

Federal Court Update

Shreveport Bar Association's 2026 Recent Developments by the Judiciary October 14, 2026

**Judge Alexander Van Hook
Whitney Howell**

I. Supreme Court Update (October 2025 Term)

A. Statistics for October 2025 Term (from SCOTUSblog)

1. The justices heard 58 arguments and issued 67 opinions. Justice Thomas authored the most opinions this term with 28 (total) and the most concurrences with 15. Justice Jackson authored the second most with 26 (total) and had the most dissents with 10. Chief Justice Roberts authored the fewest with 6 total (all majority opinions).
2. Only three of the Supreme Court cases reviewed state court decisions. All others reviewed the decisions of federal courts.
3. 44% of the merits cases were unanimous decisions.
4. 1 in 5 of the Court's decisions this term were decided 6-3 along ideological lines. This far exceeds the 11% average for the 2020-2021 through 2024-2025 terms.
5. **Makeup of the Opinions of the Court**
 - a. Administrative Law, Appellate Procedure, Arbitration, Bankruptcy, Campaign Finance, Citizenship, Civil Procedure, Civil Rights, Confrontation Clause, Copyright, Criminal Law, Criminal Procedure, Criminal Sentencing, Death Penalty, Election Law, ERISA, Federal Jurisdiction, Federal Preemption, Federal Supremacy, Federal Tort Claims, Foreign Affairs, Foreign Sovereign Immunity, Fourth Amendment, Free Speech, Freedom of Association, Gender Identity, Habeas Corpus, Human Rights Litigation, Immigration, Patent Law, Presidential Power, Property Rights, Qualified Immunity, Redistricting, Religious Liberty, Second Amendment, Securities Law, and Sovereign Immunity.

6. **Fifth Circuit Scorecard**

- a. 11 cases from the Fifth Circuit were decided – the highest number of any circuit. The Second Circuit followed with 9 cases and then the Fourth Circuit with 8 cases.
- b. As to the Fifth Circuit, 3 cases were affirmed and 8 were reversed (27.3% affirmance rate; 72.7% reversal rate).

B. **Cases Decided During the October 2025 Term**

1. **Civil Rights**

- a. ***Olivier v. City of Brandon, Mississippi***, 607 U.S. 552, 146 S.Ct. 916 (2026)
 - i. **Judgment:** Reversed the Fifth Circuit and remanded for further proceedings; Justice Kagan authored the unanimous opinion.
 - ii. **Issue:** Does the Supreme Court’s decision in *Heck v. Humphrey*, 512 U.S. 477, 114 S.Ct. 2364 (1994), bar Olivier’s suit to challenge the constitutionality of an ordinance he was previously convicted of violating?
 - iii. **Facts:** Petitioner Gabriel Olivier is a street preacher in Mississippi. His vocation took him to the sidewalks near an amphitheater in the City of Brandon, where he could find sizeable audiences attending events. In 2019, the City adopted an ordinance requiring all individuals or groups engaging in “protests” or “demonstrations,” at around the time events were scheduled, to stay within a designated protest area. In 2021, Gabriel declined to use the designated area and went to the sidewalk fronting the amphitheater – along with his signs and loudspeaker – to communicate his message. He was arrested for violating the ordinance and pleaded no contest. The court imposed a \$304 fine; one year of probation; and ten days of imprisonment, to be served only if, during his probation, he again violated the ordinance. Olivier did not appeal, paid the fine, and served no prison time.

Olivier wanted to return to the same venue to voice his beliefs without the threat of criminal punishment. He filed

suit, alleging that the city ordinance infringed the First Amendment. The suit, brought under 42 U.S.C. § 1983, sought an order declaring the ordinance unconstitutional and preventing its enforcement in the future. The suit requested only forward-looking relief and would have no impact on Olivier's prior conviction.

- iv. **Holding:** The Court considered two independent reasons why the suit escapes the *Heck* bar – that Olivier was never in custody for his prior conviction and sought purely prospective relief. The Court relied upon the latter argument, holding that the request for only a forward-looking remedy—an injunction stopping officials from enforcing the city ordinance in the future—could proceed, notwithstanding Olivier's prior conviction. The Court reasoned that *Heck*, properly understood, did not say otherwise.

The *Heck* bar applies to § 1983 damages actions that necessarily require the plaintiff to prove the unlawfulness of his conviction or confinement. If a judgment in favor of a plaintiff in a § 1983 suit would necessarily imply the invalidity of his conviction or sentence, then the *Heck* bar applies. Such a § 1983 suit cannot move forward if the plaintiff's success rests on proof discrediting his conviction.

Here, the Court agreed that if Olivier succeeds in his suit, it would mean his prior conviction was unconstitutional (strictly speaking, the *Heck* language fits). But the Court then conceded that the phrasing in *Heck* was not as tailored as it should have been and, with the benefit of hindsight, the language in *Heck* “swept a bit too broad.”

Olivier was not challenging the validity of his conviction or sentence for the purpose either of securing (or speeding) release or of obtaining monetary damages. He was seeking wholly prospective relief, that is to be free from prosecutions for future violations of the city ordinance. This request falls outside *Heck*'s concerns because Olivier's suit does not, as habeas suits do, “collateral[ly] attack” the old conviction. The new suit could not give rise, as *Heck* feared, to parallel litigation respecting his prior conduct. It also will not risk conflicting judgments over how that conduct was prosecuted or punished. The suit is not about what Olivier did in the past and merely attempts to prevent a future prosecution. The *Heck* bar does not come into play.

2. Federal Jurisdiction

a. Federal Officer Removal Statute - *Chevron USA Inc. v. Plaquemines Parish, Louisiana*, 608 U.S. 1, 146 S.Ct. 1052 (2026)

- i. **Judgment:** Vacated and remanded; authored by Justice Thomas.
- ii. **Issue:** Does the instant lawsuit, which implicates Chevron’s wartime production of crude oil, relate to Chevron’s wartime aviation-gasoline refining for the military such that the federal officer removal statute is implicated?
- iii. **Facts:** In 1978, Louisiana enacted a law prohibiting certain uses of Louisiana’s coastal zone, including oil production, without a permit. The Act exempted uses legally commenced before 1980. In 2013, Plaquemines Parish and other parishes filed 42 state-court suits against oil and gas companies under this law. They alleged that the companies lacked permits and that some uses, although initiated before 1980, were illegally commenced and therefore not covered by the exemption. An expert report filed by the parish made clear that it intended to challenge certain defendants’ crude-oil production during WWII. The report alleged that Chevron failed to use steel tanks instead of earthen pits, should not have used vertical-drilling methods, and failed to equip fields with sufficient roads, using canals instead.

Chevron removed the suit to federal court under the federal officer removal statute, arguing that the suit “relat[ed] to” its contractual duties to refine crude oil into avgas for the military during the war. The district court rejected this argument and granted the parish’s motion to remand to state court. The Fifth Circuit affirmed, agreeing that Chevron had “acted under” a federal officer as a military contractor but concluding that the suit was not “for or relating to” those acts because Chevron’s refining contract did not specify how to acquire crude oil.

- iv. **Holding:** A defendant may remove to federal court any “civil action or criminal prosecution that is commenced in a State court and that is against or directed to ... [t]he United States or any agency thereof or any officer (or any person acting under that officer) of the United States or of any agency thereof ... for or relating to any act under color of

such office.” 28 U.S.C. § 1442(a)(1). This case concerns the “for or relating to any act under color of such office” requirement.

Here, the Court held that Chevron’s wartime crude-oil production was closely connected to its wartime avgas refining, such that the parish’s suit challenging that crude-oil production related to that refining. Chevron plausibly alleged a close relationship between its challenged crude-oil production and the performance of its federal avgas refining duties – not a tenuous, remote, or peripheral one – and satisfied the “relating to” requirement of the federal officer removal statute.

Much of the crude oil that Chevron produced in the Delta Duck Club field was ultimately used for its own avgas refining. The instant suit challenged Chevron’s vertical-drilling and the use of canals instead of building roads that allowed it to increase its production of crude oil in the Delta Duck Club field during wartime. If Chevron had refrained from these actions and produced less crude oil as a result, its avgas refining for the military may have suffered.

b. **Removal (30-day deadline) - *Enbridge Energy, LP v. Nessel*, 608 U.S. ---, 146 S.Ct. 1074 (2026)**

- i. **Judgment:** Unanimous opinion affirming the 6th Circuit; authored by Justice Sotomayor.
- ii. **Issue:** Can 28 U.S.C. § 1446(b)(1)’s 30-day deadline be equitably tolled?
- iii. **Facts:** Enbridge owned and operated a 645-mile-long pipeline. A 4 mile strip of the pipeline traversed the Straits of Mackinac pursuant to a 1953 easement granted by the State of Michigan. On June 27, 2019, the Attorney General of Michigan filed this lawsuit seeking to halt Enbridge’s operation of the pipeline on the ground that the easement was void. Enbridge did not remove the case to federal court.

On November 13, 2020, another lawsuit regarding the Enbridge easement was filed. Enbridge timely removed that action to federal court. The 2019 state suit was held in abeyance while federal proceedings progressed. The 2020 suit in federal court was eventually dismissed.

On December 15, 2021, Enbridge removed the 2019 state suit to federal court. At that time, 887 days had elapsed from when Enbridge received the complaint. The Attorney General moved to remand arguing that removal was untimely under Section 1446(b)'s 30-day deadline. The district court denied the motion, holding that equitable principles justified excusing Enbridge's untimely removal.

- iv. **Holding:** Section 1446(b)(1), which provides that notice of removal of a civil action or proceeding shall be filed within 30 days of the defendant receiving either a complaint or summons, whichever period is shorter, is not subject to equitable tolling.

Section 1446(b)(1) speaks in strict, mandatory terms and requires that a notice of removal "shall be filed within 30 days" of the defendant receiving either a complaint or summons, "whichever period is shorter." This strict phrasing alone is not sufficient to rebut the presumption of equitable tolling, but is at least consistent with treating the deadline as mandatory and not subject to equitable tolling.

More important, and decisive here, is Section 1446(b)(1)'s structure. Within Section 1446(b) itself, Congress provided that the ordinary 30-day deadline does not apply when a case at first appears unremovable, but a later "pleading, motion, order or other paper" reveals that it is (or has become) removable. In that case, the defendant has another 30 days to remove from "receipt" of the paper "from which it may first be ascertained that the case is ... removable." *Ibid.* This extension is limited, however, if the basis for removal is diversity of citizenship. Such "[a] case may not be removed under subsection (b)(3) ... more than 1 year after commencement of the action, unless the district court finds that the plaintiff has acted in bad faith in order to prevent a defendant from removing the action." This highly detailed scheme is important. Congress has already effectively allowed for equitable tolling and accounted for equitable factors.

The federal removal statute also has an obvious concern with efficiency and avoiding prolonged litigation. Allowing equitable tolling would undermine these manifest interests.

c. **Fraudulent Joinder - *The Hain Celestial Group, Inc. v. Palmquist*, 607 U.S. 421, 146 S.Ct. 724 (2026)**

- i. **Judgment:** Affirmed the Fifth Circuit and remanded the case to the district court for further proceedings; Justice Sotomayor authored the unanimous opinion.
- ii. **Issue:** Did the district court, having erroneously dismissed a defendant after a fraudulent joinder analysis, have jurisdiction to enter a final judgment as to the remaining defendant?
- iii. **Facts:** This case involved a claim about tainted baby food that harmed a child. The mother (a Texas resident) sued the manufacturer, Hain (a Delaware company) and also the store where she bought the food (Whole Foods, a Texas company) in state court. Hain removed the case based on asserted improper joinder of nondiverse Whole Foods. The district court accepted the improper joinder argument and dismissed Whole Foods. The case proceeded in federal court against Hain alone. The district court granted Hain's motion for judgment as a matter of law on all claims, explaining that the Palmquists had failed to present sufficient evidence to prove causation.

On appeal, the Fifth Circuit rejected the district court's improper-joinder decision and the dismissal of Whole Foods. Whole Foods was restored to the case and thus destroyed complete diversity. The Fifth Circuit reasoned that the jurisdictional defect lingered through judgment uncured and the judgment must be vacated.

- iv. **Holding:** The Court unanimously affirmed the Fifth Circuit and held that the mistaken ruling by the trial court justified sending the case back to state court even at "this late date."

Generally, if the court of appeals concludes that the district court lacked jurisdiction over the case when it was filed in or removed to federal court, then the court of appeals typically must vacate any judgment on the merits. There is, however, one exception to the general rule. If a district court cures a jurisdictional defect prior to final judgment, then the court of appeals is not required to vacate that judgment even if, at some earlier point in the case, the district court lacked jurisdiction.

The core dispute in this case was whether Whole Foods's erroneous dismissal before final judgment cured the jurisdictional defect that existed at the time of removal. The Court held it did not because the jurisdictional defect lingered through judgment. The judgment must be vacated.

The district court's dismissal of Whole Foods was interlocutory and the parties could not immediately appeal it. Instead, the parties were forced to wait until the end of the case, when those orders merged into the final judgment and were reviewable on appeal. Under this rule, once the district court entered final judgment in Hain's favor, the court's earlier jurisdictional holding merged into the judgment and was reviewable on appeal.

**This is a clear warning to defendants who remove based on improper joinder. You risk that a trial win can be vacated if the district court is wrong on improper joinder and then you will have to do the trial over in state court.*

- v. **Concurrence:** Justice Thomas concurred and expressed doubt about the legality of the judge-created version of improper joinder that courts apply these days.

"The District Court lacked jurisdiction over the case when it was removed to federal court. The District Court nonetheless proceeded to dismiss Whole Foods based on its merits assessment that there was not a 'reasonable basis to predict that [the Palmquists] could recover from Whole Foods.'"

"Federal courts sitting in diversity likely cannot dismiss nondiverse parties based on their views of the merits of the claims against those parties. Doing so appears unfaithful to Congress's limits on our diversity jurisdiction and inconsistent with this Court's precedents."

3. Free Speech

- a. **Conversion Therapy - *Chiles v. Salazar*, 607 U.S. 627, 146 S.Ct. 1010 (2026)**
 - i. **Judgment:** Reversed the Tenth Circuit and remanded the case to the district court for further proceedings; Justice Gorsuch authored the majority opinion.

ii. **Issue:** Can a state prohibit licensed counselors from engaging in conversion talk therapy with minors without violating the counselor's rights under the First Amendment?

iii. **Facts:** In 2025, Colorado passed a law prohibiting licensed counselors from engaging in "conversion therapy" with minors. The law specifically forbade "any practice or treatment ... that attempts ... to change an individual's sexual orientation or gender identity," as well as "any effort[t] to change behaviors or gender expressions or to eliminate or reduce sexual or romantic attraction or feelings towards individuals of the same sex." Interestingly, the law also explicitly allowed counselors to engage in "practices" that would provide "[a]cceptance, support, and understanding for the facilitation of an individual's ... identity exploration and development."

Kaley Chiles, a licensed mental-health counselor, filed suit in federal court seeking a preliminary injunction prohibiting the state from enforcing the law as it applied to her talk therapy. Chiles asserted that her methods involved no physical intervention or medication. Regarding gender identity, Chiles claimed the law permitted her to speak in ways that encourage a client undergoing gender transition but barred her from speaking in ways that would aid a client in realigning his identity with his sex. As a result, Chiles alleged that the Colorado law stripped her of her First Amendment right to speak freely with her clients in ways she believed would help them to "meet their own goals."

Both the district court and the Tenth Circuit denied Chiles request for a preliminary injunction, reasoning the Colorado law was best understood as regulating "professional conduct" and at most, the law regulated speech only "incidentally" to professional conduct. Thus, the courts found that the law triggered no more than rational basis review under the First Amendment, requiring Colorado to show merely that the law was rationally related to a legitimate government interest. Finding that Colorado met its burden, the courts held that Chiles was not entitled to the relief sought.

iv. **Holding:** The Majority reversed, finding the lower courts failed to apply sufficiently rigorous First Amendment scrutiny.

The Court began by noting that the spoken word is the quintessential form of protected speech and that was exactly the form of expression Chiles sought to engage. Additionally, the Court opined that the Colorado law in dispute sought to regulate the content of Chiles speech. Specifically, the law prevents Chiles from speaking in any way that attempts to change a client's "sexual orientation or gender identity," including a client's "behaviors or gender expressions" or in any way that seeks to "eliminate or reduce" a client's "sexual or romantic attraction or feelings toward individuals of the same sex."

The Court found that Chiles sought to engage only in speech, and as applied to her, the law regulates what she may say. Further, the Court found that the law went a step further, prescribing the views Chiles may and may not express to her clients. Since the law imposes both content and viewpoint restrictions, strict scrutiny applies. The Court noted, "[t]he fact that the State's viewpoint regulation targets only licensed healthcare professionals like Ms. Chiles changes nothing." Once again, the Court explicitly rejected the notion that "professional speech" represents a separate category of speech that should be subject to diminished constitutional protection.

- v. **Concurrence:** Justice Kagan, joined by Justice Sotomayor, concurred in the judgment, warning that Colorado had instead enacted a content-based but viewpoint-neutral law, it would raise a different and more difficult question. Justice Kagan highlights how content-based regulations trigger strict scrutiny "as a general rule." However, the Court has historically declined to apply strict scrutiny in cases where the law, though based on content, raises no real concern that the government is censoring disfavored ideas. Justice Kagan ultimately stated that a content-based but viewpoint-neutral law regulation in the healthcare context may not violate the First Amendment. However, there was no need to determine how to assess viewpoint-neutral laws regulating healthcare providers' expression because, as the Court held, the Colorado law was not one.
- vi. **Dissent:** Justice Jackson dissented, urging "there is no right to practice medicine which is not subordinate to the police power of the States." In Justice Jackson's view, the majority "failed to appreciate the crucial context in which Chiles's constitutional claims [arose]." Further, Justice Jackson

argues that the Court’s precedents “have far less salience when speakers the speakers are medical professionals and their treatment-related speech is being restricted incidentally to the State’s regulation of the provision of medical care.

4. Gender Identity

a. **Transgender Athletes - *West Virginia v. B.P.J. by Jackson and Little v. Hecox*, 609 U.S. ---, 146 S.Ct. 2356 (2026)**

- i. **Judgment:** Reversed and remanded both the Fourth Circuit’s decision in *B.P.J by Jackson v. West Virginia* and the Ninth Circuit’s decision in *Little v. Hecox*; authored by Justice Kavanaugh.
- ii. **Issue:** Under Title IX and the Equal Protection Clause of the Fourteenth Amendment, may schools maintain women’s and girls’ sports teams for biological females, *i.e.*, may schools determine eligibility for female sports based on biological sex?
- iii. **Facts:** Both, West Virginia and Idaho, enacted legislation prohibiting male students from playing on female teams. Each law specified that sex was to be determined by biology. Both states alleged that prohibiting biological male participation in female sports was necessary to promote equal athletic opportunities for women and girls.

B.P.J., a biological male who identifies as female, sought to participate on the high school girls’ cross country and track and field teams at school. When informed by the school that B.P.J. could not participate, B.P.J. sued West Virginia and relevant officials in the U.S. District Court for the Southern District of West Virginia alleging violations of Title IX and the Equal Protection Clause of the Fourteenth Amendment. The district court granted summary judgment for the State on both claims. On appeal, the Fourth Circuit reversed on the Title IX issue and remanded for further proceedings on the Equal Protection Clause claim.

Similarly, Hecox, a biological male who identifies as female, tried out for the women’s Division I track and cross-country teams. Following the enactment of Idaho’s Fairness in Women’s Sports Act, Hecox filed suit in the U.S. District Court for the District of Idaho, suing Idaho and relevant

officials, alleging a violation of the Equal Protection Clause. The district court granted a preliminary injunction barring enforcement of the act, and the Ninth Circuit affirmed.

Notably, in the past six years, a total of 27 states have enacted laws that reserve girls' and women's sports solely for biological females.

- iv. **Holding:** Under Title IX and the Equal Protection Clause of the Fourteenth Amendment, schools may maintain women's and girls' sports solely for biological females.

Title IX's implementing regulations expressly permit schools to maintain separate teams for "members of each sex." The Court found that the term "sex" in this context "cannot plausibly be interpreted to refer to anything other than biological sex. The ordinary meaning of the term 'sex' at the time of enactment in the early 1970s was biological sex and not gender identity, particularly in the sports context." The Court also noted that the rationale for the separate sports teams is the inherent physical differences between biological women and biological men. The Court found it reasonable that there be separate sports teams for biological males and biological females given the inherent physical differences, risk of physical injury, and interest in fair competition.

As for the Equal Protection arguments, the Court concluded that the States' have sufficient interests in safety and competitive fairness and the states' sex-based classification—limiting women's and girls' sports to biological females—is substantially related to those interests. Thus, the legislation survives intermediate scrutiny, and the schools may determine eligibility for women's and girls' sports based on biological sex. Further, because the sex-based classification is justified as a constitutional matter, there is no need for the states to make any case-by-case exceptions that would allow an individual to compete in a sport reserved for the opposite biological sex.

- v. **Dissent:** Justice Sotomayor, with whom Justice Kagan and Justice Jackson join, concurring in part and dissenting in part, agreed with the majority that B.P.J.'s Title IX claim failed, but opined that B.P.J.'s equal protection claim should be remanded to the district court for further factual analysis.

Specifically, Justice Sotomayor would remand for factual determinations regarding whether B.P.J. could show that transgender girls do not retain some inherent athletic advantage over cisgender girls due to their sex identified at birth even after receiving the hormonal therapy B.P.J. identifies.

5. **Qualified Immunity**

a. ***Zorn v. Linton*, 607 US. 568, 146 S.Ct. 926 (2026)**

- i. **Judgment:** Reversed the Second Circuit’s holding that the officer was not entitled to qualified immunity; this was a Per Curium Opinion.
- ii. **Issue:** Whether the Second Circuit’s precedent “clearly established” that the gratuitous use of a rear wristlock on a protestor passively resisting arrest constitutes excessive force, so as to deprive an officer of qualified immunity for engaging in such conduct.
- iii. **Facts:** On January 8, 2015, Vermont hosted the inauguration for its incoming governor in the state capitol building. Shela Linton, along with approximately 200 others gathered in a “sit-in protest” to demand universal healthcare. When the capitol building closed for the evening, 29 protestors, including Linton, remained seated on the floor with their arms linked. After officers explained that the protestors would be arrested for trespass if they declined to leave, the officers began removing the protestors one at a time. After multiple denied requests that Linton stand, Officer Zorn placed pressure on Linton’s wrist and lifted her up by her underarm. Linton continued to resist and fell back to the floor. When she refused to stand, three officers picked her up and carried her outside.

Linton filed suit against Zorn under 42 U.S.C. § 1983 alleging Zorn violated her Fourth Amendment right against excessive force. The district court granted summary judgment in favor of Zorn, concluding that he was entitled to qualified immunity. The district court reasoned that it was not clearly established at the time of the encounter that, under the circumstances, lifting Linton while putting pressure on her wrist violated the Fourth Amendment. The Second Circuit reversed and remanded for a jury trial against Zorn, finding that its precedent clearly established that the

“gratuitous” use of a rear wristlock on a protester passively resisting arrest constitutes excessive force.

- iv. **Holding:** The Court found that while the Second Circuit’s precedent in *Amnesty America v. West Hartford*, 361 F.3d 113 (2004), involved the use of rear wristlocks and lifting protestors to their feet, it did not hold that any of the alleged actions violated the Fourth Amendment. Rather, the Second Circuit remanded for a jury trial to determine whether a reasonable jury would find that the police officers’ use of force was objectively reasonable given the circumstances.

As a result, the Court held that “[b]ecause the Second Circuit failed to identify a case where an officer taking similar actions in similar circumstances ‘was held to have violated’ the Constitution, Zorn was entitled to qualified immunity.”

- v. **Dissent:** Justice Sotomayor was joined by Justices Kagan and Jackson in her dissent. In her view, the majority erred in summarily reversing the Second Circuit’s decision because prior Circuit precedent had clearly established that using a rear wristlock against a nonviolent protestor would violate the protestor’s constitutional rights.

6. Redistricting

- a. **Voting Rights Act - *Louisiana v Callais*, 608 U.S. 85, 146 S.Ct. 1131 (2026)**
 - i. **Judgment:** Affirmed the three-judge panel in *Callais v. Landry*, 732 F.Supp.3d 574 (WD La. 2024) and remanded; authored by Justice Alito.
 - ii. **Issue:** Can compliance with the Voting Rights Act provide a compelling reason for race-based districting?
 - iii. **Facts:** The cases (one from the Middle District of Louisiana and one from the Western District of Louisiana) concerned whether Louisiana’s new congressional map was an unconstitutional racial gerrymander. In 2022, after the State redrew its congressional districts, a federal judge in the Middle District held that the 2022 map (SB8) likely violated § 2 of the Voting Rights Act of 1965 because it did not include an additional majority-black district. *See Robinson v. Ardoin*, 605 F.Supp.3d 759 (M.D. La. 2022).

When the State drew a new map that contained such a district, the new map was challenged as a racial gerrymander. *See Callais v. Landry*, 732 F.Supp.3d 574 (WD La. 2024). A three-judge court in *Callais* held that SB8 violated the Equal Protection Clause of the Fourteenth Amendment, and the State appealed to this Court.

- iv. **Holding:** The Voting Rights Act did not require Louisiana to create an additional majority-minority district, no compelling interest justified the State's use of race in creating SB8, and that map is an unconstitutional racial gerrymander.

Discrimination on the basis of race triggers strict scrutiny. The Court's precedents have identified only two compelling interests that can satisfy strict scrutiny -- avoiding imminent and serious risks to human safety in prisons and remediating specific, identified instances of past discrimination that violated the Constitution or a statute. The question presented in this case was whether compliance with § 2 of the Voting Rights Act should be added to the Court's very short list of compelling interests.

As amended in 1982, § 2 of the Voting Rights Act states:

(a) No voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State or political subdivision in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color ... as provided in subsection (b).

(b) A violation of subsection (a) is established if, based on the totality of circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by members of a class of citizens protected by subsection (a) in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice. The extent to which members of a protected class have been elected to office in the State or political subdivision is one circumstance which may be considered: Provided, That nothing in this section

establishes a right to have members of a protected class elected in numbers equal to their proportion in the population.

The focus of § 2 must be enforcement of the Fifteenth Amendment's prohibition on intentional racial discrimination. § 2 imposes liability only when the evidence supports a strong inference that the State intentionally drew its districts to afford minority voters less opportunity because of their race.

Louisiana's enactment of SB8 triggered strict scrutiny because the State's underlying goal was racial. The State configured District 6 to achieve a black voting-age population over 50% because it knew that if it failed to do so, the *Robinson* court would very likely find its map unlawful and order the use of something like the *Robinson* plaintiffs' illustrative maps, which would have imperiled one of the influential incumbents the legislature sought to protect. The State's intentional compliance with the *Robinson* court's demands constituted an express acknowledgment that race played a role in the drawing of district lines. Louisiana faced an extraordinarily onerous standard of proving that its use of race was narrowly tailored to further a compelling governmental interest.

The Supreme Court held that no compelling interest justified SB8. Section 2 does not provide a compelling interest because the State did not need to create a new majority-minority district to comply with the Act. The SB8 map is an unconstitutional gerrymander, and its use would violate the plaintiffs' constitutional rights. Moreover, drawing districts for partisan advantage is permissible, even if it will have a racially disparate impact.

- v. **Dissent:** Justice Kagan was joined by Justices Sotomayer and Jackson in her dissent. She was deeply skeptical of the majority opinion, stating it was the latest chapter in the majority's now-completed demolition of the Voting Rights Act. Under the new view of § 2, a State can – without legal consequence – systematically dilute minority citizens' voting power.

7. **Second Amendment**

a. ***Wolford v. Lopez*, 609 U.S. ---, 146 S.Ct. 2032 (2026)**

- i. **Judgment:** Reversed the Ninth Circuit and remanded for further proceedings; authored by Justice Alito.
- ii. **Issue:** Can Hawaii prohibit licensed concealed-carry permit holders from carrying handguns on private property open to the public unless the property owner gives express permission.
- iii. **Facts:** Historically, the State of Hawaii made it almost impossible to obtain a license to carry a firearm. Following the Supreme Court’s *Bruen* decision in 2022, Hawaii replaced its old law on carry permits with new laws that achieved a similar result. On a large portion of the land within Hawaii’s boundaries, possession of a firearm is flatly prohibited. The law at issue in this case severely burdens the ability to carry a firearm in much of the rest of the State by prohibiting firearms on private property without the express and affirmative consent of the property owner.

Petitioners were three residents of Maui County who possessed concealed-carry permits and an organizational plaintiff with members who have such permits.

- iv. **Holding:** Hawaii’s law prohibiting licensed concealed-carry permit holders from carrying handguns on private property open to the public without the property owner’s express authorization violated the Second and Fourteenth Amendments.

The Court held that the restrictions imposed by the Hawaii law fall within the plain text of the Second Amendment. Additionally, “overwhelming evidence shows an enduring American tradition permitting public carry.” “Hawaii’s prohibitions on public carry represent a distinct outlier.” Hawaii’s reliance on old anti-poaching laws or laws targeted unauthorized hunting is misplaced as the gap between those analogues and the new law “is just too wide.” Likewise, Hawaii’s dependance on an old Oregon trespass law and an 1863 Louisiana “Black Code” law were also unconvincing. The Court held that the Hawaii law at issue violated the constitutional right to keep and bear arms.

- v. **Dissents:** Justice Kagan filed a dissenting opinion. Justice Jackson filed a dissenting opinion, in which Justice Sotomayor joined. Justice Kagan reasoned that the she “would uphold the challenged Hawaii law because . . . it is a modern-day analogue of colonial and founding era laws that similarly prohibited carrying firearms onto private property without the owner’s affirmative consent.” Justice Jackson opined that the statute at issue does not attempt to end run our Second Amendment precedents. Instead, she believes that statute fairly applies a first principle of property law—the right to exclude—and does no harm to the Second Amendment.

II. Fifth Circuit and Western District Update

A. Qualified Immunity

1. ***Searles v. City of Houston*, 180 F.4th 842 (5th Cir. 2026):** The district court entered summary judgment for the officer on qualified immunity grounds. On appeal, the Fifth Circuit affirmed, holding the officer was entitled to qualified immunity because he did not violate clearly established law.
 - a. The Fifth Circuit (Richman, Higginson, and Douglas) stated that it was tasked with adjudicating whether daylight existed between the officer’s actions and the reasonableness of said actions under the law at the time.
 - b. Police pursued Mr. Randle via car in order to execute felony warrants out for his arrest. Following the pursuit, Randle exited the car and then returned to the retrieve an object. One of the officers yelled, “Show me your hands.” Before the sentence was finished, the officer fatally shot Randle.
 - c. The district court granted summary judgment for the officer on the grounds that his actions did not violate the Fourth Amendment because they were objectively reasonable and that the officer was entitled to qualified immunity because there was no clearly established law at the time prohibiting his conduct.
 - d. The qualified immunity defense has two prongs: whether an official’s conduct violated a constitutional right of the plaintiff; and whether the right was clearly established at the time of the violation. The Fifth Circuit did not address both prongs noting it could rely on either or both. It resolved the appeal on the basis of whether

Randle's right was clearly established at the time of the alleged misconduct.

e. Clearly established law is a demanding standard. Existing precedent must squarely govern the specific facts at issue. Fifth Circuit precedent is that qualified immunity cannot be denied without identifying a case in which an officer acting under similar circumstances was held to have violated the Fourth Amendment, and without explaining why the case clearly proscribed the conduct of that individual officer. Here, the Fifth Circuit identified the following for an appropriate factual comparison:

i. In April 2022, was it clearly established that a police officer violates the Fourth Amendment by using deadly force against a suspect, when:

- that suspect is a convicted felon with a history of illegally possessing firearms;
- has active felony warrants;
- the suspect was fleeing from the police, then turns back to reach into the vehicle he has just exited to retrieve an unidentified object from the front passenger side;
- the suspect then turns, perhaps to flee, not necessarily with intent to face the officers, holding the object in front of him;
- one of the officers orders the suspect to show his hands; and
- that officer shoots the suspect without giving him adequate time to comply with the order.

f. All of the cases cited by Plaintiffs were distinguishable. Here, the officer was reasonable in his perception that Randle was armed; Randle had a known criminal history; and Randle was not facing away from the officers when he was shot. Plaintiffs did not raise authority that cleared established that the officer's use of lethal force violated the law under the circumstances he was facing; thus, Plaintiffs fell short of their burden to prove that the officer was not entitled to qualified immunity.

2. ***William v. Voorhies*, No. 24-30804, 2026 WL 1269834 (5th Cir. May 8, 2026:** Two prison guards appealed the denial of qualified immunity. In a per curiam opinion (Jones, Duncan, and Douglas), the Fifth Circuit reversed and rendered judgment dismissing the claims based on qualified immunity.

a. "When a public official makes a good-faith assertion of qualified immunity, that alters the usual summary-judgment burden of proof,

shifting it to the plaintiff to show that the defense is not available.” To rebut the officers’ qualified-immunity defense, plaintiffs must point to summary-judgment evidence (1) that the officers violated a federal statutory or constitutional right and (2) that the unlawfulness of the conduct was clearly established at the time. Courts may address the prongs in either order and may resolve the case on a single prong. Here, the Fifth Circuit resolved the case based upon prong two.

- b. Prisoner alleged excessive force, deliberate indifference, and failure-to-intervene claims. He alleged the officers led him into a wall and pressed his hands against the wall, causing pain for a few seconds. Prisoner suffered minimal injury.
- c. The Fifth Circuit held each case cited by the prisoner and the district court were factually distinguishable and thus did not “squarely govern the specific facts at issue” for purposes of prong two of the qualified immunity analysis.
- d. Judge Douglas dissented in part. The prisoner was restrained when force was deployed against him. To say that this claim should not proceed past the summary judgment stage because the prisoner was not savagely beaten misunderstands our court’s precedent.

- 3. ***Lewis v. Horton*, No. 22-0195, 2026 WL 737495 (W.D. La. March 16, 2026):** The facts giving rise to the dispute in this case occurred over the span of seven minutes. During this time, Officer Deyonta Horton was dispatched to the Circle K convenience store located at 339 West 70th Street in Shreveport in response to a 911 call made by the store clerk to report a man who fit Lewis’s description for loitering. Once Officer Horton arrived, Lewis was identified by the clerk as the basis for the complaint. Lewis refused to comply with Officer Horton’s command to step towards the patrol car. Instead, Lewis took off running west along West 70th Street. Lewis stopped to face Officer Horton in front of the Linwood Public Charter School, at which point Officer Horton tackled Lewis to the ground. It was at this time that a struggle ensued. Both Officer Horton and Johnathan Apperley (a concerned citizen) state that they saw Lewis pull a gun from around his waistband. After Lewis’s declined to “drop the gun” as directed by Officer Horton, Officer Horton fired two shots, striking Lewis in the back of the head and killing him.

- a. Lewis’s family filed suit against Officer Horton, the City of Shreveport, and American Alternative Insurance Corporation on behalf of Lewis, under 42 U.S.C. §1983 and Louisiana state law, alleging Officer Horton violated Lewis’s constitutional rights by using excessive force and causing Lewis’s wrongful death in his

attempted arrest. Defendants filed a Motion for Summary Judgment, asserting qualified immunity as a threshold defense. Important for this case is, the Supreme Court's holding in *Scott v. Harris*, 550 U.S. 372, 380 (2007), which stated that “[w]hen opposing parties tell two different stories, one of which is blatantly contradicted by the record evidence, so that no reasonable jury could believe it, the Court should not adopt that version of the facts for ruling on a motion for summary judgment.”

- b. The evidence in the record was derived from several different sources, none of which together told a complete story, but which taken together created a detailed account of the events that occurred. The record includes witness testimony in the form of written and video depositions; video evidence from police dash-cam units and surveillance cameras located at the Circle K convenience store, Linwood Public Charter School, and a used car lot; the autopsy report; an audio recording of the original 911 call; screenshots of the police event chronology; and the event audio recording of the entire event from start to finish recorded by Officer Horton's body microphone.
- c. In support of her opposition to Defendants' motion for summary judgment, Plaintiff pointed to the eyewitness accounts of two bystanders who stated they did not see Lewis in possession of a gun. However, Officer Horton and Apperley claim they first saw Lewis pull out a gun 20 seconds before the shooting. Two officers who arrived on the scene minutes after the shooting stated they both saw a gun. The record evidence shows that all four were close to Lewis when each saw the gun and clearly had a better vantage point than the two bystanders who stated they did not see Lewis's gun. Further, the audio recording from Officer Horton's body microphone which corroborates the testimony of Officer Horton and Apperley. Additionally, the coroner's report provided that an empty holster was found on Lewis's person. Beyond the sworn testimony of the two bystanders, Plaintiff's only explanation for why the gun was found at the scene was that it was planted there after the fact.
- d. Taken together, the security camera footage, sworn witness testimony, coroner's report, and audio transcripts, the evidence clearly resolved all genuine issues of material fact. For those reasons, the District Court granted Defendant's Motion for Summary Judgment.

B. Establishment Clause & Free Exercise Clause

1. ***Roake v. Brumley*, 170 F.4th 292 (2026):** Louisiana House Bill (“HB 71”) requires public schools to display the Ten Commandments in each classroom. A group of parents sued to enjoin HB 71’s implementation, arguing the law is facially unconstitutional under both the Establishment and Free Exercise Clauses of the First Amendment. The district court granted a preliminary injunction. A panel of the Fifth Circuit affirmed. Then, the full Fifth Circuit voted to rehear the case en banc. On rehearing, the Fifth Circuit held in a per curiam opinion that equitable relief was premature and vacated the preliminary injunction.
 - a. There can be no doubt that the Ten Commandments bear immense religious significance. But they also have historical significance as one of the foundations of our legal system. That dual character forecloses any categorical rule against their display on public property. Instead, constitutionality turns on the context of the display and how the text is used.
 - b. While HB 71 sets certain minimum requirements regarding the text, size, and accompanying context statement of the displays, it leaves the nature of the display entirely to the discretion of local school boards. That delegation and the minimum requirements leave numerous essential questions unanswered – such as how prominently the displays will appear, what other materials might accompany them, or how (if at all) teachers will reference them during instruction. At this stage, the court does not know the full content of the displays themselves. HB 71 requires inclusion of the Ten Commandments and a context statement. The statute also permits additional content, such as “the Mayflower Compact, the Declaration of Independence, and the Northwest Ordinance,” to appear alongside the Ten Commandments.
 - c. Here, the Fifth Circuit stated it could not evaluate “how the text is used.” Without such evidence, the court stated it was not able to conduct the fact-intensive and context-specific analysis required by the Supreme Court’s Ten Commandments cases. This evidentiary gap forecloses the parents’ Free Exercise claims, because “the question whether a law substantially interferes with the religious development of a child will always be fact-intensive,” requiring courts to “consider the specific context in which the instruction or materials at issue are presented.” Moreover, the plaintiffs suffer no concrete harm from the challenged policy itself, which does not require them to do anything or to refrain from doing anything.
 - d. The plaintiffs seek to sidestep this difficulty by framing the case as an attack on HB 71’s minimum requirements alone. But an unripe

challenge does not become ripe merely because a party asserts that the challenged action would be unlawful on any conceivable set of facts. That admonition applies with particular force here, where constitutionality turns on context that does not yet exist. Declaring that every possible HB 71 display would violate the Establishment Clause would require the substitution of speculation for adjudication.

- e. Many statutes provide far greater detail than HB 71, and many constitutional provisions require far less contextual inquiry than the Establishment Clause. If HB 71 were such a statute, or if the Establishment Clause demanded less contextual sensitivity, this case might well be ripe. But HB 71 confers sweeping discretion on local school boards, and the Establishment Clause demands close attention to context. That incongruity is dispositive: it forecloses judicial review at this stage and renders the plaintiffs' claims nonjusticiable. The Fifth Circuit added that nothing in its narrow holding prevents future as-applied challenges once the statute is implemented and a concrete factual record exists.

C. Artificial Intelligence

- 1. **Fletcher v. Experian Information Solutions, No. 25-20086, 168 F.4th 231 (5th Cir. 2026):** Attorney filed a reply brief with 16 fabricated quotes and five “serious misrepresentations of law or fact.” After being ordered to provide whether and how she verified the accuracy of her propositions, the attorney doubled down and asserted that she relied on publicly available information. She later admitted to using generative AI products to produce the reply brief. The Fifth Circuit sanctioned her \$2,500 for relying on AI to write “a substantial portion, if not all” of the reply brief without verifying its accuracy.
 - a. The court acknowledged that AI can be helpful in drafting briefs “if done properly and carefully.” But the attorney’s conduct was “unbecoming a member of the bar” under Rule 46(c) because she neglected to check her brief for accuracy and, as a result, repeatedly misrepresented the law to the court. “Submitting a brief riddled with fabricated quotations and assertions is such an abuse,” Judge Elrod said in concluding that the attorney abused the judicial process. Her “misleading the court as to the source of her errors further justifies sanctions under our inherent powers.” The Fifth Circuit noted that had counsel accepted responsibility and been more forthcoming, it is likely that her sanction would have been lower.
 - b. The Fifth Circuit acknowledged generative AI can serve as a useful tool in the practice of law. “To ethically use generative AI in the

practice of law-which we do not dispute can be helpful if done properly and carefully-a lawyer must ‘ensure that the legal propositions and authority generated are trustworthy.’ Failure to do so ‘abdicate[s] one’s duty, waste[s] legal resources, and lower[s] the public’s respect for the legal profession and judicial proceedings.’”

2. **Renteria v. Grief Star AS, Case No. 25-20131 (5th Cir.):** On November 12, 2025, the Clerk of the Fifth Circuit sent a letter to counsel for Appellant stating,

The court has discovered a possible AI “hallucination” case found in Appellant’s opening brief. . . . The court requests counsel to attach a copy of this case to a response letter and file it by the close of business on Monday, November 17. If the case turns out to have been an AI-generated “hallucination,” then the court requests counsel to assure the court in the reassurance letter that all citations in the Appellant’s brief have been verified and are actual court cases.

- a. Appellant’s counsel was employed at Arnold & Itkin in Houston. On November 17, 2025, another lawyer from the firm responded to the Clerk of Court. Counsel stated that the firm investigated the issue and further explained that Arnold & Itkin “has a strict and formal prohibition against using open-source artificial intelligence on items that may be submitted to the Courts.” The firm determined that Appellant’s counsel, who authored the brief to the Fifth Circuit, violated the firm’s policy and training. He was notified of the error and terminated for cause on November 12, 2025.
3. ***Jackson Federation of Teachers v. Lynn Fitch, No. 25-60496:*** This case was argued before the Fifth Circuit on August 31, 2026 (Smith, Engelhardt, and Haynes).
 - a. A district judge in the Southern District of Mississippi admitted in 2025 that one of his law clerks used the AI program Perplexity to compose an order pausing enforcement of a state law banning diversity, equity, and inclusion programs in public schools. The order granting the TRO was filed with AI hallucinations. There were misquotes of state law and parties discussed that were not even involved in the case. Defense counsel raised concerns about the order and the district court replaced it with a corrected version. The flawed order was removed from the docket. The defense request to place the original order back on the docket was denied and the district judge referred to the mistakes as “merely clerical.”

- b. The district judge's acknowledgement followed an inquiry from U.S. Senator Chuck Grassley, R-Iowa and chair of the Senate Judiciary Committee.
- c. At the Fifth Circuit argument on August 31, 2026, Judge Smith asked if the use of AI may have influenced the district court's decision to issue the flawed temporary restraining order, thus favoring reassignment. Judge Smith also raised concerns about an erroneous citation that still appeared in the order after it was amended to remove the AI errors.
 - i. Judge Smith questioned if the district court issued the TRO on the basis of names that did not exist and on the basis of statements of law that did not exist, then how could the appellate court be confident that the errors did not infect the ultimate ruling?
 - ii. An attorney representing the plaintiffs argued that the injunction should remain in place because the judge made the decision to grant the TRO, not the AI tool.
 - iii. Conversely, the attorney arguing for the defense countered that even the later-issued order included a fake case citation to the Fourth Circuit. The attorney urged the Fifth Circuit to vacate that order and send the case to a different district court judge. The defense believes the district court's actions could lead any reasonable observer to question whether it has the ability to afford this case due care and accuracy going forward. Thus, reassignment would be appropriate.

4. **AI Sanctions**

- a. **Local Counsel:** Lawyers admitted *pro hac vice* in the Western District of Louisiana must have local counsel, and the signature of local counsel must be on each filing. *See* LR 83.2.6. While serving as local counsel is usually simple, locals who sign off on a filing that includes AI hallucinations could find themselves in hot water. That happened in *Withers v. City of Aberdeen*, 2026 WL 1653484 (N.D. Miss. 2026) (Aycock, J.). In *Withers*, *pro hac vice* counsel for plaintiff and defendant submitted filings with AI hallucinations, and each responded poorly when called out by the court. The two local counsel responded more appropriately and admitted that they did not check the cites or ask if the drafter used AI. The court imposed sanctions in the amount of \$3,500 and \$2,500 for the drafters. Their *pro hac vice* status was revoked, they were barred from the court for two years, and CLE was ordered for one of them. For local counsel,

the court imposed a \$1,000 sanction for each and disqualified them from the case. All four lawyers were referred to the applicable disciplinary bodies.

- b. The Western District of Louisiana has been flooded with habeas petitions by the many immigration detainees who are held in the district. In *Kattom v. Bondi*, 2026 WL 637419 (W.D. La. 2026), the motion for TRO contained AI hallucinations. The petitioner’s lawyer admitted using ChatGPT to draft a memo that contained AI hallucinations. He was sanctioned \$1,000 by Judge Edwards.
- c. ***Brooks v. Lowes*, Civil Action No. 24-1063 (W.D. La.):** A lawyer had Claude AI draft a brief. The lawyer then had a human law clerk review the brief. The law clerk discovered that Claude had hallucinated quotations. The lawyer confronted Claude with the errors and entrusted Claude to correct them, but “Claude just made up more stuff.” Record Document 70 at 1. Judge Edwards imposed a \$1,000 sanction.
- d. ***Gentry v. Thompson*, 2026 WL 787563 (E.D. La. 2026) (Barbier, J.):** A “relatively new lawyer” used ChatGPT and filed a memorandum with nine fake cites. At the show cause hearing, he was extremely apologetic and took full responsibility. He was personally sanctioned only \$250. The supervising attorney had 30 years of experience and acknowledged that he should have inquired further about the hallucinated cases cited in the memorandum, particularly because of the unusual formatting. He admitted that he failed to do so and was personally sanctioned \$1,000.

5. Evidence

- a. **Advisory Committee on Evidence Rules:** For the past three years, the Committee has been researching and investigating whether the existing Federal Rules of Evidence are sufficient to assure that evidence created by AI will be properly regulated for reliability and authenticity. The Committee has determined that there are two evidentiary challenges raised by AI: (1) evidence that is an acknowledged product of AI, such as machine learning, which would be subject to Rule 702 if propounded by an expert witness; and (2) evidence that is not authentic because it is a difficult-to-detect deepfake.
- b. **Proposed New Rule 707. Evidence Produced by Artificial Intelligence and Presented at Trial Without an Expert**

- (a) **General Rules.** If evidence is a product of artificial intelligence and is offered without an expert witness, but would be subject to Rule 702 if testified to by a witness, the proponent must establish that the evidence:
 - (1) will help the trier of fact;
 - (2) is based on sufficient facts or data;
 - (3) is the product of reliable principles and methods; and
 - (4) reflects a reliable application of the principles and methods to the facts of the case.
- (b) **Establishing Admissibility.** Admissibility under this rule ordinarily requires the proponent to provide an expert to explain how the system of artificial intelligence reliably produced the evidence; but in exceptional circumstances, the court may rely upon other proof to find that the output satisfies the requirements of (a)(2)-(4).
- (c) **Notice.** The evidence is admissible only if the proponent gives an adverse party reasonable notice of the intent to offer the evidence — so that the party has a fair opportunity to meet it.
- (d) **Judicial Notice.** This rule does not apply to facts that may be judicially noticed under Rule 201.
- (e) **Definition.** In this rule, “artificial intelligence” means a machine-based system that can, for a given set of human-defined objectives, make predictions, recommendations or decisions influencing real or virtual environments.

- c. In May 2026, the Advisory Committee on Evidence Rules did not recommend action on the proposed Rule 707. Instead, the rule was revised and the committee plans to conduct further study on it and another issue relating to AI – the problems posed by “deepfakes” – at its next meeting.

D. **Desegregation Cases**

1. The Trump administration has been pushing to end federal oversight of several Louisiana school systems that had been ordered to eradicate segregation. In most instances, Louisiana officials have agreed with the administration.
2. ***Smith v. School Board of Concordia*, 181 F.4th 629 (5th Cir. 2026):** This case involves the Concordia Parish school desegregation case, which had been ongoing for more than 60 years. Most private plaintiffs had been absent for years and the remaining parties included the United States, the parish school board, and the operator of a public charter school. All three remaining parties jointly stipulated under Rule 41(a)(1) to dismissal with prejudice. The district court refused to honor the stipulation and instead ordered evidentiary hearings, citing the protection of others and/or the judicial or public policies at issue. The district court wanted to determine if the parties had reached sufficient *Green* factor compliance to warrant a declaration of unitary status and dismissal. The School Board filed a direct appeal and a mandamus petition.
 - a. The Fifth Circuit dismissed the appeal for lack of jurisdiction, as the final district court order did not end the litigation. Instead, the district court's order prolonged the case by setting evidentiary hearings. Additionally, neither the collateral-order doctrine nor Section 1292(a)(1) provided a jurisdictional basis on appeal.
 - b. In response to the mandamus petition, the Fifth Circuit held that a district court may not go on adjudicating a case after every remaining party has dismissed it under Rule 41(a)(1)(A)(ii).
 - c. A Rule 41(a)(1)(A)(ii) stipulation of dismissal is effective immediately and renders subsequent action by the district court superfluous with no force or effect. The stipulation automatically strips the district court of subject matter jurisdiction.
 - d. The Fifth Circuit acknowledged that the district court understandably wanted a clean ending to a case of uncommon age and consequence. "But federal jurisdiction is not preserved by institutional memory, remedial caution, or the understandable desire for one more hearing. Once the remaining parties filed their Rule 41(a)(1)(A)(ii) stipulation, the case ended. From that point forward, the district court had nothing left to adjudicate."

E. **Jurisdiction**

1. ***Lutheran Church – Missouri Synod v. Christian*, 178 F.4th 193 (5th Cir. 2026):** While much of the case focuses on the First Amendment’s church autonomy doctrine, the Fifth Circuit noted that the dispositive issue on appeal was whether the LCMS – a nonprofit corporation that managed the civil affairs of the Church – was a real party to the controversy for diversity purposes.
 - a. Issues of subject matter jurisdiction are questions of law reviewed *de novo*. In establishing subject matter jurisdiction, the citizens must be real and substantial parties to the controversy. Federal courts must disregard nominal or formal parties and rest jurisdiction only upon the real parties.
 - b. The Fifth Circuit held LCMS was far from a mere nominal party. LCMS formally and fully represents the interests of the Church. The nonprofit corporation owns property and enters into contracts. Diversity jurisdiction requires only a party against whom the judgment is effective. Every possible party need not be present in court. LCMS has sufficient stake in the matter, as the secular reflection of the Church, to be the proper party plaintiff. The judgment of the district court dismissing for lack of diversity jurisdiction was reversed and the case was remanded to the district court.
2. ***Jackson v. Martin Transport*, No. 26-cv-1333, 2026 WL 2237688 (W.D. La. July 2, 2026), R&R adopted at 2026 WL 2236662 (W.D. La. Aug. 3, 2026):** This case provides good discussion of removal procedure – specifically “other paper” – and amount in controversy.
 - a. A defendant must file a notice of removal (1) within 30 days after service of the initial petition or (2), if the case stated by the initial petition is not removable, within 30 days after receipt of a copy of an amended pleading, motion, order, or other paper from which it may first be ascertained that the case is one which is or has become removable. 28 U.S.C. § 1446(b)(1) and (3).
 - b. **Initial Petition:** Plaintiff alleged in his state court petition that he was operating a tractor-trailer on Highway 84 and approached the parked tractor-trailer of Mr. Witherspoon, which suddenly attempted to cross Plaintiff’s lanes of travel to enter an I-49 on-ramp. This caused a crash between the vehicles. In accordance with Louisiana law, Plaintiff’s petition did not specify an amount of damages. It also did not provide any information about what injuries (back, leg, shoulder, etc.) Plaintiff may have suffered. It merely

prayed for an award of “damages.” This petition did not trigger the first removal period because it did not affirmatively reveal on its face that Plaintiff was seeking damages in excess of \$75,000.

- c. **Other Paper:** Plaintiff acknowledged this rule but argued that it did not apply because the additional information Defendants received—medical records and bills—did not make the case removable. The court held this argument was misplaced because Plaintiff did not make a timeliness argument based on the “other paper” provision; instead, he argued that his discovery responses did not make it unequivocally clear and certain that the amount in controversy exceeded \$75,000.
- d. **Amount in Controversy:** The burden is on the removing party to show that removal is proper, and any doubts should be resolved against federal jurisdiction. Here, Defendants asserted in the notice of removal that the amount in controversy exceeds \$75,000. Defendants may satisfy their burden on that issue by: (1) demonstrating that it is “facially apparent” that the claims are likely above \$75,000, or (2) setting forth the facts in controversy—in the notice of removal or an affidavit—that support a finding of the requisite amount. Defendants proceeded under prong 2.
 - i. Defendants’ notice of removal summarized voluminous medical records showing Plaintiff sought chiropractic treatment, underwent x-rays of his spine, attended 30 office visits over a 5 month period, and underwent treatment consisting of therapeutic exercises, mechanical traction, and hot/cold packs. Plaintiff underwent MRIs of the spine (showing disc herniation and bulging) and suffered headaches and neck and back pain with left arm numbness. After Plaintiff filed the motion to remand, Defendants supplemented the medical records and the new documents revealed increased neck pain, left lower extremity pain, and shoulder pain. Doctors recommended more physical therapy and selective nerve root injections, as well as epidural steroid injections.
 - ii. Based on this evidence and noting the court’s experience in similar cases, the court held Defendants had satisfied their burden with respect to amount in controversy.

F. **Sealing of Federal Court Records**

1. ***June Medical Services, LLC v. Phillips*, 22 F.4th 512 (5th Cir. 2022):** The Fifth Circuit held the district court erred in sealing and ordering redaction of voluminous documents without a proper legal basis. The sealing orders were vacated and the appellate court issued a limited remand for the district court to evaluate the sealing orders under the proper legal standard.
 - a. Sealing and unsealing orders are reviewable under the collateral order doctrine.
 - b. Judicial records belong to the American people; they are public, not private, documents. *See Binh Hoa Le v. Exeter Finance Corp.*, 990 F.3d 410 (5th Cir. 2021). The public’s right of access to judicial records is a fundamental element of the rule of law. The public has an interest in transparent court proceedings that is independent of the parties’ interests; thus, the Fifth Circuit heavily disfavors sealing information placed in the judicial record. The rationale for public access is even greater where the case involves matters of particular public interest.
 - c. Publicly available information cannot be sealed. Publicly available documents already belong to the people. A judge cannot seal public documents merely because a party seeks to add them to the judicial record.
 - d. Different legal standards govern protective orders and sealing orders. Protective orders require a finding of “good cause” by the district court and apply to documents produced in discovery. At the adjudicative stage, when materials enter the court record, the standard for shielding records from public view is far more arduous and require a stricter balancing test. To decide whether something should be sealed, the court must undertake a document-by-document, line-by-line balancing of the public’s common law right of access against the interests favoring nondisclosure. The working presumption is that judicial records should not be sealed and courts should be ungenerous with their discretion to seal judicial records. If sealing is necessary, it must be congruent to the need.