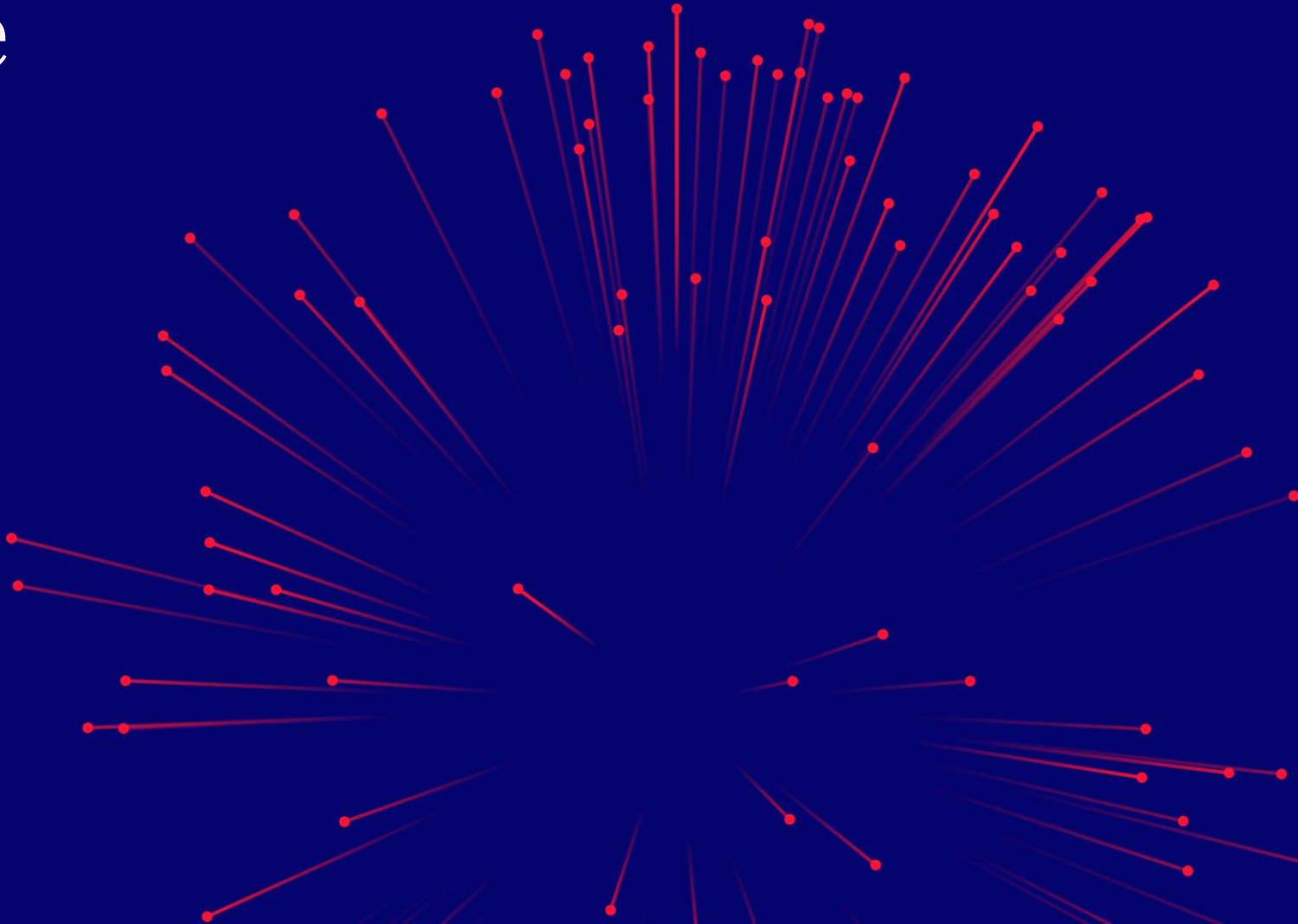


What to Expect for the End of the Supreme Court's Term

March 4, 2026



Agenda

1. Introductions
2. This Term's Defining Cases
3. Cases Shaping the Business Landscape
4. Closing Thoughts and Q&A



Today's Speakers



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This Term's Defining Cases

The Outer Limits of Presidential
Power

Civil Rights, Identity, and
Participation



Can the President Remove the Heads of Independent Agencies?

The outer limits of presidential power

Trump v. Slaughter: Addresses whether the president may remove an FTC commissioner without statutory cause and tests the constitutionality of good-cause protections for members of multi-member independent commissions

Trump v. Cook: Examines whether removal based on alleged pre-appointment conduct constitutes “cause” under the Federal Reserve Act and whether such a removal is subject to judicial review

Can the President Use Emergency Powers to Impose Tariffs?

The outer limits of presidential power

Learning Resources, Inc. v. Trump: 6-3 decision concluding that the International Emergency Economic Powers Act, which authorizes the president to “regulate . . . importation” during emergencies, does not permit the president to impose tariffs

The \$175-billion question: The opinion is silent on refunds, leaving it to subsequent litigation and existing customs-law procedures to determine whether and how paid duties can be recovered

Can the President End Birthright Citizenship by Executive Order?

The outer limits of presidential power • Civil rights, identity, and participation

Trump v. Barbara: Considers whether an executive order denying citizenship to U.S.-born children of parents who are unlawfully present or on temporary visas is consistent with the Fourteenth Amendment's Citizenship Clause

The challengers argue that the order conflicts with precedent and the Constitution's text, while the administration contends that the Clause was intended to ensure citizenship for formerly enslaved people and their children, not the broader rule in place today

Voting Rights & Elections

Civil rights, identity, and participation

Louisiana v. Callais: Challenges the constitutionality of creating a second majority-Black congressional district under the Voting Rights Act

Bost v. Illinois State Board of Elections: 7-2 decision holding that a candidate has standing to challenge the rules governing the counting of votes in his election

Watson v. Republican National Committee: Considers whether federal law requires ballots to be received by Election Day to be counted

LGBTQ+ Rights

Civil rights, identity, and participation

Little v. Hecox & West Virginia v. B.P.J.: Considers whether Title IX and the Equal Protection Clause prohibit state bans on transgender students participating on sports teams consistent with their gender identity

Chiles v. Salazar: Examines whether state bans on conversion therapy for minors violate the First Amendment

Cases Shaping the Business Landscape



Securities and Financial Regulation

Cases Shaping the Business Landscape

Sripetch v. SEC: Considers whether the SEC may seek disgorgement—the return of a wrongdoer's net profit—without proving investors suffered pecuniary harm

Disgorgement is central to SEC enforcement: \$6.1B in FY 2024 (75% of monetary recoveries)

Requiring proof of harm would narrow the SEC's remedial reach and affect how companies assess exposure and navigate investigations

Securities and Financial Regulation

Cases Shaping the Business Landscape

FS Credit Opportunities Corp. v. Saba Capital Master Fund, Ltd.: Addresses whether the Investment Company Act creates an implied private right of action allowing shareholders to seek rescission of contracts that allegedly violate it

Rejecting a private right of action would reinforce the SEC's exclusive enforcement role; recognizing one could expand shareholder-driven litigation over fund governance and contracts

Intellectual Property

Cases Shaping the Business Landscape

Cox Communications, Inc. v. Sony Music Entertainment: Examines whether an internet service provider can face contributory copyright liability for knowingly allowing user infringement and failing to terminate offenders, even without intending to facilitate the infringement

The outcome could significantly affect liability risk for companies that transmit or host user activity, including cloud services, social platforms, and AI services

Arbitration and Dispute Resolution

Cases Shaping the Business Landscape

Flowers Foods, Inc. v. Brock: Considers whether workers who locally deliver goods that travel in interstate commerce qualify as “transportation workers” “engaged in foreign or interstate commerce” exempt from mandatory arbitration under the Federal Arbitration Act

The outcome could significantly affect employers' exposure to litigation and class actions and influence how last-mile workforces are structured across key industries such as retail, food distribution, and the gig economy

Arbitration and Dispute Resolution

Cases Shaping the Business Landscape

Jules v. Andre Balazs Properties: Considers whether a federal court retains jurisdiction to confirm or vacate an arbitration award after staying the case for arbitration, even when no independent federal jurisdictional basis exists post-award

The decision will determine whether post-award motions remain in federal court or are pushed to state court; businesses may need to reassess arbitration clauses and enforcement planning, especially regarding venue expectations and post-award strategy

Questions?



Cooley

Thank you

