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Takeaways for Employers from the U.S. Supreme Court's 2025-2026 Term

The U.S. Supreme Court's 2025-2026 term, which began in October 2025 and ended June 30, 2026, produced several decisions that employers should keep in mind when updating policies, planning compliance strategies, and assessing litigation risk. The decisions discussed below are not exhaustive, but they cover the rulings most likely to affect business operations, workplace policies, employee benefits, immigration compliance, and dispute resolution.

Agency Authority and Regulatory Enforcement

One of the term's most consequential rulings for regulated businesses was *Trump v. Slaughter*, which addressed presidential removal authority over Federal Trade Commission (FTC) commissioners. Former FTC Commissioner Rebecca Slaughter challenged her dismissal by President Trump, arguing that the FTC Act only permits removal for "inefficiency, neglect of duty, or malfeasance in office." The Supreme Court's June 29 decision overturned the 90-year precedent set in *Humphrey's Executor v. United States*, holding that the FTC's for-cause removal requirement violated separation-of-powers principles because executive power is vested in the president, who must be able to remove principal officers carrying out that authority. Although *Slaughter* did not alter the FTC's substantive authority, it changes who controls the agency. Businesses should anticipate that FTC policymaking and enforcement may vary more sharply by administration.

In August 2025, President Trump sought to remove Federal Reserve Governor Lisa Cook "for cause" based on mortgage-fraud allegations that allegedly predated her appointment. Cook denied wrongdoing and argued that the removal was politically motivated. In *Trump v. Cook*, the administration sought a stay of the district court's injunction that kept Cook in office while her challenge proceeded. The Supreme Court denied the stay application. It concluded that Cook had not received adequate notice of the basis for her removal or a meaningful opportunity to respond before the attempted termination.

In *Cook*, the Court did not resolve the full scope of the president's authority to remove a Federal Reserve Governor, nor did it decide all questions about the Federal Reserve's removal protections. Instead, the decision preserved the injunction while litigation continued and emphasized the need for notice and an opportunity to respond.

Companies should not assume that all independent agencies will be treated the same. Existing agency rules and statutes remain in force, but businesses should monitor leadership changes at agencies such as the FTC, National Labor Relations Board (NLRB), Securities and Exchange Commission (SEC), and Equal Employment Opportunity Commission (EEOC) and keep compliance programs flexible enough to adjust to revised guidance and enforcement priorities.

Employee Benefits, Pension Exposure, and Transaction Risk

The Supreme Court's unanimous May 21 decision in *M & K Employee Solutions, LLC v. Trustees of the IAM National Pension Fund* determined that when an employer withdraws from a multiemployer pension plan, the plan may use actuarial assumptions selected after the statutory measurement date to calculate an employer's withdrawal liability. The Court expressly left open the separate question of whether those assumptions must be based only on information available as of the measurement date.

The decision creates greater uncertainty for employers withdrawing from multiemployer pension plans. Since a plan can use post-measurement-date assumptions to calculate an employer's withdrawal liability, employers may receive an unexpectedly high bill when withdrawing from underfunded plans. As a remedy, ERISA requires that the actuarial assumptions be reasonable, and employers have a right to challenge perceived unreasonable assumptions through arbitration. This uncertainty should be factored into M&A due diligence when companies are determining potential liability regarding withdrawing from, or continuing to contribute to, a multiemployer plan.

Employment Arbitration and Federal Litigation Strategy

In *Jules v. Andre Balazs Properties*, a former Los Angeles hotel employee sued his employer in federal district court, alleging employment-discrimination claims and other federal and state claims. Before beginning employment, Jules had signed an arbitration agreement, which the employer cited to stay the action in federal court pursuant to the Federal Arbitration Act (FAA). The arbitrator ruled against Jules on all his claims and awarded sanctions to the hotel for Jules' misconduct during the arbitration. When the company moved to confirm the arbitration award, Jules moved to vacate it, arguing that under *Badgerow*, the federal district court lacked jurisdiction to confirm the award because the FAA motions presented no federal question and the parties were not diverse. The Supreme Court held that because the district court had original federal-question jurisdiction over the underlying discrimination claims, the district court did not lose that jurisdiction during the stay. When employees initially file federal claims in federal court, employers that compel arbitration no longer need to worry that they will need to relitigate the issues in state court if a federal court stays the claims pursuant to section 3 of the FAA, even if the arbitrated issues did not involve federal claims.

In *Berk v. Choy*, another decision grappling with differences in state and federal procedural requirements, Harold R. Berk, a citizen of a different state than the defendants, brought a medical malpractice claim under Delaware law in federal district court in Delaware against a physician, a medical center, and a rehabilitation facility that treated him after he injured his ankle and allegedly provided negligent medical care. When he filed his complaint, Berk failed to include an Affidavit of Merit from a qualified expert to certify that the lawsuit had a reasonable basis as required by Delaware state law. Deferring to the state requirements, the district court dismissed his complaint. On review, the Supreme Court reversed, holding that the Delaware medical-malpractice affidavit requirement conflicted with the Federal Rules of Civil Procedure and therefore did not apply in federal diversity cases. This ruling reinforces the primacy of valid federal procedural rules in federal court and lends greater certainty to businesses in defending diversity claims. Going forward, employers can be more confident that federal procedural rules apply to claims venued in federal court, even if state law governs the underlying claims themselves.

Immigration, Citizenship, and Work Authorization

In *Trump v. Barbara*, the Supreme Court struck down President Trump's Executive Order No. 14160 from January 2025, which sought to end birthright citizenship. Parents of children born in the U.S. to individuals who were unlawfully or temporarily present sued to enjoin the executive order, arguing their children are citizens under the Fourteenth Amendment and the Immigration and Nationality Act. In this decision, the Supreme Court reaffirmed the common-law rule and held that U.S.-born individuals remain citizens regardless of their parents' citizenship or immigration status. For employment purposes, I-9 and E-Verify practices remain unchanged, and employers should continue to treat a U.S. birth certificate or U.S. passport as evidence of citizenship and work eligibility, without imposing additional scrutiny.

Education-Related Civil Rights Rulings and Workplace Implications

West Virginia v. B.P.J. challenged a 2021 West Virginia law, the "Save Women's Sports Act," which required public schools and sports teams to exclude individuals identified as biologically male at birth from participating on female sports teams. B.P.J. was a transgender girl who could not participate in her school's girls' cross-country and track teams under this law. B.P.J. alleged that the Save Women's Sports Act violated the Equal Protection Clause of the Fourteenth Amendment and Title IX. In deciding this case, the Supreme Court held that Title IX permits schools to offer separate teams defined by biological sex, and this sex-based classification did not violate the Equal Protection Clause because it is substantially related to the important interests of safety and competitive fairness. Significantly, the Court distinguished this case, which applies to educational institutions and activities, from *Bostock v. Clayton County*, which governs sex/gender-identity discrimination in employment. *Bostock* held that an employer who fires an employee at least in part because of the employee's sexual orientation or transgender status violates Title VII of the Civil Rights Act of 1964. The *B.P.J.* ruling is expected to shape school athletics policies and litigation over the treatment of transgender students in public institutions.

Employers should be mindful that the *B.P.J.* decision does not change employment practices in the workplace. Treating employees differently due to their transgender status still violates Title VII. However, educational institutions now have the option of requiring student-athletes to participate in sports consistent with their biological sex without violating the Equal Protection Clause or Title IX. Notably, this only applies in the context of athletic teams. The Court did not address state laws or school policies related to restrooms or locker rooms. The Court also did not mandate that schools require transgender athletes to participate in sports consistent with their biological sex.

Workplace Safety and Firearms Policies

On June 25, the Supreme Court held in *Wolford v. Lopez* that Hawaii's Act 52 violated the Second and Fourteenth Amendments because it prohibited people from carrying firearms on private property open to the public without the property owner's express permission. Act 52 was enacted, along with similar gun control laws in other states, following the 2022 *New York State Rifle & Pistol Association v. Bruen* decision, which expanded gun rights and held that Americans have a constitutional right to carry firearms outside the home in public places. Act 52 and its counterparts had attempted to limit these rights by designating some public places as off-limits to guns. This attempt ultimately failed in the *Wolford* decision.

Following *Wolford*, employers should be mindful that the default rule in many states is that private citizens, including employees, guests, customers, clients, and vendors, can bring firearms onto company property unless the company posts a notice or establishes a policy prohibiting firearms on company premises. Companies should consider communicating these policies to employees in writing, ideally in an employee handbook, as well as to visitors, clients, or customers via posted signs. Significantly, failure to implement such policies could implicate workplace safety.

Professional Speech Regulation and Counseling Rules

Chiles v. Salazar concerned a 2019 Colorado law banning conversion therapy for minors. Kaley Chiles, a licensed professional counselor in Colorado, counseled clients, including minors, on self-identified goals that sometimes included reducing same-sex attraction or aligning gender identity with biological sex. After the law took effect, Chiles stopped discussing topics with minors that could be viewed as conversion therapy. In 2022, she sought a preliminary injunction, arguing the law violated her rights under the Free Speech and Free Exercise Clauses of the First Amendment.

The Supreme Court held that the law, as applied to Chiles's talk therapy, regulates speech based on viewpoint and is therefore subject to strict scrutiny, and that the lower courts erred by reviewing it only for a rational basis. The Court reversed and remanded for the lower courts to apply that heightened standard. The Court did not, however, expressly hold the law unconstitutional. The Court reasoned that the law allowed counseling that affirmed gender exploration or transition, while prohibiting counseling aimed at reducing or changing same-sex attractions, behaviors, or gender identity. Going forward, the decision places professional counseling regulations within a broader speech-protection framework and may affect how states draft health-and-safety rules for talk therapy and counseling.

Key Takeaways

- Employers should expect federal agency priorities and enforcement positions to shift more quickly with changes in presidential administration or agency leadership.
- Employers participating in multiemployer pension plans should account for greater uncertainty in withdrawal-liability calculations and preserve arbitration rights where assumptions appear unreasonable.
- Employers should not treat education-related rulings as changing Title VII obligations in the workplace, particularly with respect to transgender employees.
- Employers should review workplace-safety rules, visitor policies, and employee handbooks to ensure firearm restrictions are clear and properly communicated.
- Employers relying on arbitration agreements should continue to evaluate forum, jurisdiction, and award-confirmation strategy at the outset of employment litigation.
- I-9 and E-Verify practices remain unchanged for U.S.-born employees following the Court's birthright-citizenship ruling.

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