


# A US Supreme Court Term Marked by Growing Division

**Compliance and Ethics**

**Government**



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For corporate legal teams, the latest US Supreme Court term offered more than headline-grabbing constitutional disputes. It produced decisions that may affect agency enforcement, workforce arbitration agreements, immigration compliance, and the balance of federal authority.

ACC explored those developments during its annual Supreme Court review webinar, featuring Amy Chai, associate general counsel and director of advocacy initiatives at ACC; Ashley Parrish of King & Spalding; and Prianka Sharma of ARTBA.

## Deepening polarization

These rulings fit a pattern in the term's closing statistics: a bench growing more divided along ideological lines. Fully 22.7 percent of decisions split 6–3 along conservative-liberal lines — nearly double the term's own 11 percent average from 2020–2025, and well above the 10 percent historical average since 2005.

Following recent trends, Chief Justice John G. Roberts, Jr., continued to lead all justices in majority-coalition frequency at 95 percent, joined by Justice Brett M. Kavanaugh with Justice Amy Coney Barrett close behind at 92 percent. Justice Clarence Thomas wrote the most opinions overall (28, mostly concurrences); Justice Ketanji Brown Jackson wrote the most dissents (10); and the Chief

Justice wrote the fewest opinions (6) but the longest, averaging roughly 7,100 words apiece.

## Reshaping executive power (*Slaughter* and *Cook*)

Much of the discussion centered on two cases testing how much control the US president has over independent agencies — both decided within a day of each other.

In *Trump v. Slaughter*, a 6–3 Court held that the US Federal Trade Commission's (FTC) statutory protection against at-will removal of its commissioners violates the separation of powers, effectively overturning decades-old precedent that had shielded multi-member agency heads from removal without cause. The majority reasoned that enforcing the nation's economic statutes is inherently an executive function and left open only a narrow question about whether the Federal Reserve might be different.

That question was answered the next day in *Trump v. Cook*, where the Court denied the government's bid to remove Federal Reserve Governor Lisa Cook over pre-office allegations, holding that the administration hadn't afforded her the process required by the removal statute. The majority went further, suggesting the Fed's traditional independence over monetary policy puts it on a different footing than agencies like the FTC. Dissenting justice in both cases sparred over just how far presidential removal power now extends.

***Why it matters:*** *Together, the rulings hand the president materially more control over agency leadership while leaving the Fed's independence only partially shielded — worth tracking for any company whose business touches independent agency regulation, enforcement, or rulemaking.*

## Employment and arbitration (*Flowers Foods*)

On the employment side, the Court narrowed the reach of mandatory arbitration for transportation workers. *Flowers Foods, Inc. v. Brock* involved a Colorado driver who picked up baked goods from an in-state warehouse and delivered them to local retailers — goods that had originated out of state, but on a route entirely within the state. When the driver sued *Flowers Foods* over alleged wage violations, the company sought to compel arbitration under his distribution agreement.

A unanimous Court, in an opinion by Justice Neil M. Gorsuch, sided with the driver, holding that a worker completing only the intrastate leg of an interstate shipment can still count as a transportation worker engaged in interstate commerce for purposes of the Federal Arbitration Act's exemption — even without personally crossing state lines or handling a vehicle that does.

***Why it matters:*** *The decision keeps a broad class of last-mile delivery, distribution, and logistics workers out of forced arbitration. Companies that rely on arbitration agreements with delivery drivers, franchisees, or last-mile distributors — particularly in food, retail, and e-commerce — should revisit whether those agreements are still enforceable against that workforce.*

## Border policy and immigration

Two rulings, both authored by Justice Alito, gave the executive branch wide latitude over border and immigration policy.

*Mullin v. Al Otro Lado* reversed the Ninth Circuit and upheld the government's metering practice at

the border, holding that a noncitizen isn't considered to have arrived in the United States for asylum purposes until physically crossing the border — meaning asylum protections don't attach to someone waiting on the Mexican side of the line.

Its companion case, *Mullin v. Doe*, held that the Temporary Protected Status (TPS) statute's judicial-review bar precludes court challenges to the Secretary's decision to terminate TPS for Syria and Haiti, and found Haitian plaintiffs unlikely to succeed on their claim that the termination was racially motivated. Both decisions drew sharp dissents on statutory interpretation and discriminatory-intent grounds.

***Why it matters:*** *Both rulings reinforce how much discretion the executive branch now has over immigration enforcement and status determinations, with limited room for judicial review — relevant for any employer tracking the immigration status of its workforce.*

## Looking ahead to the October term

Next term brings a fresh set of closely watched disputes:

- *Viramontes v. Cook County:* Second and Fourteenth Amendment limits on local gun ordinances (Seventh Circuit).
- *Salazar v. Paramount Global*: How far the Video Privacy Protection Act reaches in the streaming era (Sixth Circuit).
- *Apple Inc. v. Epic Games, Inc.:* Whether civil contempt can rest on an injunction's "spirit" rather than its express terms (Ninth Circuit).
- *International Partners of Ethical Care, Inc. v. Ferguson:* Parental standing in healthcare decisions (Ninth Circuit).

ACC will cover these in detail at The United States Supreme Court Term Preview 2027: What In-house Counsel Needs to Know on October 29. **Register today!**

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