

SCOTUS**blog** “Stat Pack”

Edition 1: Following the Orders and Opinion of May 14, 2007

Included in this download:

1. Opinion Authors by Sitting
2. State of the Docket for OT07
3. Details and Questions Presented for Pending Cases

Key Dates for OT06:

6 Remaining Conferences:

- May 17
- May 24
- May 31
- June 7
- June 14
- June 21

Scheduled days for Orders and Opinions (more will likely be added in June):

- May 21
- May 29
- June 4
- June 11
- June 18
- June 25

Opinion Authors by Sitting

Cases in color are pending; cases in red are highest profile outstanding

OCT	Author	Count	
Lopez/T-F	DHS	JGR	1
Belmontes	AMK	JPS	1
MedImmune	AS	AS	1
BP America	SAA	AMK	1
Global Crossing	SB	DHS	1
Norfolk Southern	JGR	CT	1
Resendiz-Ponce	JPS	RBG	1
Cunningham	RBG	SGB	1
Musladin	CT	SAA	1

NOV	Author	Count	
Haley	RBG	JGR	1
Williams/Bock	JGR	JPS	1
Philip Morris	SB	AS	1
Lawrence	CT	AMK	1
Bockting	SAA	DHS	1
Duke Energy	DHS	CT	1
Wallace	AS	RBG	1
Marrama	JPS	SB	1
Burton	PC	SAA	2
James	SAA		
Pl. Parent./Carhart	AMK		

DEC		Count	
Ledbetter		JGR	0
Bell Atlantic		JPS	1
KSR	AMK	AS	1
Weyerhaeuser	CT	AMK	1
Mass v. EPA	JPS	DHS	0
Watters	RBG	CT	1
Jeff. County/PICS		RBG	1
Rockwell	AS	SB	1
Duenas-Alvarez	SB	SAA	0

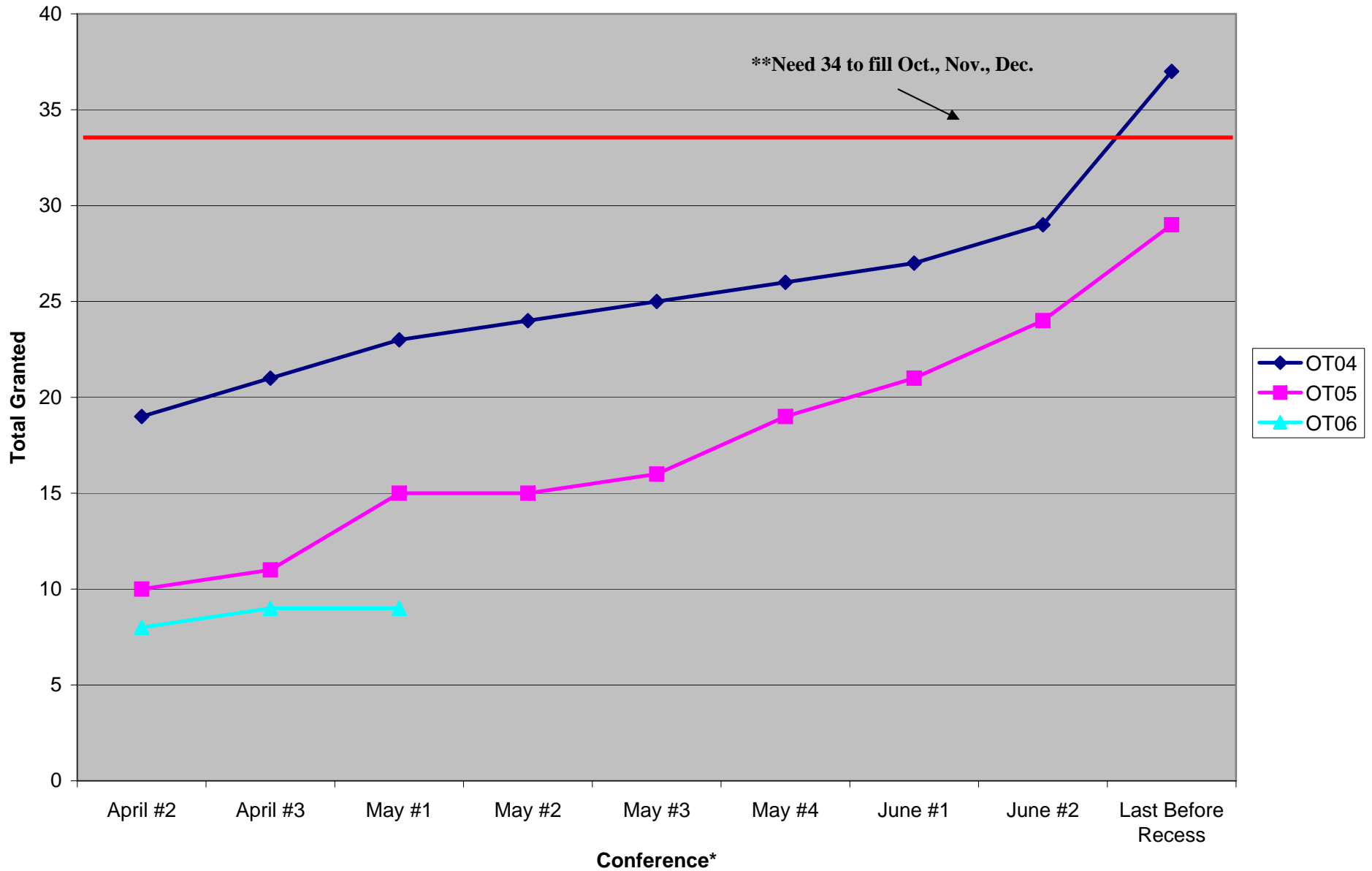
JAN		Count	
United Hauler's	JGR	JGR	1
Limtiaco	CT	JPS	1
Landrigan	CT	AS	0
Sinochem	RBG	AMK	1
Zuni	SB	DHS	0
WEA (consol)		CT	2
Travelers	SAA	RBG	1
Safeco/Geico		SB	1
Smith	AMK	SAA	1
Brewer/Abdul-Kabir	JPS		

FEB		Count	
Claiborne		JGR	0
Rita		JPS	0
AT&T	RBG	AS	1
EC Term of Years	DHS	AMK	0
Scott	AS	DHS	1
Winkelman		CT	0
Hein		RBG	1
		SB	0
		SAA	0

MAR		Count	
Wilkie		JGR	0
Fry		JPS	0
Weaver		AS	0
Leegin Creative		AMK	0
Bowles		DHS	0
CSFB		CT	0
Tellabs		RBG	0
		SB	0
		SAA	0

APR (Wk 1)		APR (Wk 2)	
Powerex		Hinck	
LI Care at Home		Atl Rsrch	
Uttecht		Brendlin	
Wyner		Beck	
Defenders of Wildlife		Perm. Miss	
TSSAA		Dayton	
Panetti		Watson	
		McCain/FEC	

Granted Cases Heading Into Summer



Note: In OT04, the Court added an additional Conference at the end of June, on the last Monday of the Term, to consider relists. Thus, the final jump of 8 cases reflects the grant of 5 cases in Conference on June 23, 2005 and an additional 3 on June 27, 2005.

October Term 2006 - Pending Merits Cases

*Ledbetter* v. *Goodyear*

05-1074 CA11

Categories: General Civil Business Statutory Title VII

Timeline: Pet: 2/23/2006 Grant: 6/26/2006 Arg: 11/27/2006 Dec:

Disposition: Res: Auth:

Whether a plaintiff asserting a disparate pay claim under Title VII against an employer that periodically reviewed and re-established her pay under a facially neutral compensation system may challenge pay decisions prior to the last decision immediately preceding the start of the statutory limitations period?

Bell Atlantic v. *Twombly*

05-1126 CA2

Categories: General Civil Business Statutory Antitrust

Timeline: Pet: 3/7/2006 Grant: 6/26/2006 Arg: 11/27/2006 Dec:

Disposition: Res: Auth:

Whether a complaint states a claim under Section 1 of the Sherman Act, 15 U.S.C. § 1, if it alleges that the defendants engaged in parallel conduct and adds a bald assertion that the defendants were participants in a "conspiracy," without any allegations that, if later proved true, would establish the existence of a conspiracy under the applicable legal standard.

Meredith v. *Jefferson County*

05-915 CA6

In tandem with 05-908

Categories: Civil Rights Non-Business Constitutional

Timeline: Pet: 1/23/2006 Grant: 6/5/2006 Arg: 12/4/2006 Dec:

Disposition: Res: Auth:

(1) Should *Grutter v. Bollinger* and *Regents of University of California v. Bakke* and *Gratz v. Bollinger* be overturned and/or misapplied by the Jefferson County Board of Education to use race as the sole factor to assign students to the regular (non-traditional) schools in the Jefferson County public schools? (2) Whether the race-conscious Student Assignment Plan with mechanical and inflexible quota systems of not less than 50% of African American students without individually or holistic review of any student, meets the 14th Amendment requirement of the use of race which is a compelling interest narrowly tailored with strict scrutiny? (3) Did the District Court abuse and/or exceed its remedial judicial authority in maintaining desegregative attractiveness in the public schools of Jefferson County, Kentucky?

October Term 2006 - Pending Merits Cases

*Parents Involved* v. *Seattle School*

05-908 CA9

In tandem with 05-915

Categories: Civil Rights Non-Business Constitutional School Diversity

Timeline: Pet: 1/20/2006 Grant: 6/5/2006 Arg: 12/4/2006 Dec:

Disposition: Res: Auth:

(1) How are the Equal Protection rights of public high school students affected by the jurisprudence of *Grutter v. Bollinger* and *Gratz v. Bollinger*? (2) Is racial diversity a compelling interest that can justify the use of race in selecting students for admission to public high schools? (3) May a school district that is not racially segregated and that normally permits a student to attend any high school of her choosing deny a child admission to her chosen school solely because of her race in an effort to achieve a desired racial balance in particular schools, or does such racial balancing violate the Equal Protection Clause of the 14th Amendment?

Washington v. *Wash. Edu. Assoc.*

05-1657 S. Ct. of Wash.

Consol. with 05-1589

Categories: Civil Rights Non-Business Constitutional First Amendment

Timeline: Pet: 6/14/2006 Grant: 9/26/2006 Arg: 1/10/2007 Dec:

Disposition: Res: Auth:

Where state law does not prohibit the practice, collective bargaining agreements may contain a union security provision, which requires employees, who are not members of the union, to pay an agency shop fee to the union as a condition of employment. *Abood v. Detroit Board of Education*, 431 U.S. 209 (1986), held that, to protect these nonmembers' First Amendment rights, the union is prohibited from using these fees to support its political agenda if the nonmember objects (opt-out). Wash. Rev. Code § 42.17.760 provides additional protection for nonmembers by requiring them to affirmatively consent (opt-in) before their fees may be used for political purposes.

Does the requirement in Wash. Rev. Code § 42.17.760 that nonmembers must affirmatively consent (opt-in) before their fees may be used to support the union's political agenda violate the union's First Amendment rights?

Davenport v. *Wash. Edu. Assoc.*

05-1589 S. Ct. Wash.

Consol. with 05-1657

Categories: Civil Rights Non-Business Constitutional First Amendment

Timeline: Pet: 6/13/2006 Grant: 9/26/2006 Arg: 1/10/2007 Dec:

Disposition: Res: Auth:

I. Do labor union officials have a First Amendment right to seize and use for politics the wages of employees who have chosen not to become union members?

II. Does a state campaign finance law that prohibits labor unions and their officials from seizing and using the wages of nonmembers for partisan political campaigns without obtaining the nonmembers' affirmative consent violate the First Amendment rights of labor unions?

October Term 2006 - Pending Merits Cases

*Safeco v. Burr*

06-84 CA9

Consol. with 06-100

Categories: General Civil Business Statutory FCRA

Timeline: Pet: 7/19/2006 Grant: 9/26/2006 Arg: 1/16/2007 Dec:

Disposition: Res: Auth:

Whether the Ninth Circuit erred in holding that a defendant can be found liable for a “willful” violation of the Fair Credit Reporting Act (“FCRA”) upon a finding of “reckless disregard” for FCRA’s requirements, in conflict with the unanimous holdings of other circuits that “willfulness” requires actual knowledge that the defendant’s conduct violates FCRA.

Geico v. Edo

06-100 CA9

Consol. with 06-84

Categories: General Civil Business Statutory FCRA

Timeline: Pet: 7/19/2006 Grant: 9/26/2006 Arg: 1/16/2007 Dec:

Disposition: Res: Auth:

1. Whether the Ninth Circuit’s construction of “willfully” under § 1681n of FCRA impermissibly permits a finding of willfulness to be based upon nothing more than negligence, gross negligence, or a completely good-faith but incorrect interpretation of the law, and upon conduct that is objectively reasonable as a matter of law, rather than requiring proof of a defendant’s knowledge that its conduct violated FCRA or, at a minimum, recklessness in its subjective form?

2. Whether the Ninth Circuit improperly expanded § 1681m of FCRA by holding that an “adverse action” has occurred and notice is required thereunder, even when a consumer’s credit information has had either no impact or a favorable impact on the rates and terms of the insurance that would otherwise have been offered or provided?

Claiborne v. US

06-5618 CA8

Categories: Criminal Non-Business Constitutional Sentencing

Timeline: Pet: 7/26/2006 Grant: 11/3/2006 Arg: 2/20/2007 Dec:

Disposition: Res: Auth:

1) Was the district court's choice of below-Guidelines sentence reasonable?

2) In making that determination, is it consistent with *United States v. Booker*, 543 U. S. 220 (2005), to require that a sentence which constitutes a substantial variance from the Guidelines be justified by extraordinary circumstances?

October Term 2006 - Pending Merits Cases

*Rita v. US*

06-5754 CA4

Categories: Criminal Non-Business Constitutional Sentencing

Timeline: Pet: 7/28/2006 Grant: 11/3/2006 Arg: 2/20/2007 Dec:

Disposition: Res: Auth:

1) Was the district court's choice of within-Guidelines sentence reasonable?

2) In making that determination, is it consistent with *United States v. Booker*, 543 U. S. 220 (2005), to accord a presumption of reasonableness to within-Guidelines sentences?

3) If so, can that presumption justify a sentence imposed without an explicit analysis by the district court of the 18 U. S.C. Sec. 3553(a) factors and any other factors that might justify a lesser sentence?.

Winkelman v. Parma City Schools

05-983 CA6

Categories: Civil Rights Non-Business Statutory IDEA

Timeline: Pet: 2/2/2006 Grant: 10/27/2006 Arg: 2/27/2007 Dec:

Disposition: Res: Auth:

The question presented, over which there is a three-way split among six circuits, is: Whether, and if so, under what circumstances, non-lawyer parents of a disabled child may prosecute an Individuals with Disabilities in Education Act, 20 U.S.C. § 1400 et seq., case pro se in federal court.

Hein v. Freedom From

06-157 CA7

Categories: Civil Rights Non-Business Constitutional First Amendment

Timeline: Pet: 8/1/2006 Grant: 12/1/2006 Arg: 2/28/2007 Dec:

Disposition: Res: Auth:

Whether taxpayers have standing under Article III of the Constitution to challenge on Establishment Clause grounds the actions of Executive Branch officials pursuant to an Executive Order, where the plaintiffs challenge no Act of Congress, the Executive Branch actions at issue are financed only indirectly through general appropriations, and no funds are disbursed to any entities or individuals outside the government.

October Term 2006 - Pending Merits Cases

*Wilkie v. Robbins*

06-219 CA10

Categories: General Civil Business Statutory Takings

Timeline: Pet: 8/11/2006 Grant: 12/1/2006 Arg: 3/19/2007 Dec:

Disposition: Res: Auth:

1. Whether government officials acting pursuant to their regulatory authority can be guilty under the Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. 1961 et seq., of the predicate act of extortion under color of official right for attempting to obtain property for the sole benefit of the government and, if so, whether that statutory prohibition was clearly established.

2. Whether respondent's Bivens claim based on the exercise of his alleged Fifth Amendment rights is precluded by the availability of judicial review under the Administrative Procedure Act, 5 U.S.C. 701 et seq., or other statutes for the kind of administrative actions on which his claim is based.

3. Whether the Fifth Amendment protects against retaliation for exercising a "right to exclude" the government from

Morse v. Frederick

06-278 CA9

Categories: Civil Rights Non-Business Constitutional Freedom of Speech

Timeline: Pet: 8/28/2006 Grant: 12/1/2006 Arg: 3/19/2007 Dec:

Disposition: Res: Auth:

1. Whether the First Amendment allows public schools to prohibit students from displaying messages promoting the use of illegal substances at school-sponsored, faculty-supervised events.

2. Whether the Ninth Circuit departed from established principles of qualified immunity in holding that a public high school principal was liable in a damages lawsuit under 42 U.S.C. § 1983 when, pursuant to the school district's policy against displaying messages promoting illegal substances, she disciplined a student for displaying a large banner with a slang marijuana reference at a school-sponsored, faculty-supervised event.

Fry v. Pliker

06-5247 CA9

Categories: Criminal Non-Business Statutory Trial Error

Timeline: Pet: 6/17/2006 Grant: 12/7/2006 Arg: 3/20/2007 Dec:

Disposition: Res: Auth:

If constitutional error in a state trial is not recognized by the judiciary until the case ends up in federal court under 28 U.S.C. § 2254, is the prejudicial impact of the error assessed under the standard set forth in *Chapman v. California*, 386 U.S. 18 (1967), or that enunciated in *Brecht v. Abrahamson*, 507 U.S. 619 (1993)? Does it matter which harmless error standard is employed? And, if the *Brecht* standard applies, does the petitioner or the State bear the burden of persuasion on the question of prejudice?

October Term 2006 - Pending Merits Cases

*Roper* v. *Weaver*

06-313 CA8

Categories: Criminal Non-Business Statutory Death Penalty

Timeline: Pet: 9/5/2006 Grant: 12/7/2006 Arg: 3/21/2007 Dec:

Disposition: Res: Auth:

Since this court has neither held a prosecutor's penalty phase closing argument to violate due process, nor articulated, in response to a penalty phase claim, what the standard of error and prejudice would be, does a court of appeals exceed its authority under 28 U.S.C. §2254(d)(1) by overturning a capital sentence on the ground that the prosecutor's penalty phase closing argument was "unfairly inflammatory?"

Leegin Creative v. *PSKS*

06-480 CA5

Categories: General Civil Business Statutory Antitrust

Timeline: Pet: 10/4/2006 Grant: 12/7/2006 Arg: 3/26/2007 Dec:

Disposition: Res: Auth:

This Court has held that antitrust "per se rules are appropriate only for conduct that . . . would always or almost always tend to restrict competition." Modern economic analysis establishes that vertical minimum resale price maintenance does not meet this condition because the practice often has substantial competition-enhancing effects. The question presented is whether vertical minimum resale price maintenance agreements should be deemed per se illegal under Section 1 of the Sherman Act, or whether they should instead be evaluated under the rule of reason.

Bowles v. *Russell*

06-5306 CA6

Categories: Criminal Non-Business Statutory Criminal Procedure

Timeline: Pet: 7/18/2006 Grant: 12/7/2006 Arg: 3/26/2007 Dec:

Disposition: Res: Auth:

Whether an appellate court may sua sponte dismiss an appeal which has been filed within the time limitations authorized by a district court after granting a motion to reopen the appeal time under Rule 4(a)(6) of the Federal Rules of Appellate Procedure.

October Term 2006 - Pending Merits Cases

*CSFB* v. *Billing*

05-1157 CA2

Categories: General Civil Business Statutory Antitrust

Timeline: Pet: 3/8/2006 Grant: 12/7/2006 Arg: 3/27/2007 Dec:

Disposition: Res: Auth:

Whether, in a private damages action under the antitrust laws challenging conduct that occurs in a highly regulated securities offering, the standard for implying antitrust immunity is the potential for conflict with the securities laws or, as the Second Circuit held, a specific expression of congressional intent to immunize such conduct and a showing that the SEC has power to compel the specific practices at issue.

Tellabs v. *Makor*

06-484 CA7

Categories: General Civil Business Statutory Securities Fraud

Timeline: Pet: 10/3/2006 Grant: 1/5/2007 Arg: 3/28/2007 Dec:

Disposition: Res: Auth:

Whether, and to what extent, a court must consider or weigh competing inferences in determining whether a complaint asserting a claim of securities fraud has alleged facts sufficient to establish a “strong inference” that the defendant acted with scienter, as required under the Private Securities Litigation Reform Act of 1995.

Powerex v. *Reliant*

05-85 CA9

Categories: General Civil Business Statutory Sovereign Immunity

Timeline: Pet: 7/15/2005 Grant: 1/19/2007 Arg: 4/16/2007 Dec:

Disposition: Res: Auth:

1. Whether an entity that is wholly and beneficially owned by a foreign state’s instrumentality, and whose sole purpose is to perform international treaty and trade agreement obligations for the benefit of the foreign state’s citizens, may nonetheless be denied status as an “organ of a foreign state” under the Foreign Sovereign Immunities Act of 1976 (“FSIA”), 28 U.S.C. § 1603(b)(2), based on an analysis of sovereignty that ignores the circumstances surrounding the entity’s creation, conduct, and operations on behalf of its government.

2. Whether an entity is an “organ of a foreign state” under the FSIA when its shares are completely owned by a governmental corporation that, by statute, performs all of its acts as the agent of the foreign sovereign.

October Term 2006 - Pending Merits Cases

*LI Care at Home* v. *Coke*

06-593 CA2

Categories: General Civil Business Statutory Employment

Timeline: Pet: 10/26/2007 Grant: 1/5/2007 Arg: 4/16/2007 Dec:

Disposition: Res: Auth:

1. Whether the Second Circuit erred in refusing to give deference under *Chevron, U.S.A., Inc. v. Natural Res. Def Council, Inc.*, 467 U.S. 837 (1984), to a thirty-yearold Department of Labor regulation—a regulation that has twice been upheld by the Tenth Circuit—on the ground that, even though it was promulgated under express grants of legislative authority and after full notice-and-comment rulemaking, the regulation was contained in a subpart headed “Interpretations.”

2. Whether, in holding that a longstanding Department of Labor regulation was not persuasive and thus undeserving of any deference under *Skidmore v. Swift & Co.*, 323 U.S. 134 (1944), the Second Circuit erred by failing to address the governing provisions of the Fair Labor Standards Act and by declining to give any weight to the Department’s interpretation of its own regulations.

Uttecht v. *Brown*

06-413 CA9

Categories: Criminal Non-Business Statutory Death Penalty

Timeline: Pet: 9/18/2006 Grant: 1/12/2007 Arg: 4/17/2007 Dec:

Disposition: Res: Auth:

Did the Ninth Circuit err by not deferring to the trial judge’s observations and by not applying the statutory presumption of correctness in ruling that the state court decision to remove a juror was contrary to clearly established federal law?

Sole v. *Wyner*

06-531 CA11

Categories: General Civil Business Statutory

Timeline: Pet: 10/16/2006 Grant: 1/12/2007 Arg: 4/17/2007 Dec:

Disposition: Res: Auth:

Whether the 11th Circuit decision in *Wyner v. Struhs*, 179 Fed.Appx. 566, 2006 WL 1071850 (C.A.11(Fla.)) (App.1a) is correct in holding that a preliminary injunction is relief on the merits, or whether the Fourth Circuit decision in *Smyth v. Rivero*, 282 F.2d 268 (4th Cir. 2002), certiorari denied by 537 U.S. 825(2002), is correct in holding that a preliminary injunction is not a ruling on the merits and thus cannot be the basis for prevailing party status?

Whether the Eleventh Circuit in *Wyner v. Struhs*, 179 Fed.Appx. 566, 2006 WL 1071850 (C.A.11(Fla.)) (App. 1a) was incorrect in affirming the district court’s order finding that Respondents are prevailing parties where their request for permanent injunctive relief was denied, although at an abbreviated hearing Respondents were awarded interim relief?

October Term 2006 - Pending Merits Cases

*EPA v. Defenders of*

06-549 CA9

Consol. with 06-340

Categories: General Civil Non-Business Statutory Environmental

Timeline: Pet: 10/23/2006 Grant: 1/5/2007 Arg: 4/17/2007 Dec:

Disposition: Res: Auth:

Whether Section 7(a)(2) of the Endangered Species Act of 1973, 16 U.S.C. 1536(a) (2), which requires each federal agency to insure that its actions do not jeopardize the continued existence of a listed species or modify its critical habitat, overrides statutory mandates or constraints placed on an agency's discretion by other Acts of Congress.

IN ADDITION TO THE QUESTIONS PRESENTED BY THE PETITIONS, THE PARTIES ARE REQUESTED TO BRIEF AND ARGUE THE FOLLOWING QUESTION: "WHETHER THE COURT OF APPEALS CORRECTLY HELD THAT THE ENVIRONMENTAL PROTECTION AGENCY'S DECISION TO TRANSFER POLLUTION PERMITTING AUTHORITY TO ARIZONA UNDER THE CLEAN WATER ACT, SEE 33 U.S.C. §1342(b), WAS ARBITRARY AND CAPRICIOUS BECAUSE IT WAS BASED ON INCONSISTENT INTERPRETATIONS OF SECTION 7(a)(2) OF THE ENDANGERED SPECIES ACT OF 1973, 16 U.S.C. §1536(a)(2); AND, IF SO, WHETHER THE COURT OF APPEALS SHOULD HAVE REMANDED TO

NAHB v. Defenders of

06-340 CA9

Consol. with 06-549

Categories: General Civil Business Statutory Environmental

Timeline: Pet: 9/6/2006 Grant: 1/5/2007 Arg: 4/17/2007 Dec:

Disposition: Res: Auth:

1. Can a court append additional criteria to Section 402(b) of the Clean Water Act that require state NPDES programs to include protections for endangered species?

2. Does Section 7(a)(2) of the Endangered Species Act constitute an independent source of authority, requiring federal agencies to take affirmative action to benefit endangered species even when an agency's enabling statutes preclude such action?

3. Did the Ninth Circuit incorrectly apply the holding of *Department of Transp. v. Public Citizen*, 541 U.S. 752 (2004), in concluding that EPA's approval of Arizona's NPDES permitting program was the legally relevant cause of impacts to endangered species resulting from future private land use activities?

TSSAA v. Brentwood

06-427 CA6

Categories: Civil Rights Non-Business Constitutional First Amendment

Timeline: Pet: 9/25/2006 Grant: 1/5/2007 Arg: 4/18/2007 Dec:

Disposition: Res: Auth:

Whether the Sixth Circuit correctly held, in conflict with decisions of this Court and other courts of appeals, that TSSAA violated the First Amendment and Due Process rights of Brentwood Academy when it imposed contractual penalties for violations of the recruiting rule that Brentwood agreed to follow?

October Term 2006 - Pending Merits Cases

*Panetti* v. *Quaterman*

06-6407 CA5

Categories: Criminal Non-Business Constitutional Death Penalty

Timeline: Pet: 9/6/2006 Grant: 1/5/2007 Arg: 4/18/2007 Dec:

Disposition: Res: Auth:

Does the Eighth Amendment permit the execution of a death row inmate who has a factual awareness of the reason for his execution but who, because of severe mental illness, has a delusional belief as to why the state is executing him, and thus does not appreciate that his execution is intended to seek retribution for his capital crime?

Hinck v. *US*

06-376 CAFed

Categories: General Civil Business Statutory Tax Law

Timeline: Pet: 7/28/2006 Grant: 1/12/2007 Arg: 4/23/2007 Dec:

Disposition: Res: Auth:

Did the grant of selective, limited jurisdiction in the 1996 amendments give the Tax Court exclusive jurisdiction over all §6404(e)(1) claims, deny all relief for many taxpayers, and repeal by implication the existing 28 U.S.C. §§1346(a)(1) and 1491 (a)(1) refund jurisdiction of the district courts and the Court of Federal Claims?

US v. *Atlantic Research*

06-562 CA9

Categories: General Civil Business Statutory Environmental

Timeline: Pet: 10/24/2006 Grant: 1/19/2007 Arg: 4/23/2007 Dec:

Disposition: Res: Auth:

Whether a party that is potentially responsible for the cost of cleaning up property contaminated by hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601 et seq., but that does not satisfy the requirements for bringing an action for contribution under Section 113(f) of CERCLA, 42 U.S.C. 9613(f), may bring an action against another potentially responsible party under Section 107(a), 42 U.S.C. 9607(a).

October Term 2006 - Pending Merits Cases

*Brendlin v. California*

06-8120 S. Ct. of CA

Categories: Criminal Non-Business Constitutional Fourth Amendment

Timeline: Pet: 11/28/2006 Grant: 1/19/2007 Arg: 4/23/2007 Dec:

Disposition: Res: Auth:

Whether a passenger in a vehicle subject to a traffic stop is thereby “detained” for purposes of the Fourth Amendment, thus allowing the passenger to contest the legality of the traffic stop.

Beck v. Pace Int'l Union

05-1448 CA9

Categories: General Civil Business Statutory ERISA

Timeline: Pet: 5/10/2006 Grant: 1/19/2007 Arg: 4/24/2007 Dec:

Disposition: Res: Auth:

Whether a pension plan sponsor’s decision to terminate a plan by purchasing an annuity, rather than to merge the pension plan with another, is a plan sponsor decision not subject to ERISA’s fiduciary obligations.

Perm. Mission of v. New York

06-134 CA2

Categories: General Civil Non-Business Statutory Sovereign Immunity

Timeline: Pet: 7/25/2006 Grant: 1/19/2007 Arg: 4/24/2007 Dec:

Disposition: Res: Auth:

1. Does the exception to sovereign immunity for cases “in which ... rights in immovable property situated in the United States are in issue,” 28 U.S.C. § 1605 a) (4), provide jurisdiction for a municipality’s lawsuit seeking to declare the validity of a tax lien on a foreign sovereign’s real property when the municipality does not claim any right to own, use, enter, control or possess the real property at issue?

2. Is it appropriate for U.S. courts to interpret U.S. statutes by relying on international treaties that have not been signed by the U.S. Government and that do not accurately reflect international practice because they have only been signed by a limited number of other nations?

October Term 2006 - Pending Merits Cases

*Office of Sen.* v. *Hanson*

06-618 D. D. C.

Categories: General Civil Non-Business Constitutional Speech or Debate

Timeline: Pet: 11/3/2006 Grant: 1/19/2007 Arg: 4/24/2007 Dec:

Disposition: Res: Auth:

Does the Speech or Debate Clause of the U.S. Constitution, U.S. CONST. art. I, § 6, cl. 1, bar federal court jurisdiction of an action brought under the Congressional Accountability Act of 1995, 2 U.S.C. §§ 1301-1438 (2000), by a congressional employee whose job duties are part of the due functioning of the legislative process?

IN ADDITION TO THE QUESTION PRESENTED BY THE STATEMENT AS TO JURISDICTION, COUNSEL ARE DIRECTED TO BRIEF AND ARGUE THE FOLLOWING QUESTIONS: 1) WAS THE OFFICE OF SENATOR MARK DAYTON ENTITLED TO APPEAL THE JUDGMENT OF THE COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT DIRECTLY TO THIS COURT? 2) WAS THIS CASE RENDERED MOOT BY THE EXPIRATION OF THE TERM OF OFFICE OF SENATOR DAYTON?

Watson v. *Philip Morris*

05-1284 CA8

Categories: General Civil Business Statutory Federal Jurisdiction

Timeline: Pet: 4/7/2006 Grant: 1/12/2007 Arg: 4/25/2007 Dec:

Disposition: Res: Auth:

Whether a private actor doing no more than complying with federal regulation is a “person acting under a federal officer” for the purpose of 28 U.S.C. § 1442(a)(1), entitling the actor to remove to federal court a civil action brought in state court under state law.

McCain v. *Wisc. Right to Life*

06-970 D. D. C.

Consol. with 06-969

Categories: Civil Rights Non-Business Constitutional Campaign Finance

Timeline: Pet: 1/12/2007 Grant: 1/19/2007 Arg: 4/25/2007 Dec:

Disposition: Res: Auth:

Whether the three-judge district court erred in holding that the federal statutory prohibition on a corporation’s use of general treasury funds to finance “electioneering communications” is unconstitutional as applied to three broadcast advertisements that appellee proposed to run in 2004.

October Term 2006 - Pending Merits Cases

*FEC* v. *Wisc. Right to Life*

06-969 D. D. C.

*Consol. with 06-970***Categories:** Civil Rights Non-Business Constitutional Campaign Finance**Timeline:** Pet: 1/12/2007 Grant: 1/19/2007 Arg: 4/25/2007 Dec:**Disposition:** Res: Auth:

Whether the three-judge district court erred in holding that the federal statutory prohibition on a corporation's use of general treasury funds to finance "electioneering communications" is unconstitutional as applied to three broadcast advertisements that appellee proposed to run in 2004.