



# Employer Preview of Top Supreme Court Cases to Watch This Term

Insights

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The Supreme Court kicked off a new term on October 6 and is set to decide several key cases in the coming year that could have big effects on employers for years to come. Here's a preview of the top cases on the Court's 2025-2026 docket so far that could impact your organization, plus the workplace law cases SCOTUS could potentially pick up – and those it has already rejected.

**Still catching up on the previous SCOTUS term?** Read here: [Employer Impact Guide to the Supreme Court's 2024-2025 Term: 12 Cases That Reshaped Your Workplace, Industry, or Litigation Exposure](#)

## 4 Key SCOTUS Cases on the Docket So Far

### 1. *Trump v. Slaughter* (Impact: All Employers)

So far, the top case for employers to watch is *Trump v. Slaughter*, which could vastly expand the president's power to remove members of independent agencies. This could potentially impact the way the Equal Employment Opportunity Commission (EEOC), the National Labor Relations Board (NLRB), and other agencies regulate the workplace for the remainder of the Trump presidency and well into the future.

#### ***Quick Background***

Earlier this year, President Donald Trump [fired two Democratic Commissioners](#) of the Federal Trade Commission (FTC) without articulating a specific cause. Alvaro Bedoya and Rebecca Kelly Slaughter then sued Trump and several FTC officials, arguing that their March 18 terminations were unlawful. They cited a century-old federal law requiring that FTC commissioners only be removed for "inefficiency, neglect of duty, or malfeasance in office."

In a [July 17 decision](#), a federal district court agreed and said Slaughter should continue performing her duties as an FTC Commissioner for the remainder of her term (Bedoya's claims were dismissed based on a procedural issue). The court cited *Humphrey's Executor v. United States*, a 1935 unanimous Supreme Court decision upholding the constitutionality of for-cause removal protection for Federal Trade Commissioners.

## ***The Latest***

The federal government appealed, and on September 22 the Supreme Court granted the administration's request to temporarily block Slaughter's reinstatement while the lawsuit plays out. The Court also agreed to decide key issues that could, according to the dissenting opinion backed by Justices Kagan, Sotomayor, and Jackson, "reshape the nation's separation of powers." Specifically, SCOTUS will soon decide:

- Whether the statutory removal protections for members of the FTC violate the separation of powers and, if so, whether *Humphrey's Executor v. United States* should be overruled.
- Whether a federal court may prevent a person's removal from public office, either through relief at equity or at law.

The Court will hear arguments in *Trump v. Slaughter* in December. In its September 4 court filing, the Trump administration argued that the lower courts' readings of *Humphrey's Executor* are "unduly expansive" and ignore a 2020 SCOTUS decision that described the 90-year-old doctrine as a narrow exception to the president's removal power that does not apply to multimember expert agencies that "wield substantial executive power."

## ***What's at Stake?***

Here's what would happen if SCOTUS reverses or narrows *Humphrey's Executor* and strikes down the statutory removal protections for FTC members as unconstitutional.

- **Impact on FTC.** The FTC would become more politicized, and its enforcement priorities could swing more drastically with each administration. However, it would have very little impact on the FTC in the short term – the five-member agency already has a Republican majority since the Senate approved Trump-nominated Mark Meador as the newest commissioner in May, and federal law prohibits more than three commissioners from the same political party.
- **Impact on Other Independent Agencies.** Federal courts across the country could be influenced to strike down removal protections for members of other independent agencies, such as the NLRB or the EEOC. For example:
  - The Supreme Court's September 22 order in *Trump v. Slaughter* follows a string of similar orders the Court has granted on its emergency docket this year that permit the president to fire members of independent agencies without cause, such as its May 22 decision upholding Trump's firing of Gwynn Wilcox, a Democratic member of NLRB. (SCOTUS recently denied to hear former NLRB Member Wilcox's case, so the case will now finish playing out in the lower courts.)
  - Several courts are currently hearing constitutional challenges to the NLRB's structure in lawsuits brought by SpaceX and other employers. And the 5th Circuit Court of Appeals recently halted the NLRB from prosecuting unfair labor practice complaints as those suits

play out. In its August 19 order, the 5th Circuit rejected the agency's argument that the Board Members' removal protections are constitutional under *Humphrey's Executor*.

- In addition, after Trump fired two Democratic members of the EEOC in January, one of them sued the administration. Jocelyn Samuels argued in a July 28 court filing that her removal was unlawful and that protections set by Congress are constitutional under *Humphrey's Executor*. This case is still playing out in a district court in DC.
- **Impact on Employers.** While the FTC may not seem like a major player in workplace law, it has increasingly expanded its reach into employment-related issues, such as non-competes and restrictive covenants, antitrust in the labor market, gig economy and worker classification, and employee data privacy (particularly when artificial intelligence tools are involved). And, of course, consumer protection remains a priority for the agency, which can also impact many businesses (for example, the FTC recently announced a \$7.5 million settlement with an educational technology company over its unlawful cancellation practices). Further, if SCOTUS chips away at *Humphrey's Executor*, it could create ripple effects for the NLRB and EEOC, dramatically shifting the way these key workplace agencies operate or potentially dismantling them altogether.

## **2. Little v. Hecox and West Virginia v. B.P.J. (Impact: Schools and Athletic Organizations)**

The Supreme Court will soon decide whether states can ban transgender high school and college athletes from participating on female sports teams at their schools. After initially declining to review this issue in 2023 and essentially allowing a transgender girl to continue to compete, SCOTUS has reconsidered and will now rule on the issue with a final decision expected in 2026.

While the Court has yet to render a definitive opinion, its reconsideration of the issue is a signal that there may be significant changes to the high school and collegiate sports landscape in the near future. Here's what your school or athletic organization needs to know.

## **3. M & K Employee Solutions, LLC v. Trustees of the IAM National Pension Fund (Impact: Employers Participating in Union Pension Plans)**

The Court will decide a highly technical question under the Employee Retirement Income Security Act (ERISA) related to withdrawal liability calculation methods for multiemployer union pension plans. After the lower courts sided with the pension fund, employers who withdrew from the fund in 2018 petitioned SCOTUS to take the case, arguing that the rule adopted by the lower courts contradicts ERISA and is "substantively flawed" and "wildly impractical."

The issue in this case is extremely narrow but very important for employers that participate in union pension plans. We also are keeping an eye on this one in case SCOTUS touches on any other points related to withdrawal liability calculation methods, even if any such remarks are not binding precedent.

#### **4. *Geo Group, Inc. v. Menocal* (Impact: Federal Contractors)**

The dispute in this case is whether a government contractor can immediately appeal a court order denying its claim that it has derivative sovereign immunity for certain work it performs on behalf of the federal government. The Court will decide whether an exception to the general rule that only final judgments are appealable – known as the collateral order doctrine – applies in that situation.

The petitioner, which operates a private immigrant detention facility under a contract with US Immigration and Customs Enforcement (ICE), argues that if derivative sovereign immunity rights are not vindicated before trial, “it distracts from the performance of government functions, threatens timidity in future operations, and discourages capable people from working for the government” – and that these concerns are “equally true whether the party invoking immunity is a private contractor or a government employee.”

SCOTUS will hear oral arguments on November 10.

## **2 Workplace Law Cases SCOTUS Could Potentially Pick Up**

In addition to the four cases we previewed above, SCOTUS will need to decide whether to grant or deny certiorari in the following workplace law cases:

- ***Cook County v. Nawara***. Cook County (IL) filed a petition on September 12 asking the Court to determine whether the Americans with Disabilities Act (ADA) allows an employer to be held liable for discrimination on the basis of disability where the employee has no physical or mental impairment and is not regarded as having such an impairment. The case stems from a correctional officers’ claim that the county violated the ADA by requesting a fitness-for-duty examination based on his behavior at work.
- ***Parker-Hannifin Corporation v. Johnson***. An employer and 401(k) plan sponsor asked the Court on March 26 to resolve a circuit split over whether pleading an imprudent-investment claim under ERISA, based on how the investment’s returns compared to some performance benchmark, requires allegations showing that the benchmark is a sound basis for comparison for that investment. The employer said that the 6th Circuit’s ruling in the case creates a “step-by-step guide for pleading around the meaningful-benchmark hurdle” – meaning “it is no longer a hurdle at all.”

## **4 Workplace Law Cases SCOTUS Has Passed On So Far**

On the first day of its new term, the Supreme Court declined to hear several cases involving workplace law issues, such as:

- what constitutes “willful” violations under the Fair Labor Standards Act (*Nursing Home Care Management v. Chavez-Demer*);

- whether an individual in unpaid positions may qualify as an “employee” under Title VII (*Wells v. Texas Tech University*);
- whether an employer is excused from bargaining to impasse when a union engages in dilatory tactics to delay bargaining and prevent impasse (*Hood River Distillers, Inc. v. NLRB*); and
- whether the Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act of 2021 applies to all disputes that arise on or after March 3, 2022, including those stemming from earlier disputes (*Cornelius v. CVS Pharmacy, Inc.*).

## Conclusion

Over the next year, we will be tracking these cases – along with any additional workplace law issues taken up by the Supreme Court – and providing you with alerts when the decisions are delivered. Make sure you’re subscribed to [Fisher Phillips’ Insight System](#) so you don’t miss out.

## Related People

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**Lauren Laing**  
Legal Content Counsel  
412.822.6623  
[Email](#)





**Lisa Nagele-Piazza**  
Lead Content Counsel  
404.760.7943  
Email

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