

Appendix Roberts Five Decisions

The following 73 cases are those in which a majority opinion by the Roberts Five (Justices Roberts, Alito, Kennedy, Thomas, and Scalia or Gorsuch) served one of the following conservative interests: (1) controlling the political process to benefit conservative candidates and policies; (2) protecting corporations from liability and letting polluters pollute; (3) restricting civil rights and condoning discrimination; and (4) advancing a far-right social agenda. The final five cases are decisions by the Roberts Five in which no clear donor interests were identified.

Where appropriate the appendix also identifies the judicial principles these conservative justice generally espouse, but which they arguably disregarded in these cases to achieve a desired outcome, including: (1) stare decisis; (2) judicial restraint; (3) originalism; (4) textualism; and (5) aversion to fact finding.

Case Name	Citation	Holding	Conservative Interest	Judicial Principle Disregarded
League of Latin American Citizens v. Perry	548 U.S. 399 (2006)	Upheld racial and partisan gerrymandering that burdened the rights of minority voters in Texas.	Controlling the Political Process: Voter Suppression	Stare Decisis , <i>see</i> 548 U.S. at 462-63, 474-75 (Stevens, J., concurring and dissenting in part); <i>see also, id.</i> at 483 (Souter, J., concurring and dissenting in part)
Garcetti v. Ceballos	547 U.S. 410 (2006)	Narrowed speech protections for public employees, holding that statements made pursuant to official duties are not shielded for purposes of employer discipline.	Restricting Civil Rights & Condoning Discrimination	Stare Decisis , <i>see</i> 547 U.S. at 427 (citing <i>Pickering v. Board of Ed. of Township High School Dist. 205, Will Cty.</i> and <i>Givhan v. Western</i> (Souter, J. dissenting))
FEC v. Wisconsin Right to Life	551 U.S. 449 (2007)	Struck down the ban on issue ads during the 60 days before elections.	Controlling the Political Process: Dark Money	Judicial Restraint , <i>see</i> 551 U.S. at 504 (Souter, J., dissenting) Stare Decisis , <i>see id.</i> at 522, 534-35 (citing <i>McConnell v. FEC</i>)

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Leegin Creative Leather Products v. PSKS	551 U.S. 877 (2007)	Limited Section 1 of the Sherman Act to allow manufacturers to set mandatory minimum prices for their products, replacing the bright-line rule that resale price fixing agreements are per se illegal with a rule that vertical price restraints should be judged according to the "rule of reason."	Protecting Corporations from Liability	Stare Decisis , see 551 U.S. at 908 (citing <i>Dr. Miles Medical Co. v. John D. Park & Sons Co.</i>) (Breyer, J., dissenting)
National Association of Home Builders v. Defenders of Wildlife	551 U.S. 644 (2007)	Limited the reach of the Endangered Species Act and eliminated a major regulatory hurdle for developers.	Protecting Corporations from Liability: Letting Polluters Pollute	
Ledbetter v. Goodyear Tire	550 U.S. 618 (2007)	Made it more difficult for employees to bring Title VII claims and ignored the realities around proving wage discrimination.	Restricting Civil Rights & Condoning Discrimination	
Morse v. Frederick	551 U.S. 393 (2007)	Limited both the speech rights of high school students.	Restricting Civil Rights & Condoning Discrimination	
Parents Involved in Community Schools v. Seattle School District No. 1	551 U.S. 701 (2007)	Limited the ability of primary and secondary public schools to use affirmative action programs that promote diversity.	Restricting Civil Rights & Condoning Discrimination	Stare Decisis , see 551 U.S. at 799 (citing misapplication of <i>Brown v. Board of Ed.</i>) (Stevens, J., dissenting); see also <i>id.</i> at 803 (alleging majority "distorts precedent") (Breyer, J., dissenting) Federalism , see 551 U.S. at 866

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Hein v. Freedom From Religion Foundation	551 U.S. 587 (2007)	Restricted the ability of citizens to sue the government under the First Amendment for entangling church and state.	Advancing a Far-Right Social Agenda	Stare Decisis , see 551 U.S. at 637-38 (citing <i>Flast v. Cohen</i>) (Stevens, J., dissenting)
Gonzalez v. Carhart	550 U.S. 124 (2007)	Made it harder for women to exercise their reproductive rights by holding Congress's ban on partial-birth abortion was not unconstitutionally vague and did not impose an undue burden on the right to an abortion.	Advancing a Far-Right Social Agenda	Stare Decisis , see 550 U.S. at 170-71, 173-175 (citing <i>Casey</i> and <i>Stenberg v. Carhart</i> and noting <i>Stenberg v. Carhart</i> was decided only 7 years prior) (Ginsburg, J., dissenting)
Davis v. FEC	554 U.S. 724 (2008)	Eliminated the “Millionaire’s Amendment” to the Bipartisan Campaign Reform Act, increasing the influence of wealth as a criterion for public office.	Controlling the Political Process: Dark Money	Originalism , see 554 U.S. at 751 (Stevens, J., dissenting)
Stoneridge Inv. Partners, LLC v. Scientific-Atlanta 5-3 (Breyer Recused)	552 U.S. 148 (2008)	Limited the ability of shareholders alleging securities fraud to sue, holding that they must be able to show that they had relied, in making their decisions to acquire or hold stock, on the deceptive behind-the-scenes behavior of financial institutions (and their lawyers and accountants).	Protecting Corporations from Liability	
Winter v. Natural Resources Defense Council	555 U.S. 7 (2008)	Invalidated an injunction to halt a naval training exercise despite its projected irreparable harm to marine life.	Protecting Corporations from Liability: Letting Polluters Pollute	

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Plains Commerce Bank v. Long Family Land and Cattle Co	554 U.S. 316 (2008)	Made it more difficult for Native American plaintiffs to challenge discriminatory conduct by banks.	Restricting Civil Rights & Condoning Discrimination	
District of Columbia v. Heller	554 U.S. 570 (2008)	Drastically expanded the scope of the Second Amendment and limited commonsense gun regulation.	Advancing a Far-Right Social Agenda	Originalism & Stare Decisis , <i>see</i> 554 U.S. at 637 (Stevens, J., dissenting) Judicial Restraint , <i>see</i> 554 U.S. at 680 (Stevens, J., dissenting)
Bartlett v. Strickland	556 U.S. 1 (2009)	Held that the Voting Rights Act does not require state officials in certain circumstances to redraw election district lines to help allow racial minority groups elect a candidate of their choice.	Controlling the Political Process: Voter Suppression	
14 Penn Plaza v. Pyett	556 U.S. 247 (2009)	Diminished employees' access to the federal courts and skewed employment agreements in favor of employers through mandatory arbitration.	Protecting Corporations from Liability: Restricting Individual's Access to Courts	Stare Decisis , <i>see</i> 556 U.S. at 274 (Stevens, J., dissenting); <i>see also id.</i> at 281 (Souter, J., dissenting) Judicial Restraint , <i>see</i> 556 U.S. at 277 (Stevens, J., dissenting)
Ashcroft v. Iqbal	556 U.S. 662 (2009)	Heightened the civil pleading standard, making it more difficult for plaintiffs to sue in federal court	Protecting Corporations from Liability: Restricting Individual's Access to Courts	

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Summers v. Earth Island Institute	555 U.S. 488 (2009)	Restricted the right of environmental groups to sue over environmental violations.	Protecting Corporations from Liability: Letting Polluters Pollute	
Entergy v. Riverkeeper	556 U.S. 208 (2009)	Ignored the Clean Water Act's mandate that power plants use the "Best Technology Available" to protect fish and aquatic life, allowing them to use less-costly, less-effective devices.	Protecting Corporations from Liability: Letting Polluters Pollute	
Gross v. FBL Financial Services	557 U.S. 167 (2009)	Heightened the standard for age discrimination claims and made it more difficult for victims to obtain relief.	Restricting Civil Rights & Condoning Discrimination	Judicial Restraint , <i>see</i> 557 U.S. at 190 (Stevens, J., dissenting)
District Attorney's Office for the Third Judicial District v. Osborne	557 U.S. 52 (2009)	Held that the Due Process Clause does not require states to turn over DNA evidence to a plaintiff post-conviction.	Restricting Civil Rights & Condoning Discrimination	
Horne v. Flores	557 U.S. 433 (2009)	Diminished minority students' access to English as a Second Language programs.	Restricting Civil Rights & Condoning Discrimination	Aversion to Fact Finding , <i>see</i> 557 U.S. at 513-14 (Breyer, J., dissenting)
Ricci v. Destefano	557 U.S. 557 (2009)	Distorted federal civil rights law to promote the disproportionate exclusion of minority groups from career advancement.	Restricting Civil Rights & Condoning Discrimination	
Citizens United v. FEC	558 U.S. 310 (2010)	Opened the door to special interests and lobbyists influencing American politics through unlimited corporate spending.	Controlling the Political Process: Dark Money	Originalism, Textualism, & Judicial Restraint , 558 U.S. at 948 (Stevens, J., dissenting)

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Conkright v. Frommert 5-3 (Sotomayor Recused)	559 U.S. 506 (2010)	Held that courts are required to defer to a trust administrator's exercise of discretion even when the trustee's previous construction of the same terms was found to violate ERISA	Protecting Corporations from Liability	
Stolt-Nielsen S.A. v. AnimalFeeds International Corp. 5-3 (Sotomayor Recused)	559 U.S. 662 (2010)	Restricted plaintiffs from using class arbitration (similar to a class action lawsuit) unless all parties specifically agree to it.	Protecting Corporations from Liability: Restricting Individual's Access to Courts	
Rent-A-Center, West, Inc. v. Jackson	561 U.S. 63 (2010)	Diminished employees' access to the federal courts and skewed arbitration agreements in favor of employers over employees.	Protecting Corporations from Liability: Restricting Individual's Access to Courts	
Perdue v. Kenny A.	559 U.S. 542 (2010)	Heightened the standards for civil rights plaintiffs' attorneys to receive compensation for their services.	Protecting Corporations from Liability: Restricting Individual's Access to Courts	Aversion to Fact Finding , see 559 U.S. at 572 (Breyer, J., dissenting)
McDonald v. Chicago	561 U.S. 742 (2010)	Continued the expansion of Second Amendment rights and made it more difficult for states to implement gun regulations.	Advancing a Far-Right Social Agenda	Originalism , see 561 U.S. at 912 (Breyer, J., dissenting)
Salazar v. Buono	559 U.S. 700 (2010)	Allowed a cross to stay on federal property, chipping away at the separation of church and state.	Advancing a Far-Right Social Agenda	

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Arizona Free Enterprise Club's Freedom Club PAC v. Bennett	564 U.S. 721 (2011)	Struck down Arizona law restricting PACs and dark money sources from funding political candidates without limit.	Controlling the Political Process: Dark Money	Originalism , <i>see</i> 564 U.S. at 757, 784 (Kagan, J., dissenting) Stare Decisis , <i>see</i> 564 U.S. at 776-77 (Kagan, J., dissenting)
Schindler Elevator Corp. v. U.S. ex rel. Kirk 5-3 (Kagan Recused)	563 U.S. 401 (2011)	Limited the ability of plaintiffs to bring suit as whistleblowers on behalf of the government.	Protecting Corporations from Liability: Restricting Individual's Access to Courts	
AT&T Mobility v. Concepcion	563 U.S. 333 (2011)	Reduced consumers' ability to bring class-action claims against corporations for low-dollar, high-volume frauds.	Protecting Corporations from Liability: Restricting Individual's Access to Courts	Federalism , <i>see</i> 564 U.S. at 357, 367 (Breyer, J., dissenting)
Janus Capital Group v. First Derivative Traders	564 U.S. 135 (2011)	Heightened the pleading bar in private securities fraud cases seeking to hold defendants liable for the misstatements of their companies or others. Held that SEC liability was limited to individuals or entities with "ultimate authority" over the misstatements, regardless of who contributed to those statements.	Protecting Corporations from Liability: Restricting Individual's Access to Courts	Textualism , <i>see</i> 564 U.S. at 150-51 (Breyer, J., dissenting)
Wal-Mart Stores v. Dukes	564 U.S. 338 (2011)	Limited the ability of individuals to bring class-action lawsuits.	Protecting Corporations from Liability: Restricting Individual's Access to Courts	
Pliva v. Mensing	564 U.S. 604 (2011)	Preempted state tort law claims against generic drug makers who failed to warn consumers about dangerous side effects.	Protecting Corporations from Liability	Federalism , <i>see</i> 564 U.S. at 627 (Sotomayor, J., dissenting)

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Chamber of Commerce of U.S. v. Whiting 5-3 (Kagan Recused)	563 U.S. 582 (2011)	Allowed states to pass laws that target immigrant workers.	Restricting Civil Rights & Condoning Discrimination	
Connick v. Thompson	563 U.S. 51 (2011)	Made it harder to hold prosecutors' offices liable for the illegal misconduct of individual prosecutors.	Restricting Civil Rights & Condoning Discrimination	Aversion to Fact Finding , see 563 U.S. at 94 (Ginsburg, J., dissenting)
Arizona Christian School Tuition Organization v. Winn	563 U.S. 125 (2011)	Made it harder for plaintiffs to challenge Establishment Clause violations in court, chipping away at the separation of church and state.	Advancing a Far-Right Social Agenda	Stare Decisis , see 563 U.S. at 147-48 (citing <i>Flast v. Cohen</i>) (Kagan, J., dissenting) Originalism , see 563 U.S. at 168-69 (Kagan, J., dissenting)
American Tradition Partnership v. Bullock	567 U.S. 516 (2012)	Struck down Montana statute regulating independent corporate expenditures on behalf of candidates, allowing special interests and lobbyists to influence American politics through money.	Controlling the Political Process: Dark Money	Federalism , see 567 U.S. at 517 (Breyer, J., dissenting)
F.A.A. v. Cooper 5-3 (Kagan Recused)	566 U.S. 284 (2012)	Made it more difficult for plaintiffs to recover for intangible harms caused by government privacy violations.	Protecting Corporations from Liability: Restricting Individual's Access to Courts	Textualism , see 566 U.S. at 306-07 (Sotomayor, J., dissenting)
Coleman v. Court of Appeals of Maryland	566 U.S. 30 (2012)	Limited plaintiffs from bringing suits against states for denying them sick leave under the Family Medical Leave Act.	Protecting Corporations from Liability: Restricting Individual's Access to Courts	

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Christopher v. SmithKline Beecham	567 U.S. 142 (2012)	Expanded fair wage exemptions under the Fair Labor Standards Act, depriving certain categories of workers of statutory fair pay protections.	Protecting Corporations from Liability	
Florence v. Board of Chosen Freeholders of County of Burlington	566 U.S. 318 (2012)	Allowed strip searches of inmates without reasonable suspicion, reducing the Fourth Amendment protections of arrestees.	Restricting Civil Rights & Condoning Discrimination	
Shelby County v. Holder	570 U.S. 529 (2013)	Invalidated sections of the Voting Rights Act, making it easier for states with a history of racial discrimination to pass discriminatory voting laws.	Controlling the Political Process: Voter Suppression	Originalism , <i>see</i> 570 U.S. at 567 (Ginsburg, J., dissenting) Aversion to Fact Finding , <i>Id.</i> at 576
American Exp. Co. v. Italian Colors Restaurant 5-3 (Sotomayor Recused)	570 U.S. 228 (2013)	Diminished employees' access to the federal courts and skewed employment agreements in favor of employers.	Protecting Corporations from Liability: Restricting Individual's Access to Courts	Stare Decisis , <i>see</i> 570 U.S. at 240, 247 (Kagan, J., dissenting)
Comcast v. Behrend	569 U.S. 27 (2013)	Made class action certification more difficult and limited suits against corporations for low-dollar, high-volume antitrust violations.	Protecting Corporations from Liability: Restricting Individual's Access to Courts	Aversion to Fact Finding , <i>see</i> 569 U.S. at 46 (Ginsburg & Breyer, Js., dissenting)
Genesis Healthcare v. Symczk	569 U.S. 66 (2013)	Limited plaintiffs' ability to bring collective action claims under the Fair Labor Standards Act.	Protecting Corporations from Liability: Restricting Individual's Access to Courts	Judicial Restraint , <i>see</i> 569 U.S. at 79 (Kagan, J., dissenting)

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Mutual Pharmaceutical v. Bartlett	133 S. Ct. 2466 (2013)	Limited plaintiffs' ability to sue generic drug manufactures under state law for failure to adequately label medication.	Protecting Corporations from Liability	Federalism , see 133 S. Ct. at 2482 (Breyer, J., dissenting)
Koontz v. St. Johns River Water Management District	570 U.S. 595 (2013)	Deprived local and state governments of the flexibility to ensure environmentally sound and economically productive development.	Protecting Corporations from Liability: Letting Polluters Pollute	Federalism , see 570 U.S. at 635-36 (Kagan, J., dissenting)
Vance v. Ball State University	570 U.S. 421 (2013)	Made it harder for plaintiffs to bring workplace harassment claims.	Restricting Civil Rights & Condoning Discrimination	
University of Texas Southwestern Medical Center v. Nassar	570 U.S. 338 (2013)	Increased the standard of proof for employer retaliation claims, making these claims more difficult to bring.	Restricting Civil Rights & Condoning Discrimination	
Clapper v. Amnesty International	568 U.S. 398 (2013)	Blocked plaintiffs' access to the courtroom even if they claim a reasonable likelihood that their communications will be illegally intercepted by the government under FISA surveillance.	Restricting Civil Rights & Condoning Discrimination	
McCutcheon v. FEC	572 U.S. 185 (2014)	Created a loophole that allows a single individual to donate millions of dollars to a political party or campaign.	Controlling the Political Process: Dark Money	Originalism, Textualism, Stare Decisis, & Judicial Restraint , see 572 U.S. at 232 (Breyer, J., dissenting)
Harris v. Quinn	134 S. Ct. 2618 (2014)	Weakened public sector unions and took a major step toward overturning public sector fee collection from all non-union members in another 5-4 decision, <i>Janus v. AFSCME</i> .	Controlling the Political Process: Union Busting	Invitation to Challenge Precedent , see 134 S. Ct. at 669 (citing <i>Abood v. Detroit Board of Education</i>) (Kagan, J., dissenting)

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Town of Greece v. Galloway	572 U.S. 565 (2014)	Allowed legislative prayer even when a town fails to represent a variety of religions in its meetings.	Advancing a Far-Right Social Agenda	Originalism , <i>see</i> 572 U.S. at 619-21 (Kagan, J., dissenting)
Burwell v. Hobby Lobby Stores	573 U.S. 682 (2014)	Permitted corporations to deny contraception based on objections to facially neutral, non-discriminatory laws.	Advancing a Far-Right Social Agenda	Originalism , <i>see</i> 573 U.S. at 740 (Ginsburg, J., dissenting) Stare Decisis , <i>Id.</i> at 744 (citing <i>Employment Div., Dept. of Human Resources of Ore. v. Smith</i>) Judicial Restraint , <i>Id.</i> at 746
Michigan v. EPA	135 S. Ct. 2699 (2015)	Limited EPA's ability to regulate power plants by requiring it to consider cost at every stage of the regulatory process, impeding the agency's ability to pursue aggressive public health and environmental priorities.	Protecting Corporations from Liability: Letting Polluters Pollute	
Glossip v. Gross 5-3 (Vacancy)	135 S. Ct. 2726 (2015)	Made challenging execution methods more difficult and thus limited prisoners' Eighth Amendment rights.	Restricting Civil Rights & Condoning Discrimination	
California Public Employees' Retirement System v. Anz Securities	137 S. Ct. 2042 (2017)	Made it harder for individual investors to protect their rights via class action	Protecting Corporations from Liability: Restricting Individual's Access to Courts	
Abbott v. Perez	138 S. Ct. 2305 (2018)	Allowed the use of electoral maps that a lower court determined had been drawn with discriminatory intent.	Controlling the Political Process: Voter Suppression	Stare Decisis & Aversion to Fact Finding , <i>see</i> 138 S. Ct. at 2235-36 (Sotomayor, J., dissenting)

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Husted v. A. Phillip Randolph Institute	138 S. Ct. 1833 (2018)	Allowed Ohio to purge voter rolls in a way that disproportionately affects minority voters.	Controlling the Political Process: Voter Suppression	
Janus v. AFSCME	138 S. Ct. 2448 (2018)	Overtured a 40-year-old precedent allowing public sector unions to collect fair share fees.	Controlling the Political Process: Union Busting	Stare Decisis & Judicial Restraint , see 138 S. Ct. at 2487 (citing <i>Abood v. Detroit Board of Education</i>) (Kagan, J., dissenting)
Epic Systems v. Lewis	138 S. Ct. 1612 (2018)	Prohibited workers from banding together to redress workplace violations including sexual harassment, racial discrimination, and wage theft.	Protecting Corporations from Liability: Restricting Individual's Access to Courts	Judicial Restraint , see Garrett Epps, <i>An Epic Supreme Court Decision on Employment</i> , ATLANTIC (May 22, 2018) (noting “[t]his is a judge-made policy invention, reflecting conservative justices’ empathy for corporations. . .”)
Jesner v. Arab Bank	138 S. Ct. 1386 (2018)	Held that foreign corporations may not be sued under the Alien Tort Statute, protecting them from liability for human rights abuses.	Protecting Corporations from Liability: Restricting Individual's Access to Courts	
Encino Motorcars v. Navarro	138 S. Ct. 1134 (2018)	Expanded exemptions from the Fair Labor Standards Act and deprived certain categories of workers of statutory fair pay protections.	Protecting Corporations from Liability	
Wisconsin Central Ltd. v. United States	138 S. Ct. 2067 (2018)	Ruled that railroad executives are exempt from federal employment taxes on stock-based compensation.	Protecting Corporations from Liability	
Ohio v. American Express	138 S. Ct. 2274 (2018)	Held that federal antitrust laws do not prohibit corporate “anti-steering” provisions, allowing credit cards to prevent merchants from steering	Protecting Corporations from Liability	Aversion to Fact Finding , see 138 S. Ct. at 2303-05 (Breyer, J., dissenting)

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		customers toward alternative payment methods.		
Jennings v. Rodriguez 5-3 (Kagan Recused)	138 S. Ct. 830 (2018)	Allowed immigrants to be detained for prolonged periods of time without a bail hearing.	Restricting Civil Rights & Condoning Discrimination	Originalism , <i>see</i> 138 S. Ct. at 863, 866, 869 (Breyer, J., dissenting)
Murphy v. Smith	138 S. Ct. 784 (2018)	Reduced compensation for prisoners when government officials violate their constitutional rights.	Restricting Civil Rights & Condoning Discrimination	
Trump v. Hawaii	138 S. Ct. 2392 (2018)	Allowed the discriminatory Muslim ban to go into effect and restricted immigration from eight, mostly Muslim-majority, countries.	Restricting Civil Rights & Condoning Discrimination	Originalism & Stare Decisis , <i>see</i> 138 S. Ct. at 2433 (Sotomayor, J., dissenting)
NIFLA v. Becerra	138 S. Ct. 2361 (2018)	Struck down a California law mandating disclosure related to available medical services for pregnant women, potentially deceiving women into believing that anti-abortion pregnancy centers are medical clinics.	Advancing a Far-Right Social Agenda	
F.C.C. v. Fox Television Stations, Inc.	556 U.S. 502 (2009)	Upheld a Federal Communications Commission regulation that bans “fleeting expletives” on television broadcast.	No Identified Donor Interest	
Free Enterprise Fund v. Public Co. Accounting Oversight Board	561 U.S. 477 (2010)	Struck down the dual layer of “for cause” protection against presidential removal for PCAOB members.	No Identified Donor Interest	

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Stern v. Marshall	564 U.S. 462 (2011)	Held that bankruptcy courts lack the constitutional authority under Article III to enter a final judgement on a state law counterclaim.	No Identified Donor Interest	
Kerry v. Din	135 S. Ct. 2128 (2015)	Held that the government is not required to give an explanation for denying an alien's visa based on terrorism-related grounds under the Immigration and Nationality Act.	No Identified Donor Interest	
SAS Institute v. Iancu	138 S. Ct. 1348 (2018)	Held that when the United States Patent and Trademark Office institutes a review to reconsider an already-issued patent, it must rule on the patentability of all claims the petitioner challenges.	No Identified Donor Interest	