

Supreme Court Review

Organized by the **State and Local Legal Center**

Hosted by the **National Association of Counties**

Featuring **Eric Citron, Shay Dvoretzky, and Lydia Wheeler**

About the Webinar

- Thanks to NACo for hosting
- By email you should have received speakers' bios and a handout
- During the presentation, you may ask questions by typing them in the question box on the right hand side of your screen
- A recording of the webinar will be available on the NACo and the SLLC websites following the webinar
- The views expressed in this webinar do not necessarily reflect the views any of the sponsoring organizations

About the SLLC

- SLLC files *amicus curiae* briefs before the Supreme Court on behalf of the “Big Seven” national organizations representing the interests of state and local government:
 - National Governors Association
 - National Conference of State Legislatures
 - Council for State Governments
 - National League of Cities
 - National Association of Counties
 - International City/County Management Association
 - U.S. Conference of Mayors
- Associate members: International Municipal Lawyers Association and Government Finance Officers Association

About the SLLC

- Since 1983 the SLLC has filed over 350 briefs
- Last term the SLLC filed 13 briefs before the Supreme Court
- The SLLC is a resource for Big Seven members on the Supreme Court—this webinar is an example!

About the Speakers

- Eric Citron, Goldstein & Russell
- Shay Dvoretzky, Jones Day
- Lydia Wheeler, The Hill

South Dakota v. Wayfair

Partisan Gerrymandering Cases

Husted v. A Phillip Randolph Institute

Lozman v. City of Riviera Beach, Florida

Murphy v. NCAA

National Institute of Family Life Advocates v. Becerra

Janus v. AFSCME Council

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Argued: Feb. 26, 2018

Decided: June 27, 2018

“Fair-share” union fees

- Illinois Public Labor Relations Act
 - unions can force employees as a condition of their employment to pay a share of the union’s collective bargaining costs otherwise known as an “agency fee”
- *Friedrichs v. the California Teachers Association*
- 22 other states have similar laws that allow agency fees to be collected

Abood

- These laws rest on the principles the court established in a 1977 case, known as *Abood v. Detroit Board of Education*.
- In *Abood* the court ruled unions can charge non-members agency fees to cover activities “germane” to the union’s collective bargaining activities but not the union’s political and ideological projects.
- All eyes were on Neil Gorsuch during arguments.

Court sides with Janus

- The court delivered a major blow to public sector unions when it decided in a 5-4 ruling to over turn *Abood*.
- “Neither an agency fee nor any other payment to the union may be deducted from a nonmember’s wages, nor may any other attempt be made to collect such a payment, unless the employee affirmatively consents to pay.” – Justice Samuel Alito
- Justice Elena Kagan issued a fiery dissent

Trump v. Hawaii

Argued: April 25, 2018

Decided: June 26, 2018

Travel ban 3.0

- Presidential proclamation limited people from five majority Muslim countries - **Iran, Libya, Syria, Somalia and Yemen** - from traveling to the U.S.
- Hawaii argues that the ban is unconstitutional and unlawful under the nation's immigration laws.
- Trump's campaign statement come back to haunt him.

Court sides with Trump

- In a 5-4 ruling the court upheld president Trump's travel ban.
- Chief Justice John Roberts issues majority ruling, which the conservative members of the court join.
- He says the president has broad discretion under immigration law to suspend entry of people into the U.S.
- The court set aside his campaign statements.

Sotomayor's scathing dissents

“But this new window dressing cannot conceal an unassailable fact: the words of the President and his advisers create the strong perception that the Proclamation is contaminated by impermissible discriminatory animus against Islam and its followers.”

*Masterpiece Cakeshop v. Colo. Civil Rights
Division*

Argued: Dec. 5, 2017

Decided: June 4, 2018

religious liberty v. equality

- Jack Phillips refuses to make a wedding cake for a same-sex couple.
- Wedding cakes are an artistic expressions of speech and religion protected by the First Amendment, Phillips argued.
- The Colo. Civil Rights Commission says a retail bakery open to the public can't discriminate against same-sex couple's under the state's public accommodations laws.

Court sides with baker

- In a narrow ruling the court sided with Jack Phillips.
- The court rules 7-2 in a majority opinion from Justice Anthony Kennedy.
- Justice Kennedy said the Colo. Civil Rights Commission showed a clear and impermissible hostility toward Jack Phillips's sincerely held religious beliefs.

Implications

- The court's decision **does not** give Phillips the right to discriminate against same-sex couples in the future.
- It **does** serve as a warning. States need to be fair when enforcing their public accommodations laws.
- *Arlene's Flowers Inc. v. Washington*

SLLC Supreme Court Preview Webinar

- Coming soon...