revealed during trial that he had served in the Navy and by failing to ask potential jurors about prior military service during *voir dire*. When questioned, the juror stated he could be impartial and fair despite his prior military service. Finally, the Court found the mandatory life sentence imposed did not violate the Eighth Amendment.

8. *Clark v. Louisville-Jefferson County Metro Government*, 130 F.4th 571 (6th Cir. 2025).

After spending over two decades in prison, Clark and Hardin's convictions were vacated in Kentucky court after DNA proved hair at the scene did not match Hardin. Clark & Hardin filed suit under §1983. During discovery they found out the forensic serologist made notes when originally examining the hair that stated it might not be a match. Hardin claimed the serologist's failure to disclose the notes before trial violated his disclosure obligations under

[9] *U.S. v. Gaudin*, 515 U.S. 506 (1995).

[10] *Apprendi v. New Jersey*, 530 U.S. 466 (2000).

Brady v. Maryland.[11] The district court found Hardin had, at most, created a factual dispute over whether the serologist's notes conflicted with his report. It held the notes alone were insufficient to allow a jury to find the hairs were dissimilar. The Sixth Circuit held it was without jurisdiction to review that aspect of the district court's decision. The district court held the serologist was not entitled to qualified immunity on the *Brady* claim because he should have recognized the exculpatory value of the notes' inconsistency with his report. The serologist's testimony was the only physical evidence placing Hardin at the scene. In addition, Hardin's rights under *Brady* were clearly established prior to 1992 when the trial was held. The Sixth Circuit affirmed.

9. *U.S. v. Sadrinia*, 134 F.4th 887 (6th Cir. 2025).

A patient died of a morphine overdose after Sadrinia, a Northern Kentucky dentist, prescribed her that medication twice in two days. A jury convicted him of knowingly prescribing the patient a controlled substance without a legitimate medical purpose resulting in her death in violation of 21 U.S.C. §841(a)(1) and (b)(1)(C). On appeal, the Sixth Circuit vacated his convictions and remanded the case for a new trial because the district court improperly admitted as intrinsic evidence testimony about bad acts unrelated to his conduct in this case. The Court rejected Sadrinia's argument that the evidence presented at trial against him was insufficient to support his convictions.

10. *U.S. v. Fike*, 140 F.4th 351 (6th Cir. 2025).

Fike pleaded guilty to federal wire fraud and aggravated identify theft. The district court sentenced her to 36 months in prison and ordered her to pay over $405,000 in restitution under the Mandatory Victims Restoration Act of 1996 (MVRA).[12] That sum included over $42,000 in prejudgment interest. Fike appealed, arguing the MVRA does not authorize prejudgment interest and the amount ordered by the district court was speculative. The Sixth Circuit affirmed. It held the MVRA gives district courts discretion to award prejudgment interest as part of restitution when they find that interest is necessary to make the victim whole. The district court in this case did not abuse its discretion in finding prejudgment interest more fully compensated the victim's losses. The district court also offered sufficient rationale as to why its calculation presented a reliable basis for awarding interest.

[11] 373 U.S. 83 (1963).

[12] 18 U.S.C. §3663A.

L. Education

1. *Doe v. University of Kentucky*, 111 F.4th 705 (6th Cir. 2024).

The University of Kentucky (UK) held four student conduct hearings after Doe reported she was raped in her dorm room. The first three resulted in expulsions or long-term suspensions for the accused, but the UK appeals board overturned each determination for procedural deficiencies. Doe thereafter filed a Title IX suit against UK. In the following fourth hearing, held over two years after Doe reported the rape, the hearing panel found for the accused and ruled against Doe. Doe now claims UK mishandled the fourth claim in retaliation for the lawsuit. The district court granted UK summary judgment, finding Doe could not state a *prima facie* case of retaliation under Title IX. The Sixth Circuit reversed and remanded. The district court erred in constraining its analysis to the specific allegations in Doe's complaint rather than the full scope of record evidence she presented in opposition to summary judgment. The parties dispute whether a material question of fact exists regarding whether Doe suffered an adverse school-related action and whether a causal connection exists between that action and her lawsuit.[13] The Court noted Doe can suffer an adverse school-related action even if she is not a student, and school disciplinary proceedings are plainly education-related for Title IX purposes. Construing the facts in favor of Doe, the Court found UK's actions were sufficient to dissuade a reasonable person from making or supporting a charge of discrimination. Doe presented a material question of fact as to whether UK reversed its decision on "dubious grounds" as a front for retaliation and whether it was deliberately indifferent to the campus police chief's obstruction of a key witness at the hearing. Doe also presented evidence sufficient to show a causal connection between UK's actions and her Title IX suit. The Court remanded to the district court to proceed with steps two and three of the *McDonnell Douglas* burden-shifting framework and further proceedings consistent with its opinion.

2. *William A. v. Clarksville/Montgomery County School System*, 2025 WL 1160071 (6th Cir. 2025).

William's parents filed an administrative complaint under the Individuals with Disabilities Education Act (IDEA) claiming his school had denied him the free and appropriate education (FAPE) to which he is entitled. They also raised claims under the ADA, the Rehabilitation Act, and §1983. The ALJ found that William could learn to read which would require something different than his school had provided in his individualized education plans (IEPs). The ALJ held the school had violated William's right to a FAPE and ordered it to provide him with 888 hours of dyslexia tutoring from a trained reading interventionist. The ALJ also found the school had violated the Rehabilitation Act and the ADA. His parents thereafter filed an action in federal court seeking an order that the tutoring come from a specific provider. The school filed a counterclaim

[13] *See Bose v. Bea*, 947 F.3d 983, 988 (6th Cir. 2020).

seeking reversal of the ALJ's order. The district court affirmed the ALJ's findings and order but denied William's request for a specific provider. The Sixth Circuit affirmed.

M. Elections

1. *Boone County Republican Party Executive Committee v. Wallace*, 116 F.4th 586 (6th Cir. 2024).

   Three Republican Party county executive committees challenged the Kentucky Registry of Election Finance's prohibition on expending funds raised for party nominees in support of a state constitutional amendment on the November 2024 general election ballot. The committees wanted to distribute communications that advocated for the Republican candidates and the proposed constitutional amendment. The Registry required them to form separate political issues committees in order to do so. The district court denied their request for a preliminary injunction, and plaintiffs sought an injunction pending appeal of its decision. The Sixth Circuit granted the request for an injunction pending appeal and ordered expedited briefing. It found plaintiffs are likely to succeed on the merits of their First Amendment claim. Because the Registry's spending restriction burdens political speech, it is subject to strict scrutiny and is valid only if it is narrowly tailored to a compelling state interest. The Court found the restriction is not narrowly tailored to the Registry's asserted interest in disclosure because it could achieve the same result by simply imposing a standard disclosure requirement on the executive committees.

2. *National Republican Senatorial Committee v. Federal Election Commission*, 117 F.4th 389 (6th Cir. 2024).

   The Sixth Circuit rejected plaintiffs' First Amendment challenge to the Federal Election Campaign Act's limits on coordinated campaign expenditures, citing the Supreme Court's decision in *Federal Election Commission v. Colorado Republican Federal Campaign Committee*, 533 U.S. 431, 465 (2001).

3. *Boone County Republican Party Executive Committee v. Wallace*, 132 F.4th 406 (6th Cir. 2025).

   Three Republican Party county executive committees challenged the Kentucky Registry of Election Finance's requirement that they register as political issue committees before expending funds in support of a proposed state constitutional amendment. The district court denied plaintiffs' application for a preliminary injunction, but the Sixth Circuit granted an injunction pending appeal of the preliminary injunction denial because it construed the requirement as a ban on plaintiffs' speech. Following briefing and oral argument, the Sixth Circuit held the Registry imposed only a disclosure requirement on the executive committees that is sufficiently tailored to its interest in providing the public with timely and accurate

information about ballot issue campaigns. The requirement does not put a ceiling on the executive committees' expenditures nor does it prevent anyone from speaking. The Court affirmed the district court's denial of plaintiffs' motion for a preliminary injunction.

N. Environmental Law

Kentucky v. United States Environmental Protection Agency, 123 F.4th 447 (6th Cir. 2024)

The EPA changed its air quality standards for ozone under the Clean Air Act. It issued guidance memoranda to states stating they could use specific modeling to identify if their emissions cross state lines and that they presumptively did not need to worry about any interstate emissions that fell below a specific minimum threshold. Kentucky proposed a plan that did not further reduce its emission. After two years, the EPA disapproved Kentucky's plan based on different modeling that came out after the EPA's deadline and on a lower threshold than the one it previously said the state could use. Kentucky petitioned the Sixth Circuit to vacate the EPA's disapproval. The EPA sought to transfer the action to the D.C. Circuit because it had disapproved Kentucky's plan in a rule that also rejected 20 other state plans. The Court denied the EPA's motion to transfer, finding Kentucky properly filed in the Sixth Circuit because the EPA's disapproval was not a nationally applicable final action or based on a determination of nationwide scope or effect. It then held the EPA's disapproval of Kentucky's plan violated the Administrative Procedures Act. It acted arbitrarily by recommending Kentucky use a certain threshold and modeling and then denying the plan based on a different model and threshold. The Court vacated the EPA's disapproval of Kentucky's state implementation plan and remanded to the agency for further proceedings consistent with its opinion.

O. ERISA

1. *Standard Insurance Company v. Guy*, 115 F.4th 518 (6th Cir. 2024).

Guy murdered his parents in order to collect his mother's insurance proceeds. The Sixth Circuit affirmed the district court, holding he is not entitled to the insurance proceeds under either federal law or Tennessee law. ERISA's text does not directly address this scenario. Assuming without deciding that ERISA preempts Tennessee's "slayer statute", the Court held the federal common law slayer rule also prevents Guy from collecting.

2. *Parker v. Tenneco, Inc.*, 114 F.4th 786 (6th Cir. 2024).

Plaintiffs filed a putative class action suit in federal court against the fiduciaries of their 401(k) plans for alleged breaches of fiduciary duties owed under 29 U.S.C. §§1104(a)(1) and 1105(a). They claimed the fiduciaries breached their duties by failing to employ a prudent process for selecting, monitoring, and removing investment options from the plan's options. This caused plaintiffs to pay more for investment options when identical options

were available at a lower cost. The fiduciaries moved to compel arbitration, arguing the plan's individual arbitration provision required plaintiffs to arbitrate their claims on an individual basis. The district court denied the motion, finding the individual arbitration provision limited participants' rights under ERISA as it eliminated their substantive statutory right to bring suit on behalf of a plan and pursue plan-wide remedies. The Sixth Circuit affirmed. Because the individual arbitration provision in this case was non-severable from the arbitration procedure, the entire arbitration procedure is unenforceable.

3. *BlueCross BlueShield of Tennessee v. Nicolopoulos*, 136 F.4th 681 (6th Cir. 2025).

BlueCross BlueShield of Tennessee (BlueCross) sold and issued a group health insurance policy to PhyNet Dermatology, LLC, a Tennessee-based company with offices in several states. B.C., a PhyNet employee and plan member in New Hampshire, submitted claims for fertility treatments she received. Because the plan deliberately excludes fertility treatments from coverage, BlueCross, acting as fiduciary, denied B.C.'s claims. New Hampshire state insurance law mandates coverage for fertility treatments. The Commissioner of the New Hampshire Insurance Department issued an order to show cause and notice of hearing to BlueCross. BlueCross then filed suit in federal court for preliminary injunctive relief under ERISA §502(a)(3). The district court granted summary judgment to the Commissioner under Fed. R. Civ. P. 56(f)(1). It found the Commissioner brought the state administrative enforcement action against BlueCross in its capacity as an insurer, and ERISA's savings clause permits such actions. BlueCross appealed to the Sixth Circuit. At issue was whether the Commissioner brought the show cause order against BlueCross in BlueCross's capacity as an ERISA fiduciary or as an insurer. The savings clause only permits states to enforce their insurance laws against insurers. The Sixth Circuit affirmed, finding the Commissioner brought the enforcement action against BlueCross in its capacity as an insurer to enforce New Hampshire's insurance laws. The savings clause saves state insurance laws from ERISA preemption, and ERISA does not shield BlueCross from the state's regulatory action.

P. Habeas Corpus

White v. Plappert, 131 F.4th 465 (6th Cir. 2025)

The Sixth Circuit affirmed the denial of White's petition for habeas corpus, rejecting his argument that Kentucky should not have sentenced him to death because trial counsel failed to investigate and present mitigating evidence. The Kentucky Supreme Court's decision was not contrary to clearly established federal law as outlined in *Strickland v. Washington*.[14] It also properly applied *Strickland* to Patton's claims.

[14] 466 U.S. 668, 687 (1984).

Reasonable jurists could conclude trial counsel's performance was adequate and did not result in prejudice.

Q. Immigration

1. *Mazariegos-Rodas v. Garland*, 122 F.4th 655 (6th Cir. 2024).

Petitioners are sisters and natives of Guatemala who were left behind after their parents entered the U.S. without inspection in 2009. They fled to the U.S. in 2015 after gang members threatened to maim and kill them. They entered without inspection, and the Department of Homeland Security (DHS) placed them in removal proceedings. Petitioners applied for asylum and withholding of removal under the INA. The immigration judge denied their applications, and the Board of Immigration Appeals (BIA) dismissed their appeal. Petitioners then filed a petition for review with the Sixth Circuit. The Court held petitioners' arguments regarding due process and the "Guatemalan female children without parental protection" proposed particular social group (PSG) were not raised before the BIA and are unreviewable. It held the BIA's no-nexus determination with regard to "the Rodas family" PSG is inconsistent with Sixth Circuit precedent. The Court noted the correct approach is for the BIA to determine whether the persecutor's motives are "inextricably intertwined" with the applicant's PSGs. Neither the IJ nor the BIA in this case examined whether the persecutors may have had mixed motives for targeting the petitioners. The Court held precedent does not require an asylum applicant to prove animus in order to satisfy the nexus requirement. On remand the BIA must apply a mixed motives analysis to determine if petitioners' family membership was one central reason for their persecution. It must also reconsider whether petitioners have satisfied the nexus requirement for withholding of removal. The Court vacated the denial of petitioners' application for asylum and withholding of removal and remanded for further proceedings consistent with its opinion.

2. *Ebu v. U.S. Citizenship and Immigration Services*, 134 F.4th 895 (6th Cir. 2025).

In 2017, Ebu pleaded guilty to facilitating theft by deception and fraudulent use of a credit card in Kentucky state court. The federal government then commenced removal proceedings against him under 8 U.S.C. §1227(a)(2)(A)(i). Ebu then applied to become a naturalized citizen and appeared for a naturalization examination. He passed the tests, but USCIS took no action on his application for months due to the Immigration and Nationality Act's "priority provision" which states no application for naturalization will be considered by the Attorney General if removal proceedings are pending against the applicant. After 120 days passed, Ebu filed suit, requesting the federal court to determine his naturalization application and enter a declaratory judgment confirming his *prima facie* eligibility for naturalization under 8 U.S.C. §1447(b). The district court, citing

the Sixth Circuit's unpublished decision in *Rahman v. Napolitano*,[15] dismissed Ebu's complaint. It held 8 U.S.C. §1429 precludes it from considering naturalization applications under §1447(b) while removal proceedings are simultaneously pending against the applicant. The Sixth Circuit affirmed.

3. *Castillo v. Bondi*, 140 F.4th 777 (6th Cir. June 18, 2025).

Castillo became a naturalized citizen of the U.S. in 2009, but only because he did not disclose that he had been arrested and charged with sexual abuse. Two months later he pleaded guilty to one count of sexual abuse in the third degree and was sentenced to three years in prison with 18 months suspended. In 2019, the government sought to revoke his citizenship, and in 2022 a court ordered its cancellation in light of his admission that he illegally procured it. DHS thereafter instituted removal proceedings against Castillo, claiming he should be deported under 8 U.S.C. §1227(a)(2)(E)(i). An immigration judge sustained the charge and denied Castillo's application for cancellation of removal, and the Board of Immigration Appeals rejected his appeal. Castillo appealed to the Third Circuit which transferred his petition to the Sixth Circuit. Applying the "best reading" of the statute's child abuse provision, it held the statute does not cover individuals who were citizens at the time of the relevant conviction. "Alien" is defined as any person who is not a U.S. citizen or national. The Court noted that as a legal permanent resident, Castillo must continue to abide by the law or risk deportation, citing 8 U.S.C. §1227(a)(1)-(7).

R. Immunity

Josephson v. Ganzel, 115 F.4th 771 (6th Cir. 2024)

Josephson was a professor at the University of Louisville's medical school. In October 2017, he expressed his views regarding treatment of childhood gender dysphoria during a panel discussion sponsored by a conservative think tank. His views clashed with those of his coworkers and supervisors. The University thereafter demoted him and eventually chose not to renew his contract following more than 15 years of employment. Josephson filed suit arguing university officials violated his First Amendment rights by retaliating against him following his remarks. The district court rejected defendants' claim that they are entitled to Eleventh Amendment immunity and qualified immunity. The Sixth Circuit affirmed. Because plaintiff requested equitable, prospective relief – reinstatement to his position and expungement of his personnel file – the Eleventh Amendment does not bar his claims against defendants under *Ex parte Young*.[16] The district court also did not err in denying defendants qualified immunity. Plaintiff engaged in protected speech, and defendants should

[15] 385 Fed. App'x 540 (6th Cir. 2010).

[16] 209 U.S. 123 (1908).

have known that retaliating against him for his speech would violate his First Amendment rights.

S. Insurance

Olenik v. Ohio Casualty Insurance Company, 114 F.4th 821 (6th Cir. 2024)

At issue in this case was the term "temporary substitute" in an insurance policy governed by Kentucky law. Donna Vanek would occasionally drive her employer's truck but typically used her own car for much of her work. While on an errand for the company in her car, she and her nephew were killed in an auto accident. At the time of the incident, the company's truck was in the shop. Vanek's estate sued Ohio Casualty, claiming Vanek's car qualified as a covered "temporary substitute" for the truck. The district court granted summary judgment to Ohio Casualty. It accepted Ohio Casualty's argument that a noncovered car cannot qualify as a "temporary substitute" unless all of the covered vehicles are in the shop. The Sixth Circuit reversed. It found a reasonable jury could find for the estate under the policy's plain language. Vanek's car could qualify as a "substitute" as several witnesses testified she would have driven the company's truck for this particular errand if it had been available. The jury could also view the car as a "temporary" replacement since the company got the truck back from the shop a short time later. The Court noted it did not matter that Vanek regularly used her car for work. It mattered that she temporarily substituted her car for the truck on the trip at issue and she would have continued to use the truck after the company got it back. The Court remanded for proceedings consistent with its opinion.

T. Intellectual Property

Libertarian National Committee, Inc. v. Saliba, 116 F.4th 530 (6th Cir. 2024)

The Libertarian National Committee (LNC) filed suit against members of the Libertarian Party of Michigan for using the LNC trademark to represent themselves as the official Michigan delegate after a turnover in power on the state level. The district court granted LNC's motion for a preliminary injunction to enjoin defendants from using the trademark. Defendants appealed. At issue is whether their use of the LNC mark to solicit donations, fill out campaign finance paperwork, and other political actions falls within the scope of the Lanham Act. The Court found in the narrow context where a defendant uses the trademark as a source identifier, the Lanham Act does not violate the First Amendment by imposing liability in the political arena. Because defendants used the mark to identify the source of their services, they used the mark "in connection with" the advertising or distribution of services within the Lanham Act's scope. The LNC's cease and desist order was sufficient to establish that defendants' continued use of the mark was unauthorized. In addition, defendants' use of the mark in the provision of political services created a sufficient likelihood of confusion, but their use of the mark in connection with online solicitation when accompanied by an appropriate disclaimer does not. The Court affirmed the preliminary injunction except as to defendants' online solicitation accompanied by clear disclaimers.

U. Labor & Employment Law

1. *Quickway Transportation, Inc. v. National Labor Relations Board*, 117 F.4th 789 (6th Cir. 2024).

Quickway, which operated a trucking terminal in Louisville, petitioned for review of an NLRB order in an unfair labor practice proceeding against it. The order held Quickway violated the National Labor Relations Act when it ceased operations at the Louisville terminal and discharged all employees, failed to provide the union notice and an opportunity to bargain over that decision and its effects, conducted threatening and coercive interrogations, and retaliated against an employee for filing an unfair labor practice charge. The Board ordered Quickway to reopen and restore its business operations at the Louisville terminal as they existed in December 2020. It also had to offer reinstatement to all unlawfully discharged employees to the extent they are needed to perform the work Quickway is able to attract and retain after good faith effort. The Sixth Circuit found there is substantial evidence to show Quickway violated the NLRA by ceasing operations at its terminal and failing to bargain over that decision and its effects. The Court held NLRA §10(e), which prohibits consideration of objections not raised before the Board, is jurisdictional and not merely a claims-processing rule. It denied Quickway's petition for review and granted the Board's cross-application for enforcement of its order in full.

2. *Chapman v. Brentlinger Enterprises*, 124 F.4th 382 (6th Cir. 2024).

Chapman requested time off under the Family and Medical Leave Act (FMLA) to care for her sister who was dying of cancer. Brentlinger told her the statute does not provide leave to care for an adult sibling and denied her request. Brentlinger fired her when she did not show up for work and lied to workers' compensation authorities that she had quit. It also threatened Chapman with Rule 11 sanctions if she brought an FMLA suit and failed to provide her with statutorily mandated COBRA notice of health insurance availability. Chapman filed suit alleging her termination and Brentlinger's retaliatory actions violated the FMLA and other statutes. The district court granted Brentlinger's motion for summary judgment on all claims apart from the COBRA claim. It held Brentlinger violated COBRA and imposed a daily statutory penalty. On appeal, the Sixth Circuit reversed the grant of summary judgment on the majority of Chapman's statutory claims and remanded for further consideration. It affirmed the award of statutory penalties for the COBRA violation. The Court found an *in loco parentis* relationship can develop during adulthood when one adult becomes unable to care for themself. The "child" in the *in loco parentis* relationship does not have to be a minor at the time the relationship forms, have developed a debilitating condition as a minor, or have developed the condition before the relationship formed. The Court remanded to the district to decide in the first instance if the record reflects a material question of fact as to whether an *in loco parentis*

relationship formed between Chapman and her sister. It reversed and remanded on Chapman's termination and benefits-application claims but affirmed on the sanctions letter claim. It found there was insufficient evidence to show Brentlinger sent an unfounded Rule 11 letter. It also reversed and remanded Chapman's associational disability discrimination claim under the ADA and Ohio state law.

3. *Pickens v. Hamilton-Ryker IT Solutions, LLC*, 133 F.4th 575 (6th Cir. 2025).

Pickens regularly worked more than 50 hours per week at $100 per hour as a pipe inspector but was guaranteed pay each week for the equivalent of eight hours, with every subsequent hour paid hourly. His employer classified him as "salaried" under the Fair Labor Standards Act (FLSA). Pickens filed suit on behalf of himself and his co-workers, and the district court granted summary judgment to the employer. On appeal, the Sixth Circuit reversed and remanded. The Court held that to be paid on a weekly basis, an employee must be paid for a regular weeks' worth of work. The weekly salary must compensate the employee for the general value of services performed over the week rather than serving as a mere auxiliary to the employee's substantial hourly or daily pay. Pickens' eight-hour "salary" did not come close to compensating him for his regular 52-hour workweek. The Court held Pickens is entitled to summary judgment on his individual claim. It left to the district court's discretion whether his action should proceed on a collective basis and if so, how the instant decision bears on his co-workers' claims.

4. *Baltrusaitis v. International Union, United Automobile, Aerospace and Agricultural Implement Workers of America*, 133 F.4th 678 (6th Cir. 2025).

Plaintiffs are current and former engineers employed by defendant employer, the successor corporation to Chrysler Group, LLC. They are or were members of the UAW union. After learning about a massive bribing scheme between their employer and UAW, plaintiffs filed workplace grievances alleging the employer had paid bribes to UAW officials to transfer plaintiffs' workplaces in violation of the collective bargaining agreement. Those grievances were denied, and the Sixth Circuit held that federal claims based on those grievances were time-barred. Plaintiffs then filed a complaint in state court asserting state common law claims. After the action was removed to federal court, the district court denied plaintiffs' motion for remand, and the parties stipulated to dismissal. The district court held plaintiffs' claims were completely preempted by §301 of the Labor Management Relations Act under *DeCoe v. General Motors Corp.*[17] because each state law claim required interpretation of the terms in the parties' collective bargaining agreement. The Sixth Circuit affirmed.

[17] 32 F.3d 212 (6th Cir. 1994).

5. *Kean v. Brinker International, Inc.*, 2025 WL 1692713 (6th Cir. 2025).

Plaintiff was 59 years old and a general manager at one of the most profitable Chili's restaurants in Nashville when he was terminated and replaced by a 33 year old with no management experience. Defendants claimed they fired plaintiff for creating a toxic culture and not "living the Chili's way." However, his restaurant had served as a training center for other managers for years, and plaintiff consistently had positive ratings as a manager from his employees. Plaintiff filed a charge with the EEOC. It filed a notice of determination over three years later. It determined plaintiff had no record of disciplinary actions or warnings in his file, mainly because Brinker failed to maintain its electronic files during the relevant time period. All original emails were destroyed, and none of the management team could recall their role in terminating plaintiff or why the decision to terminate was made. Plaintiff thereafter filed suit alleging age discrimination in violation of the ADEA. The district court granted in part and denied in part plaintiff's motion for sanctions. It found Brinker was on notice plaintiff intended to pursue litigation and failed to maintain all original electronic material relating to plaintiff's termination. The district court granted plaintiff's motion to the extent he sought fees and costs but denied it to the extent he sought exclusion of his team member relations (TMR) report. It then granted Brinker's motion for summary judgment and denied plaintiff's motion for summary judgment. It found that although plaintiff could establish a *prima facie* case of age discrimination, he could not rebut Brinker's legitimate, non-discriminatory reason – Chili's "culture." It found the TMR report provided sufficient evidence plaintiff was causing a toxic culture at his restaurant. Plaintiff appealed to the Sixth Circuit. It held the TMR report was inadmissible, vacated the district court's order on sanctions, and reversed and remanded the district court's order on Brinker's summary judgment motion. It affirmed the district court's decision denying plaintiff's motion for summary judgment. The Court found plaintiff established the TMR report is inadmissible under Fed. R. Evid. 901 because Brinker cannot authenticate it. It instructed the district court to consider whether additional sanctions beyond exclusion of the TMR report are appropriate in light of its evidentiary ruling. The Court held plaintiff offered sufficient evidence of age discrimination to rebut Brinker's proffered non-discriminatory reason for terminating him. Without the TMR report, Brinker has little evidence to support its claim it terminated plaintiff because of the "culture" at his restaurant.

V. Municipal Liability

Franklin v. Franklin County, Kentucky, 115 F.4th 461 (6th Cir. 2024)

Franklin became ill while incarcerated at Franklin County Regional Jail. On the way to the hospital, prison employee Price sexually assaulted her in the transportation van. She filed suit against Price, two other jail employees, and Franklin County asserting constitutional claims under §1983 and related claims under state law. She alleged jail officials were deliberately indifferent to a serious risk of harm to her, and the

county was liable due to its practice of letting lone males escort female prisoners to the hospital, inaction regarding previous misconduct at the jail, and inadequate supervision and training of jail employees. The district court granted Franklin summary judgment on her Eighth Amendment claim against Price but granted the county and jail officials summary judgment on the other claims. On appeal the Sixth Circuit affirmed. While Franklin showed the jail practiced the alleged transportation custom, she failed to show that custom directly caused her assault. Rather, the custom merely provided an opportunity for Price's misconduct. The county is also not liable due to a custom of inaction toward the sexual abuse of prisoners. The Court found the three instances of previous misconduct at the jail presented by Franklin were insufficiently similar to Price's conduct. The county is also not liable for failing to train its employees. The jail had a written policy regarding sexual misconduct that outlined a zero tolerance standard, and it required all officers to undergo a training course on how to prevent sexual abuse before ever interacting with prisoners. In addition, Franklin failed to present evidence that the other jail officials were liable under a theory of supervisory liability. Those officials are also entitled to qualified immunity under state law because they performed discretionary functions in good faith that were in the scope of their employment.

W. Products Liability

Davis v. Sig Sauer, Inc.,126 F.4th 1213 (6th Cir. 2025)

After Davis accidentally shot himself in the leg, he filed a products liability claim under Kentucky law against the gun manufacturer. The district court granted Sig Sauer's motion to exclude Davis's experts and its motion for summary judgment. It found neither expert could give an opinion on whether the alleged defect caused Davis's injury because neither expert investigated the exact factual circumstances of the incident at issue. Without expert testimony, the district court held Davis could not pursue a products liability action under Kentucky law. The Sixth Circuit affirmed in part and reversed in part. The district court correctly excluded the experts from testifying to what exactly caused Davis's gun to fire inadvertently. However, their testimony was otherwise admissible to prove other elements of his claim. The Court also found Davis presented a genuine issue of material fact regarding whether the gun was defectively designed and caused his injury. The Court vacated the grant of summary judgment and remanded for further proceedings.

X. Sentencing

1. *U.S. v. Cogdill*, 130 F.4th 523 (6th Cir. 2025).

The Sixth Circuit reviewed this case on remand after the U.S. Supreme Court vacated its earlier decision following *Erlinger v. U.S.*[18] Cogdill pleaded guilty to being a felon in possession of a firearm, and the district court found he committed three prior drug offenses on separate occasions. This subjected

[18] 602 U.S. 821 (2024).

him to an enhanced sentence under the Armed Career Criminal Act. *Erlinger* held it was error for a judge, rather than the jury, to make that determination. On remand, the Sixth Circuit reviewed the error in Cogdill's case for harmlessness. It held the error in this case was not harmless, vacated Cogdill's sentence, and remanded to the district court for further proceedings consistent with its opinion. The government failed to show beyond a reasonable doubt that any rational jury would have found that all three of Cogdill's predicate offenses were committed on different occasions.

2. *U.S. v. Bricker*, 135 F.4th 427 (6th Cir. 2025).

U.S.S.G. §1B1.13(b)(6) states that a nonretroactive change in the law can present an "extraordinary and compelling" reason warranting a sentence reduction if: 1) the prisoner has served at least 10 years of an unusually long sentence; 2) there is a gross disparity between the actual sentence being served and a hypothetical sentence that would apply under current law if nonretroactive changes were given retroactive effect; and 3) the sentencing court has fully considered the defendant's individual circumstances. The Sentencing Commission published the guideline because old inmates are serving longer prison sentences than newer inmates who committed the same crime due to changes in federal sentencing law. The Sixth Circuit held U.S.S.G. §1B1.13(b)(6) is invalid because the Sentencing Commission "overstepped its authority and issued a policy statement that is plainly unreasonable under the [compassionate release] statute[19] and in conflict with the separation of powers."[20] When the Sixth Circuit has already held that a statute is unambiguous and construed it, the Sentencing Commission cannot overrule that holding by issuing a "policy statement" that reinterprets the statute to do the opposite. The Court denied compassionate release to all three prisoners in this consolidated appeal.

3. *U.S. v. Lockridge*, 2025 WL 1699704 (6th Cir. 2025).

Lockridge pleaded guilty to aiding and abetting possession with the intent to distribute methamphetamine. The district court sentenced him to 210 months in prison and three years of supervised release. The conditions of his supervised release require him to participate in mental health and substance abuse treatment. At sentencing, Lockridge argued the district court must preauthorize any inpatient treatment under both conditions and set a frequency for drug testing under the second condition. He argued the district court may not constitutionally delegate those decisions to a probation officer. The district court overruled his objection, and Lockridge appealed. The Sixth Circuit affirmed. District courts are allowed to work with nonjudicial officials like probation officers to manage the conditions of each defendant's release,

[19] 18 U.S.C. §3582(c)(1)(A).

[20] *Id*. at 430.

but they maintain the ultimate authority to modify or enforce those conditions.

4. *U.S. v. Tavarez*, 2025 WL 1733386 (6th Cir. June 23, 2025).

The district court denied Tavarez's *pro se* motion for early termination of supervised release in a summary order. The order consisted of a refiling of the probation officer's supervision report with a box checked next to "The Request is Denied" along with a signature. The district court then denied his subsequent motion for access to information forming the basis for its decision. Tavarez appealed to the Sixth Circuit. The Court vacated the district court's order denying Tavarez's motion for early termination of supervised release, affirmed its denial of his motion for access to documents, and remanded for further proceedings. It noted that when a defendant seeks review of a district court's order denying early termination, 18 U.S.C. §3742 neither limits the reviewing court's jurisdiction over the appeal or confines its power to grant certain types of relief. The Sixth Circuit held the record must demonstrate that the district court considered the relevant 18 U.S.C. §3553(a) factors before denying an early termination motion. The summary motion at issue in this case did not offer an explanation for the court's reasoning or demonstrate that it considered the required §3553(a) factors. The Court held the district court abused its discretion and remanded for reconsideration. The district court had no obligation to disclose the supervision report or any of its content to Tavarez and did not abuse its discretion in denying his request for documents.

5. *U.S. v. Hale*, 127 F.4th 638 (6th Cir. 2025).

Hale moved for early termination of supervised release four years and four months into his 10-year term of supervision. The district court denied his motion, and Hale appealed. The Sixth Circuit clarified that 18 U.S.C. §3583(e)(1) does not require a finding of exceptionally good behavior before a district court may grant a motion for early termination of supervised release, though that behavior remains a relevant consideration. Instead, district courts must determine whether early termination is warranted by the released defendant's conduct and the interest of justice, taking into account certain §3553(a) factors. "Exceptionally good" conduct is not an absolute prerequisite to relief. The Court vacated the district court's order and remanded for reconsideration under the proper standard.

Y. Social Security

Linden v. Commissioner of Social Security, 131 F.4th 531 (6th Cir. 2025)

Linden filed for Social Security benefits prior to her full retirement age, which reduced the monthly benefit she was eligible to receive. She now claims she only filed early because the Social Security Administration falsely told her that filing early would not reduce the amount of her checks. Citing 42 U.S.C. §402(j)(5), she requested that the

administration retroactively set the date of her application to her 66th birthday, which would give her a higher monthly amount. The administration denied her request on initial review and reconsideration. She thereafter sought a hearing, and the ALJ also ruled against her. The ALJ noted that §402(j)(5) applies only if individuals "fail" to apply for benefits due to the agency's misinformation. Because Linden had applied, the statute did not cover her claim. The ALJ also found there was insufficient evidence that Linden received any misinformation. The agency's appeals council denied her request for review, and Linden filed suit in federal court challenging the ALJ's decision. The magistrate judge granted the agency's motion for summary judgment, and the Sixth Circuit affirmed. The Court held the plain text of §402(j)(5) precludes Linden's recovery because it only applies to individuals who fail to apply for benefits.

Z. Taxation

Hubbard v. Commissioner of Internal Revenue, 132 F.4th 437 (6th Cir. 2025)

After Hubbard was convicted of running a pill mill, the government confiscated his property including over $400,000 from his IRA. The IRS argued the transfer of this money to it qualified as income to Hubbard for which he owed taxes because it discharged an "obligation" that he owed. The tax court agreed and ordered him to pay over $180,000 in taxes and penalties. The Sixth Circuit reversed. The forfeiture order in this case granted the IRS ownership of the IRA. It did not enter a money judgment against Hubbard. When the IRS took the money from the IRA it was not taking Hubbard's money to discharge a debt. It was merely transferring its own money. Because the IRS owned and controlled the IRA and received the funds, it qualified as the payee or distributee under 26 U.S.C. §408(d)(1).

AA. Torts

Baker v. Blackhawk Mining, LLC, 2025 WL 1733399 (6th Cir. June 23, 2025)

In 2022, severe flooding destroyed homes in Eastern Kentucky. Plaintiffs filed suit against Pine Branch Mining, LLC alleging it violated Kentucky mining regulations in how it maintained its surface mine property located near their land. They claimed Pine Branch committed negligence *per se*. The district court granted summary judgment to Pine Branch, and the Sixth Circuit affirmed. In order to succeed on their claim, plaintiffs had to prove Pine Branch committed infractions that substantially contributed to the flooding. However, the district court excluded the opinion of their only expert. Without expert proof, plaintiffs did not present enough evidence to create a jury question on causation and could not establish a *prima facie* case of negligence *per se*. The district court did not err in finding plaintiff's expert failed to meet the requirements of Fed. R. Evid. 702. His preliminary report was not based on sufficient facts or data about the specific mining sites at issue. He did not rely on any scientific modeling or tests to reach his conclusion. In addition, he struggled in applying principles and methods reliably to the facts of the case by relying on extrapolations from studies conducted on outside sites and failed to consider alternative causes of the property damage. The expert also failed to meet disclosure requirements under Fed. R. Civ. P. 26(a). He offered his evidence as a summary of initial preliminary

opinions without providing any further supplementation. Under the disclosure rule, parties have a duty to provide a complete statement of all opinions the witness will express. In light of evidence provided by Pine Branch's expert and the exclusion of plaintiffs only expert opinion, plaintiffs lacked sufficient evidence to create a genuine issue of material fact regarding causation, which was essential to their claim.

IV. U.S. SUPREME COURT

A. Administrative Law

1. *Williams v. Reed*, 145 S.Ct. 465 (2025).

   The Court held that when a state court's application of a state exhaustion requirement effectually immunizes state officials from §1983 claims challenging delays in the administrative process, state courts may not deny those §1983 claims on failure-to-exhaust grounds.

2. *Food and Drug Administration v. Wages and White Lion Investments, L.L.C.*, 145 S.Ct. 898 (2025).

   At issue in this case was whether the FDA lawfully denied respondents authorization to market e-cigarettes. Respondents petitioned for judicial review of the FDA's denial orders under the APA. The Fifth Circuit granted the petitions for review and remanded to the FDA. The *en banc* majority held the FDA had acted arbitrarily and capriciously when it applied application standards different from those articulated in its pre-decisional guidance documents regarding scientific evidence, cross-flavor comparisons, and device type. The Supreme Court granted certiorari and vacated the Fifth Circuit's decision. It held the FDA's denial orders were sufficiently consistent with its pre-decisional guidance and thus did not violate the change in position doctrine. The Fifth Circuit also relied on an incorrect standard to reject the FDA's claim of harmless error regarding its change of position on marketing plans. The Court declined to address respondents' arguments the FDA erred in evaluating their applications under standards developed in adjudication rather than notice and comment rulemaking.

3. *Bondi v. VanDerStok*, 145 S.Ct. 857 (2025).

   The Gun Control Act of 1968 requires those engaged in importing, manufacturing, or dealing in firearms to obtain federal licenses, keep sales records, conduct background checks, and mark their products with serial numbers. In 2022, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) adopted a rule interpreting the Act to cover weapon parts kits designed to be converted to expel a projective and partially complete, disassembled or nonfunctioning frames or receivers. Reversing the Fifth Circuit, the Supreme Court held the ATF's rule is not facially inconsistent with the Gun Control Act.

4. *Seven County Infrastructure Coalition v. Eagle County, Colorado*, 145 S.Ct. 1497 (2025).

   The Court held the D.C. Circuit failed to afford the U.S. Surface Transportation Board the substantial judicial deference required in National Environmental Policy Act (NEPA) cases. The D.C. Circuit also incorrectly interpreted NEPA to require the Board to consider the environmental effects of upstream and downstream projects that are separate in time or place from the Uinta Basin Railway.

5. *McLaughlin Chiropractic Associates, Inc. v. McKesson Corporation*, 145 S.Ct. 2006 (2025).

   The Court held the Hobbs Act does not bind district courts in civil enforcement proceedings to an agency's interpretation of a statute. District courts must independently determine the law's meaning under ordinary principles of statutory interpretation while affording appropriate respect to the agency's interpretation.

6. *Nuclear Regulatory Commission v. Texas*, 145 S.Ct. 1762 (2025).

   The Nuclear Regulatory Commission granted Interim Storage Partners a license to build and operate a storage facility for spent nuclear fuel in West Texas. The state and a private local business sought review of the Commission's licensing decision in the Fifth Circuit, which vacated ISP's license. The Supreme Court reversed and remanded. Because Texas and Fasken Land and Minerals were not parties to the Commission's licensing proceeding, they are not entitled to obtain judicial review of the Commission's licensing decision.

B. Alien Enemies Act

1. *Trump v. J. G. G.*, 145 S.Ct. 1003 (2025).

   The Court vacated the district court's order blocking the Trump administration's summary removal of Venezuelan nationals under the Alien Enemies Act. Challenges to removal under the Act must be brought in habeas. The Court declined to address the detainees' argument that they are not covered by the Act. It held the detainees are entitled to notice and an opportunity to be heard and set proper venue for the matter in Texas rather than Washington, D.C.

2. *A.A.R.P. v. Trump*, 145 S.Ct. 1034 (2025).

   The Supreme Court granted a stay of removal of a proposed class of Venezuelan men in immigration custody and preserved the status quo for individuals challenging their removal under the Alien Enemies Act in the U.S. District Court for the Northern District of Texas.

C. Bankruptcy

U.S. v. Miller, 145 S.Ct. 839 (2025)

The Court held the sovereign immunity waiver in §106(a) of the Bankruptcy Code applies only to a §544(b) claim itself and not to state law claims that may be nested within that federal claim.

D. Civil Procedure

1. *Royal Canin U.S.A., Inc. v. Wullschleger*, 604 U.S. 22 (2025).

The Court held that when a plaintiff amends their complaint to remove any federal law claims that enabled removal to federal court, the federal court loses supplemental jurisdiction and the case must be remanded to state court.

2. *Lackey v. Stinnie*, 145 S.Ct. 659 (2025).

The Court held plaintiffs who gain only preliminary injunctive relief before their action becomes moot do not qualify as "prevailing parties" eligible for attorney's fees under 42 U.S.C. §1988(b). No court conclusively resolved their claims by granting enduring judicial relief on the merits that materially altered the legal relationship between the parties.

3. *Waetzig v. Halliburton Energy Services, Inc.*, 145 S.Ct. 690 (2025).

Waetzig filed a federal age discrimination lawsuit against his former employer. He later submitted the claims for arbitration and voluntarily dismissed the federal suit under Fed. R. Civ. P. 41(a). After losing at arbitration, he asked the district court to reopen the dismissed lawsuit and vacate the arbitration award, asserting Rule 60(b) as the basis for reopening. The district court reopened the case and separately granted Waetzig's motion to vacate the arbitration award. The Tenth Circuit reversed. The Supreme Court granted certiorari, reversed and remanded. It held a case voluntarily dismissed without prejudice under Rule 41(a) counts as a "final proceeding" under Rule 60(b).

4. *BLOM Bank SAL v. Honickman*, 145 S.Ct. 1612 (2025).

The Court held relief under Rule 60(b) requires extraordinary circumstances, and this standard does not become less demanding when the movant seeks to reopen a case to amend a complaint. A party must first satisfy Rule 60(b) before Rule 15(a)'s liberal amendment standard can apply.

5. *Parrish v. U.S.*, 145 S.Ct. 1664 (2025).

The Court held a litigant who files a notice of appeal after the original appeal deadline but before the court grants reopening does not need to file a second notice after reopening. The original notice relates forward to the date reopening is granted.

E. Communications

Federal Communications Commission v. Consumers' Research, 2025 WL 1773630 (June 27, 2025)

The Communications Act of 1934 instructs the Federal Communications Commission to make communications services available to everyone in the U.S. at reasonable charges. This is known as "universal service." Following amendments in 1996, the Act now requires every carrier providing interstate telecommunications services to contribute to the Universal Service Fund, which is used to pay for universal service subsidy programs. The FCC uses a "contribution factor" to determine how much carriers must contribute to the fund. It set a 25.2 percent contribution factor for the first quarter of 2022. Consumers' Research petitioned for review in the Fifth Circuit, arguing the universal service contribution scheme violates the nondelegation doctrine. The Fifth Circuit, sitting *en banc*, granted the petition. It found the combination of Congress's delegation to the FCC and the FCC's "subdelegation" to the administrator violated the Constitution even if neither delegation did so independently. The Supreme Court granted certiorari, reversed and remanded. It held the universal service contribution scheme does not violate the nondelegation doctrine.

F. Constitutional Law

1. *U.S. v. Skrmetti*, 145 S.Ct. 1816 (2025).

The Court held Tennessee's law prohibiting certain medical treatments for transgender minors is not subject to heightened scrutiny under the Fourteenth Amendment's equal protection clause and satisfies rational basis review.

2. *TikTok Inc. v. Garland*, 145 S.Ct. 57 (2025).

The Protecting Americans from Foreign Adversary Controlled Applications Act makes it illegal for companies in the U.S. to provide services to distribute, maintain, or update the social media platform TikTok. Petitioners were TikTok operating entities and a group of U.S. TikTok users who claimed the Act as applied to them violates the First Amendment. The Court held the Act as applied to petitioners satisfies intermediate scrutiny and does not violate their First Amendment rights. It is sufficiently tailored to address the government's interest in preventing a foreign adversary from collecting sensitive data from the 170 million U.S. TikTok users.

3. *Free Speech Coalition, Inc. v. Paxton*, 2025 WL 1773625 (June 27, 2025).

   Texas enacted HB 1181, which required commercial websites publishing sexually explicit content that is obscene to minors to verify that visitors are 18 or older. Plaintiffs filed suit against the state attorney general to enjoin enforcement of HB 1181, arguing it is facially unconstitutional under the First Amendment. The Fifth Circuit held an injunction was not warranted because plaintiffs were unlikely to prevail on the claim. The Supreme Court affirmed, holding HB 1181 triggers and survives intermediate scrutiny because it only incidentally burdens the protected speech of adults. No person, adult or child, has a First Amendment right to access such speech without first submitting proof of age.

4. *Barnes v. Felix*, 145 S.Ct. 1353 (2025).

   When evaluating claims alleging excessive force in violation of the Fourth Amendment, the Fifth Circuit used a "moment-of-threat" rule which requires asking only whether the officer was in danger at the moment of the threat that resulted in the use of deadly force. It held in the instant case that because the officer could have reasonably believed his life was in danger, the shooting was lawful. The Supreme Court vacated and remanded. A claim that law enforcement used excessive force during a stop or arrest is analyzed under the Fourth Amendment, which requires the force used to be objectively reasonable from the perspective of a reasonable officer at the scene. The inquiry into reasonableness of police force requires analyzing the totality of the circumstances, which requires careful attention to the facts and circumstances related to the incident. The Court noted that the totality of the circumstances inquiry has no time limit. Earlier facts and circumstances may bear on how a reasonable officer would have understood and reacted to later ones.

5. *Catholic Charities Bureau, Inc. v. Wisconsin Labor & Industry Review Commission*, 145 S.Ct. 1583 (2025).

   Wisconsin law exempts certain religious organizations from paying unemployment compensation taxes. Petitioners sought this exemption as organizations controlled by the Roman Catholic Diocese of Superior, Wisconsin. The state supreme court denied the exemption, holding petitioners were not operated primarily for religious purposes because they neither engaged in proselytization nor limited their charitable services to Catholics. The Supreme Court held Wisconsin's application of the statute to petitioners violated the First Amendment.

6. *Kennedy v. Braidwood Management, Inc.*, 2025 WL 1773628 (June 27, 2025).

   The Department of Health and Human Services (HHS) created the U.S. Preventive Services Task Force to formulate evidence-based recommendations regarding preventative healthcare services. Plaintiffs filed

suit, arguing the task force members are principal officers under the Appointments Clause who must be appointed by the President with the advice and consent of the Senate, not by the HHS Secretary. The Supreme Court held the task force members are inferior officers whose appointment by the HHS Secretary is consistent with the Appointments Clause.

7. *Mahmoud v. Taylor*, 2025 WL 1773627 (June 27, 2025).

The Montgomery County Board of Education introduced "LGBTQ+ inclusive" texts into its public school curriculum, including five storybooks approved for students in kindergarten through fifth grade. The Board initially provided opt-outs for parents wanting their children to be excused from instruction involving those books. The Board thereafter rescinded the parental opt-out option, citing significant disruption to the classroom environment. Petitioners filed suit arguing the Board's decision to rescind opt-outs infringed on parents' rights to free exercise of their religion. They sought a preliminary and permanent injunction prohibiting the Board from forcing their children and other students to read, listen, or discuss the storybooks over their parents' objections. The district court denied relief, and the Fourth Circuit affirmed. The Supreme Court reversed and remanded, holding parents challenging the Board's introduction of the "LGBTQ+ inclusive" storybooks, along with its decision to withhold opt-outs, are entitled to a preliminary injunction. It found the parents are likely to succeed on their claim that the Board's policies unconstitutionally burden the free exercise of their religion.

8. *Goldey v. Fields*, 2025 WL 1787625 (June 30, 2025).

The Court reversed the Fourth Circuit's holding that inmate Fields could proceed with his Eighth Amendment excessive force claim for damages under *Bivens v. Six Unknown Federal Narcotics Agents*.[21] It remanded the case for further proceedings consistent with its opinion.

G. Courts

Trump v. CASA, Inc., 2025 WL 1773631 (June 27, 2025)

Plaintiffs filed three separate suits to enjoin the implementation and enforcement of Executive Order No. 14160, which identifies circumstances in which a person born in the U.S. is not subject to U.S. jurisdiction and is thus not recognized as an American citizen. Plaintiffs alleged the order violates the Fourteenth Amendment and the Nationality Act of 1940. In each case, the district court entered a "universal injunction" barring executive officials from applying the order to anyone rather than just the plaintiffs. The Supreme Court held that universal injunctions likely exceed the equitable authority Congress has given the federal courts. The Court granted the government's applications for a partial stay of the injunctions at issue, but only to the

[21] 403 U.S. 388 (1971).

extent that they are broader than necessary to provide complete relief to each plaintiff with standing to sue.

H. Criminal Law

1. *Kousisis v. U.S.*, 145 S.Ct. 1382 (2025).

The Court held a defendant who induces a victim to enter into a transaction under materially false pretenses may be convicted of federal fraud even if the defendant did not seek to cause the victim economic loss.

2. *Thompson v. U.S.*, 145 S.Ct. 821 (2025).

The Court held that 18 U.S.C. §1014, which prohibits knowingly making any false statement to influence the FDIC's action on any loan, does not criminalize statements that are misleading but not false. In this case, defendant argued his statements were not false because he had in fact borrowed $110,000 even though he later borrowed more from the same bank.

3. *Gutierrez v. Saenz*, 145 S.Ct. 2258 (2025).

The Court held Gutierrez has standing to bring his §1983 claim challenging Texas's postconviction DNA testing procedures under the Due Process Clause.

4. *Perttu v. Richards*, 145 S.Ct. 1793 (2025).

The Court held parties are entitled to a jury trial on Prison Litigation Reform Act exhaustion when that issue is intertwined with the merits of a claim that requires a jury trial under the Seventh Amendment.

5. *Glossip v. Oklahoma*, 145 S.Ct. 612 (2025).

Glossip was convicted of murder and sentenced to death. Following his conviction, he discovered the main witness against him had testified falsely about being under psychiatric care. The Oklahoma Court of Criminal Appeals rejected Glossip's request to set aside his conviction, and the state pardon and parole board turned down his request for clemency. Ahead of his 2023 execution date, he requested the U.S. Supreme Court to stay his execution and consider whether the state violated his constitutional rights when prosecutors suppressed evidence that their key witness was under psychiatric care. The Court granted the stay and granted Glossip's petition. It held the prosecution's failure to correct false testimony violated due process under *Napue v. Illinois*.[22] Correcting this testimony would likely have changed the jury's assessment of the witness's reliability. The Court noted the

[22] 360 U.S. 264 (1959).

prosecution also suppressed exculpatory evidence, interfered with witness testimony, and allowed destruction of key physical evidence. The Court remanded for a new trial as the appropriate remedy under *Napue*.

I. Education Law

1. *A. J. T. v. Osseo Area Schools, Independent School District No. 279*, 145 S.Ct. 1647 (2025).

   The Court held that schoolchildren bringing ADA and Rehabilitation Act claims related to their educators are not required to make a heightened showing of "bad faith or gross misjudgment." Rather, they are subject to the same standards that apply in other disability discrimination contexts.

2. *Oklahoma Statewide Charter School Board v. Drummond*, 145 S.Ct. 1134 (2025).

   The Oklahoma attorney general filed suit against the Oklahoma Statewide Charter School Board and its members seeking to invalidate their contract with St. Isidore of Seville Catholic Virtual School. The Board recognized religious rights and entitlements for St. Isidore in the contract, which deviated from the expectation that charter schools will remain nonsectarian under state law. The state requested a writ of mandamus to rescind the contract, arguing the use of public funds for a sectarian institute violated the state and federal Constitutions. The Supreme Court of Oklahoma assumed original jurisdiction and held the contract violated state and federal law, including constitutional provisions prohibiting government establishment of religion. This judgment was affirmed by an equally divided U.S. Supreme Court. Justice Barrett took no part in the consideration or decision of the case.

J. Environmental Law

1. *City and County of San Francisco, California v. Environmental Protection Agency*, 145 S.Ct. 704 (2025).

   Under the Clean Water Act, the EPA and authorized state agencies issue permits imposing requirements on entities that want to discharge pollutants into the waters of the U.S. The National Pollutant Discharge Elimination System (NPDES) makes it unlawful to discharge pollutants into covered bodies of water without a permit. At issue in this was case were "end result" requirements in which permit provisions do not spell out what a permittee must do or refrain from doing but make it responsible for the quality of water into which is discharges pollutants. In 2019, EPA renewed San Francisco's NPDES permit but added two end result requirements. San Francisco argued the end result requirement exceeds the EPA's statutory authority. The Ninth Circuit denied the city's petition for review. It held 33 U.S.C. §1311(b)(1)(C) authorizes EPA to issue "any" limitations ensuring applicable water quality standards are satisfied in a receiving body of water. The Supreme Court

reversed. It held §1311(b)(1)(C) does not authorize the EPA to issue end result provisions in NPDES permits. The EPA has the responsibility to determine what steps an entity must take to ensure water quality standards are met, and Congress has given it the tools it needs to do so.

2. *Environmental Protection Agency v. Calumet Shreveport Refining, L.L.C.*, 145 S.Ct. 1735 (2025).

   The Court held the EPA's denials of small refinery exemption petitions under the Clean Air Act are locally or regionally applicable actions that fall within the "nationwide scope or effect" exception, requiring venue in the D.C. Circuit.

3. *Oklahoma v. Environmental Protection Agency*, 145 S.Ct. 1720 (2025).

   The Court held the EPA's disapprovals of the Oklahoma and Utah state implementation plans under the Clean Air Act are locally or regionally applicable actions reviewable in a regional federal circuit court.

4. *Diamond Alternative Energy, LLC v. Environmental Protection Agency*, 145 S.Ct. 2121 (2025).

   Under the Clean Air Act, the EPA approved California regulations requiring automakers to manufacture more electric vehicles and fewer gas-powered vehicles with a goal of decreasing fuel emissions. Plaintiffs, who are fuel producers, sued the EPA in the D.C. Circuit, arguing it was without authority to approve the California regulations because they target global climate change rather than local state air quality problems as required by the Clean Air Act. The D.C. Circuit held the fuel producers lack Article III standing because they failed to establish automakers would likely respond to invalidation of the regulations by producing fewer electric vehicles and more gas-powered vehicles. The Supreme Court granted certiorari, reversed and remanded. It held the fuel producers have Article III standing to challenge EPA's approval of the California regulations.

K. ERISA

Cunningham v. Cornell University, 145 S.Ct. 1020 (2025)

The Court held that to state a claim under 29 U.S.C. §1106, a plaintiff only needs to plausibly allege the elements contained in that provision itself without addressing potential §1108 exemptions.

L. False Claims Act

Wisconsin Bell v. U.S. ex rel. Heath, 145 S.Ct. 498 (2025)

The E-Rate program subsidizes internet and telecommunications services for schools and libraries across the country. It requires telecommunications carriers to

pay into a fund that is administered by the Universal Service Administrative Company, a private not-for-profit corporation. Heath filed suit under the False Claims Act alleging Wisconsin Bell defrauded the E-Rate program out of millions of dollars. The Court affirmed the Seventh Circuit, holding the E-Rate reimbursement requests at issue are "claims" under the FCA because the government provided a portion of the money applied for by collecting, holding, and transferring more than $100 million from the federal treasury into the fund.

M. Federal Tort Claims Act

Martin v. U.S., 145 S.Ct. 1689 (2025)

After the FBI raided the wrong house, petitioners sued the U.S. under the Federal Tort Claims Act seeking damages resulting from the officers' alleged negligent and intentional actions during the raid. The district court granted summary judgment to the government, and the Eleventh Circuit affirmed. It held the law enforcement proviso in 28 U.S.C. §2680(h) protected petitioners' intentional tort claims from both the intentional tort and discretionary function exceptions in §§2680(h) and 2680(a). It dismissed petitioners' negligence claims under the discretionary function exception. It held the government had a valid Supremacy Clause defense to their intentional tort claims and granted summary judgment to the government. The Supreme Court vacated and remanded. It held the law enforcement proviso in §2680(h) overrides only the intentional tort exception in that subsection, not the discretionary function exception or other exceptions throughout §2680. In addition, the Supremacy Clause does not afford the government a defense in FTCA suits. On remand, the Eleventh Circuit must consider whether the discretionary function exception bars either the petitioners' negligent or intentional tort claims without reference to the mistaken view that the law enforcement proviso applies to §2680(a). For the surviving claims, it must then examine whether under Georgia law a private individual under like circumstances would be liable for the acts and omissions petitioners allege, subject to any defenses discussed in §2674.

N. Firearms

Smith & Wesson Brands, Inc. v. Estados Unidos Mexicanos, 145 S.Ct. 1556 (2025)

The Protection of Lawful Commerce in Arms Act (PLCAA) bars certain lawsuits against firearm manufacturers and sellers. Mexico filed suit against seven American gun manufacturers alleging they aided and abetted unlawful gun sales that routed firearms to Mexican drug cartels. The Court held that because Mexico's complaint does not plausibly allege the defendant manufacturers aided and abetted gun dealers' unlawful sales of firearms to Mexican drug cartels, PLCAA bars the lawsuit.

O. Foreign Sovereign Immunities Act

1. *Republic of Hungary v. Simon*, 145 S.Ct. 480 (2025).

The Court held that alleging commingling of funds alone cannot satisfy the commercial nexus requirement of the Foreign Sovereign Immunities Act's expropriation exception.

2. *CC/Devas (Mauritius) Limited. v. Antrix Corp, Ltd.*, 145 S.Ct. 1572 (2025).

The Court held personal jurisdiction exists under the Foreign Sovereign Immunities Act when an immunity exception applies and service is proper. The FSIA does not require proof of "minimum contacts" over and above the contacts already required by the Act's enumerated exceptions to foreign sovereign immunity.

P. Habeas Corpus

1. *Rivers v. Guerrero*, 145 S.Ct. 1634 (2025).

The Court held that once a district court enters its judgment with respect to a first-filed habeas petition, a second-in-time filing qualifies as a "second or successive application" properly subject to the requirements of 28 U.S.C. §2244(b).

2. *Andrew v. White*, 145 S.Ct. 75 (2025).

Andrew was convicted of murdering her husband and sentenced to the death penalty. At trial the state introduced evidence regarding her sex life and her alleged failings as a mother and wife which it later conceded was irrelevant. In her habeas petition, Andrew argued this evidence was so prejudicial that it violated her right to due process. The Oklahoma Court of Criminal Appeals (OCCA) rejected her claim because it thought no Supreme Court precedent established a general rule that the erroneous admission of prejudicial evidence could violate due process. The Supreme Court vacated the judgment and remanded the case for further proceedings consistent with its opinion. At the time of the OCCA's decision, clearly established law provided the due process forbids the introduction of evidence so unduly prejudicial that it renders the criminal trial fundamentally unfair.

Q. Immigration

1. *Bouarfa v. Mayorkas*, 145 S.Ct. 24 (2024).

The Court held that revocation of an approved visa application under 8 U.S.C. §1155 based on a sham marriage determination by the Secretary of Homeland Security is the kind of discretionary decision that falls within the

purview of 8 U.S.C. §1252(a)(2)(B)(ii), which strips federal courts of jurisdiction to review certain actions "in the discretion of" the agency.

2. *Monsalvo v. Bondi*, 145 S.Ct. 1232 (2025).

The Court held that under 8 U.S.C. §1229c(b)(2), a voluntary departure date that falls on a weekend or legal holiday extends to the next business day.

3. *Riley v. Bondi*, 2025 WL 1758502 (June 26, 2025).

The Court held that orders denying deferral of removal in "withholding-only" proceedings are not "final orders of removal" under 8 U.S.C. §1252(b)(1). In addition, the 30-day filing deadline under §1252(b)(1) is a claims-processing rule, not a jurisdictional requirement.

R. Intellectual Property

Dewberry Group, Inc. v. Dewberry Engineers Inc., 145 S.Ct. 681 (2025)

The Court held that when awarding defendant's profits to the prevailing plaintiff in a trademark infringement suit under the Lanham Act, a court can award only profits ascribable to the defendant itself – the party against whom relief or recovery is sought. In this case, Dewberry Engineers failed to add the Dewberry Group's affiliates as defendants, and the affiliates' profits are not "defendant's profits" as ordinarily understood.

S. Labor & Employment Law

1. *E.M.D. Sales, Inc. v. Carrera*, 145 S.Ct. 34 (2025).

The Court held the preponderance of the evidence standard applies when an employer seeks to demonstrate that an employee is exempt from the minimum wage and overtime pay provisions of the Fair Labor Standards Act.

2. *Stanley v. City of Sanford, Florida*, 145 S.Ct. 2058 (2025).

The Court held that to prevail under Title I of the ADA, 42 U.S.C. §12112(a), a plaintiff must plead and prove that they held or desired a job and could perform its essential functions with or without reasonable accommodations at the time of an employer's alleged act of disability-related discrimination.

3. *Ames v. Ohio Department of Youth Services*, 145 S.Ct. 1540 (2025).

The Court held the Sixth Circuit's "background circumstances" rule, which requires members of a majority group to satisfy a heightened evidentiary standard to prevail on a Title VII claim, cannot be squared with the text of Title VII or the Court's precedents. The standard for proving disparate treatment

under Title VII does not vary based on whether or not the plaintiff is a member of a majority group.

T. Medicaid

Medina v. Planned Parenthood South Atlantic, 2025 WL 1758505 (June 26, 2025)

At issue in this case is whether individual Medicaid beneficiaries may sue state officials under 42 U.S.C. §1983 for failing to comply with the any-qualified-provider provision in 42 U.S.C. §1396a(a)(23)(A). South Carolina determined Planned Parenthood could no longer participate in its Medicaid program. Planned Parenthood and one of its patients filed a §1983 class action claiming the exclusion violated the any-qualified-provider provision. The Court held §1396a(a)(23)(A) does not clearly and unambiguously confer individual rights enforceable under §1983.

U. Medicare

Advocate Christ Medical Center v. Kennedy, 145 S.Ct. 1262 (2025)

Medicare pays hospitals a fixed rate for treating Medicare patients. The "disproportionate share hospital" (DHS) rate adjustment offers additional funding to hospitals that treat a large number of low income patients. To calculate the DHS adjustment, the Department of Health and Human Services (HHS) uses a Medicare fraction and a Medicaid fraction. The Medicare fraction represents the proportion of the hospital's Medicare patients with low incomes, and the Medicaid fraction represents the proportion of the hospital's patients with low incomes who are not on Medicare. The numerator of the Medicare fraction is defined as the number of a hospital's patient days attributed to patients who on those days were entitled to Medicare Part A benefits and supplementary security income (SSI) benefits under subchapter XVI.[23] The Court affirmed the D.C. Circuit, holding that when calculating the Medicare fraction, an individual is entitled to SSI benefits for purpose of the fraction when they are eligible to receive an SSI cash payment during the month of their hospitalization. It rejected the hospitals' interpretation that this meant all patients enrolled in the SSI system at the time of their hospitalization, even if they were not entitled to an SSI payment during their month of hospitalization.

V. Military Law

1. *Feliciano v. Department of Transportation*, 145 S.Ct. 1284 (2025).

The Court held a civilian employee called to active duty pursuant to any other provision of law during a national emergency as described in 10 U.S.C. §101(a)(13)(B) is entitled to differential pay if the reservist's service temporally coincides with a declared national emergency without any showing that the service bears a substantive connection to a particular emergency.

[23] 42 U.S.C. §1395ww(d)(5)(F)(vi)(I).

2. *Bufkin v. Collins*, 145 S.Ct. 728 (2025).

The Department of Veterans Affairs applies a "benefit of the doubt rule" that tips the scale in the veteran's favor when evidence regarding any issue material to a service-related disability claim is in "approximate balance."[24] The Court held the VA's determination that the evidence regarding a service-related disability claim is in "approximate balance" is a predominantly factual determination reviewed only for clear error.

3. *Soto v. U.S.*, 145 S.Ct. 1677 (2025).

The Barring Act, 31 U.S.C. §3702, sets default settlement procedures for claims against the government and subjects most claims to a six-year limitations period. It includes an exception that when "another law" confers authority to settle a claim against the government, that law displaces the Barring Act's settlement mechanism including the limitations period. 10 U.S.C. §1413a provides "combat-related special compensation" (CRSC) to qualifying veterans who have suffered combat-related disabilities. The Court held the CRSC statute confers authority to settle CRSC claims and displaces the Barring Act's settlement procedures and limitations period.

W. RICO

Medical Marijuana, Inc. v. Horn, 145 S.Ct. 931 (2025)

The Court held that under civil RICO, 18 U.S.C. §1964(c), a plaintiff may seek treble damages for business or property loss even if the loss resulted from a personal injury.

X. Sentencing

1. *Delligatti v. U.S.*, 145 S.Ct. 797 (2025).

18 U.S.C. §924(c) subjects a person who uses or carries a firearm during a "crime of violence" to a mandatory minimum sentence of five years. A "crime of violence" is defined as a felony that has as an element the use, attempted use, or threatened use of physical force against the person or property of another. In this case, the Court clarified that the knowing or intentional causation of injury or death, whether by act or omission, necessarily involves the "use" of "physical force" against another person within the meaning of §924(c)(3)(A).

2. *Hewitt v. U.S.*, 145 S.Ct. 2165 (2025).

The First Step Act lowered the harsh mandatory minimum penalty for violations of 18 U.S.C. §924(c), which criminalizes possession of a firearm

[24] *See* 38 U.S.C. §5107(b).

while committing other crimes. The Act made the lesser penalties partially retroactive. If a sentence "has not been imposed" upon an eligible §924(c) offender as of the date of the Act's enactment, the Act applies. At issue in this case is what happens when a §924(c) offender had been sentenced as of the date's enactment, but that sentence was later vacated and the offender faces post-Act resentencing. The Court held a sentence has been imposed for purposes of the Act if, and only if, the sentence has not been vacated. The more lenient penalties apply to offenders whose previous §924(c) sentences were vacated and who need to be resentenced following the Act's enactment.

3. *Esteras v. U.S.*, 145 S.Ct. 2031 (2025).

The Court held that a district court considering whether to revoke a defendant's term of supervised release may not consider 18 U.S.C. §3553(a)(2)(A). It noted that §3583(e), which governs revocation of supervised release, states courts must consider only eight of the 10 factors listed in §3553(a).

Y. Taxation

Commissioner v. Zuch, 145 S.Ct. 1707 (2025)

The Court held the tax court lacks jurisdiction under 26 U.S.C. §6330 to resolve disputes between the Internal Revenue Service and a taxpayer when the IRS is no longer pursuing a levy.

Z. Terrorism

Fuld v. Palestine Liberation Organization, 145 S.Ct. 2090 (2025)

The Court held the personal jurisdiction provision in the Promoting Security and Justice for Victims of Terrorism Act does not violate the Fifth Amendment's Due Process Clause because the statute reasonably ties assertion of jurisdiction over the respondents to conduct involving the United States and implicating sensitive foreign policy matters within the prerogative of the political branches.

AA. Tobacco

Food and Drug Administration v. J. Reynolds Vapor Co., 145 S.Ct. 1984 (2025)

The Court held that retailers who would sell a new tobacco product if not for the FDA's denial order may seek judicial review of the order under 21 U.S.C. §387l(a)(1).

FOR YOUR INFORMATION ...

The Kentucky Law Update: Continuing Legal Education for All Kentucky Lawyers

The Supreme Court of Kentucky established the Kentucky Law Update Program as an element of the minimum continuing legal education system adopted by Kentucky attorneys in 1984. The KLU program is now offered in a hybrid format. The 2025 Kentucky Law Update is presented as a one-day, in-person program at nine different locations across the state. The 2025 On-Demand Kentucky Law Update is available virtually on the Kentucky Bar Association website from September 1st until December 31st. These two programs combined offer every Kentucky attorney the opportunity to meet the 12 credit CLE requirement, including the 2 ethics credit requirement **close to home and at no cost!** Judges can also earn continuing judicial education credits through the Kentucky Law Update.

This program was designed as a service to all Kentucky attorneys regardless of experience level. It is supported by membership dues and is, therefore, every member's program. The program is a survey of current issues, court decisions, ethical opinions, legislative and rule changes, and other legal topics of general interest that Kentucky practitioners encounter daily. As such, the program serves both the general practitioner and those who limit their practice to specific areas of law. The Kentucky Law Update program is not intended to be an in-depth analysis of a particular topic. It is designed to alert the lawyers of Kentucky to changes in the law and rules of practice that impact the day-to-day practice of law.

About the Written Materials and Presentations

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CLE and Ethics Credit

The one-day, in-person 2025 Kentucky Law Update program is accredited for 6 CLE credits, including 2 ethics credits. The 2025 On-Demand Kentucky Law Update is accredited for 9.25 CLE credits, including 3 ethics credits. One credit is awarded for each 60 minutes of actual instruction, as noted on the agendas provided on the KBA website.

The Kentucky Bar Association's 2025 Kentucky Law Update programs are accredited CLE activities in numerous other jurisdictions. Credit categories and credit calculations vary from state to state. CLE reporting information for other states will be provided at the registration desk at the in-person programs. The out-of-state information for the on-demand sessions will be available on the program website.

Kentucky judges: don't forget you can claim CJE credit for attending this program.

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Evaluations

The 2025 Kentucky Law Update is *your* program, and your input *is* valued and needed. Links to the program evaluations for the live, in-person programs will be provided to all registrants via email. A link for the on-demand evaluation will be located on the program webpage. Please take a few minutes to complete the evaluation. We appreciate your assistance in improving this program.

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