
ZONING & PLANNING - ARKANSAS

MMSC v. Washington County, Arkansas

Supreme Court of Arkansas - March 19, 2026 - S.W.3d - 2026 Ark. 56 - 2026 WL 772480

Landowner appealed quorum court's affirmance of county planning board's denial of its application for a conditional use permit to operate a red-dirt mine in an unincorporated area of county, which was zoned for agricultural and single-family residential use.

After neighbors intervened, the Circuit Court granted neighbors' motion for summary judgment in part, and, following a final hearing, the Court affirmed. Landowner appealed, and the Court of Appeals affirmed. Landowner sought review.

The Supreme Court held that quorum court's denial of landowner's application for a conditional use permit was "quasi-judicial" and thus subject to de novo review; overruling *Bolen v. Washington County Zoning Bd. of Adjustments*, 2011 Ark. App. 319, 384 S.W.3d 33.

INSURANCE - CALIFORNIA

City of Riverside v. RLI Insurance Company

Court of Appeal, Fourth District, Division 1, California - March 20, 2026 - Cal.Rptr.3d - 2026 WL 787529

Surviving family members of pedestrian killed by vehicle brought action against city and others, alleging roadway near where accident occurred was unreasonably dangerous.

City filed cross-complaint against streetlight consultant, consultant's liability insurer, and others, seeking indemnification, breach of contract, and insurance bad faith, alleging city was additional insured on consultant's liability policy.

The Superior Court sustained insurer's demurrer to city's cross-complaint without leave to amend on grounds that insurer was improperly joined in same action with its insured, and entered judgment of dismissal. City appealed.

The Court of Appea held that city's claims against insurer arose in contract, not in tort, and thus city could name both consultant and insurer in its cross-complaint.

City's claims against lighting consultant's liability insurer arose in contract, not in tort, and thus city could name both consultant and insurer in its cross-complaint for indemnification, breach of contract, and bad faith following fatal accident along roadway where consultant performed work for city, where city had entered into contract with consultant that required consultant to obtain insurance policies to protect the city against claims arising out of consultant's work, including its negligence, and endorsement indicated that city was listed as an additional named insured on the

policy consultant obtained from insurer such that city was a first-party additional insured with privity of contract and standing to sue insurer.

PUBLIC UTILITIES - CALIFORNIA

Center for Biological Diversity, Inc. v. Public Utilities Commission

Court of Appeal, First District, California - March 9, 2026 - Cal.Rptr.3d - 118 Cal.App.5th 1288 - 2026 WL 657656

Environmental and utility ratepayer advocacy groups petitioned for writ of review challenging Public Utilities Commission's decision adopting tariff that reduced price utilities pay for customer-generated power, arguing tariff was inconsistent with Public Utilities Code.

The First District Court of Appeal granted the petition and affirmed PUC's decision. The Supreme Court granted review, and reversed and remanded.

The Court of Appeal held that:

- Court of Appeal would exercise its independent judgment in interpreting provisions of statute requiring PUC to design successor program for rooftop solar and other customer-sited renewable generation;
- PUC acted within its delegated authority in adopting successor tariff that replaced netting by quantity with net billing approach, separately valued imported and exported electricity, based export compensation largely on avoided cost values, reduced extent of cost-shifting to nonparticipating customers, and included temporary "glide path" adder to soften transition;
- PUC acted within its delegated authority under statutory provision requiring PUC to base new net-metering tariff on real upsides and downsides of rooftop or customer-side renewable generation in adopting successor tariff that accounted for benefits of customer generation through concept of utilities' avoided costs; and
- PUC acted within its delegated authority under statutory provision implementing flexible, aggregate cost-equals-benefit requirement designed to ensure successor tariff was roughly cost-justified for system as whole in adopting successor tariff that based its export compensation rates on value of power exported — rather than providing offset based on quantity alone.

PUBLIC UTILITIES - FEDERAL

Tri-State Generation and Transmission Association, Inc. v. Federal Energy Regulatory Commission

United States Court of Appeals, Tenth Circuit - March 24, 2026 - F.4th - 2026 WL 807037

Generation-and-transmission electric cooperative filed proposed exit-fee methodology with Federal Energy Regulatory Commission (FERC) for calculating fees that distribution-cooperative members would pay to terminate their all-requirements contracts and withdraw from membership.

FERC initiated hearing and proceedings to determine if existing wholesale electricity rates, contracts, or terms were unjust, unreasonable, or unduly discriminatory.

Administrative law judge concluded that cooperative's proposed lost-revenues methodology was not just and reasonable but that FERC's balance-sheet approach was just and reasonable. FERC agreed

with administrative law judge that cooperative's methodology was not just and reasonable, adopted modified version of balance-sheet approach and directed cooperative to submit compliance filings.

Cooperative petitioned for review of FERC's methodology order, methodology rehearing order, second compliance order, and compliance rehearing order.

The Court of Appeals held that:

- Just-and-reasonable standard of Federal Power Act applied to methodology for calculating fees that distribution-cooperative members would pay to terminate their all-requirements contracts;
- FERC engaged in reasoned decisionmaking when it rejected lost-revenues approach for exit-fee methodology;
- FERC did not act contrary to evidence before it when it rejected argument that bylaws supported using lost-revenues approach for methodology for calculating fees;
- FERC engaged in reasoned decisionmaking when it adopted balance-sheet approach for methodology for calculating fees;
- FERC responded meaningfully to concerns by cooperative that balance-sheet approach could impact its credit rating or its contracts with other entities;
- FERC did not act arbitrarily and capriciously by applying credit to entire Open Access Transmission Tariff (OATT) invoice for member that was departing from cooperative under exit-fee methodology; and
- FERC did not act arbitrarily and capriciously by including payment for non-networked debt in transmission credit when adopting transmission-crediting mechanism under exit-fee methodology.

IMMUNITY - TEXAS

Megatel Homes, L.L.C. v. City of Mansfield, Texas

United States Court of Appeals, Fifth Circuit - March 26, 2026 - F.4th - 2026 WL 828414

Developers that sought to develop land outside of city brought action for declaratory relief and damages against city, alleging city violated the Sherman Act and committed tortious interference, fraud, and negligent misrepresentation under state law when it denied developers access to water utility services from special utility district within city's extraterritorial jurisdiction unless developers acquiesced to city's demands that it consent to the land's annexation, permitting city control and taxation, and pay various and sundry development fees.

The United States District Court adopted report and recommendation of United States Magistrate Judge and granted city's motion to dismiss the Sherman Act claims and declined to exercise supplemental jurisdiction over the state law claims. Developers appealed.

The Court of Appeals held that city did not have state-action immunity from developers' Sherman Act claims.

Although Texas Water Code conveyed clear intent to permit monopolies in water utilities, it conferred that authority only to the special utility district granted certificate of convenience and necessity by the State with respect to land developers sought to develop that was within city's extraterritorial jurisdiction, but Texas law did not permit city to act anticompetitively, and thus, city did not have state-action immunity from developers' Sherman Act claims alleging city denied developers access to water utility services unless developers acquiesced to city's demands that it consent to the land's annexation, permitting city control and taxation, and pay various and sundry development fees; Code provision explicitly permitting monopolistic behavior specified that utilities

were monopolies in the areas they served.

NEGLIGENCE - WASHINGTON

Estate of Brown by and through Brown v. King County

Court of Appeals of Washington, Division 3 - March 19, 2026 - P.3d - 2026 WL 772580

Estate of marijuana dispensary employee, who was murdered by youths who absconded from their pretrial electronic home monitoring (EHM) under supervision of county department of adult and juvenile detention (DAJD), brought action against county for negligence.

The Superior Court granted county's motion for summary judgment. Estate appealed.

The Court of Appeals held that:

- DAJD had duty to protect third persons from bodily harm posed by youths under its supervision, but
- Any failure by DAJD to promptly notify law enforcement that youths had absconded was not cause in fact of murder.

HOME RULE - LOUISIANA

Rice Group, LLC v. New Orleans City Council

Supreme Court of Louisiana - March 18, 2026 - So.3d - 2026 WL 763661 - 2025-01563 (La. 3/18/26)

Limited liability company (LLC) filed suit against city council, alleging ordinance violated city's home rule charter.

The District Court granted LLC's motion for summary judgment and declared the ordinance null, void, and illegal. City council filed a suspensive appeal, and the Fourth Circuit Court of Appeal issued an order transferring the matter to the Supreme Court as involving the constitutionality of the ordinance.

The Supreme Court held that the Court lacked appellate jurisdiction to consider appeal of trial court order that did not declare city ordinance unconstitutional but rather held that it violated city's home rule charter.

LIENS - MISSISSIPPI

Hewitt v. TJM Properties, Inc.

Supreme Court of Mississippi - March 19, 2026 - So.3d - 2026 WL 773260

Proposed developers of property that county had acquired from property owner filed notice of lis pendens claiming a construction lien on the property, which had been reacquired by owner via a foreclosure sale, and seeking to recover $8,607,898.68 in expenses they had incurred in anticipation of the development project.

The Chancery Court entered judgment dismissing developers' claims with prejudice and awarding owner $200,000 in damages based on an earlier agreed order. Developers filed motion for reconsideration, which was denied, and then appealed.

The Supreme Court held that:

- Developers could not establish a valid construction lien against the property;
- Lease-purchase agreement between county and developers did not enable developers to place the construction lien; and
- Developers lacked standing to challenge the transfer of funds between county and owner.

ZONING & PLANNING - MONTANA

Montanans Against Irresponsible Densification, LLC v. State

Supreme Court of Montana - March 17, 2026 - P.3d - 2026 WL 746593 - 2026 MT 53

Advocacy organization comprised of single-family property owners brought action against state and intervenors, asserting a facial constitutional challenge to certain zoning and land use laws codified in the Montana Land Use Planning Act (MLUPA).

The District Court entered declaratory judgment that the laws did not supplant private restrictive covenants, granted summary judgment in favor of property owners on their claim that the laws violated the right to public participation, permanently enjoined certain statutory sections as violating the constitutional right to participate, and granted summary judgment against property owners on their equal protection claims. The parties appealed and cross-appealed.

The Supreme Court held that:

- Property owners' facial challenge to MLUPA provision limiting public participation at site-specific project approval stage was justiciable under the voluntary cessation exception to the mootness doctrine;
- Property owners' claim that MLUPA provisions limiting public participation at site-specific project approval stage violated the right to participate was ripe for judicial consideration;
- Property owners failed to establish MLUPA provisions limiting public participation at site-specific project approval stage facially violated the constitutional right to participate;
- MLUPA provisions requiring municipalities to permit duplexes and accessory dwelling units (ADU) where single-family homes were permitted did not facially violate the right to equal protection by impermissibly creating categories of large and small municipalities;
- MLUPA provisions requiring municipalities to permit duplexes and ADUs where single-family homes were permitted did not facially violate the right to equal protection by creating impermissible classifications of property owners who were party to restrictive covenants and those who were not; and
- District court's declaratory judgment holding that MLUPA provisions requiring municipalities of a certain size to permit duplexes and ADUs could not be used to invalidate covenants that were more restrictive was an impermissible advisory opinion.

CAPITAL FACILITIES FEES - NORTH CAROLINA

Wardson Construction, Inc. v. City of Raleigh

Supreme Court of North Carolina - March 20, 2026 - S.E.2d - 2026 WL 796147

Home builders brought action against city to challenge capital facility fees which city required them to pay as a condition of development.

The Superior Court granted builders' motion for class certification, and also granted builders' motion for summary judgment. City appealed class certification order directly to the Supreme Court.

The Supreme Court held that:

- Builders shared an interest in whether city lawfully imposed capital facility fees which was identical for every member of the alleged class;
- Purported class of home builders who paid capital facility fees to city was sufficiently numerous to support a class action;
- Named home builder adequately represented the interests of the alleged class; and
- Determination that class action was superior method of litigation of home builders' claims seeking refund of capital facility fees was reasonable.

APPEALS - TENNESSEE

CCD Oldsmith Henry, LLC v. Town of Nolensville

Supreme Court of Tennessee - March 16, 2026 - S.W.3d - 2026 WL 730689

Development companies brought civil action against town alleging wrongful refusal to issue building permits promised as part of development project.

Town asserted counterclaims alleging companies failed to pay for intersection improvements and moved to join two company representatives as counterclaim defendants for alleged misrepresentations.

The Circuit Court denied town's joinder motion and certified order as final and appealable, and town appealed. The Court of Appeals reversed in part. Companies' application for permission to appeal was granted.

The Supreme Court held that circuit court did not have authority to certify – and Court of Appeals did not have jurisdiction to decide – companies' appeal.

Circuit court did not have authority to certify—and Court of Appeals did not have jurisdiction to decide—companies' appeal of circuit court's order denying town's motion to join company officials as prospective counterclaim defendants in contract dispute; officials were never "parties" whose rights and liabilities were adjudicated by circuit court, and proposed counterclaim was not before circuit court and thus could not be adjudicated.

LIABILITY - TEXAS

City of San Antonio v. Realme

Supreme Court of Texas - March 13, 2026 - S.W.3d - 2026 WL 706013 - 69 Tex. Sup. Ct. J. 363

Participant in community “fun run” brought action against city for negligence and gross negligence, alleging that, while following the course through a public park, she tripped over a metal pole fragment, fell, and broke her arm, and that city’s negligent maintenance of the park caused her injury.

The 73rd District Court denied city’s plea to the jurisdiction. City appealed. The San Antonio Court of Appeals affirmed and remanded. On remand, the 73rd District Court denied city’s traditional and no-evidence summary judgment motion. City appealed. The San Antonio Court of Appeals affirmed. City filed petition for review, which was granted.

The Supreme Court held that:

- Definition of “recreation” only by reference to examples, in Recreational Use Statute, captures other such diversions and forms of play, undertaken for refreshment from the toils of life;
- Fun run was “recreation,” and thus the Recreational Use Statute’s limitation on liability applied to participant’s negligence claim; and
- Court would not consider in the first instance whether participant’s gross-negligence claim would fail as a matter of law.

ZONING & PLANNING - GEORGIA

Alpha Land Partners, LLC v. City of Alpharetta

Court of Appeals of Georgia - March 10, 2026 - S.E.2d - 2026 WL 671642

Property owner filed petition for review of denial of application for conditional use permit for property owner’s land, asserting arguments that trial court construed to be constitutional challenges to the underlying zoning ordinance.

The trial court affirmed denial of the permit application, dismissing property owner’s constitutional challenges to the ordinance and instead ruling on the merits. Property owner appealed.

The Court of Appeals held that:

- Property owner appropriately challenged denial of permit application via petition for review;
- Trial court had jurisdiction to consider arguments invoking constitutionality of zoning ordinance;
- Trial court’s error in refusing to consider constitutionality challenges required reversal and remand; and
- Court of Appeals would not reach challenge to sufficiency of evidence and would instead vacate part of trial court’s order affirming denial and direct trial court to reconsider issue in light of resolution of constitutional challenges.

IMMUNITY - GEORGIA

City of Milton v. Chang

Supreme Court of Georgia - March 12, 2026 - S.E.2d - 2026 WL 695364

Parents of college student who died in car accident brought negligence and nuisance action against city, alleging city failed to remove a concrete planter located near the road that constituted a defect in public roads.

Following trial, the State Court, Fulton County, entered judgment on the jury verdict finding city liable under both theories and awarding $35 million in damages, reduced by seven percent for comparative fault. City appealed, arguing that parents' claims were barred by sovereign immunity. The Court of Appeals affirmed the judgment, finding city had no immunity from the negligence claim, and did not address the city's argument that parents failed to establish a nuisance. The Supreme Court granted city's petition for writ of certiorari.

The Supreme Court held that city's ministerial duty to keep city streets safe for ordinary travel was not implicated by the facts of parent's negligence claim and thus city's municipal immunity for a claim involving defects in the public roads was not waived.

ELECTIONS - MISSISSIPPI

Randle v. Ivy

Supreme Court of Mississippi - March 12, 2026 - So.3d - 2026 WL 696422

Opponent in primary for city marshal petitioned for review of political party's determination that candidate met residency requirements to appear on primary ballot.

The Circuit Court entered order finding candidate unfit as a primary candidate. Candidate appealed.

The Supreme Court held that:

- Candidate's appeal was moot, and
- Substantial evidence supported finding that candidate had not lived in city for two years before primary election.

WATER LAW - TEXAS

Cockrell Investment Partners, L.P. v. Middle Pecos Groundwater Conservation District

Supreme Court of Texas - March 13, 2026 - S.W.3d - 2026 WL 705764 - 69 Tex. Sup. Ct. J. 317

Pecan orchard owner brought two separate actions seeking judicial review of groundwater conservation district's denial of party status in administrative proceedings concerning neighboring landowner's groundwater-production permit applications.

In first case, the 112th District Court granted conservation district's and neighboring landowners' pleas to the jurisdiction. Orchard owner appealed. The Court of Appeals affirmed. In second case, the 83rd District Court granted conservation district's and neighboring landowner's motion for summary judgment. Orchard owner appealed. The Court of Appeals affirmed. Orchard owner petitioned for review in both cases.

The Supreme Court held that:

- Orchard owner was a "person affected by and dissatisfied with" conservation district's orders denying its requests for party status;
- Second requirement for limited waiver of water districts' sovereign immunity, which only

permitted a district, applicant, or parties to a contested case to participate in an appeal of a decision on the application, did not preclude orchard owner from challenging conservation district's denials of its requests for party status;
- 90-day rehearing period did not apply to district's denials of pecan orchard owner's requests for party status;
- Conservation district's local rule that permitted a request for reconsideration to be filed with district within 20 days of a date of decision applied to orchard owner's requests for reconsideration of district's denials of its requests for party status; and
- Orchard owner exhausted its administrative remedies with conservation district before seeking judicial review.

LIABILITY - CALIFORNIA

Yan v. City of Diamond Bar

Court of Appeal, Second District, Division 5, California - March 11, 2026 - Cal.Rptr.3d - 2026 WL 685371

Pedestrian who was injured when branch from city-owned tree fell on him while he was walking on sidewalk brought action against city for allegedly maintaining public property in dangerous condition.

Following jury trial, the Superior Court awarded pedestrian $250,000 for past noneconomic loss and $500,000 for future noneconomic loss. City appealed.

The Court of Appeal held that evidence of prior branch failures of trees in same vicinity as tree that injured pedestrian was admissible.

Evidence of prior branch failures of trees in same vicinity was similar enough to incident involving pedestrian to attract city's attention to dangerous situation at issue and thereby impart notice of some particular condition requiring correction, and thus was admissible in pedestrian's action against city arising from injuries sustained when branch from city-owned tree fell on him while he was walking on sidewalk; trees involved in all such incidents were same species of pear trees, there was evidence that species had inherent, latent structural weakness, and trees involved in all incidents were in same vicinity, meaning they were on same grid-based pruning and maintenance schedule and experienced same environmental factors that affected tree health.

MUNICIPAL GOVERNANCE - CALIFORNIA

Fix the City, Inc. v. City of Los Angeles

Court of Appeal, Second District, California - February 27, 2026 - Cal.Rptr.3d - 2026 WL 554572

Non-profit organization brought action against city and city council seeking writ and declaratory relief, challenging validity of city administrative code section authorizing mayoral declarations of local housing and homelessness emergencies and claiming ordinance violated California Emergency Services Act (CESA) and city administrative code.

The Superior Court, Los Angeles County, sustained demurrer without leave to amend and dismissed the case. Organization appealed.

The Court of Appeal held that:

- City administrative code section did not conflict with CESA;
- CESA did not preempt the administrative code; and
- Other provisions of administrative code do not invalidate the homelessness emergency code section.

City administrative code section conferring various mayoral powers upon declaration of a local housing and/or homelessness emergency concerned a "municipal affair," requiring analysis of whether actual conflict existed between state law and local law, in determination whether mayor's declaration of local emergency concerning unhoused city residents was invalidated by California Emergency Services Act (CESA) governing who may proclaim a local emergency and for how long, because the code section governed city's own response to conditions exclusively within its territory and provided powers to its executive, the mayor, to address those conditions.

No actual conflict existed between city administrative code section conferring various mayoral powers upon declaration of a local housing and/or homelessness emergency, and sections of California Emergency Services Act (CESA) governing who may proclaim a local emergency and for how long, and thus, city was empowered to enact the ordinance and take action regarding unhoused city residents; CESA focused on emergencies which a political subdivision could proclaim as conditions of disaster or of extreme peril to safety of persons or property, caused by specific events like floods and fires that were beyond control of political subdivision's resources, while code section governed specific type of emergency arising from housing shortage and/or homelessness, specific and limited to the city, and provided mayor with different powers.

California Emergency Services Act (CESA), which governed who may proclaim a local emergency and for how long, did not preempt charter city's municipal code provision, conferring various mayoral powers upon declaration of a local housing and/or homelessness emergency; Legislature had not expressed intent in CESA to occupy field of local governmental response to emergency or harmful conditions within local borders, particularly with regard to charter cities and their constitutional authority to regulate their own affairs, nor did CESA so fully and completely cover the area of emergency declarations as to clearly indicate that it had become exclusively a matter of state concern, and constitutional provision authorized local governments to enact ordinances allowing for declaration of local emergency.

Charter city administrative code section conferring various mayoral powers upon declaration of a local housing and/or homelessness emergency was valid under city administrative code section generally defining local emergencies, such that city and mayor were empowered to take action regarding unhoused city residents; the two provisions did not conflict, as city council either understood conditions upon which an emergency could be declared under homelessness emergency section to constitute an "occurrence" as that term was used in the general provision, or intended to establish an additio

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POLITICAL SUBDIVISIONS - MASSACHUSETTS

Attorney General v. Mystic Valley Regional Charter School

Supreme Judicial Court of Massachusetts, Suffolk - March 11, 2026 - N.E.3d - 2026 WL 679477

State attorney general brought an enforcement action against a charter school which had refused to

comply with multiple public records requests, seeking declarations that school was a custodian of public records and that it was not exempt from disclosure obligations imposed by the Massachusetts Public Records Law.

The Superior Court Department granted judgment on the pleadings in attorney general's favor, concluding that school was a governmental entity obligated to respond to the requests. School appealed. The Supreme Judicial Court, on its own initiative, transferred the case from the Appeals Court.

The Supreme Judicial Court held that:

- Commonwealth charter schools were "authorities established by the general court to serve a public purpose" and subject to the Public Records Law;
- Commonwealth charter schools' operational independence and corporate features did not make them more akin to private entities than to governmental bodies subject to the Public Records Law;
- Absence of statutory language expressly designating charter schools as governmental entities was not dispositive of whether they were governmental entities subject to the Public Records Law; and
- Charter school's concerns that compliance with the Public Records Law would impose significant financial burdens and interfere with its educational mission did not make it exempt from the Law.

COURTS - MASSACHUSETTS

Gorbatova v. City of Lynn

Supreme Judicial Court of Massachusetts - February 26, 2026 - 497 Mass. 1009 - 274 N.E.3d 529

After city issued municipal citations imposing fines against petitioner for violations of the state's sanitary code, petitioner filed petition for relief relating to the citations.

A single justice of the county court denied relief without addressing the merits of the petition, ruling that the circumstances did not require the court's extraordinary intervention. Petitioner appealed.

The Supreme Judicial Court held that:

- Availability of an alternative remedy through an appeal to the District Court prevented petitioner from being entitled to relief under the Supreme Judicial Court's superintendence power, or in the nature of certiorari or mandamus;
- Supreme Judicial Court's superintendence power over courts of inferior jurisdiction did not extend to actions of city; and
- Exceptional circumstances were not present that would warrant Supreme Judicial Court's exercise of its superintendence power.

WATER LAW - PENNSYLVANIA

In re Chester Water Authority Trust

Supreme Court of Pennsylvania - January 21, 2026 - 349 A.3d 892

Municipal water authority providing service for city and two counties filed petition seeking approval of declaration of trust and transfer of authority's assets into trust. City and prospective purchaser of authority each moved for judgment on the pleadings.

Separately, city brought action for declaratory judgment that Municipality Authorities Act (MAA) vested it with statutory authority to unilaterally obtain and sell authority. City also sought injunction enjoining authority from interfering with city's right to sell authority's assets, from encumbering or dissipating authority's assets, and from burdening authority's assets with any new debt. City then moved for judgment on the pleadings.

The Court of Common Pleas denied motions for judgment on the pleadings in both actions. City and prospective purchaser appealed in both actions. The Commonwealth Court reversed and remanded. Review was granted on water authority's petition for allowance of appeal and county's cross-petition.

The Supreme Court held that:

- City did not retain its conveyance power over water authority and its projects in perpetuity, and
- As a matter of first impression, city had no unilateral power to convey authority's assets to itself after new board took over with representatives from city and two counties.

Statute permitting municipality to acquire project that was established by board appointed by municipality and was of a character which municipality had power to establish, maintain, or operate was not static by its plain terms, did not empower city to retain its conveyance power over city water authority and its projects in perpetuity, and did not provide city with perpetual and unilateral power to force conveyance of water authority's projects.

City which had originally incorporated water authority had no unilateral power to convey authority's assets to itself after new board took over with representatives from city and two counties where ratepayers were located; although statute permitted municipality to acquire project that was established by board appointed by municipality and was of a character which municipality had power to establish, maintain, or operate, the water authority's projects were no longer "of a character" which city unilaterally had power to establish, maintain or operate as it once did when it had sole control of authority's board, but the projects were now of a character that the participating municipalities had power to establish, maintain or operate.

IMMUNITY - VIRGINIA

Sentara Medical Group v. Klena

Supreme Court of Virginia - February 26, 2026 - S.E.2d - 2026 WL 530921

Surgeon's former employer brought action against surgeon and his new employer for tortiously interfering with noncompete clause in surgeon's employment contract with former employer.

New employer filed plea in bar. The Norfolk Circuit Court granted the plea in bar and dismissed the case. Former employer filed petition for review, which was granted.

The Supreme Court held that:

- New employer was not automatically entitled to sovereign immunity simply because it was a subsidiary of public hospital authority, and

- New employer was not entitled to sovereign immunity because it did not present sufficient facts to conduct totality of the circumstances review.

BONDS - FLORIDA

Atlantic Housing Partners L.L.L.P. v. Brevard County

United States District Court, M.D. Florida, Orlando Division - January 13, 2026 - Slip Copy - 2026 WL 91583

Plaintiff was the contract purchaser of real property upon which it intended to build a multi-family affordable housing complex.

Plaintiff submitted an application for tax-exempt bond financing to finance the development. The aggregate principal amount of the bond for which Plaintiffs applied was $16,750,000. The Brevard County Housing Finance Authority (BCHFA) held a public meeting for the purpose of receiving input on the bond application. After that meeting, the BCHFA recommended approval of the application.

Defendant Board of County Commissioners (BOCC) then held a public hearing to decide the bond application. The BOCC voted to deny the bond application, prompting Plaintiffs to initiate this lawsuit.

Plaintiffs brought: a) segregative effect claims; and b) disparate impact claims under the Federal and Florida Fair Housing Acts (FHAs).

The United States District Court held that Plaintiffs could not establish a prima facie case for their segregative effect or disparate impact claims and the court grants summary judgment on that ground.

As to the segregative effect claim, the court concluded Plaintiffs failed to state a prima facie case because they had not attempted to make a showing of historical practices of segregation. While Plaintiffs argued that a segregated housing pattern based on race exists, such a housing pattern is, by itself, insufficient to establish a prima facie case. Without a showing of historical practices of segregation, housing statistics showing racial disparities only repeat the otherwise unsurprising fact that racial minorities are minorities; the statistics do little to support the claim of a segregative effect.

“The court thus concludes that Defendant is entitled to summary judgment on the segregative effect claims.”

The court then explained that disparate impact claims require a plaintiff to demonstrate that a facially neutral policy had a harsher impact on a protected group of individuals, such as a racial minority, even if the effect was unintended. Here, the facially neutral policy that Plaintiffs now challenge is Defendant’s denial of Plaintiffs’ bond application. However, the decision to deny a single application is hardly a policy. Thus, the court concluded that Defendant’s one-time decision to deny Plaintiffs’ bond application is not a policy at all.

“Plaintiffs have not provided evidence on which a reasonable jury could base a finding that the denial of Plaintiffs’ bond application constituted or was representative of a broader policy by Defendant.

NEGLIGENCE - GEORGIA

Hicks v. City of Albany

Court of Appeals of Georgia - February 26, 2026 - S.E.2d - 2026 WL 537755

Property owner brought negligence action against city, alleging that he stepped on a storm water drainage intake lid in his yard, the lid dislodged, and he fell into the storm water drainage system and was injured.

The State Court granted city's motion to dismiss, and property owner appealed.

The Court of Appeals held that:

- Property owner's ante litem notice failed to comply with statute, requiring that plaintiff give notice to municipality prior to bringing suit and requiring notice to include the negligence which caused injury;
- It would decline to issue sanctions for counsel's fake case citations because counsel took responsibility and apologized for her actions; and
- Doctrine of res ipsa loquitur was not applicable to property owner's negligence action because storm water drainage intake lid was not within city's exclusive control.

Property owner's ante litem notice failed to comply with statute, requiring that plaintiff give notice to municipality prior to bringing suit and requiring notice to include the negligence which caused the injury, for purposes of property owner's negligence action against city, alleging that he was injured when he stepped on storm water drainage intake lid in his yard and he fell into storm water drainage system; owner's ante litem notice stated that he fell when he stepped on storm water drainage intake lid, which he stated was owned and maintained by city, but he did not indicate what negligence on the part of the city he alleged caused his injuries, as required by statute.

Appellate court would decline to issue sanctions for counsel's fake case citations because counsel took responsibility and apologized for her actions in citing to nonexistent cases, which she believed came from artificial intelligence (AI) platform.

Doctrine of res ipsa loquitur was not applicable to property owner's negligence action against city, alleging that he was injured when he stepped on storm water drainage intake lid in his yard and he fell into storm water drainage system, because the storm water drainage intake lid located in owner's yard was not within city's exclusive control, and thus, owner was not relieved of the obligation to describe the negligence that caused his injury, pretermitting whether doctrine of res ipsa loquitur could be utilized to satisfy the negligence component of statutory ante litem notice requirements for bringing suit against municipality.

ZONING & PLANNING - MAINE

Drew v. Town of York

Supreme Judicial Court of Maine - February 24, 2026 - A.3d - 2026 WL 503052 - 2026 ME 15

Neighbors filed complaint for review of a decision of the town board of appeals to affirm the town planning board's approval of an application for the construction of a new wireless communications facility on top of town water tower.

The Superior Court affirmed. Neighbors appealed.

The Supreme Judicial Court held that board of appeals failed to make sufficient findings to allow appellate review of claim that facility violated setback requirements, and thus remand was required for additional findings.

Town board of appeals failed to make sufficient findings, when affirming grant of application to construct new wireless facility on top of water tower, to allow appellate review of neighbors' claim that facility violated setback requirements, and thus remand was required for additional findings, where the board's decision stated only that the board was "satisf[ied]" with the information that the applicant provided in its revised site plan, and the board did not address the important question of the point or line from which the setbacks should be measured or make any findings that abutting residential structures were more than 65 feet from that point or line, as required by town wireless communications facilities ordinance.

ZONING & PLANNING - OHIO

729 West 130th Street, L.L.C. v. Hinckley Township Board of Zoning Appeals

Supreme Court of Ohio - February 25, 2026 - N.E.3d - 2026 WL 513442 - 2026-Ohio-595

Property owners who operated a tavern sought clarification from township zoning inspector about whether their property retained nonconforming-use status after tavern ceased operations, and inspector responded by email that property no longer qualified as nonconforming use, prompting property owners to appeal to township board of zoning appeals, which dismissed appeal as untimely.

Property owners appealed. The Court of Common Pleas affirmed board's dismissal and property owners appealed. The Ninth District Court of Appeals, reversed, holding that inspector's email did not constitute appealable decision. Board of zoning appeals sought discretionary review.

The Supreme Court held that zoning inspector's email to property owners about property's zoning status did not constitute a "decision" that could be appealed to board of zoning appeals.

Zoning inspector's email to property owners about property's zoning status did not constitute a "decision," under statute establishing procedure for appealing administrative zoning decisions, that could be appealed to board of zoning appeals; township zoning resolution provided that zoning inspector makes a "determination of nonconforming status" after property owners submit evidence that the property's use has been lawfully created, then, after accepting such evidence, the inspector "shall issue a Certificate of Non-Conforming Use," and because property owners did not engage in any formal process by which zoning inspector issued a formal decision based on evidence, as they merely visited inspector's office to inquire about property's zoning status as a nonconforming use, inspector did not issue a "decision" on whether property remained in compliance with nonconforming-use status.

MUNICIPAL ORDINANCE - TENNESSEE

Tinsley Properties, LLC v. Grundy County

Supreme Court of Tennessee - February 25, 2026 - S.W.3d - 2026 WL 515396

Quarry operator and owner filed action for declaratory judgment that county ordinance requiring

any quarry to be located at least 5,000 feet from certain buildings was void, alleging in part that the ordinance was a zoning regulation that did not comply with statutory zoning requirements of the County Zoning Act.

The Chancery Court granted county's motion for summary judgment. Owner and operator appealed, and the Court of Appeals affirmed. The Supreme Court granted permission to appeal.

The Supreme Court held that:

- Ordinance's terms and concepts were customarily associated with comprehensive zoning plans, and
- Ordinance substantially affected the use of the quarry property, and thus was a zoning ordinance.

Terms and concepts of county ordinance prohibiting any quarry from operating within 5,000 feet of certain land uses were customarily associated with comprehensive zoning plans, for purposes of whether, under the substantial effects test, the ordinance was a "zoning ordinance" subject to the procedural requirements of the County Zoning Act; ordinance referenced property lines and boundaries in specifying the required distance of a quarry from certain types of establishments, and also included a "grandfather clause" provision.

County ordinance prohibiting any quarry from operating within 5,000 feet of certain land uses substantially affected the use of quarry owner's property, as it wholly prohibited quarries in specified portions of county, such that, under the substantial effects test, ordinance was a "zoning ordinance" subject to the procedural requirements of the County Zoning Act.

PUBLIC EMPLOYMENT - WASHINGTON

Matter of Recall of Clouse

Supreme Court of Washington, En Banc - February 26, 2026 - P.3d - 2026 WL 532076

Voter filed recall petition against county commissioner. The Superior Court, Thurston County, Jennifer A. Forbes, J., dismissed petition. Voter appealed.

The Supreme Court held that:

- Petition's charges against commissioner were factually insufficient insofar as they referenced a vague, undefined benefit received by commissioner because of her personal relationship with an employee;
- Petition's charges against commissioner were factually insufficient insofar as they suggested that commissioner increased the risk of an adverse employment claim and failed to limit such risk to the county;
- Petition's charge that commissioner's general conduct was inconsistent with behavioral requirements and expectations included in county policy was factually insufficient;
- Petition's charge, as amended by the trial court, that commissioner selected for employment and continued to employ as her subordinate someone with whom she had a personal relationship was factually sufficient;
- Petition's charge, as amended by the trial court, that commissioner accepted a specific quantity of money from a subordinate employee for personal use without clarifying whether she needed to repay the employee was factually sufficient;
- Petition failed to identify requisite standard, law, or rule that would establish that commissioner acted unlawfully by selecting for employment and continuing to employ as her subordinate

someone with whom she had a personal relationship;
- Petition failed to identify requisite standard, law, or rule that would establish that commissioner acted unlawfully by accepting a specific quantity of money from a subordinate employee for personal use without clarifying whether she needed to repay the employee; and
- Petition failed to show that commissioner's discretionary act in hiring, and continuing to employ, subordinate with whom commissioner had a personal relationship was manifestly unreasonable behavior.

PUBLIC EMPLOYMENT - WASHINGTON

Matter of Recall of Lauser

Supreme Court of Washington, En Banc - February 26, 2026 - P.3d - 2026 WL 531665

City resident filed recall petition against city councilmember due to councilmember's alleged commission of offense of indecent exposure during a protest.

The Superior Court approved the petition and certified the ballot synopsis. City councilmember appealed.

The Supreme Court held that:

- Recall petition was factually insufficient insofar as it alleged malfeasance in office;
- Councilmember's alleged conduct did not constitute the offense of indecent exposure;
- Councilmember's alleged conduct was expressive conduct protected under the United States and Washington Constitutions; and
- Recall petition was both factually and legally insufficient insofar as it alleged that councilmember violated oath of office.

PUBLIC UTILITIES - COLORADO

Public Service Company of Colorado v. Outdoor Design Landscaping LLC

Supreme Court of Colorado - January 26, 2026 - P.3d - 2026 WL 192103 - 2026 CO 6

Landscaper brought personal injury action against customer and power company, alleging that customer had hired landscaping company to decorate her spruce tree with Christmas lights, and that when landscaper was hanging lights on the tree, he was electrically shocked by power line, causing him to fall and fracture his spine, which caused permanent paralysis.

Power company filed third-party complaint, joining landscaping company as a third-party defendant, alleging that landscaping company's failure to notify power company in advance of the work violated the High Voltage Safety Act (HVSA).

The District Court granted power company's motion for summary judgment against landscaper pursuant to tariff and granted in part and denied in part power company's motion for summary judgment pursuant to HVSA. Parties appealed.

The Court of Appeals affirmed in part, reversed in part, vacated in part, and remanded. Landscaping company and power company filed petitions for certiorari review, which were granted.

The Supreme Court held that:

- Public Utility Commission (PUC) did not have authority to approve tariff limiting the liability of utilities to non-customers;
- Landscaper was not a "person" subject to HVSA's notification requirement; and
- Landscaping company's violation of HVSA's notification requirement obligated it to indemnify power company.

Public Utility Commission (PUC) did not have authority, under article of constitution vesting authority in PUC and statute governing PUC's regulation of rates, to approve tariff limiting liability of utilities to non-customers, and thus tariff stating that power company "shall not be held liable for injury to persons caused by its lines when contacted or interfered with by trees" unless lines were "in a defective condition," did not apply to landscaper's personal injury action against power company, alleging that when he was hanging lights on tree, he was shocked by power line; nothing in constitution or statute granted PUC authority to limit utility's liability to non-customers, and absent indication of intent to grant authority, it was appropriate to resolve doubt against authority.

ELECTIONS - CONNECTICUT

Amadasun v. Armstrong

Supreme Court of Connecticut - February 17, 2026 - A.3d - 2026 WL 451331

Candidate for town council brought action against town clerk and others, claiming that clerk misapplied newly passed revisions to town's charter to determine the election results.

The Superior Court granted clerk's motion to dismiss for lack of subject matter jurisdiction. Candidate appealed.

The Supreme Court held that clerk's decision to apply revised provisions of town's charter to determine the composition of the town council was a "ruling of an election official" within meaning of election contest statutes.

Town clerk's decision to apply revised provisions of town's charter, which were approved in municipal election, rather than the provisions purportedly in effect on the day of the election to determine the composition of the town council from that same municipal election was a "ruling of an election official" within the meaning of statutes authorizing an elector or candidate aggrieved by such a ruling to bring an election contest, even though decision was made after the balloting and ballot tabulation; decision required clerk to apply minority representation statute and statute requiring reporting of winners to the Secretary of State and went to the question of who won the town council election.

BOND VALIDATION - FLORIDA

State Attorneys for Second, Seventh and Ninth Judicial Circuits v. Florida Pace Funding Agency

Supreme Court of Florida - December 18, 2025 - 424 So.3d 478 - 50 Fla. L. Weekly S335

Agency brought bond validation action seeking judgment validating issuance of $5 billion in revenue bonds to fund qualifying improvements under Property Assessed Clean Energy Act (PACE).

The Circuit Court validated the bonds. No party appealed within prescribed time.

Over one year later, governmental entities including state attorneys, counties, and tax collectors filed motions for relief from judgment.

The circuit court denied the motions, finding that rule governing motions for relief from judgment did not apply to the bond validation judgment and motions were untimely and insufficient. Governmental entities appealed.

The Supreme Court held that:

- Supreme Court of Florida had jurisdiction to consider appeal in special statutory proceeding for validating bonds from denial of motion for relief from judgment as final judgment;
- Supreme Court was authorized by statute to review of order denying motion for relief from judgment that was entered in bond validation action, albeit post-judgment;
- Deference to statutory scheme was required;
- Bond validation judgments not challenged after time for appeal expired could not be collaterally attacked, unless statute's limited exception applied; and
- Separation-of-powers concerns were not implicated.

Supreme Court of Florida had jurisdiction to consider appeal in special statutory proceeding for validating bonds from denial of motion for relief from judgment as final judgment.

Statutory language stating, "[a]ny party to the action whether plaintiff, defendant, intervenor or otherwise, dissatisfied with the final judgment, may appeal to the Supreme Court," authorized Supreme Court review of order denying motion for relief from judgment that was entered in bond validation action, albeit post-judgment.

In special statutory proceeding for validating bonds, court had to defer to statutory scheme, since rule governing relief from judgment did not specifically provide to the contrary.

In bond validation proceedings, judicial branch is authorized to perform a limited role as part of a broader scheme to ensure the marketability of proposed bonds or certificates of indebtedness by foreclosing a subsequent attack on their validity.

Bond validation judgments not challenged after time for appeal expired could not be collaterally attacked, unless statute's limited exception applied.

Special statutory proceeding for validating bonds and rule providing relief from judgment were not in conflict, and therefore separation-of-powers concerns were not implicated by denial of motion for relief from judgment in special statutory proceeding for validating bonds, even if issue presented were purely procedural.

BONDS - MAINE

Minerich v. Boothbay-Boothbay Harbor Community School District

Supreme Judicial Court of Maine - February 10, 2026 - A.3d - 2026 WL 371121 - 2026 ME 11

Residents filed a complaint seeking judicial review of regional school board's denial of their petition for reconsideration of a bond question, and asserting independent claims seeking a declaratory judgment to recognize residents' compliance with the statutory requirements for reconsideration of votes taken at a regional school unit referendum and seeking attorney fees pursuant to § 1983 based

on an alleged deprivation of their First Amendment rights to petition the government.

The Superior Court denied both the complaint and the independent claims. Residents appealed.

The Supreme Judicial Court held that:

- Board's duty to initiate referendum upon receipt of reconsideration petition was ministerial, as rendered mandamus relief available, and thus trial court had jurisdiction;
- Residents' challenge to denial of their petition was not moot;
- Residents' petition exceeded allowable statutory scope of petitions seeking reconsideration of votes taken at regional school unit referenda; and
- Petition's two articles could not be severed from each other.

Regional school board's duty to initiate referendum upon receipt of residents' reconsideration petition regarding voters' approval of bond referendum was ministerial, not discretionary, provided that petition met requirements of statute governing reconsideration of regional school unit referendum, as rendered mandamus relief available to compel board to put article up for referendum if petition was proper reconsideration petition, and thus superior court had jurisdiction to review board's denial of petition; statute, which contained the word "shall," provided unambiguous mandate that board must put articles up for reconsideration if statutory requirements were met.

Meaningful relief was still available in mandamus despite the passage of the statutory deadlines of 60 days for motions seeking reconsideration of votes taken at a regional school unit referendum, and thus the deadline's passage did not render moot residents' challenge to regional school board's decision to deny their petition for reconsideration of a bond question, where the bonds in dispute had not yet been issued.

Residents' petition to regional school board did not seek "reconsideration" of bond referendum, and thus the petition exceeded the allowable statutory scope of petitions seeking reconsideration of votes taken at a regional school unit referendum; residents made a request to affirmatively repeal the result of the bond referendum vote, and residents' petition asked voters to approve an entirely distinct replacement initiative, rather than merely asking that voters take the previous matter up again.

Even if either of two articles in residents' petition purportedly seeking reconsideration of regional school board's bond referendum constituted reconsideration petition, articles could not be severed from each other, as bar to submitting petition to referendum as drafted and signed; prospective signers were presented with unitary two-article petition that carried no suggestion of later severance of articles, person signing petition may have reasonably believed they were "pre-approving" authority for school district to issue bonds or notes in manner outlined in one article, and there was no way of knowing which article motivated signatories to petition or whether signatories would have signed petition had it contained only single article.

OPEN MEETINGS - NORTH DAKOTA

Haskell v. Grand Forks Public School District

Supreme Court of North Dakota - February 12, 2026 - N.W.3d - 2026 WL 392314 - 2026 ND 40

Field consultant for public teachers' union brought action against school district, contending that school board violated open meetings statute and due process by entering executive session to

discuss matter relating to teacher's grievance, and seeking order requiring board to disclose recording of such session.

Parties cross-moved for summary judgment. The District Court, Grand Forks County, Northeast Central Judicial District, granted district's motion. Consultant appealed.

The Supreme Court held that:

- District's attorney did not waive attorney-consultation exemption by making public statements;
- Board followed proper process for entering executive session;
- Public disclosure of amount of money teacher sought via grievance did not preclude board's invocation of attorney-consultation exemption; and
- District court did not violate procedural due process by denying consultant opportunity to review transcript of executive session; but
- District court was required to conduct in camera review of executive session recording, rather than accepting district's word that all matters discussed were exempt.

ANNEXATION - SOUTH CAROLINA

National Trust for Historic Preservation in United States v. City of North Charleston

Supreme Court of South Carolina - January 21, 2026 - S.E.2d - 2026 WL 158078

City and landowner brought action challenging neighboring city's attempted annexation of one-acre parcel that was 100 feet from highway and that was accessible only by passing through landowner's narrow strip of land that was within city limits of city.

The Circuit Court granted motion to dismiss for lack of standing and determined in the alternative that neighboring city failed to properly annex parcel. Parties cross-appealed. The Court of Appeals affirmed. City and landowner filed petitions for writ of certiorari, which were granted.

The Supreme Court held that:

- City had standing;
- Landowner had standing; and
- Statutory criteria of "adjacent" parcel for annexation by resolution was not met.

CONDEMNATION - TEXAS

Montellano v. Jones

Court of Appeals of Texas, San Antonio - January 21, 2026 - S.W.3d - 2026 WL 157128

Homeowner brought action against city officials, alleging officials acted ultra vires by failing to implement statutorily required relocation assistance program to benefit homeowner when city building standards board ordered demolition of homeowner's house after finding it was public nuisance in need of abatement.

The 225th District Court granted officials' plea to the jurisdiction. Homeowner appealed.

The Court of Appeals held that:

- Officials did not have statutory duty to implement relocation assistance program, and thus did not act ultra vires, and
- Homeowners' right to due course of law under state constitution was not violated.

EASEMENTS - VERMONT

Echeverria v. Town of Tunbridge

Supreme Court of Vermont - February 20, 2026 - A.3d - 2026 WL 479445 - 2026 VT 5

Landowners brought action against town seeking declaratory judgment that town lacked authority to perform maintenance or conduct repairs on public trails that crossed their private properties.

The Superior Court granted town's motion to dismiss. Landowners appealed. The Supreme Court reversed and remanded. On remand, the Superior Court granted summary judgment in town's favor. Landowners appealed.

The Supreme Court held that town had authority to maintain and repair public trails that crossed private property.

Towns had authority to maintain and repair public trails across private land, even though amendments removed "trail" from definition of "highway," as relevant statute continued to define "trails" as rights-of-way for which town had authority to maintain to extent necessary to ensure public's use, and other statutory provisions allowed towns to regulate how trails were used.

POLITICAL SUBDIVISIONS - GEORGIA

Guy v. Housing Authority of the City of Augusta

Court of Appeals of Georgia - February 9, 2026 - S.E.2d - 2026 WL 350927

Tenant in low-income apartment complex owned by city housing authority brought premises-liability action against authority, alleging that authority was negligent in failing to provide property security or take measures to keep property safe, or both, leading to tenant's being shot in the leg on the front porch of her apartment.

The State Court granted authority's motion for summary judgment. Tenant appealed. The Court of Appeals affirmed based on its conclusion that authority operated as an instrumentality of city and, as such, was entitled to sovereign immunity. Tenant filed petition for writ of certiorari, which was granted. The Supreme Court concluding that the question of whether authority was entitled to immunity was a matter of common law that had to be answered by examining the common law of England as of May 14, 1776, vacated the opinion of the Court of Appeals and remanded for further consideration.

The Court of Appeals held that issue of whether authority was entitled to immunity required further exploration of issue of whether city and county were a consolidated government, and thus Court of Appeals would remand to trial court to examine and decide issue in the first instance.

GO BONDS - IDAHO

Doyle v. Harris Ranch Community Infrastructure District No. 1

Supreme Court of Idaho - June 2025 Term - February 12, 2026 - P.3d - 2026 WL 387407

Residents of community infrastructure district (CID) sought judicial review of district board's resolutions to reimburse developer for construction of roadways, stormwater facilities, and other infrastructure, which resulted in higher tax burden on residents.

The Fourth Judicial District Court denied residents' motion to augment the record and ruled in favor of district. Residents appealed.

In a case of first impression, the Supreme Court, Meyer, J., held that:

- Preservation rule should not have been applied to bar CID residents from augmenting the record and presenting legal arguments that were not presented to district board;
- Residents were barred by CID Act's 60-day statute of limitations from contesting the validity of the CID's formation;
- CID Act's definition of "community infrastructure" did not exclude roadways that fronted multiple single-family residential lots;
- Roadways satisfied the CID Act's definition of "community infrastructure" that could be reimbursed;
- Stormwater facilities subject to highway department's permanent easement qualified as "publicly owned" facilities under CID Act;
- CID was not the alter ego of the city;
- Residents' argument that CID's issuance of a general obligation bond imposing ad valorem taxes violated the Idaho Constitution was time-barred;
- General obligation bond issued by CID did not create unequal taxation in violation of Equal Protection Clause or Idaho Constitution;
- CID resolutions to reimburse developer through issuance of a general obligation bond did not violate the lending of credit prohibitions in the Idaho Constitution; and
- Neither residents nor CID were entitled to award of appellate attorney fees.

ZONING & PLANNING - MONTANA

Atkinson v. City of Livingston

Supreme Court of Montana - February 10, 2026 - P.3d - 2026 WL 369737 - 2026 MT 21

Homeowners brought action against city, alleging negligence and negligent misrepresentation arising from city's issuance of building permit for construction of home in subdivision and failure to disclose known adverse soil conditions in subdivision.

The District Court granted city's motion for summary judgment. Homeowners appealed.

The Supreme Court held that:

- City's permitting and inspection activities fell within language encompassing "planning" and "inspection" in ten-year statute of repose for actions for damages arising out of design, planning, supervision, inspection, construction, or observation of construction of any improvement to real

property, and thus statute of repose applied to homeowners' claims;
- Statute of repose began to run when city issued its statement of substantial completion;
- Statute of repose does not contain exemption that precludes municipalities from protection;
- Statute of repose's exception for claims founded upon an instrument in writing did not apply;
- Statute of repose's exception for action for damages for injury that occurred during tenth year did not apply; and
- Statute of repose's exception for claims concerning responsibility of owner, tenant, or person in actual possession and control of improvement did not apply.

CONSTITUTIONAL LAW - NORTH DAKOTA

City of Dickinson v. Helgeson

Supreme Court of North Dakota - February 12, 2026 - N.W.3d - 2026 WL 392303 - 2026 ND 34

Editor's Note: This decision contains discussion of citation references that are incorrect or do not actually exist. These invalid citations appeared in the original court opinion and have been preserved as written since they are part of the official record. Any links to these invalid citations have been removed.

Motorist was cited for failure to display license plates in violation of city ordinance. The District Court entered judgment finding motorist "guilty" of violating ordinance and designated him a vexatious litigant. Defendant appealed designation, and city sought sanctions for fictitious cases in motorist's appellate brief.

The Supreme Court held that:

- Verdict form and judgment should have stated motorist had been adjudicated in violation of ordinance, not that he was "guilty" of violating it;
- Trial court had jurisdiction to designate motorist a vexatious litigant;
- Trial court acted within its discretion in designating motorist a "vexatious litigant";
- Trial court did not violate motorist's constitutional rights by designating him a vexatious litigant; and
- Supreme Court would award city $500.00 as a sanction for motorist's citation to nonexistent cases.

EMINENT DOMAIN - OHIO

Lifestyle Communities, Ltd. v. City of Worthington, Ohio

United States Court of Appeals, Sixth Circuit - January 27, 2026 - 165 F.4th 1013

Real estate developer brought action against city under § 1983 asserting regulatory takings claims under the United States and Ohio constitutions, as well as due-process claims, equal-protection claims, free-speech claims, and retaliation claims, arising from city's denial of its application to rezone, for mixed-use development, a vacant parcel of land on which a youth home had operated, and also seeking a declaration that the property's current zoning was unconstitutional.

The United States District Court granted city's motion to dismiss all but the takings and declaratory judgment claims, subsequently denied developer's motion for reconsideration, and denied developer's motion for summary judgment on its remaining claims and granted city's cross-motion.

Developer appealed.

The Court of Appeals held that:

- Developer did not have reasonable investment-backed expectation that city would approve its rezoning application;
- Character of city's actions weighed against finding that city council effected regulatory taking;
- City did not effect regulatory taking when it denied developer's rezoning application and amended city's comprehensive plan to emphasize more contiguous greenspace on the parcel;
- It was not beyond fair debate that parcel's current zoning was unconstitutional under Ohio law;
- Developer could not premise its void-for-vagueness challenge, under the Due Process Clause, to city's rejection of it application to rezone the parcel;
- Developer did not have a cognizable due-process property interest in city's discretionary decision to rezone the parcel; and
- Developer failed to state a substantive-due-process claim that current zoning scheme, which permitted only parks, hospitals, churches, parochial schools, and other public or institutional uses, violated its right to use parcel as it saw fit.

ZONING & PLANNING - VIRGINIA

Corzine v. Alexandria City Council

Court of Appeals of Virginia, Fairfax - February 3, 2026 - S.E.2d - 86 Va.App. 623 - 2026 WL 272390

Neighbors brought action challenging development special use permit authorizing a floor area ratio of 2.5 for a wholly residential apartment building in commercial residential mixed use high zone. The Alexandria Circuit Court sustained city's demurrers and dismissed the complaint with prejudice. Neighbors appealed.

The Court of Appeal held that, as matters of first impression;

- Development ordinance subsection providing for a maximum permitted floor area ratio of 1.25 if a parcel in a commercial residential mixed use high zone is developed "for only residential use" did not apply;
- Ordinance subsection providing for a maximum permitted floor area ratio of 2.5 for a "Mixed use or residential/SUP" (special use permit) building where at least 50% of the space was residential applied; and
- Subsections did not conflict, and thus ordinance requiring compliance with the most restrictive requirement did not apply.

STATE OF LIMITATIONS - ALABAMA

A.G.R. v. City of Irondale

Supreme Court of Alabama - January 30, 2026 - So.3d - 2026 WL 251651

Mother, as parent and next friend of youngest daughter, and oldest daughter brought negligence action against two cities, alleging cities' library employees negligently failed to intervene or report inappropriate touching of daughters, when they were minors, by tutor at public libraries owned and operated by cities.

The Circuit Court granted cities' motions to dismiss due to plaintiffs' failure to timely serve notices of claim within six months of claims' accrual. Mother and daughters appealed.

The Supreme Court held that statute that suspended the limitations period for individuals who were minors when their claim accrued did not apply to suspend the limitations period in notice of claim statute.

Statute that suspended the limitations period for individuals who were minors when their claim accrued did not apply to suspend the limitations period in notice of claim statute, which required all claims against a municipality for damages growing out of torts to be presented within six months from the accrual of the claim; the notice of claim statute contained no minor-specific exception to its limitations period, and statute that suspended the limitations period for minors only tolled statute of limitations and did not apply to notice of claim requirements, as notice of claim statutes imposed condition-precedent requirements, which differed from statute of limitations.

LIABILITY - GEORGIA

Bowen v. City of Albany

Court of Appeals of Georgia - February 10, 2026 - S.E.2d - 2026 WL 368056

Driver of school bus and her adult passenger submitted separate ante litem notices to city, and subsequently filed separate negligence suits against city, seeking to recover for serious injuries sustained when city police officer's patrol car ran a red light and collided with school bus.

Finding that the ante litem notices did not include offers of compromise, the trial court granted city's motions to dismiss the actions. Driver and passenger appealed.

The Court of Appeals held that:

- Ante litem notices substantially complied with statutory requirement to include an offer of compromise, and
- Passenger's ante litem notice was not rendered insufficient by its use of the term "damages incurred," rather than "damages claimed."

TORT CLAIMS - IOWA

Abrahamson v. Scheevel

Supreme Court of Iowa - January 30, 2026 - N.W.3d - 2026 WL 247406

Area residents brought action against former city police officer and city police chief, individually and in their official capacities, as well as city and surety, asserting statutory and common law claims based on allegations that officer improperly accessed and disseminated their confidential criminal history and intelligence data.

The District Court denied defendants' motion to dismiss on limitations grounds. Defendants applied for interlocutory appeal. On transfer from Supreme Court, the Court of Appeals reversed and remanded. Residents sought further review.

The Supreme Court held that:

- Two-year statute of limitations under Iowa Municipal Tort Claims Act (IMTCA) applied to residents' claims, and
- Statute began to run no later than date of officer's resignation from employment.

Iowa Municipal Tort Claims Act's (IMTCA) statute of limitations, requiring damage action against municipality or municipal employee to be brought within two years after alleged injury, was not contrary to damages liability authorized by statute creating private cause of action for improper access or dissemination of criminal history or intelligence data, and thus it, rather than five-year general statute of limitations and associated discovery rule, applied to residents' claims under statute, and under common law for invasion of privacy and conspiracy, in action against city and former officer and chief of its police department alleging that officer improperly accessed confidential law enforcement databases to obtain information about residents for his own personal purposes or harassment.

PUBLIC UTILITIES - MAINE

Ellsworth Me Solar, LLC v. Public Utilities Commission

Supreme Judicial Court of Maine - February 5, 2026 - A.3d - 2026 WL 304608 - 2026 ME 10

Solar energy company appealed from order of Public Utilities Commission denying its petition for good cause exemption from commercial operation date deadline in state's net energy billing statute, as well as Commission's decision not to grant company's petition for reconsideration or to reopen record.

The Supreme Judicial Court held that:

- Substantial evidence supported Commission's finding that initial construction schedule showed completion date after statutory deadline;
- Commission's determination that developer had to provide proof of receipt of initial construction schedule showing expected completion date within statutory deadline was reasonable; and
- Commission's denial of solar energy company's request for good cause exemption was not arbitrary.

PUBLIC RECORDS - VIRGINIA

Keil v. O'Sullivan

Supreme Court of Virginia - February 12, 2026 - S.E.2d - 2026 WL 388510

After city sheriff's office failed to respond to officer's requests for information related to an internal-affairs investigation the sheriff's office had undertaken into officer's conduct pursuant to Government Data Collection and Dissemination Practices Act and sheriff's office claimed an exemption to officer's Virginia Freedom of Information Act (VFOIA) request, officer filed an action challenging sheriff's office's refusal to give him access to the requested information.

The Chesapeake General District Court ruled against officer, and he appealed. The Chesapeake Circuit Court dismissed the action, and officer appealed. The Court of Appeals affirmed, and officer appealed.

The Supreme Court held that:

- Sheriff's office violated Government Data Collection and Dissemination Practices Act by refusing to provide officer access to internal-affairs records, and
- Phrase "may be located" implies no custom search methodology or specialized search terms, as phrase is used in Government Data Collection and Dissemination Practices Act defining "data subject."

ECONOMIC DEVELOPMENT - WYOMING

Gunwerks, LLC v. Forward Cody Wyoming, Inc.

Supreme Court of Wyoming - February 2, 2026 - P.3d - 2026 WL 265228 - 2026 WY 16

Firearms manufacturer brought breach of contract action against non-profit economic development organization that acted as city's agent and organization's contractors that were an architectural firm and construction company arising from construction of an allegedly substandard and defective manufacturing facility, pursuant to a contingency and development agreement (CDA), with grants and loans provided through state initiative program to stimulate local economic development.

The District Court granted contractors' motion to dismiss and granted organization's motion for summary judgment. Manufacturer appealed.

The Supreme Court held that:

- Trial court properly considered three documents that were not attached to complaint in ruling on motion to dismiss;
- Manufacturer alleged sufficient facts that could entitle it to relief as third-party beneficiary of organization's contracts with firm and company;
- Organization had project administration duties, including construction duties, under CDA; and
- Factual issues as to breach of CDA precluded summary judgment on claim against organization.

MUNICIPAL ORDINANCE - CALIFORNIA

Mustaqeem v. City of San Diego

Court of Appeal, Fourth District, Division 1, California - January 22, 2026 - Cal.Rptr.3d - 2026 WL 174947 - 2026 Daily Journal D.A.R. 665

Licensed sidewalk vendor who sold packaged snacks outside ballpark brought action against city for writ of mandate, injunctive relief, and declaratory relief, alleging city's sidewalk vending regulations conflicted with state laws enacted to protect sidewalk vendors.

Vendor moved for preliminary injunction barring city from enforcing certain provisions of municipal code. The Superior Court denied the request for a preliminary injunction. Vendor appealed.

The Court of Appeal held that:

- Municipal ordinance allowing city to impound a sidewalk vendor's equipment and/or goods based on violations of the city's sidewalk vending regulations facially conflicted with state statute;
- Municipal ordinance prohibiting sidewalk vending in city ballpark district around the time of park events was not based on any objective health, safety, or welfare requirement, and thus ordinance likely violated statutory limits on vending restrictions;
- Vendor failed to establish a likelihood of success on the merits on claim that city's general

regulations governing sidewalk vending in ballpark district amounted to a de facto ban on sidewalk vending in the city's most viable commercial areas; and
- Statute did not prohibit city from conditioning sidewalk vending permits on vendors agreeing to release, indemnify, or hold harmless the city from liability.

BOND VALIDATION - GEORGIA

Safer Human Medicine Inc. v. Decatur-County-Bainbridge Industrial Development Authority

United States District Court, M.D. Georgia, Albany Division - January 28, 2026 - Slip Copy - 2026 WL 226966

Plaintiff, Safer Human Medicine, filed an action before the Court raising breach of contract claims against Defendant, Decatur-County-Bainbridge Industrial Development Authority (the Authority), regarding a primate breeding facility that Plaintiff sought to develop in agreement with Defendant.

After Plaintiff identified Decatur County, Georgia as the location for its primate breeding facility, it entered into negotiations with the Authority regarding tax bonds. The Authority ultimately voted to adopt a Bond Resolution for the maximum aggregate principal amount of $300,000,000.00. Under Georgia law, the Authority was required to obtain confirmation and validation of the proposed bond issuance.

Authority and Plaintiff sought an order confirming and validating the Bond Resolution. A hearing was held on the petition and no member of the public moved to intervene or object. At conclusion of the hearing, the Superior Court issued the Bond Validation Order.

Subsequently, the District Attorney for the South Georgia Judicial Circuit filed a Motion for Reconsideration or in the Alternative to Set Aside the Validation Order in the Superior Court of Decatur County contending that the Authority voted illegally to approve the bond validation without any input from the community or citizens."

The Georgia Court of Appeals dismissed the appeal in its entirety, concluding that "because the State petitioned the trial court for the bond validation, it cannot bring an appeal from the trial court's order granting that petition" since "it is axiomatic that at the appellate level one cannot complaint of a judgment, order, or ruling that their own procedure or conduct procured or aided in causing."

Subsequently, the State of Georgia (the State) filed a Motion to Intervene. The State of Georgia sought to intervene in the action both as of right and permissively. Specifically, the State contends that it must be permitted to intervene as of right because it claims an interest relating to the underlying property that would be impaired or impeded by disposition of the action and no existing party can adequately represent that interest.

The District Court held that:

- The State was not entitled to Intervention by Right as it could not establish the third element — impairment.
- Given that the State's case was decided on a procedural rather than substantive basis, the question of whether the Court should exercise its discretion and allow permissive intervention carries greater weight.
- A case from the State would share common questions of law and fact with the claims and defenses

of the action. Specifically, the underlying agreements "are not binding or enforceable because they fail to comply with Georgia law."
- Permissive intervention would not cause undue delay or prejudice to existing parties.
- Because the litigation remains in the early stages, no party suffers any prejudice by the intervention of the State.
- Any claims the State may have for or against the Bond Validation would in turn share common questions of law and fact with the present parties claims and defenses of this action.
- Rule 24(b)(2) allows for an additional avenue of permissive intervention by a state governmental officer or agency so long as "a party's claim or defense is based on any regulation, order, requirement, or agreement issued or made under the statute or executive order." Here, the Bond Validation Order underlies the entire action and was made pursuant to a State statue.
- While Plaintiff is correct that permissive intervention is discretionary and may be denied even if a non-party satisfies the elements, the Court errs on the side of caution to avoid duplicitous litigation and resolve the matter with all interests represented.

ZONING & PLANNING - MARYLAND

Chiusano v. Two Farms, Inc.

Appellate Court of Maryland - January 28, 2026 - A.3d - 2026 WL 221133

Protestants sought judicial review of county board of appeals' decision approving developer's project's designation as a planned drive-in cluster under county zoning regulations.

The Circuit Court affirmed. Protestants appealed.

The Appellate Court held that:

- Planning director's letter was not appealable because he lacked authority to interpret zoning regulations;
- Letter was not appealable because it was not a final action; and
- Letter was not appealable because notice was not provided to aggrieved parties.

PUBLIC RECORDS - OHIO

State ex rel. Boddy v. Board of Education of Xenia Community City School District

Supreme Court of Ohio - January 22, 2026 - N.E.3d - 2026 WL 173372 - 2026-Ohio-164

Former school board of education member brought mandamus action against school district's board of education and its treasurer, seeking to compel production under the Public Records Act of email distribution list used to disseminate superintendent's newsletter, and an award of statutory damages, court costs, and attorney fees.

The Supreme Court granted an alternative writ.

The Supreme Court held that:

- School district was entitled to leave to revise school superintendent's affidavit to include a notary signature;

- School district was not entitled to leave to resubmit evidence and substitute school district's prior response to public records request by removing two emails that had been attached to treasurer's affidavit;
- School district waived attorney-client privilege as to two emails it disclosed as an exhibit;
- Email-distribution list constituted a record under the Public Records Act;
- School district failed to establish that email-distribution list was exempt from disclosure under the Act as a record whose release was prohibited by state or federal law;
- Former member was entitled to writ of mandamus compelling school district to disclose requested email-distribution list;
- Former member was entitled to an award of statutory damages;
- Former member was entitled to recover her court costs; and
- Former member was entitled to recover her attorney fees.

CHARTER AMENDMENTS - WASHINGTON

A Better Richland v. Chilton

Supreme Court of Washington, En Banc - January 29, 2026 - P.3d - 2026 WL 234184

Political action committee filed petition for writ of mandamus against county auditor, directing auditor to place proposed city charter amendment on the ballot to be voted on at a special election.

The Superior Court denied the petition and ordered that the proposed amendment be included in the general election. Committee sought direct review.

The Supreme Court held that:

- Moot issue of whether proposed amendment could be placed on special election ballot was matter of continuing and substantial public interest, and thus the Court would review it;
- Phrase "next regular municipal election" in statute providing that "amendment[s] shall be submitted to the voters at the next regular municipal election," includes both special elections and general elections; and
- Committee did not identify ministerial, nondiscretionary duty requiring county auditor to hold special election, and thus mandamus would not lie.

EMINENT DOMAIN - FEDERAL

Snee v. United States

United States Court of Federal Claims - January 23, 2026 - Fed.Cl. - 2026 WL 184337

Owners of property adjacent to railroad corridor filed rails-to-trails action against United States, seeking just compensation for taking of their properties allegedly effected by Surface Transportation Board (STB) issuing notice of interim trail use (NITU) converting railroad right-of-way to public recreational trail, under National Trails System Act. Parties cross-moved for partial summary judgment.

The Court of Federal Claims held that:

- Under New York law, centerline presumption was not rebutted for owners for which railroad held easements pursuant to deeds lacking clear language limiting scope of conveyance;

- Under New York law, centerline presumption was rebutted for owners for which railroad held easements pursuant to deeds containing clear language limiting scope of conveyance;
- Existence of pre-existing trail did not affect totality-of-circumstances analysis used to determine whether railroad would have consummated abandonment in absence of NITU;
- Owners demonstrated railroad would have abandoned rail corridor absent NITU, as required to show causation for takings claim; and
- Genuine issue of material fact remained as to actual value of easement property at time of taking, precluding summary judgment.

IMMUNITY - NEW JERSEY

Arias v. County of Bergen

Supreme Court of New Jersey - January 22, 2026 - A.3d - 2025 WL 4072127

In-line skater brought negligence action against county for injuries sustained when skater fell into pothole while skating on paved pedestrian path in 130-acre county park in densely populated suburban area.

The Superior Court, Law Division, granted county's motion to dismiss for failure to state a claim. Skater appealed. The Superior Court, Appellate Division, affirmed. Skater petitioned for certification, which was granted.

The Supreme Court held that county had recreational-use immunity under the Landowner Liability Act (LLA).

PUBLIC UTILITIES - OHIO

East Ohio Gas Company v. Croce

Supreme Court of Ohio - January 14, 2026 - N.E.3d - 2026 WL 96843 - 2026-Ohio-75

Public utility filed petition for writ of prohibition to prevent the Court of Common Pleas from exercising subject matter jurisdiction over gas producers' class action alleging that utility was not compensating them for natural gas that they inserted into utility's pipeline system, asserting that Public Utilities Commission of Ohio (PUCO) had exclusive jurisdiction.

Producers intervened.

The Ninth District Court of Appeals entered summary judgment in utility's favor, and producers appealed.

The Supreme Court held that PUCO had exclusive jurisdiction over producers' claims.

Public Utilities Commission of Ohio (PUCO) has exclusive jurisdiction over various matters involving public utilities, such as rates and charges, classifications, and service, effectively denying to all Ohio courts—except Supreme Court—any jurisdiction over such matters.

Resolution of natural gas producers' class action alleging that public gas utility was not compensating them for gas that they inserted into utility's pipeline system ultimately depended on whether allegedly tortious conduct was permitted by utility's tariff—i.e., whether utility carried out reconciliation process set forth in its tariff correctly, and thus Public Utilities Commission of Ohio

(PUCO) had exclusive jurisdiction over producers' claims; gravamen of producers' complaint was that utility's measurement or practice of reconciling measurements was unreasonable, there was no contract governing disputed issue, and practices of receiving gas into pipeline system, measuring it, pooling it, and conducting reconciliation process were practices normally authorized by public utility.

PUBLIC UTILITIES - PENNSYLVANIA

In re Chester Water Authority Trust

Supreme Court of Pennsylvania - January 21, 2026 - A.3d - 2026 WL 168066

Municipal water authority providing service for city and two counties filed petition seeking approval of declaration of trust and transfer of authority's assets into trust.

City and prospective purchaser of authority each moved for judgment on the pleadings. Separately, city brought action for declaratory judgment that Municipality Authorities Act (MAA) vested it with statutory authority to unilaterally obtain and sell authority. City also sought injunction enjoining authority from interfering with city's right to sell authority's assets, from encumbering or dissipating authority's assets, and from burdening authority's assets with any new debt.

City then moved for judgment on the pleadings. The Court of Common Pleas denied motions for judgment on the pleadings in both actions. City and prospective purchaser appealed in both actions. The Commonwealth Court reversed and remanded. Review was granted on water authority's petition for allowance of appeal and county's cross-petition.

The Supreme Court held that:

- City did not retain its conveyance power over water authority and its projects in perpetuity, and
- As a matter of first impression, city had no unilateral power to convey authority's assets to itself after new board took over with representatives from city and two counties.

Statute permitting municipality to acquire project that was established by board appointed by municipality and was of a character which municipality had power to establish, maintain, or operate was not static by its plain terms, did not empower city to retain its conveyance power over city water authority and its projects in perpetuity, and did not provide city with perpetual and unilateral power to force conveyance of water authority's projects.

City which had originally incorporated water authority had no unilateral power to convey authority's assets to itself after new board took over with representatives from city and two counties where ratepayers were located; although statute permitted municipality to acquire project that was established by board appointed by municipality and was of a character which municipality had power to establish, maintain, or operate, the water authority's projects were no longer "of a character" which city unilaterally had power to establish, maintain or operate as it once did when it had sole control of authority's board, but the projects were now of a character that the participating municipalities had power to establish, maintain or operate.

EMINENT DOMAIN - VERMONT

Mongeon Bay Properties, LLC v. Town of Colchester

Supreme Court of Vermont - January 23, 2026 - A.3d - 2026 WL 180395 - 2026 VT 1

Property owner brought action against town seeking declaratory judgment and injunction prohibiting town from taking its property through eminent domain to construct stormwater treatment facility.

After bench trial, the Superior Court concluded that town did not meet its burden to prove necessity of taking and that taking was initiated in bad faith. Town appealed.

The Supreme Court held that town failed to give due consideration to statutory factors for establishing necessity of taking.

Town did not consider adequacy of other property and locations in attempt to condemn property for construction of stormwater treatment facility, as statutory factor of due-consideration requirement for establishing necessity of taking, even though town completed phosphorus control study and created related plan focused on potential sites based on study; neither plan nor study contemplated improvements to condemned property, no additional studies were conducted and no expert opinions to assess property's suitability were obtained after town selected property for condemnation, there was no evidence town used new tools for analyzing end-of-pipe treatment options in selecting property, and town's cost comparison of alternate site was tailored to justify selection of condemned property.

EMINENT DOMAIN - VIRGINIA

Morgan v. City of Norfolk

Court of Appeals of Virginia, Williamsburg - January 20, 2026 - S.E.2d - 2026 WL 136044

Homeowner brought action against city for inverse condemnation, alleging that city damaged her house during project to construct pump station, and seeking declaratory judgment.

The Norfolk Circuit Court granted city's motion in limine, seeking to preclude homeowner from introducing evidence of damages from earlier stages of project, following a bench trial, granted city's motion to strike and dismissed in part and granted in part the claim for declaratory judgment, prior to jury trial, granted city's motion in limine to limit testimony of homeowner's expert, and awarded homeowner $29,828 in attorney fees and costs. Homeowner appealed.

The Court of Appeals held that:

- Stabilization doctrine did not apply to extend accrual date of inverse condemnation action until end date of project;
- Evidence was insufficient to establish that city caused cracking in homeowner's house through concussions and vibrations during final phase of project;
- Court would not address homeowner's argument that her constitutional right to a trial by jury to determine just compensation was denied;
- Trial court limiting testimony from homeowner's expert regarding just compensation was warranted; and
- Trial court did not factor in displeasure with homeowner's counsel when it determined attorney fees award.

EMINENT DOMAIN - NEW YORK

Coalition for Fairness in SoHo and NoHo, Inc. v. City of New York

Court of Appeals of New York - January 13, 2026 - N.E.3d - 2026 WL 88133 - 2026 N.Y. Slip Op. 00076

Occupants of certain buildings designated as "Joint Living-Work Quarters for Artists" (JLWQA) brought combined article 78 and declaratory-judgment action against city, city's department of city planning and planning commission, city council, and, in his official capacity, mayor to challenge rezoning plan provision that, in alleged violation the Takings Clause of the Fifth Amendment, allowed occupants to convert their JLWQA units to unrestricted residential use if they paid a one-time fee to an arts fund.

The Supreme Court dismissed petition. Owners and residents appealed. The Supreme Court, Appellate Division, reversed, declared fee unconstitutional, and enjoined its enforcement. Defendants appealed as of right on constitutional grounds.

The Court of Appeals held that fee was not an unconstitutional condition under the Takings Clause.

One-time arts-fund fee that, pursuant to provision of city's rezoning plan, occupants of certain buildings designated as "Joint Living-Work Quarters for Artists" (JLWQA) had to pay if they wished to convert their JLWQA units to unrestricted residential use would not have constituted a compensable "taking" if it had been imposed directly, and thus fee was not an "unconstitutional condition" under the Takings Clause; all that was being taken was money, rather than the transfer of any interest in occupants' real property, the fee was not requested in lieu of any such transfer, and it was not commandeered from any specific bank account.

PUBLIC RECORDS - OHIO

State ex rel. Prows v. Ohio Legislative Service Commission

Supreme Court of Ohio - January 21, 2026 - N.E.3d - 2026 WL 151904 - 2026-Ohio-149

Requester brought action against Ohio Legislative Service Commission (OLSC) seeking writ of mandamus to compel the disclosure, pursuant to the Public Records Act, of records related to the drafting of a bill that had been referred to a Senate committee and that pertained to local regulation and taxation of short-term rental properties, and also seeking a declaration that the statutory exemption for legislative documents from the Act's definition of a "public record," on which OLSC relied to withhold records, was unconstitutional as applied.

The Supreme Court held that:

- Statute exempting legislative documents from definition of a public record under the Act does not violate constitutional provision assuring public access to business transacted during General Assembly proceedings;
- Communications between legislative staff and individual members of General Assembly or General Assembly staff, which related to the bill were exempt from disclosure under the Act; and
- Requester did not provide clear and convincing evidence that OLSC withheld non-exempt records.

ANNEXATION - SOUTH CAROLINA

National Trust for Historic Preservation in United States v. City of North Charleston

Supreme Court of South Carolina - January 21, 2026 - S.E.2d - 2026 WL 158078

City and landowner brought action challenging neighboring city's attempted annexation of one-acre parcel that was 100 feet from highway and that was accessible only by passing through landowner's narrow strip of land that was within city limits of city.

The Circuit Court granted motion to dismiss for lack of standing and determined in the alternative that neighboring city failed to properly annex parcel. Parties cross-appealed.

The Court of Appeals affirmed. City and landowner filed petitions for writ of certiorari, which were granted.

The Supreme Court held that:

- City had standing;
- Landowner had standing; and
- Statutory criteria of "adjacent" parcel for annexation by resolution was not met.

PUBLIC CONTRACTING - TEXAS

4 Families of Hobby, LLC v. City of Houston

Supreme Court of Texas - January 9, 2026 - S.W.3d - 2026 WL 70833

Disappointed bidder on food and beverage concessions contract for airport brought action against city alleging, inter alia, city failed to comply with Local Government Code section requiring municipalities to use specific procurement methods for contracts requiring expenditure of over $50,000, seeking declaratory judgment that concessions contract was void, and seeking temporary and permanent injunctions suspending concessions contract.

The District Court, denied city's plea to the jurisdiction without allowing bidder jurisdictional discovery.

City appealed. The Houston Court of Appeals reversed in part and rendered judgment dismissing bidder's Local Government Code claims. Bidder filed petition for review.

The Supreme Court held that bidder was entitled to jurisdictional discovery in connection with city's plea to the jurisdiction.

Disappointed bidder on food and beverage concessions contract for airport was entitled to jurisdictional discovery in connection with city's plea to the jurisdiction, in bidder's action alleging city failed to comply with statute requiring municipalities to use specific procurement methods for contracts requiring expenditure of over $50,000; city's plea to the jurisdiction challenged existence of jurisdictional fact, namely, whether concessions contract required expenditure of more than $50,000, and provisions of concessions contract requiring city to provide and maintain all utilities and to maintain all public areas and facilities could reasonably be read to require such expenditures.

WATER AND SEWER FEES - VIRGINIA

Seaview Apartments, LLC v. City of Newport News

Court of Appeals of Virginia, Williamsburg - January 20, 2026 - S.E.2d - 2026 WL 136198

City filed amended complaint against apartment building owner for unpaid water and sewer services. Owner filed plea in bar, arguing that part of city's claim was precluded by prior judgment on unpaid bills, which the Newport News Circuit Court denied.

Following trial, the trial court denied owner's renewed plea, rendered judgment in city's favor, and awarded city $98,480.68 plus costs. Owner appealed.

The Court of Appeals, Decker held that:

- Factor considering whether facts from prior and current litigation formed convenient trial unit weighed in favor of finding that prior judgment in favor of city was res judicata, and
- Factor considering whether treating facts from prior and current litigation as single unit conformed to parties' expectations weighed in favor of finding that prior judgment in favor of city was res judicata.

ENVIRONMENTAL LAW - CALIFORNIA

Krovoza v. City of Davis

Court of Appeal, Third District, California - December 30, 2025 - Cal.Rptr.3d - 2025 WL 3763554

Residents filed petition for writ of mandate challenging city's approval of relocation of playground equipment within a park and determination that project was exempted from California Environmental Quality Act (CEQA) under three categorical exemptions.

The Superior Court denied the petition. Residents appealed.

The Court of Appeal held that:

- Project's violation of noise ordinance did not constitute substantial evidence it would have significant effect on the environment under test for unusual circumstances exception
- Public comments did not constitute substantial evidence to support fair argument of reasonable probability project may have significant environmental impact;
- City's noise studies did not constitute substantial evidence of a fair argument that project may have a significant effect on the environment;
- City was not required to conduct ambient noise study prior to approving exempt project; and
- City was not required to evaluate project's compliance with section of noise ordinance prohibiting production of audible noise within residential dwelling units without consent of occupants.

ENVIRONMENTAL LAW - CALIFORNIA

Coalition of Pacificans for an Updated Plan v. City Council of City of Pacifica

Court of Appeal, First District, California - December 30, 2025 - Cal.Rptr.3d - 2025 WL 3764279

Land-use planning group moved for award of attorneys' fees after obtaining ruling that city and project applicants should have prepared environmental impact report (EIR) for eight housing units on 1.2 acres.

The Superior Court granted motion. City and applicants appealed.

The Court of Appeal held that:

- Trial court could consider potential environmental impacts;
- Trial court improperly used statewide benchmark to measure impact of individual housing project;
- Using categorical approach that designates entire county or city as being urban or not urban is inappropriate when evaluating Housing Accountability Act (HAA) policy of filling existing urban areas to maximum extent practicable;
- Trial court was not required to deem site suitable based on city's general plan and zoning designations;
- Assessment of reasonableness factor of HAA was not abuse of discretion; and
- Compliance with land use designations and zoning classifications does not dictate that approval of housing project must be deemed reasonable.

EMINENT DOMAIN - FEDERAL

Zanzarella v. United States

United States Court of Federal Claims - December 15, 2025 - Fed.Cl. - 2025 WL 3628241

Owners of property adjacent to railroad corridor filed rails-to-trails action against United States, seeking just compensation for taking of their properties allegedly effected by Surface Transportation Board (STB) issuing notice of interim trail use (NITU) converting railroad right-of-way to public recreational trail, under National Trails System Act. Parties cross-moved for partial summary judgment.

The Court of Federal Claims held that:

- Railroad held easement for land acquired by condemnations;
- Railroad held easement for land conveyed by deeds referencing railroad purposes;
- Railroad held easement in land conveyed by deeds referencing railroad purposes in granting clause;
- Taking was not effected for easements conveyed by deeds referencing railroad purposes in granting clause as trail did not exceed scope of easement;
- Railroad held easement for land conveyed by deeds referencing railroad purposes outside of granting clause;
- Summary judgment was precluded as to whether railroad held easements for land conveyed by deeds incorporating New York General Railroad Act (GRA);
- Centerline presumption was not rebutted for owners of land conveyed by deeds lacking clear limiting language;
- Centerline presumption was rebutted for owners of land conveyed by deeds with clear limiting language; and
- Preexisting walking and bike trail did not prevent owners from establishing causation for takings claim.

WATER LAW - IDAHO

City of Idaho Falls v. Idaho Department of Water Resources

Supreme Court of Idaho, Boise, October 2025 Term - December 31, 2025 - P.3d - 2025 WL 3771308

Cities that held junior groundwater rights in aquifer petitioned for judicial review of Department of Water Resources' order regarding modification of data and modeling used to determine material injury to senior surface water rights holders in aquifer.

Surface water coalition that represented a group of irrigators intervened. The Fourth Judicial District Court
affirmed. Cities appealed.

The Supreme Court held that:

- Cities failed to properly challenge Department's order that was currently in effect;
- Department was entitled to statutory attorney fees on appeal as prevailing party; but
- Coalition was not an adverse party to Department under attorney fee statute.

Cities that held junior groundwater rights failed to properly challenge Department of Water Resources' order that was currently in effect in cities' petition for judicial review, and thus review of that order was barred, in proceeding regarding Department's modification of data and modeling used to determine material injury to senior surface water rights holders in aquifer, where cities appealed Department's post-hearing order that concerned a prior methodology order and that Department issued simultaneously with new, operative order that superseded all previously issued methodology orders in the matter.

PUBLIC UTILITIES - PENNSYLVANIA

FirstEnergy Pennsylvania Electric Company v. Pennsylvania Public Utility Commission

Supreme Court of Pennsylvania - January 8, 2026 - A.3d - 2026 WL 61600

Incumbent local exchange carrier (ILEC) and electric utility sought review of order of Public Utility Commission (PUC), No. C-2020-3019347 denying ILEC's petition for partial reconsideration of PUC order determining that utility charged ILEC unlawfully high pole attachment rates pursuant to joint user agreements (JUA) as compared to rates that utility charged competitive local exchange carriers (CLEC) pursuant to pole license agreements, and ordering utility to reduce ILEC's rates and issue refunds to ILEC.

The Commonwealth Court affirmed. ILEC's and electric utility's petitions for leave to appeal were granted and they appealed.

The Supreme Court held that:

- Challenger to pole attachment rates under joint use agreements bore burden of establishing rate was unjust or unreasonable;
- PUC was not required to apply federal law once it chose to reverse preempt regulation of pole attachments;

- PUC did not have any statutory authority to enact presumptive maximum just and reasonable pole attachment rate in favor of ILECs; and
- Federal Communications Commission presumptive maximum rate could be evidence of unreasonableness in attachment rate proceedings before PUC, but it could not function as presumption.

ANTITRUST - SOUTH CAROLINA

Cherry Grove Beach Gear, LLC v. City of North Myrtle Beach

United States Court of Appeals, Fourth Circuit - December 23, 2025 - 162 F.4th 486

Beach equipment rental company brought action against municipality, alleging municipal ordinances prohibiting company from setting up beach equipment on municipal beaches violated Sherman Antitrust Act.

The United States District Court for the District of South Carolina granted summary judgment for municipality, concluding municipality had state action immunity from federal antitrust liability. Company appealed.

The Court of Appeals held that:

- Municipality qualified for state-action immunity from federal antitrust law, and
- State action immunity applied even when State acted not in regulatory capacity but as commercial participant in market for on-beach equipment rentals.

Under the state action immunity doctrine, federal antitrust laws do not apply to anticompetitive restraints imposed by the states as an act of government; however, cities are not themselves sovereign, and therefore state action immunity takes hold only when cities act pursuant to state policy to displace competition with regulation or monopoly public service.

State statute anticipated municipality playing anticompetitive role in market for on-beach equipment rentals, and therefore municipality qualified for state-action immunity from federal antitrust law, in action brought by beach equipment rental company alleging municipal ordinances prohibiting company from setting up beach equipment on municipal beaches violated Sherman Antitrust Act, since South Carolina legislature authorized municipality to impose monopoly on beach equipment installation.

Beach equipment rental company abandoned on appeal argument that district court's error in granting summary judgment to municipality on company's federal antitrust claim, on ground that municipality had state action immunity from claim alleging municipal ordinances prohibiting company from setting up beach equipment on municipal beaches violated federal antitrust law, triggered errors with respect to other claims, since company's threadbare arguments fell short of appellate briefing requirements.

BOND VALIDATION - CALIFORNIA

Department of Water Resources v. Metropolitan Water District of Southern California

Court of Appeal, Third District, California - December 31, 2025 - Cal.Rptr.3d - 2025 WL

3769783

Department of Water Resources (DWR) brought action seeking validation of its authority to issue revenue bonds for planning, acquisition, and construction of facilities for conveyance of water in Sacramento-San Joaquin Delta as modification of previously-authorized Feather River Project.

Respondents, including environmental groups, state water contractors, taxpayer association, and public agencies, opposed validation, filed writ petition, and asserted affirmative defenses challenging DWR's approval of bonds without complying with California Environmental Quality Act (CEQA).

The Superior Court denied CEQA petition and DWR's complaint for validation. DWR and respondents cross-appealed.

The Court of Appeal held that DWR's proposed project to construct facilities for conveying water in Sacramento-San Joaquin Delta did not constitute a "modification" of the Feather River Project authorized by the Central Valley Project (CVP) Act for which DWR could issue bonds.

Under Central Valley Project (CVP) Act, which authorized a statewide water development project, the Department of Water Resources' (DWR) authority to make "further modifications" to the Feather River Project portion of the project is not so broad as to permit DWR to add entirely new and different "units" to the State Water Project, and, at minimum, any "further modifications" must be consistent with the Feather River Project's features and tethered to its purposes, objectives, and effects.

Under the Central Valley Project (CVP) Act, which authorized a statewide water development project, the Department of Water Resources (DWR) lacks the authority to approve a new State Water Project "unit" under the guise of a "further modification" of the Feather River Project portion of the project.

For purpose of determining whether Department of Water Resources' (DWR) proposed project to construct facilities for conveying water in Sacramento-San Joaquin Delta was a "modification" of the Feather River Project authorized by the Central Valley Project (CVP) Act that DWR could issues bonds for, although water conservation and redistribution were a primary objective of the Feather River Project, the project additionally was designed with the secondary objective of preserving and increasing water flows through the Sacramento-San Joaquin Delta to control salinity, protect fish and wildlife, and firm the supply of surplus water available for export.

Department of Water Resources' (DWR) proposed project to construct facilities for conveying water in Sacramento-San Joaquin Delta did not constitute a "modification" of the Feather River Project authorized by the Central Valley Project (CVP) Act for which DWR could issue bonds; Delta program was defined broadly and generically, affording DWR nearly unlimited discretion to specify the facilities for which bonds would be issued, with nothing to restrict the use of water, its direction, or its purpose and no way to determine whether future Delta program facilities would be consistent with the features, scope, and purpose of Feather River Project.

FEDERAL PREEMPTION - IOWA

Iowa Northern Railway Company v. Floyd County Board of Supervisors

Supreme Court of Iowa - December 19, 2025 - N.W.3d - 2025 WL 3682851

Short-line railroad filed petition for writ of mandamus prohibiting drainage district from requiring it to install steel pipe culvert through embankment supporting one of its rail lines.

Following bench trial, the District Court granted petition, and district appealed. The Court of Appeals affirmed. District's application for further review was granted.

The Supreme Court held that district's project was not preempted by Interstate Commerce Commission Termination Act (ICCTA).

Drainage district's project to install steel pipe culvert through embankment supporting rail line presented only incidental effects on rail transportation, and thus was not preempted by Interstate Commerce Commission Termination Act (ICCTA), despite railroad's contention that allowing any trains to operate over site during jack-and-bore construction would be inherently unsafe; trenchless-construction expert testified about his company's many thousands of projects using jack-and-bore method without incident, and explained that sole instance of botched installment identified by railroad was caused by construction contractor's "total incompetence," and railroad's decision not to permit any of its trains to use railway during construction was voluntary.

DEVELOPMENT AGREEMENTS - MARYLAND

Howard Research & Development Corporation v. IMH Columbia, LLC

Appellate Court of Maryland - December 19, 2025 - A.3d - 2025 WL 3687588

Redeveloper of hotel property in planned city, which had purchased the property with the intention of renovating the hotel, replacing short-term rental lodges with a mixed-use development, and constructing underground, on-site parking, brought action against city development entity which was entrusted with enforcing covenants in the planned city after the development entity, which previously had approved the hotel renovation, rejected redeveloper's residential use change and on-side parking plans, seeking declaratory relief and asserting claims for detrimental reliance and breach of the covenants.

After the court made preliminary rulings interpreting certain aspects of the covenants as a matter of law, the case was tried to a jury, and the Circuit Court entered judgment on jury verdict for redeveloper and awarded nearly $17 million in damages, and denied development entity's motions for judgment notwithstanding the verdict (JNOV) and for remittitur. Development entity appealed.

The Appellate Court held that:

- Proposal did not trigger development entity's right under parking covenant to consent to development requiring additional parking;
- Award of return of investment damages did not constitute a double recovery;
- Expert testimony was sufficiently reliable to support use of 12% return on investment figure; and
- Expert testimony was sufficiently reliable to support award of increased interest damages.

MUNICIPAL GOVERNANCE - MINNESOTA

Walsh v. City of Orono

Supreme Court of Minnesota - December 31, 2025 - N.W.3d - 2025 WL 3769516

Mayor who appointed city council member to fill vacancy on city council filed petition to quash special election for that council seat.

The District Court denied the petition. Mayor filed petition for accelerated review, which was granted. The Supreme Court subsequently issued an order affirming the district court, with opinion to follow.

The Supreme Court held that:

- Claims were properly brought in petition to quash;
- Special election was not limited to vacancies arising after the passing of the ordinance;
- Council member's resignation from city council resulted in a "vacancy" such that council could call for special election to fill that seat, even though mayor had appointed someone to take that seat on the council; and
- As a matter of first impression, special election was not a "removal" of council member appointed by mayor to fill the vacancy, and thus did not implicate the state constitution.

CONSTITUTIONAL LAW - MISSOURI

Henderson v. Springfield R-12 School District

United States Court of Appeals, Eighth Circuit - December 30, 2025 - F.4th - 2025 WL 3762347

Two school district employees brought § 1983 action against school district, school superintendent, and other staff, alleging that while attending a mandatory district-wide equity training program for staff, the school district engaged in viewpoint discrimination, caused attendees to self-censor, and/or forced attendees to accept beliefs with which they did not agree, in violation of their First Amendment rights.

The United States District Court for the Western District of Missouri denied employees' motion for summary judgment and granted summary judgment to defendants, and subsequently granted defendants' motion for attorney fees. Employees appealed. A panel of the Court of Appeals affirmed the grant of summary judgment to school district but reversed the award of attorney fees. The Court of Appeals granted rehearing en banc and vacated the panel opinion.

On rehearing en banc, the Court of Appeals held that:

- Consequences identified by school district for not agreeing with its views during training gave rise to injury in fact required for Article III standing to bring chilled speech claim;
- Employees suffered injury in fact from being deprived of their First Amendment right to be free from compelled speech, as required to have Article III standing;\Genuine dispute of fact existed as to whether school district's alleged compelled speech was pursuant to employees' official duties; and
- Employees' claims did not present frivolous or groundless issues of Article III standing, and thus, district court improperly awarded school district attorney fees.

EMINENT DOMAIN - NORTH CAROLINA

Mata v. North Carolina Department of Transportation

Supreme Court of North Carolina - December 12, 2025 - S.E.2d - 2025 WL 3560052

Property owners brought inverse condemnation proceeding against Department of Transportation (DOT) arising from restrictions imposed on property pursuant to Transportation Corridor Official Map Act (Map Act) for projected corridor route, and DOT filed complaint for direct condemnation of portion of property for corridor project.

Following hearing, the Superior Court entered judgment as to appropriate measure of just compensation and ordered jury trial on just compensation. DOT appealed. The Court of Appeals affirmed in part, reversed in part, and remanded. DOT's petition for discretionary review was allowed.

The Supreme Court held that:

- Restriction pursuant to Map Act was indefinite, rather than temporary, taking at time property was placed on recording map;
- Indefinite restraint on fundamental property rights pursuant to Map Act was squarely outside scope of valid exercise of regulations imposed under police power;
- Recording of corridor map pursuant to Map Act effectuated indefinite taking of property owners' fundamental rights to improve, develop, and subdivide 9.93 acres of their property on date of recording;
- Appropriate measure of damages for indefinite taking of property owners' fundamental rights to improve, develop, and subdivide their real property pursuant to Map Act was fair market value of that property immediately before and after taking plus requisite award of interest and any effect of reduced ad valorem taxes; and
- Reduced tax burden on property owners for subject property from time of recording of corridor map to legislative rescission of all Map Act corridors nearly 20 years later was pertinent factor affecting fair market value of the property immediately after the map recording.

MUNICIPAL GOVERNANCE - ARKANSAS

Hedrick v. City of Holiday Island

Supreme Court of Arkansas - December 4, 2025 - 2025 Ark. 194 - 723 S.W.3d 635

Provider of supplemental waste-disposal services and its owner brought action against city, challenging ordinance barring all providers other than city's chosen contractor from offering solid-waste-removal services.

The Circuit Court granted city's motion to dismiss for failure to state a claim. Provider and owner appealed.

The Supreme Court held that city lacked authority to bar all providers of solid-waste-removal services other than its chosen contractor.

Arkansas Solid Waste Management Act did not confer on city the authority to bar all providers of solid-waste-removal services other than its chosen contractor from offering such services in city, notwithstanding that the Act required city to provide a solid waste management system that

provided for "the collection and disposal of all solid wastes generated or existing" within city limits, and authorized city to "enter into agreements with one" or more entities "to provide a solid waste management system"; the ability to contract with a single entity was significantly different from the power to bar all others from offering a service, and the reference to "all solid wastes" merely required the city to ensure a trash collection, which the existence of supplemental providers did not prevent.

Even though the "solid waste management system" that city was required to provide was defined by statute to encompass "the entire process" of disposing of trash, the comprehensiveness of such definition did not authorize city to bar all providers of solid-waste-removal services other than its chosen contractor from offering such services in city; it was undisputed that the Arkansas Solid Waste Management Act authorized city to contract with an entity or entities capable of providing an entire disposal system, but such authorization did not include the power to bar other entities from providing supplemental waste disposal services.

REVENUE BONDS - KANSAS

UMB Bank, N.A. v. Monson, et al.

United States District Court, D. Kansas - December 2, 2025 - Slip Copy - 2025 WL 3458562

"This lengthy and complex case arises out of the failure of an estimated $80 million development project to build a Hard Rock Hotel and adjacent events center (the "Project") in the City of Edwardsville, Kansas (the "City")."

Numerous contracts detail the numerous parties' obligations to complete the Project, including the Development Agreement (the "DA"). The DA sets forth various terms for the City to issue certain revenue bonds to finance the Project. One term requires that One10 HRKC (the "Developer") obtain a private construction loan before the City issues the bonds.

After Developer represented that it had secured a $50 million construction loan, the City issued several bonds: $10,655,000 in special obligation transient guest tax revenue bonds ("TGT Bond"); $11,005,000 in special obligation tax increment revenue bonds ("TIF Bond"), and a combined $1,620,000 in two series of community improvement district revenue bonds ("CID Bond") (collectively the "Bonds"). The City issued the Bonds under three trust indentures.

Immediately after the Bonds were issued via the Indentures, Developer successfully submitted Cost Certifications for approval and obtained reimbursement. But on March 6, 2020, the lender for the $50 million construction loan formally informed Developer in writing that it was unable to advance any of the funds on the loan.

On March 17, 2020, a voluntary notice was issued on behalf of the City to the public that Developer was seeking alternative financing, which was confirmed by Developer in an April 1, 2020, call between Successor Trustee UMB Bank (UMB), Developer, and the City. Developer never secured alternative financing.

Regardless, Developer submitted Cost Certification 3 on April 28, 2020, for reimbursement of $829,247.32 total expenses, which the City approved and sent to UMB. But UMB refused to distribute funds arguing that, without a construction loan in place, Developer was in default and could not truthfully certify the requirements were met for distribution of funds under the DA.

Subsequently, UMB issued a written Notice of Default under the DA and made certain demands of

Developer. On June 19, 2020, UMB advised Developer that a majority of the Indentures' bondholders directed UMB to declare principal and interest be immediately due and payable.

UMB initiated this suit on November 1, 2021, against multiple Defendants, including Developer. Developer filed a Counterclaim against UMB on April 11, 2023, alleging several claims based, in part, on UMB's refusal to distribute funds under Cost Certification.

UMB then brought this Motion for Partial Summary Judgment, seeking summary judgment in its favor on certain Counts of the Counterclaim brought by Developer.

The District Court:

- Granted summary judgment for UMB on Developer's claim of Tortious Interference of Contract;
- Granted summary judgment on certain counts for issue preclusion, finding that those counts were barred by a Minnesota judgment against Developer concerning Cost Certification;
- Held UMB had not met its burden to establish a breach of the Guaranty Agreement by Guarantor as a matter of law, nor had it established that it was entitled to declaratory judgment in its favor on the matter; and
- Held that Guarantors had not waived their ability to assert their claims for breach of the duty of good faith in the Guaranty Agreement, nor their affirmative defenses to UMB's Guaranty claim;

IMMUNITY - MARYLAND

Mayor & City Council of Baltimore v. Varghese

Supreme Court of Maryland - December 23, 2025 - A.3d - 2025 WL 3715481

Bicyclist who was injured when he crashed into steel cable stretched between two bollards on city-owned pier brought negligence and premises liability action against mayor and city council.

Following jury verdict in favor of bicyclist finding city liable and awarding damages, the Circuit Court denied city defendants' motion for judgment notwithstanding verdict alleging governmental immunity. City appealed. The Appellate Court affirmed. City appealed.

The Supreme Court held that:

- City's discretionary decisions regarding design and placement of steel cable were governmental acts for which city had governmental immunity;
- Allegedly hazardous nature of steel cable was not so obviously dangerous as to deprive city of governmental immunity; and
- Negligence claim was fundamentally premised on city's design choice rather than city's alleged duty to respond to known hazard on paved public way.

EMINENT DOMAIN - MICHIGAN

HRT Enterprises v. City of Detroit, Michigan

United States Court of Appeals, Sixth Circuit - December 22, 2025 - F.4th - 2025 WL

3706790

Owner of property within airport's "visibility zone" brought de facto takings action against city under § 1983, alleging it was deprived of all economically viable use of property.

After the United States District Court for the Eastern District of Michigan granted partial summary judgment in favor of property owner on issue of liability, jury awarded $4.25 million to property owner. The District Court granted city's motion for remittitur, which city rejected, and new trial was ordered. The District Court denied city's motion to dismiss for lack of subject matter jurisdiction. Following second trial, jury awarded property owner $1,976,820 in just compensation. City appealed and property owner cross-appealed.

The Court of Appeals held that:

- City had taken sufficiently definitive position that it would not condemn property, and thus owner's claim was ripe for adjudication;
- Owner's federal action was not barred by claim or issue preclusion;
- City's activities with regard to its redevelopment of airport amounted to a de facto taking of owner's property; and
- Facts adduced at trial did not support jury's $4.25 million judgment, and thus district court did not abuse its discretion in ordering remittitur of damages to $2 million.

EMINENT DOMAIN - NORTH CAROLINA

Sanders v. North Carolina Department of Transportation

Supreme Court of North Carolina - December 12, 2025 - S.E.2d - 2025 WL 3558992

Landowner brought inverse condemnation action against North Carolina Department of Transportation (NCDOT), seeking compensation for restrictions placed on landowner's property by NCDOT's recording of corridor maps pursuant to Roadway Corridor Official Map Act.

NCDOT moved to dismiss for failure to state a claim, and landowner moved for hearing under condemnation statute governing determination of issues other than damages.

The Superior Court granted NCDOT's motion to dismiss as to constitutional takings claims but allowed landowner to proceed with statutory claims related to portions of property that remained subject to Map Act restrictions after NCDOT took other portions of property in fee simple through prior direct condemnation actions.

NCDOT appealed and landowner cross-appealed. The Court of Appeals affirmed. Parties both petitioned for discretionary review, and petitions were allowed.

The Supreme Court held that landowner's failure to raise Map Act restrictions in prior direct condemnation action concerning other portions of tract precluded inverse condemnation claim.

BANKRUPTCY - PUERTO RICO

In re Financial Oversight and Management Board for Puerto Rico

United States District Court, D. Puerto Rico - December 19, 2025 - F.Supp.3d - 2025 WL 3687919

Private energy company brought adversary proceeding against debtor Puerto Rico Electric Power Authority (PREPA) and non-debtor Puerto Rico Public-Private Partnerships Authority (P3A), claiming breach of contract for failure to participate in mediation of alleged technical disputes and seeking declaratory judgment regarding proper dispute resolution process, under Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement (T&D OMA), which allowed company to assume operation and management of T&D system, PREPA to retain ownership of same, and P3A to serve as administrator, pursuant to Puerto Rico Electric Power System Transformation Act, enacted after Financial Oversight and Management Board for Puerto Rico (Oversight Board) voluntarily petitioned for bankruptcy relief on behalf of PREPA, pursuant to Title III of Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA).

Company moved for provisional relief to enjoin PREPA and P3A from initiating contractual dispute resolution procedures in T&D OMA until resolution of threshold dispute and to compel them to mediate threshold dispute, and P3A moved for dismissal for lack of subject matter jurisdiction or, alternatively, for abstention.

The District Court held that:

- Oversight Board had authority to represent PREPA in adversary proceeding;
- Subject matter jurisdiction could be exercised pursuant to PROMESA; but
- Abstention from adjudicating adversary proceeding was appropriate.

Financial Oversight and Management Board for Puerto Rico, rather than Puerto Rico Public-Private Partnerships Authority (P3A), was authorized to litigate on behalf of debtor Puerto Rico Electric Power Authority (PREPA), in adversary proceeding brought by private energy company, pursuant to Title III of Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA), providing that in Title III case Board was representative of debtor PREPA, even though Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement (T&D OMA) authorized Board to bind PREPA in connection with any matter contemplated under supplement to T&D OMA, since Board did not contractually cede its statutory authority to act as PREPA's sole representative in litigation concerning company.

Adversary proceeding brought by private energy company against debtor Puerto Rico Electric Power Authority (PREPA) and Puerto Rico Public-Private Partnerships Authority (P3A), claiming breach of contract for failure to mediate disputes pursuant to Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement (T&D OMA), was not "arising under" Title III, within meaning of Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA), providing that district courts had original but not exclusive jurisdiction of all civil proceedings arising under Title III, or arising in or related to cases under Title III, since company's cause of action arose solely in connection with T&D OMA and its interpretation under Commonwealth law and was not created by Title III.

Adversary proceeding brought by private energy company against debtor Puerto Rico Electric Power Authority (PREPA) and Puerto Rico Public-Private Partnerships Authority (P3A), claiming breach of contract for failure to mediate disputes pursuant to Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement (T&D OMA), was not "arising in" Title III case, within meaning of Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA), providing that district courts had original but not exclusive jurisdiction of all civil proceedings arising under Title III, or arising in or related to cases under Title III, since underlying disputes could exist outside of bankruptcy as they were merely matters of contract interpretation and Commonwealth law.

Adversary proceeding brought by private energy company against debtor Puerto Rico Electric Power Authority (PREPA) and Puerto Rico Public-Private Partnerships Authority (P3A), claiming breach of contract for not mediating disputes under Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement (T&D OMA), was "related to" Title III case, within meaning of Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA), providing that district courts had original but not exclusive jurisdiction of all civil proceedings arising under Title III, or arising in or related to cases under Title III, since resolution of proceeding would touch on PREPA's contractual rights under T&D OMA, which was PREPA's property and could affect administration of its Title III estate.

Factors favored abstaining from adjudicating adversary proceeding brought by private energy company against debtor Puerto Rico Electric Power Authority (PREPA) and Puerto Rico Public-Private Partnerships Authority (P3A), claiming breach of contract for failure to mediate disputes pursuant to Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement (T&D OMA), that was related to Title III case, under Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA), although there was no related proceeding pending in state court, since proceeding was not likely materially affect administration of PREPA's Title III estate, state law issues predominated, company could be forum shopping, and abstention would avoid unnecessary burden on district court's docket.

EMINENT DOMAIN - TEXAS

Ablan v. United States

United States Court of Appeals, Federal Circuit - December 22, 2025 - F.4th - 2025 WL 3703921

Owners of property upstream of dams brought action against the United States, alleging Army Corps of Engineers' operation of dams during hurricane constituted an uncompensated physical taking of their property.

Following bench trial, the Court of Federal Claims found the government liable for taking permanent flowage easements across owners' properties, denied class certification and awarded damages totaling $454,535.03 on six bellwether properties, 162 Fed.Cl. 495. Government and owners cross-appealed.

The Court of Appeals held that:

- Permanent intermittent flooding of upstream properties due to Corps' operation of dams constituted a per se physical taking of permanent flowage easements in properties;
- As matter of apparent first impression, post-trial class certification for optional classes is not presumptively permitted;
- Award of compensation for structures and personal property damaged during flooding was warranted;
- Damages were properly awarded to lessee for government's taking of his leasehold advantage;
- Property owner was not entitled to compensation for lost rent and utility payments arising out of flooding;
- Property owners were not entitled to recover costs for amounts they spent renting alternative housing while their properties were inaccessible due to flooding; and
- Offset of property owners' compensation awards by amount they received from Federal Emergency Management Agency (FEMA) for emergency relief after their properties were flooded was

appropriate.

CIVIL RIGHTS - VIRGINIA

Platt v. Mansfield

United States Court of Appeals, Fourth Circuit - December 22, 2025 - F.4th - 2025 WL 3703412

Plaintiffs, who were interrupted at a county school board public meeting pursuant to a school board policy which prohibited speakers from targeting, criticizing, or attacking individual students during public-comment periods of its public meetings, brought § 1983 action against school board and its chairwoman, contending that, as applied to them, the policy discriminated against particular viewpoint they sought to express, and that the policy was unconstitutionally vague.

The United States District Court denied plaintiffs a preliminary injunction. Plaintiffs appealed.

The Court of Appeals held that:

- District court did not abuse its discretion in implicitly rejecting plaintiffs' argument that reliance on challenged policy was post-hoc rationalization to hide discriminatory motives;
- Plaintiffs did not show a sufficient likelihood of success on the merits of their viewpoint-discrimination claim to support a preliminary injunction; and
- Plaintiffs did not show a sufficient likelihood of success on the merits of their void-for-vagueness claim to support a preliminary injunction.

District court did not abuse its discretion in implicitly rejecting plaintiffs' argument that reliance on challenged policy was post-hoc rationalization to hide discriminatory motives, when denying plaintiffs a preliminary injunction, in plaintiffs' § 1983 action against county school board and its chairwoman, bringing viewpoint-discrimination and void-for-vagueness claims challenging school board policy that chairwoman used to interrupt them at a school board public meeting; while it would have been clearer if chairwoman had directly cited the policy when interrupting plaintiffs, she invoked the policy and quoted relevant language before public-comment period began, providing necessary context for her interruption of plaintiffs' negative comments about an individual student.

Plaintiffs bringing § 1983 action against county school board and its chairwoman, challenging school board policy that chairwoman used to interrupt them at a school board public meeting, did not show a sufficient likelihood of success on the merits of their viewpoint-discrimination claim to support a preliminary injunction; the policy prohibited speakers from targeting, criticizing, or attacking individual students, comparators plaintiffs cited were irrelevant since they at most merely mentioned a student without targeting, criticizing, or attacking the student, cited comparators demonstrated that school board had been consistent in its application of the policy, and plaintiffs were allowed to raise their concerns so long as they did not target, criticize, or attack an individual student.

Plaintiffs bringing § 1983 action against county school board and its chairwoman, challenging school board policy that chairwoman used to interrupt them at a school board public meeting, did not show a sufficient likelihood of success on the merits of their void-for-vagueness claim to support a preliminary injunction; the policy prohibited "comments that target, criticize, or attack individual students," each challenged term had a common, readily understandable meaning, and terms were not too subjective to survive constitutional scrutiny.

BOND ISSUANCE - CALIFORNIA

City of San José v. Howard Jarvis Taxpayers Association

Supreme Court of California - December 18, 2025 - P.3d - 2025 WL 3674317

Municipality filed complaint for validation of issuance of pension obligation bonds and related agreements that were aimed to address unfunded liabilities in municipality's retirement plans.

Taxpayer advocacy groups filed answer to complaint for validation, alleging that municipality lacked authority to issue bonds and seeking declaratory judgment that resolution approving bonds and proposed issuance of bonds were invalid.

The Superior Court entered judgment validating resolution, issuance and sale of bonds, and related agreements. Advocacy groups appealed. The Court of Appeals affirmed. Review was granted.

The Supreme Court, Evan held that municipality's unfunded actuarial liability for employee pension plans represented obligation imposed by law, and therefore local debt limitation in California Constitution did not constrain municipality's discretion in how to address that obligation.

Local debt limitation in California Constitution, which prohibits cities and counties from incurring any indebtedness or liability that exceeds their income and revenue for that year, unless the indebtedness or liability has first been approved by two-thirds of the voters, does not apply to indebtedness or liability local government may incur to fulfill obligation imposed by law.

Under local debt limitation in California Constitution, which prohibits cities and counties from incurring any indebtedness or liability that exceeds their income and revenue for that year, unless the indebtedness or liability has first been approved by two-thirds of the voters, each year's income and revenue must pay each year's indebtedness and liability, and no indebtedness or liability incurred in any one year shall be paid out of the income or revenue of any future year.

Obligation imposed by law upon city or county is not indebtedness or liability within meaning of debt limitation provision in California Constitution, which prohibits cities and counties from incurring any indebtedness or liability that exceeds their income and revenue for that year; rather, local debt limitation is confined to those forms of indebtedness and liability which may have been created by voluntary action of officials in charge of affairs of such city.

Municipality's unfunded actuarial liability for employee pension plans represented obligation imposed by law, and therefore local debt limitation in California Constitution, which prohibits cities and counties from incurring any indebtedness or liability that exceeds their income and revenue for that year, did not constrain municipality's discretion in how to address that obligation; whether to amortize unfunded actuarial liability over period of years, pay it as lump sum, attempt to pay it out of current revenues at time pension benefits had to be paid, or some combination of those, was not affected by local debt limitation provision.

PUBLIC EMPLOYMENT - CALIFORNIA

Romero v. County of Kern

Court of Appeal, Fifth District, California - December 15, 2025 - Cal.Rptr.3d - 2025 WL 3633032

Former firefighter for county fire department brought action against county, alleging his employment was terminated in retaliation for his whistleblower activities in violation of the Labor Code.

Following a hearing, the Superior Court granted county's motion for judgment on the pleadings without leave to amend on the ground firefighter failed to exhaust administrative remedies provided under county's internal rules. Firefighter appealed.

The Court of Appeal held that firefighter was not required to exhaust his administrative remedies since county's internal procedures did not provide clearly defined procedures for submitting, evaluating, or resolving a whistleblower retaliation complaint.

Former firefighter for county fire department was not required to exhaust his administrative remedies under the county's internal rules before bringing a whistleblower retaliation action against county, where county's rules provided procedures for an employee to challenge his or her dismissal from county employment, but did not incorporate clearly defined procedures for submitting, evaluating, and resolving firefighter's whistleblower retaliation complaint, and the county civil service commission was only required to decide whether the employee committed the alleged misconduct and whether the termination order should be affirmed, revoked, or modified, and was not required to accept, evaluate, or resolve a whistleblower retaliation claim.

BOND VALIDATION - FLORIDA

State Attorneys for Second, Seventh and Ninth Judicial Circuits v. Florida Pace Funding Agency

Supreme Court of Florida - December 18, 2025 - So.3d - 2025 WL 3677266

Agency brought bond validation action seeking judgment validating issuance of $5 billion in revenue bonds to fund qualifying improvements under Property Assessed Clean Energy Act (PACE).

The Circuit Court validated the bonds. No party appealed within prescribed time. Over one year later, governmental entities including state attorneys, counties, and tax collectors filed motions for relief from judgment. The circuit court denied the motions, finding that rule governing motions for relief from judgment did not apply to the bond validation judgment and motions were untimely and insufficient. Governmental entities appealed.

The Supreme Court held that:

- Supreme Court of Florida had jurisdiction to consider appeal in special statutory proceeding for validating bonds from denial of motion for relief from judgment as final judgment;
- Supreme Court was authorized by statute to review of order denying motion for relief from judgment that was entered in bond validation action, albeit post-judgment;
- Deference to statutory scheme was required;
- Bond validation judgments not challenged after time for appeal expired could not be collaterally attacked, unless statute's limited exception applied; and
- Separation-of-powers concerns were not implicated.

Supreme Court of Florida had jurisdiction to consider appeal in special statutory proceeding for validating bonds from denial of motion for relief from judgment as final judgment.

Statutory language stating, "[a]ny party to the action whether plaintiff, defendant, intervenor or

otherwise, dissatisfied with the final judgment, may appeal to the Supreme Court," authorized Supreme Court review of order denying motion for relief from judgment that was entered in bond validation action, albeit post-judgment.

In special statutory proceeding for validating bonds, court had defer to statutory scheme, since rule governing relief from judgment did not specifically provide to the contrary.

Bond validation judgments not challenged after time for appeal expired could not be collaterally attacked, unless statute's limited exception applied.

Special statutory proceeding for validating bonds and rule providing relief from judgment were not in conflict, and therefore separation-of-powers concerns were not implicated by denial of motion for relief from judgment in special statutory proceeding for validating bonds, even if issue presented were purely procedural.

BALLOT INITIATIVE - MONTANA

Montanans for Fair and Impartial Judges v. Knudsen

Supreme Court of Montana - December 11, 2025 - P.3d - 2025 WL 3548732 - 2025 MT 285

Petitioners, which included proponent that had submitted proposed ballot initiative that would amend the state constitution to require court elections to be nonpartisan, sought declaratory judgment on original jurisdiction, seeking declaration that Attorney General lacked authority to rewrite proposed statement of purpose and implication for ballot initiative and that the Attorney General's revised statement was misleading and prejudicial, and sought certification of their proposed ballot statement.

The Supreme Court held that:

- Petitioner interest group, which was not the actual proponent of the ballot initiative, was not a proper party to the challenge;
- Petitioner did not waive petitioner's right to challenge the statement by purported acceptance of the revised statement;
- Attorney General's legal sufficiency memorandum failed to make a written determination as to why proposed statement did not comply with statutory requirements, and thus the Attorney General lacked statutory authority to revise the statement; and
- Petitioner's proposed statement complied with statutory requirements, and thus the Supreme Court would certify the statement to the Secretary of State.

ASSESSMENTS - NORTH DAKOTA

Fairville Township v. Wells County Water Resource District

Supreme Court of North Dakota - December 18, 2025 - N.W.3d - 2025 WL 3672852 - 2025 ND 209

Township appealed decision by county water resource district that assessed costs against township

for removing drain obstructions and reinstalling culvert crossings.

The District Court reversed district's assessment orders. District appealed.

The Supreme Court held that district's assessment orders were not authorized under statute providing water resource board with authority to remove negligent drain obstructions and assess costs to responsible landowners.

County water resource district's orders assessing costs against township for removing drain obstructions and reinstalling culvert crossings were not authorized under statute providing water resource board with authority to remove negligent drain obstructions and assess costs to responsible landowners, and thus district acted arbitrarily, capriciously, or unreasonably in issuing orders that did not comply with statute; district made no finding that township was a "landowner" as used in the statute, did not find, and had not pointed to any evidence indicating that township owned property surrounding crossings, or owned land that accrued benefit from drain, and orders did not assess district's costs against township's property, rather, orders directed county to assess costs against township.

PUBLIC RECORDS - OHIO

State ex rel. Castellon v. Swallow

Supreme Court of Ohio - December 17, 2025 - N.E.3d - 2025 WL 3647943 - 2025-Ohio-5576

Records requester filed mandamus action against police department and city chief assistant law director that sought to compel production of records related to a criminal case against him under the Public Records Act, plus statutory damages, attorney fees, and court costs.

Respondents filed a motion to refer the case to mediation, which the Supreme Court granted, however the case was later returned to the regular docket.

Records requester filed a motion for leave to amend his complaint.

The Supreme Court held that:

- Requester was not entitled to leave to file amended mandamus complaint to add a claim alleging police department improperly destroyed body-camera footage;
- Requester was not entitled to leave to file amended mandamus complaint to assert a new mandamus claim;
- Requester abandoned his mandamus claim seeking to compel department and law director to produce a requested buccal swab;
- Requester's mandamus complaint seeking a DVD of a video interview, a recording of a phone interview, and department's records-retention schedule were rendered moot;
- Requester was entitled to an award of $2,000 in statutory damages; and
- Requester was not entitled to an award of attorney fees or court costs.

LIABILITY - VIRGINIA

Allegheny Construction Company, Inc. v. Town of Christiansburg

Court of Appeals of Virginia, Christiansburg - December 16, 2025 - S.E.2d - 2025 WL

3637091

Contractor on town's roadway construction project brought action against town's design consultant, its inspection consultant, consultants' employees, and town's project manager, alleging tortious interference with contract between contractor and town and conspiracy to deprive contractor of additional compensation for project.

The Circuit Court overruled consultants' demurrers but dismissed claims against individual employees. Consultants and contractor filed interlocutory appeals.

The Court of Appeals held that:

- Inspection consultant was acting within the scope of its contractual duties as town's agent, precluding claim for intentional interference with contractor's contract with town;
- Design consultant was acting within the scope of its contractual duties as town's agent, precluding claim for intentional interference with contractor's contract with town;
- Alleged actions of town's construction project manager constituted advice provided in administering construction project as town's agent, and thus could not support contractor's claim for intentional interference with its contract with town;
- Alleged actions of employee of design consultant constituted consulting advice provided to town for administration of project as town's agent and under terms of consultant's contract with town, and thus could not support contractor's claim against for intentional interference with its contract with town;
- Alleged actions of employee of inspection consultant constituted consulting advice provided to town for administration of project as town's agent and under terms of consultant's contract with town, and thus could not support contractor's claim for intentional interference with its contract with town;
- Town, project manager, and consultants constituted a single legal actor, precluding contractor's common law conspiracy and statutory business conspiracy claims against them; and
- Alleged actions of project manager and consultants' employees could not support contractor's common law conspiracy or statutory business conspiracy claims.

PUBLIC UTILITIES - PENNSYLVANIA

Lawrence v. Pennsylvania Public Utility Commission

Supreme Court of Pennsylvania - December 16, 2025 - A.3d - 2025 WL 3636575

Pennsylvania's Consumer Advocate petitioned for review of order of the Public Utility Commission (PUC), No. A-2021-3026132, which approved public utility's application to acquire township's wastewater system assets, to offer, render, furnish, and supply wastewater service to the public in the areas served by township's system, and to establish a ratemaking rate base of the system's assets, and which granted utility a certificate of public convenience (CPC).

Township and utility intervened. The Commonwealth Court reversed commission's decision. Separate petitions for allowance of appeal by utility, municipality, and commission were granted.

The Supreme Court held that:

- Commission could consider benefits deriving from acquiring utility's size and technical, managerial, and financial fitness in its affirmative benefits analysis;
- Court's disagreement with determination by Commission that acquiring utility's services

constituted benefits was reweighing of evidence;
- Commission's policy on regionalization and consolidation was type of "aspirational statement" that could be considered benefit of transaction;
- Whether court would have come to different conclusion regarding value of benefits and whether record included evidence that would support court's conclusion that acquiring utility failed to satisfy affirmative public benefits test was not relevant to whether there was substantial evidence in record to support findings by Commission;
- Potential rate increase that would result from transaction could not be categorized by court as "known harm"; and
- Commission considered transaction's impact on future rates "at least in a general fashion" and probable general effect of transaction upon rates.

POLITICAL SUBDIVISIONS - WASHINGTON

Horvath v. DBIA Services

Supreme Court of Washington, En Banc - December 18, 2025 - P.3d - 2025 WL 3674349

Public records requestor filed complaint against private nonprofit corporation that provided services within city's business improvement district, alleging corporation failed to comply with the Public Records Act.

The Superior Court denied requestor's motion for summary judgment and granted corporation's motion for summary judgment and for declaratory judgment, concluding that corporation was not the functional equivalent of governmental entity subject to the Act. On appeal, the Court of Appeals affirmed. Requestor appealed.

The Supreme Court held that:

- Factor considering whether entity performed government function weighed in favor of finding that corporation was functional equivalent of government agency subject to the Public Records Act;
- Factor considering extent to which government funded entity's activities weighed heavily in favor of finding that corporation was functional equivalent of government agency subject to the Public Records Act;
- Factor considering extent of government involvement in entity's activities weighed against finding that corporation was functional equivalent of government agency subject to the Public Records Act;
- Factor considering whether entity was created by government weighed against finding that corporation was functional equivalent of government agency subject to the Public Records Act; but
- Factor considering district and corporation as single integrated entity weighed in favor of finding that corporation's records were public records subject to the Public Records Act.

SURPLUS LAND ACT - CALIFORNIA

Airport Business Center v. City of Santa Rosa

Court of Appeal, First District, California - November 26, 2025 - 2025 WL 3295545

Property owner filed petition for writ of mandate against city and city council, challenging city's resolution declaring city-owned parking garage to be surplus land under the Surplus Land Act.

The Superior Court denied the petition. Owner appealed.

The Court of Appeal held that:

- As matter of first impression, determination that city-owned asset constitutes surplus land under the Surplus Land Act does not require agency to find that land is of no use to public;
- Substantial evidence supported city's determination that land constituted surplus land within meaning of the Act; and
- City's resolution declaring property to be surplus land satisfied Act's requirements that land would be declared surplus land "as supported by written findings."

POLITICAL SUBDIVISIONS - CALIFORNIA

Black v. Los Angeles County Metropolitan Transportation Authority

Court of Appeal, Second District, Division 1, California - December 2, 2025 - Cal.Rptr.3d - 2025 WL 3457353

Former employee brought action against county transportation authority and nonprofit public benefit corporation created to provide retirement benefits to county transportation workers for wrongful termination in violation of public policy and violation of labor code statute barring solicitation of employees by misrepresentation.

The Superior Court sustained demurrer in favor of defendants without leave to amend. Employee appealed.

The Court of Appeal held that:

- Corporation was a "public entity" subject to Government Claims Act's (GCA) claims presentation requirement;
- Corporation's relationship with transportation authority did not excuse corporation from statutory requirement to register on the Registry of Public Agencies; and
- Employee was entitled to amend complaint to include allegation that corporation had not satisfied its statutory obligation to register with the county clerk in each county in which it maintained an office.

COURTS - OHIO

State ex rel. Conomy v. Rohrer

Supreme Court of Ohio - December 2, 2025 - N.E.3d - 2025 WL 3454165 - 2025-Ohio-5296

Relator filed petition requesting writs of mandamus and procedendo against municipal court judge, city prosecutor, city attorney, and city, seeking orders requiring respondents to take certain actions concerning two dismissed criminal cases against relator.

The Fifth District Court of Appeals, upon respondents' motion for judgment on the pleadings, dismissed petition. Relator appealed.

The Supreme Court held that:

- No conflict of interest existed with respect to counsel for respondents;

- Referral to special master was unwarranted;
- Respondents would not be ordered to show cause why they should not be held in contempt;
- Adequate remedy in ordinary course of law precluded mandamus relief against judge;
- Relator was not entitled to writ of procedendo directing judge to rule on relator's motion in criminal action;
- Adequate remedy in ordinary course of law precluded mandamus relief against city; and
- Relator was not entitled to damages.

OPEN MEETINGS - WASHINGTON

In re Recall of Olsen

Supreme Court of Washington, En Banc - December 4, 2025 - P.3d - 2025 WL 3481900

Registered voter filed recall petition against county commissioner, alleging two charges of violations of the Open Public Meetings Act (OPMA).

The Superior Court found both charges were factually and legally sufficient. Commissioner appealed.

The Supreme Court held that:

- Allegations that legal counsel was absent during certain executive sessions meeting were legally and factually insufficient to support charge that commissioner violated the OPMA by failing to have legal counsel present;
- Allegations that legal counsel was not in attendance during entirety of certain executive sessions meeting were legally and factually insufficient to support charge that commissioner violated the OPMA by failing to have legal counsel present;
- Allegations based on conduct during certain executive sessions meetings in which commissioners discussed "litigation or potential litigation" were legally and factually insufficient to support charge that commissioner violated the OPMA by failing to have legal counsel present;
- Allegations that commissioner violated the OPMA by undermining "public deliberation and transparency" and engaging in discussions about jail "outside the public's view," were factually insufficient to support charge for violation of the OPMA; and
- Allegations that commissioner violated the OPMA by undermining "public deliberation and transparency" and engaging in discussions about jail "outside the public's view," were legally insufficient to support charge for violation of the OPMA.

ZONING & PLANNING - ALASKA

Griswold v. City of Homer

Supreme Court of Alaska - November 28, 2025 - P.3d - 2025 WL 3310228

City resident filed complaint against city for declaratory and injunctive relief, alleging city failed to comply with procedural rules and statutory notice requirements when enacting ordinance that removed certain permitting requirements.

The Superior Court granted city's motion for summary judgment and motion for prevailing-party attorney fees, and denied resident's motion for summary judgment and motion for in camera review. Resident appealed.

The Supreme Court held that:

- Provisions of city code governing how city moved zoning amendments through legislative process was directory, such that only substantial compliance was required;
- City planning department substantially complied with city code provision that established criteria for evaluating amendments to city zoning code;
- Staff report substantially complied with provision of city code that required department to present city planning commission its comments;
- City planner's memo substantially complied with code provision that required commission to provide written recommendations regarding amendment proposals;
- City did not lack legitimate public purpose in enacting ordinance, as would violate substantive due process;
- City was prevailing party that could recover prevailing-party fees; and
- Resident's claims were not all constitutional claims, as would be protected from adverse award of attorney fees for prevailing parties.

IMMUNITY - IOWA

Fogle on behalf of P.F. v. Clay Elementary School–Southeast Polk Community School District

Supreme Court of Iowa - November 14, 2025 - N.W.3d - 2025 WL 3180128

Parents of elementary school student brought action alleging that school district, district superintendent, school principal, and teacher failed to protect student from bullying and harassment based on sexual orientation, in violation of Iowa Civil Rights Act (ICRA) and state tort law.

The District Court denied defendants' motion to dismiss, and they appealed.

The Supreme Court, held that:

- Iowa Municipal Tort Claims Act's (IMTCA) qualified immunity provision did not apply to parents' ICRA claim, and
- IMTCA's heightened pleading requirements did not apply to parents' tort claims.

Iowa Municipal Tort Claims Act (IMTCA) provision extending qualified immunity protection to municipal employees and officers and imposing heightened pleading requirements in such situations did not apply to parents' claim alleging that school district and its employees violated Iowa Civil Rights Act (ICRA) by failing to protect their child from bullying and harassment based on sexual orientation, notwithstanding IMTCA's broad definition of "tort"; applying IMTCA's procedural requirements to ICRA claims would be incompatible with exclusive legislative scheme for bringing ICRA claim.

Iowa Municipal Tort Claims Act (IMTCA) provision imposing heightened pleading requirements for claims against municipal employees and officers did not apply to parents' common law tort claims against school district and its employees arising from their failure to protect their child from bullying and harassment based on sexual orientation.

OPEN MEETINGS - IOWA

Teig v. Hart

Supreme Court of Iowa - November 25, 2025 - N.W.3d - 2025 WL 3280925

City resident brought action against mayor and city council members, alleging violation of Open Meetings Act arising from city council's use of closed session to interview candidate for position of city clerk.

After a bench trial, the District Court entered judgment dismissing case. Resident appealed, and appeal was transferred. The Court of Appeals reversed. Mayor and council members applied for further review, which was granted.

The Supreme Court held that:

- Act allows a governmental body to close a job interview upon request without evidence of an actual threat to a candidate's reputation;
- City council's use of closed session for job interview did not violate Act; and
- Trial court properly sealed minutes and recording of the closed session.

NEGLIGENCE - LOUISIANA

Reed v. Lafayette Parish School Board

Court of Appeal of Louisiana, Third Circuit - November 26, 2025 - So.3d - 2025 WL 3289819 - 2025-184 (La.App. 3 Cir. 11/26/25)

Student and his mother brought action against parish school board to recover damages for injuries that student allegedly sustained after being thrown off of car that he was sitting on, which was in motion in campus parking lot after school hours, asserting that board was negligent and failed to exercise reasonable supervision of its students.

The District Court granted board's motion for summary judgment. Plaintiffs appealed.

The Court of Appeal held that:

- Fact issues existed as to whether board violated its school policy provisions relating to adult supervision of students on school grounds, precluding summary judgment on negligent-supervision element;
- Fact issues existed as to whether student was permitted to be on campus at the time of the incident, precluding summary judgment on negligent-supervision element;
- Fact issues existed regarding number of students in campus parking lot and length of lack of supervision on date of student's incident, precluding summary judgment on negligent-supervision element;
- Testimony of car driver created fact issue as to whether there was a causal link between lack of supervision and student's injuries, precluding summary judgment on causal-connection element; and
- Fact issues existed regarding foreseeability of student's accident, precluding summary judgment on foreseeability element.

ANNEXATION - UTAH

Erda Community Association, Inc. v. Baugh

Supreme Court of Utah - November 20, 2025 - P.3d - 2025 WL 3237652 - 2025 UT 56

Sponsors who led campaign to incorporate new city filed petition for extraordinary relief against city recorder of neighboring city that was seeking to annex some of new city's land and against Lieutenant Governor challenging the proposed annexation on both statutory and constitutional grounds.

The Third District Court granted city recorder's motion to dismiss, finding that sponsors lacked standing. Sponsors appealed.

The Supreme Court held that:

- Rule authorizing extraordinary relief where "a person has failed to perform an act required by law as a duty of office, trust or station" did not apply to sponsors' statutory claims, and
- Sponsors had a plain, speedy, and adequate remedy available for their constitutional claims.

Rule authorizing extraordinary relief where "a person has failed to perform an act required by law as a duty of office, trust or station" did not apply to the statutory claims asserted by sponsors who led campaign to incorporate new city against city recorder of neighboring city that was seeking to annex some of new city's land; sponsors did not seek to compel city recorder to do her duty, which was to determine if annexation petition met statutory requirements and certify or reject it accordingly, but rather sponsors alleged that she had misinterpreted or misapplied those requirements and sought to compel her to withdraw certification and reject the petition.

Sponsors who led campaign to incorporate new city, and who challenged the proposed annexation of some of new city's land by neighboring city, had a plain, speedy, and adequate remedy available for their claims that former provision of annexation code that allowed annexation of an area proposed for incorporation was unconstitutional, namely a declaratory judgment action, and thus sponsors could not seek relief under rule governing petitions for extraordinary relief; though sponsors lacked statutory standing to challenge the proposed annexation under the annexation code, only traditional standing was required for their constitutional claims.

IMMUNITY - GEORGIA

Fraser v. Glynn County

Court of Appeals of Georgia - November 3, 2025 - S.E.2d - 2025 WL 3071906

Person who acquired interest in reverter and heir of person who previously conveyed causeway and roads to county brought declaratory judgment action against county, challenging legality of abandonment and transfer of real property on and around barrier island to private company.

The Superior Court, Glynn County, dismissed the action, finding it was barred by sovereign immunity. Those persons appealed. Person who acquired interest in reverter to causeway and roads filed petition under state's Land Registration Law to assert her claim to property on and around barrier island that had been abandoned by county to private company. County and purported company owners of property moved to dismiss.

The Superior Court granted county's motion to dismiss but denied company owners' motion, issued certificate of immediate review, and Court of Appeals granted owners' application for interlocutory appeal. Appeals were consolidated.

The Court of Appeals held that:

- Valid waiver of sovereign immunity was not demonstrated;
- Actual or justiciable controversy sufficient to support declaratory judgment against county was not pleaded;
- Lack-of-subject-matter-jurisdiction dismissal had to be without prejudice;
- Registration action under Land Registration Law against private company could proceed only if all tenants in common joined application; and
- Person who acquired reverter interest did not plead in registration action that she was "possessing land" in which she sought to establish interest.

IMMUNITY - GEORGIA

Howard v. Coffee Regional Medical Center, Inc.

Court of Appeals of Georgia - November 3, 2025 - S.E.2d - 2025 WL 3073948

Hospital patient's wrongful death beneficiary brought action for wrongful death against hospital, physician, and physician's group, predicated on medical malpractice, arising out of patient's death due to defendants' failure to move him to intensive care unit (ICU), after he presented to emergency room with altered mental status, despite order that he be moved to ICU, and failure to monitor him accordingly, after which his blood pressure dropped to level that was inconsistent with life, as well as his temperature and oxygen level.

The trial court granted defendants' motions for summary judgment, and beneficiary appealed.

The Court of Appeals held that:

- Hospital was not auxiliary emergency management worker entitled to immunity from liability under Georgia Emergency Management Act (GEMA);
- Governor's COVID-19 executive order could not be construed as extending immunity from liability under GEMA to hospital;
- Hospital's nurses' immunity from liability under GEMA did not extend vicariously to hospital;
- Fact issues precluded summary judgment for physician on defense that she entitled to immunity under GEMA;
- Georgia COVID-19 Pandemic Business Safety Act (PBSA) did not apply retroactively to alleged medical malpractice that resulted in patient's death that occurred before PBSA's enactment; and
- Hospital's brief, isolated assertion in footnote of reply to beneficiary's opposition to hospital's motion for summary judgment that Public Readiness and Emergency Preparedness Act (PREP Act) "provide[d] further grounds for immunity" was insufficient to raise issue as alternative basis for summary judgment.

PUBLIC EMPLOYMENT - ILLINOIS

Moreland v. Retirement Board of Policemen's Annuity and Benefit Fund of City of Chicago

Supreme Court of Illinois - November 20, 2025 - N.E.3d - 2025 IL 131343 - 2025 WL 3237801

Injured police officer sought judicial review of a decision of the city retirement board that denied

officer's application for duty disability benefits.

The Circuit Court affirmed the board's decision. Officer appealed. The Appellate Court reversed. Board petitioned for leave to appeal, which was allowed.

The Supreme Court held that:

- Before a pension board may award a disability pension to a police officer, the board must receive an opinion on the officer's disability status from at least one board-appointed doctor; overruling *Nowak v. Retirement Board of the Firemen's Annuity & Benefit Fund of Chicago*, 315 Ill. App. 3d 403, 248 Ill.Dec. 129, 733 N.E.2d 804, and
- Board's finding that officer could return to duty was not against manifest weight of evidence.

IMMUNITY - ILLINOIS

Haase v. Kankakee School District 111

Supreme Court of Illinois - November 20, 2025 - N.E.3d - 2025 IL 131420 - 2025 WL 3237814

Student, who allegedly was injured by second student while playing indoor soccer during gym class in junior high school, and his parent brought action against school district and teacher, asserting claim that teacher engaged in wilful and wanton conduct in failing to supervise class and that school district was vicariously liable and a claim for damages under Family Expense Act for parent's payment of student's medical expenses.

The Circuit Court granted school district and teacher's motion for summary judgment based on immunity under Local Governmental and Governmental Employees Tort Immunity Act. Student and parent appealed. The Appellate Court reversed and remanded. School district and teacher filed petition for leave to appeal, which was granted.

The Supreme Court held that:

- Failure of student and parent to plead in their complaint that school district had duty to inform teachers about second student's history of physical aggression and breached that duty precluded question of whether district acted willfully and wantonly in failing to disseminate history from being genuine issue of material fact;
- Failure of student and parent to refute teacher's sworn deposition testimony that teacher did not know about second student's history of physically violent behavior toward other students required trial court to accept deposition testimony as true; and
- Teacher's failure to be attentive to students when they were playing soccer did not rise to level of willful and wanton conduct, and thus teacher and school district were immune from liability.

EMINENT DOMAIN - OHIO

State ex rel. Boggs v. Cleveland

Supreme Court of Ohio - November 13, 2025 - N.E.3d - 2025 WL 3166369 - 2025-Ohio-5094

Homeowner brought mandamus action against city seeking to compel institution of appropriation proceedings for home located at edge of neighboring township near city's airport, alleging that low overhead flights and other airport operations interfered with occupants' use and enjoyment of home

to such extent that a taking resulted.

The Court of Common Pleas granted city's motion for summary judgment. Homeowner appealed. The Court of Appeals affirmed. Homeowner sought further review.

The Supreme Court held that:

- Appropriation statute's section permitting municipality to appropriate property for establishing airports, landing fields, or other air navigation facilities did not apply, but
- Homeowner had standing to pursue action to obtain just compensation for government taking.

Appropriation statute's section permitting municipality to appropriate property for establishing airports, landing fields, or other air navigation facilities did not provide basis for homeowner's inverse-condemnation claim for home located at edge of neighboring township near city's airport, alleging that low overhead flights and other airport operations interfered with occupants' use and enjoyment of home to such extent that a taking resulted; section permitted appropriation of land or water only for purposes of establishing airport or landing field, but homeowner alleged a physical invasion of airspace by an already established airport.

Homeowner had standing to pursue mandamus action for inverse condemnation of home located at edge of neighboring township near city's airport, alleging that low overhead flights and other airport operations interfered with occupants' use and enjoyment of home to such extent that a taking resulted; while the home-rule provision of the Ohio Constitution was generally interpreted as limiting a municipality's authority to institute eminent-domain proceedings to appropriate property outside its boundaries, that did not mean that municipality was relieved of its duty to pay compensation under Constitution's eminent-domain provision if it did in fact take private property outside its borders.

OPEN MEETINGS - TEXAS

Webb County v. Mares

Court of Appeals of Texas, Houston (14th Dist.) - November 13, 2025 - S.W.3d - 2025 WL 3165692

Director of county department brought action against county, alleging inadequate notice under Texas Open Meetings Act (TOMA) that her department might be restructured, her position changed, and her salary reduced at county commissioners' court meeting.

County subsequently terminated her employment, and director added claims for age discrimination, First Amendment retaliation under § 1983, retaliation under labor code, and alternative claim under Texas Whistleblower Act, and sought back pay and lost retirement benefits through declaratory judgment claim.

After county removed the action to federal court, the United States District Court for the Southern District of Texas granted the county's motion for summary judgment on all of director's claims except under TOMA and the Texas Whistleblower Act, remanding those claims back to state court. On remand, director dropped her Whistleblower Act claim and proceeded only on the TOMA claim. The 111th District Court, Webb County granted summary judgment to director on her TOMA claim, denied the county's cross-motion for summary judgment, granted director's motion for attorney's fees and costs, and entered a final judgment awarding director monetary damages for back pay and lost retirement benefits. County appealed.

The Court of Appeals held that:

- Mootness doctrine did not deprive trial court of subject-matter jurisdiction;
- Meeting notice was inadequate under TOMA to alert director that her department might be divided, her position changed, and her salary reduced;
- There was no evidence that county's action taken at meeting fell under its authority for budget preparation;
- County's statutory power to make changes to proposed budget did not insulate it from TOMA claim;
- TOMA did not waive county's immunity for director's declaratory judgment claim for back pay and lost retirement benefits;
- Monetary damages for TOMA violation were not available to director through injunctive or mandamus relief; and
- Trial court did not abuse its discretion in awarding attorney's fees and costs to director.

LIABILITY - GEORGIA

City of Blue Ridge v. BR 01035, LLC

Court of Appeals of Georgia - October 30, 2025 - S.E.2d - 2025 WL 3033289

Property owner sued city and city officials, alleging claims of trespass, continuing nuisance, inverse condemnation, and for attorney fees relating to ongoing water runoff from city property.

The trial court denied the city's motion to dismiss, but granted certificate of immediate review. City appealed.

The Court of Appeals held that owners' notice to city stating that runoff had resulted in continuing and ongoing damages to owners' property in the amount of $1.5 million "to date" did not sufficiently notify city of specific amount of damages that owners sought as an offer of compromise.

Property owners' ante litem notice to city stating that water runoff allowed by city had resulted in continuing and ongoing damages to owners' property in the amount of $1.5 million "to date" did not sufficiently notify city of specific amount of damages that owners sought as an offer of compromise, as would have been required to satisfy ante litem notice statute in action for trespass, continuing nuisance, and inverse condemnation; owners' notice advised that water runoff issue was continuous and ongoing, making it clear that damages incurred from such runoff were continuing, and notice did not state that owners sought only $1.5 million from city.

MUNICIPAL ORDINANCE - GEORGIA

Philip v. Pollock

Court of Appeals of Georgia - October 30, 2025 - S.E.2d - 2025 WL 3033331

Visitor brought personal injury action against dog's owner, owner's son, and dog's keeper, seeking to recover for injuries sustained when dog bit him as he stood outside owner's house waiting to take son on a planned outing.

The State Court denied visitor's motion for summary judgment, and granted defendants' motion. Visitor appealed.

The Court of Appeals held that:

- Fact issues existed as to whether dog's owner knew of dog's vicious propensity, and
- Fact issues existed as to whether county ordinance required that dog be restrained on leash at time of bite incident.

IMMUNITY - IOWA

In re Davenport Hotel Building Collapse

Supreme Court of Iowa - November 7, 2025 - N.W.3d - 2025 WL 3116270

Plaintiffs in multiple lawsuits brought negligence and nuisance claims against city and city employees, among others, relating to partial collapse of apartment building in which three people were killed and others suffered bodily or property injury.

The District Court consolidated lawsuits and denied city's and employees' pre-answer motion to dismiss on basis of qualified immunity. City and employees appealed.

The Supreme Court held that plaintiffs' claims were not based on "right, privilege, or immunity secured by law."

Plaintiffs' claims were not based on "right, privilege, or immunity secured by law," as would support application of qualified immunity under Iowa Municipal Tort Claims Act to city and city employees in actions against city and employees, among others, relating to partial collapse of apartment building in which three people were killed and others suffered bodily or property injury; plaintiffs asserted claims for common law negligence and nuisance, rather than state constitutional tort claims or claims for violation of specific statutory right.

BOND VALIDATION - KANSAS

Vianello v. City of Prairie Village, Kansas

United States District Court, D. Kansas - November 3, 2025 - Slip Copy - 2025 WL 3062462

The City Council of the City of Prairie Village, Kansas approved – without public vote – Resolution 2025-04, which passed on June 16, 2025. The resolution authorized the issuance of general obligation bonds in the amount of up to $30 Million to pay for improvements to certain City buildings.

Plaintiff Marc Vianello filed an action in federal court challenging City's issuance of the bonds, arguing that the City was required to put Resolution 2025-04 to public vote due to City's obligations under the voter approval requirements and debt limitations of Kansas law (K.S.A. § 13-1024a).

Plaintiff argued that City illegally opted out of these requirements when it passed Charter Ordinance 28 titled, "A Charter Ordinance Exempting the City of Prairie Village, Kansas from the Provisions of K.S.A. § 13-1024a and Providing Substitute and Additional Provisions on the Same Subject Relating to the General Improvements and the Issuance of Bonds for the Purpose of Paying for Said Improvements; and Repealing Charter Ordinance 25."

Plaintiff asserted seven violations of his federal constitutional rights. Each of Plaintiff's federal claims concerned the same action taken by City: whether City legally exempted itself from K.S.A. §

13-1024a, and, in turn, acted legally when it then passed Resolution 2025-04.

Plaintiff did not allege a single instance of City taking an action that, irrespective of Kansas state law, violated a federal statute or constitutional right. Each request for declaratory judgment invoked a violation of Kansas state law with a purported federal cause of action stemming from that initial state law violation.

City moved to dismiss for lack of jurisdiction and for failure to state a claim.

The Court begins its analysis with City's Rule 12(b)(1) argument that Plaintiff lacked standing to bring any of his federal constitutional law claims. The Court agreed that Plaintiff lacked standing.

"In sum, the Court is unable to find standing for federal claims that effectively ask this Court to determine whether a municipality's actions violate state law. Federal court is not an appropriate forum for municipal taxpayers to challenge whether their municipality properly followed state law. To find otherwise would effectively allow for any municipal taxpayer to challenge any municipal spending action in federal court under the guise of constitutional injury. Such a finding would also run afoul of § 1983's prohibition of liability based solely on a violation of state law. Accordingly, the Court finds Plaintiff has failed to establish standing to bring his federal claims, and thus the Court lacks subject matter jurisdiction."

EMINENT DOMAIN - SOUTH CAROLINA

Gulfstream Café, Inc. v. Georgetown County

Supreme Court of South Carolina - October 29, 2025 - S.E.2d - 2025 WL 3019559

Restaurant owner that held easement rights over shared parking lot in planned development brought action against county challenging validity of ordinance allowing construction of new restaurant in planned development, alleging due process and takings claims and a claim that ordinance was invalid due to county councilmember's improper involvement with original application for new restaurant.

After a bench trial, Circuit Court entered judgment for county, denied restaurant owner's claim for attorney fees, and granted county's motion for costs. Restaurant owner appealed.

The Supreme Court held that:

- Restaurant owner's easement rights were nonexclusive;
- Ordinance did not violate substantive due process;
- Ordinance was not a per se taking;
- Ordinance was not a regulatory taking;
- Ordinance was not a taking on theory of regulatory inverse condemnation;
- Ordinance was not invalid due to councilmember's improper involvement with original application; and
- Procedural due process was satisfied.

County ordinance allowing construction of new restaurant in same planned development as existing

restaurant whose owner held nonexclusive easement rights over shared parking lot with 62 parking spaces was not a "regulatory taking"; county advanced legitimate land use concerns in approving new restaurant in a safer building that complied with modern day building and fire codes, new restaurant would serve the growing tourist population in area, restaurant owner was still able to operate its restaurant and enjoy its nonexclusive easement, restaurant owner did not lose access to any parking spaces, and there was no interference with restaurant owner's investment-backed expectations.

CONTRACTS - CALIFORNIA

County of Los Angeles v. Quinn Emanuel Urquhart & Sullivan, LLP

Court of Appeal, Second District, California - October 23, 2025 - Cal.Rptr.3d - 2025 WL 2984701 - 2025 Daily Journal D.A.R. 10,029

County, sheriff's department, and sheriff brought declaratory judgment action against law firm, seeking declaration that there was no valid agreement to arbitrate fee dispute under engagement agreement between sheriff and law firm.

The Superior Court issued preliminary injunction enjoining arbitration, granted summary judgment to county, and denied law firm's motion for leave to file a cross-complaint. Law firm then filed new complaint against county for breach of contract, quantum meruit, promissory estoppel, and open book account, arising out of same fee dispute.

The Superior Court, Los Angeles County, sustained county's demurrer and dismissed complaint. Law firm appealed and cases were consolidated.

The Court of Appeal held that:

- Sheriff did not have authority to execute engagement agreement with law firm on behalf of county board of supervisors to retain firm and set attorney fees that county would pay firm;
- Firm's proposed cross-claims were compulsory and required to be alleged in a cross-complaint;
- Trial court did not err in denying firm's motion for leave to file cross-complaint under compulsory cross-complaint statute; and
- Firm's alleged notices of client's right to fee arbitration that it sent to county, sheriff, and sheriff's department did not satisfy presentation requirements of Government Claims Act.

EMINENT DOMAIN - CALIFORNIA

Pena v. City of Los Angeles

United States Court of Appeals, Ninth Circuit - November 4, 2025 - F.4th - 2025 WL 3074588

Shop owner filed suit against city under § 1983, seeking compensatory damages under Takings Clause for destruction of shop property and inventory when city police fired dozens of tear gas canisters through officers fired dozens of tear gas canisters through the walls, door, roof and windows of shop after armed fugitive that officers were pursuing barricaded himself within shop.

The United States District Court for the Central District of California denied shop owner's motion for partial summary judgment and shop owner appealed.

As matter of first impression, the Court of Appeals held that police officers' destruction of shop property and inventory in course of pursuit of armed fugitive came within "necessity exception" to compensable taking under Takings Clause.

Destruction of shop owner's property and inventory by city police officers during pursuit of armed fugitive who barricaded himself within shop, caused by officers' firing of dozens of tear gas canisters through shop's walls, door, roof, and windows, was necessary for protection of public, and thus, came within "necessity exception" to compensable taking under Takings Clause; shop was seized by hostile force outside city's control, namely, armed fugitive, and city was required to act, or otherwise risk abdication of its role as defender of public safety if it failed to do so.

DECLARATORY JUDGMENT - GEORGIA

Gwinnett County v. State

Court of Appeals of Georgia - October 31, 2025 - S.E.2d - 2025 WL 3041523

County brought action against state, seeking a declaratory judgment and injunctive relief based on allegations that senate bill providing for the creation of a city within the county was unconstitutional.

The trial court, after considering stipulation of facts filed by parties, granted state's motion to dismiss. County appealed.

The Court of Appeals held that:

- Consideration of matters outside pleadings in ruling on motion constituted treatment of the motion as one for summary judgment, and thus Court of Appeals would review grant of motion as grant of a motion for summary judgment;
- County's action satisfied Declaratory Judgment Act's actual-controversy requirement;
- County's action fell within constitutional waiver of sovereign immunity for superior-court actions seeking declaratory relief for alleged state acts outside the scope of lawful authority or in violation of state laws, state constitution, or federal constitution; and
- Court of Appeals would decline to exercise its discretion under right-for-any-reason rule to affirm based on state's argument that a county could never dispute the constitutionality of a state act.

County faced uncertainty as to its own future conduct arising from the various mandates imposed upon it by allegedly unconstitutional senate bill creating city within county, and thus the Declaratory Judgment Act's actual-controversy requirement was satisfied as to county's action against state seeking declaration that the bill was unconstitutional; bill required county to participate in two-year transition of services and government functions to city, to refrain from making any zoning modifications within city limits during transition period, and to renegotiate several of its intergovernmental agreements to account for city.

EMINENT DOMAIN - INDIANA

Hadley v. City of South Bend, Indiana

United States Court of Appeals, Seventh Circuit - October 7, 2025 - 154 F.4th 549

Homeowner brought § 1983 action in state court against city and county, alleging a taking without

compensation stemming from city and county law enforcement officers' execution of search warrant at home, which allegedly caused significant damage to home. Case was removed.

The United States District Court for the Northern District of Indiana granted defendants' motion to dismiss for failure to state claim. Homeowner appealed.

The Court of Appeals held that alleged property damage to home was not a taking that would require just compensation.

Alleged property damage to home, including destruction of items from toxic gas fumes and damage to internal security cameras, resulting from city and county law enforcement officers' execution of valid search warrant, as part of officers' attempt to find a fugitive that officers incorrectly believed was inside the home, was not a "taking" of homeowner's property that would require just compensation, regardless of whether homeowner had any connection to the sought-after suspect; officers' actions were performed under police power rather than power of eminent domain.

CHARTER SCHOOLS - LOUISIANA

Daniels v. State

Court of Appeal of Louisiana, Fourth Circuit - September 16, 2025 - So.3d - 2025 WL 2674504 - 2024-0833 (La.App. 4 Cir. 9/16/25)

Former high school students and their parents brought putative class action against state and parish school boards, non-profit charter foundation that operated public high school, foundation's insurers, and organization that temporarily acted as foundation's CEO, alleging fraud, negligence, and gross mismanagement of the educational process caused severe emotional distress and economic damages.

The District Court granted school boards' exceptions of no cause of action. On students and parents' appeal, the Fourth Circuit Court of Appeal reversed and remanded. Students and parents voluntarily dismissed school boards and organization from action and filed motion for class certification. On remand, the District Court certified class. Foundation and insurers appealed.

The Court of Appeal held that:

- Numerosity requirement for class certification was met;
- Commonality requirement for class certification was met;
- Typicality requirement for class certification was met;
- Proposed class representatives would adequately and fairly protect interests of all class members;
- Proposed class definition was sufficiently defined; and
- Students and parents identified common issue that predominated over any individual issues.

ZONING & PLANNING - CALIFORNIA

Save Our Access v. City of San Diego

Court of Appeal, Fourth District, Division 1, California - October 17, 2025 - Cal.Rptr.3d - 2025 WL 2945714

Nonprofit organization petitioned for writ of mandate against city, challenging city's approval of

ballot measure to remove coastal zone building height limit from community planning area under California Environmental Quality Act (CEQA).

The Superior Court, San Diego County, denied organization's petition. Organization appealed.

The Court of Appeal held that:

- City failed to analyze potential impact of ballot measure on noise levels in area;
- City failed to analyze potential impact of ballot measure on air quality in area;
- City failed to analyze potential impact of ballot measure on biological resources in area;
- City failed to analyze potential impact of ballot measure on geological conditions in area; and
- Deferral of full environmental analysis of ballot measure until individual site-specific projects were proposed was not adequate.

ZONING & PLANNING - GEORGIA

Tussahaw Reserves, LLC v. Butts County

Supreme Court of Georgia - October 21, 2025 - S.E.2d - 2025 WL 2955817

Landowners, after their rezoning applications were denied, filed pleading in which they sought declaratory judgment and injunctive relief against county and a writ of certiorari against county board of commissioners and the individual commissioners, in their official capacities, as the respondents-in-certiorari, and county as defendant-in-certiorari.

The Superior Court granted county's motion to dismiss. Landowners filed an application for appeal in the Supreme Court, which transferred the application to the Court of Appeals. The Court of Appeals affirmed. The Supreme Court granted landowners' petition for certiorari review.

The Supreme Court held that:

- Court would not consider landowners' constitutional argument regarding provision of state constitution waiving sovereign immunity for certain claims against the government by exclusively naming government as a defendant, and
- Landowners' failure to comply with provision did not deprive trial court of subject-matter jurisdiction to rule on pending motions to drop respondents-in-certiorari from case.

REFERENDUM - MONTANA

Cummings v. Kelly

Supreme Court of Montana - April 2, 2025 - 421 Mont. 289 - 566 P.3d 523 - 2025 MT 68

City residents brought action against city commissioners, city attorney, and city, seeking to annul or void election that authorized city to levy additional 15 mills to provide funds for operation, maintenance, and capital needs of city's public library, alleging mathematical error in ballot language and various election irregularities violated their rights of suffrage and due process.

City officials filed motion to dismiss for failure to state a claim, and after briefing was complete, residents moved for leave to amend petition. The District Court dismissed residents' petition and denied them leave to amend. Residents appealed.

The Supreme Court held that:

- Residents failed to state a claim for violation of right of suffrage;
- Residents suffered no due process violation from alleged errors and discrepancies;
- Residents were not entitled to hearing under statute related to challenges to local government bond elections;
- Residents were not entitled to relief under statutory provisions providing court with authority to void elections or enjoin acts prohibited or compelled by election laws; and
- Amendment of the petition would substantially prejudice defendants.

IMMUNITY - OHIO

Durig v. Youngstown

Supreme Court of Ohio - October 16, 2025 - N.E.3d - 2025 WL 2933709 - 2025-Ohio-4719

Executor of motorcyclist's estate brought action against city and city employees, asserting claims for survivorship, wrongful death, and negligent, reckless, and/or wanton hiring, retention, training, or supervision that alleged motorcyclist sustained serious injuries from tree falling on him on city street, which led to his death.

The Court of Common Pleas denied executor's motion for partial summary judgment and denied city leave to amend its answer to assert political subdivision immunity defense. City appealed. The Court of Appeals affirmed. City appealed.

The Supreme Court held that:

- City's assertion of defense of failure to state a claim upon which relief can be granted in its answer did not preserve the defense of political-subdivision immunity, and
- Trial court's denial of city's motion for leave to amend its answer to assert defense of political-subdivision immunity was not an abuse of discretion.

CIVIL RIGHTS - PENNSYLVANIA

Montanez v. Price

United States Court of Appeals, Third Circuit - October 8, 2025 - 154 F.4th 127

Inmate brought pro se action against Commonwealth, prison officials and medical personnel, private company contracted by Commonwealth to provide medical services in its prisons, and four employees of company, alleging under § 1983 that defendants were deliberately indifferent to his serious medical needs, and asserting claims under Title II of Americans with Disabilities Act (ADA) and Rehabilitation Act (RA).

The United States District Court for the Middle District of Pennsylvania granted defendants' motions to dismiss for failure to state claim and denied inmate's motion for leave to amend complaint. Inmate appealed.

The Court of Appeals held that:

- Inmate's spinal cord stenosis and edema, which caused paralysis requiring surgery, sudden incontinence, and herniated disc qualified as "serious medical needs," as supported § 1983 Eighth

Amendment claim for inadequate medical care;
- Inmate stated § 1983 Eighth Amendment claims based on inadequate medical care and unsanitary conditions of confinement against physician who allegedly abandoned him in cell for three days while he was paralyzed and uncontrollably urinating on himself;
- Alleged actions of physician in denying inmate pain medication could not form basis of § 1983 Eighth Amendment claim based on inadequate medical care;
- Inmate failed to state § 1983 Eighth Amendment claim based on inadequate medical care against company;
- Neither officials nor employees were subject to suit in their personal capacities under Title II of ADA;
- Inmate stated claims for disability discrimination against Commonwealth and company under RA and Title II of ADA; and
- As matter of first impression, a state has obligation to ensure compliance with RA and Title II of ADA even when it contracts out operations of its programs, services, or activities to third parties.

IMMUNITY - VIRGINIA

Brooks-Buck v. Wahlstrom

Supreme Court of Virginia - October 16, 2025 - S.E.2d - 2025 WL 2934033

Former school administrator brought action against school board chairperson and school board member, asserting claims for defamation and defamation per se, based on allegedly defamatory statements in narrative attached to notice addressing disciplinary violations by another school board member.

Chairperson and board member filed demurrers, alleging that they were entitled to legislative, sovereign, and statutory immunity. The Suffolk Circuit Court overruled chairperson's and member's demurrers in part, finding no immunity. Chairperson and board member petitioned for interlocutory review, which was granted.

The Supreme Court held that:

- As matter of first impression, a local legislative body engages in a legislative act when it disciplines one of its members;
- School board chairperson and member were not entitled to common law legislative immunity;
- School board chairperson and member were not entitled to sovereign immunity; and
- School board chairperson and member were not entitled to statutory immunity.

OPEN MEETINGS - CALIFORNIA

Berkeley People's Alliance v. City of Berkeley

Court of Appeal, First District, California. - September 30, 2025 - Cal.Rptr.3d - 2025 WL 2787867 - 2025 Daily Journal D.A.R. 9405

Citizens' group brought action against city council members alleging violations of the Brown Act's open meeting requirements.

The Superior Court, Alameda County, sustained members' demurrer without leave to amend. Group appealed.

The Court of Appeal held that city council's conduct did not fall within exception to Brown Act allowing them to order meeting room cleared and continue in session.

City council's conduct in recessing meeting and reconvening it in another room without members of the public who were attending the meeting did not comply with exception to Brown Act's open meeting requirements allowing members of a legislative body to order meeting room "cleared and continue in session" in event of disorderly conduct of the general public.

ZONING & PLANNING - CALIFORNIA

New Commune DTLA LLC v. City of Redondo Beach

Court of Appeal, Second District, California. - October 10, 2025 - Cal.Rptr.3d - 2025 WL 2886322

Developers brought action against charter city, challenging city's housing element and seeking writ of mandate and declaratory relief.

The Superior Court, Los Angeles County denied developers' petition and complaint. Developers appealed.

The Court of Appeal held that:

- City's residential overlay zone permitting construction of housing on sites otherwise zoned for commercial and industrial use was subject to mandatory minimum density requirements under Housing Element Law;
- Overlay zone failed to comply with statutory requirements;
- Presumption of validity for housing element was rebutted by failure of overlay zone;
- Substantial evidence supported city's identification of parking lot as site that could accommodate 486 lower income housing units; but
- Substantial evidence did not support city's determination that existing use of other parking lot would be discontinued or not impede development of 175 housing units.

STATUTE OF LIMITATIONS - GEORGIA

Villeda v. City of Morven

Court of Appeals of Georgia - October 14, 2025 - S.E.2d - 2025 WL 2910472

Personal-injury plaintiff brought action against city, alleging city was liable for his injuries.

The trial court granted city's motion to dismiss, holding that plaintiff did not comply with statutory requirements for service of an ante litem notice against city because the notice was addressed to city's former mayor rather than its current mayor. Plaintiff appealed.

The Court of Appeals held that service of ante litem notice to city's former mayor, instead of current mayor, was statutorily sufficient.

Personal-injury plaintiff's service of ante litem notice to city's former mayor, instead of current mayor, was sufficient under statute governing claims for money damages against municipal corporations on account of injuries to person or property; even if notice was addressed to post office box rather than street address, included name of former mayor, and referred to title of "mayor"

rather than office of “mayor” on the envelope, and was signed for by a person other than the mayor, notice was addressed to formal office of mayor and delivered to the office where the mayor worked.

UTILITY FEES - GEORGIA

Homewood Associates, Inc. v. Unified Government of Athens-Clarke County

Supreme Court of Georgia - October 15, 2025 - S.E.2d - 2025 WL 2919059

County government brought action against property owner in the Magistrate Court, Athens-Clarke County, to recover delinquent stormwater utility charges and property owner counterclaimed for declaratory judgment and injunctive relief.

After transfer to Superior Court, property owner and other owners of developed property in the county filed separate complaint for damages and declaratory and injunctive relief against county government alleging that the stormwater utility charge violated their rights under the taxation uniformity provision of the state constitution and the Takings Clause of the Fifth Amendment.

On the parties’ joint motion, the actions were consolidated. The Superior Court granted county government’s motion for summary judgment and denied property owners’ motion for partial summary judgment. Property owners appealed.

The Supreme Court held that:

- Supreme Court would decline to overrule its prior holding that county’s stormwater utility charge was a fee rather than a tax, and
- Stormwater utility charge did not violate property owners’ rights under the Fifth Amendment’s Takings Clause.

Supreme Court would decline to overrule its prior holding that county’s stormwater utility charge was a fee rather than a tax subject to state constitution’s taxation uniformity provision, even if some members of Court had doubt as to the correctness of its analysis; prior holding, which involved the same stormwater utility charge and some of the same parties, implicated strong reliance interests, and holding was not so clearly wrong that considerations of correctness outweighed other stare decisis considerations.

ANNEXATION - GEORGIA

Pilato v. State

Supreme Court of Georgia - October 15, 2025 - S.E.2d - 2025 WL 2918741

City and residents whose property was annexed by city brought action against State, challenging law providing that when corporate limits of city are extended by annexation into the boundaries of county school district, the boundaries of city school district shall not be extended to be coextensive therewith, as violating state constitution’s Single Subject Rule.

The Superior Court granted motion to intervene filed by county school district, denied motions to dismiss filed by district and State, granted plaintiffs’ motion for declaratory judgment and permanent injunction, and denied plaintiffs’ request for default judgment against State. State and district appealed and plaintiffs cross-appealed.

The Supreme Court held that plaintiffs failed to establish an actual controversy sufficient to reach merits of their claims for declaratory judgment.

City and residents whose property was annexed by city failed to establish an actual controversy sufficient to reach merits of their declaratory judgment claims, in action against State, challenging law providing that boundaries of city school district would not be extended to be coextensive with extended city limits, as violating state constitution's Single Subject Rule; plaintiffs asserted that decision of city school district declining to enroll residents' children, not any enforcement action of the State, resulted in the alleged infringement of rights about which they complained, and thus a decision as to whether challenged law was constitutional would not resolve the disputed rights they asserted as the basis for their action.

ELECTIONS - PENNSYLVANIA

In re Appointment to Fill Vacancy in Office of County Commissioner

Supreme Court of Pennsylvania - October 20, 2025 - A.3d - 2025 WL 2952835

County commissioner filed petition challenging procedures set forth in county home rule charter for filling vacancy on county board of commissioners.

A three-judge panel of the Court of Common Pleas denied petition, and commissioner appealed. The Commonwealth Court affirmed. Commissioner's petition for review was granted in part.

The Supreme Court held that:

- Procedure set forth in county home rule charter for filling vacancy on county board of commissioners did not conflict with Supreme Court rule, and
- Charter did not impermissibly intrude on Supreme Court's powers to regulate procedure and supervise judiciary.

Procedure set forth in county home rule charter for filling vacancy on county board of commissioners did not conflict with Supreme Court rule setting forth procedures for court of common pleas to follow when filling vacancy in elected office pursuant to statutory duty, and thus rule—as law of state-wide application—did not override charter, even though charter required court to choose from three candidates identified by executive committee of appropriate political party, and rule required court to receive applications from "any interested candidates"; both required appointment of member of same political party as vacating commissioner, and rule did not purport to be exclusive, but instead reflected desire to be sufficiently flexible to accommodate many different triggering statutes.

Procedure set forth in county home rule charter for filling vacancy on county board of commissioners did not impermissibly intrude on Supreme Court's powers to regulate procedure and supervise judiciary, even if charter conflicted with Supreme Court rule setting forth procedures for court of common pleas to follow when filling vacancy in elected office pursuant to statutory duty; state constitution provided that procedure for filling vacancies in elected county offices was, at its core, legislative, not judicial, function.

BOND VALIDATION - CALIFORNIA

Alliance San Diego v. California Taxpayers Action Network

Court of Appeal, Fourth District, Division 1, California - October 3, 2025 - Cal.Rptr.3d - 2025 WL 2813618

Taxpayer advocacy organizations filed petition for writ of mandate and a reverse validation complaint, seeking determination that city's resolution declaring that a voters' ballot measure for hotel tax increase to fund expansion of city's convention center, address homelessness, and repair streets had passed was invalid.

City then filed a validation action seeking determinations that its resolution and related bond resolutions were valid. After consolidation, the Superior Court, San Diego County, granted organizations' motion for judgment on the pleadings. City appealed. The Court of Appeal reversed and remanded. After a bench trial, the Superior Court entered judgment for city. Organizations appealed.

The Court of Appeal held that:

- Trial court had subject matter jurisdiction over city's validation action;
- Validation action was ripe for adjudication;
- Special fund doctrine applied to exempt bond resolutions from two-thirds vote requirement for general obligation bonds;
- Measure was a citizens' initiative that required only a simple majority vote to pass;
- City did not have substantial control over measure that would preclude measure from being a citizens' initiative;
- Statements in newspaper articles were not admissible under hearsay exception for admissions by a party-opponent; and
- Any error in exclusion of hearsay statements in newspaper articles was harmless.

Trial court had subject matter jurisdiction over city's validation action seeking determinations of the validity of its resolution declaring that a voters' measure imposing hotel tax increase to fund expansion of city's convention center, address homelessness, and repair streets had passed and the validity of related bond resolutions, even though there were no specific bonds ready to be issued pursuant to measure or additional resolutions authorizing issuance of bonds based on provisions of measure; resolutions expressly authorized and approved preliminary steps necessary for, and therefore were inextricably bound up with, the ultimate issuance of specific bonds.

City's validation action seeking determinations of the validity of its resolution declaring that a voters' ballot measure imposing hotel tax increase to fund expansion of city's convention center, address homelessness, and repair streets had passed and the validity of related bond resolutions presented a dispute that was sufficiently concrete to be ripe for adjudication, even though city had not authorized or approved issuance of any existing bonds, where city passed other resolutions expressly authorizing and approving issuance and sale of bonds pursuant to provisions of measure.

City would suffer a hardship from the withholding of jurisdiction, and thus the second prong of ripeness doctrine was satisfied for city's validation action seeking determinations of the validity of its resolution declaring that a voters' ballot measure imposing hotel tax increase to fund expansion of city's convention center, address homelessness, and repair streets had passed and the validity of related bond resolutions; measure's programs and projects depended on bond revenues to be repaid by the special taxes imposed by measure, and if trial court did not adjudicate validation action, city might not have been able to proceed toward issuance of bonds for those programs and projects or their issuance at reasonable interest rates due to possibility of future litigation causing a chilling effect on third-party lenders.

Special fund doctrine applied to exempt city's bond resolutions related to voters' ballot measure for hotel tax increase to fund expansion of city's convention center, address homelessness, and repair streets from requirement under State Constitution and city charter of assent of two-thirds of voters for general obligation bonds; bonds related to measure would not be "general obligation bonds," since resolutions did not obligate city to make payments on bonds out of its general funds or any funds other than the special tax funds established by measure.

Special fund doctrine, as an exception to state constitutional provision requiring assent of two-thirds of voters for a municipality to incur any indebtedness or liability exceeding in any year the income and revenue provided for such year, is not limited to obligations only of a specific agency that would be benefited, as opposed to a special fund overseen by a local agency.

Mere fact of a city government official's involvement in a voter initiative imposing a special tax does not necessarily convert the voter initiative into a local government initiative that would need two-thirds supermajority vote to pass rather than a simple majority vote.

Hotel tax increase measure passed by voters to fund expansion of city's convention center, address homelessness, and repair streets was not a "city-sponsored ballot measure" but rather was a bona fide "citizens' initiative" that required only a simple majority vote to pass and not a two-thirds supermajority vote, where individual proponents of measure published a notice of intent to circulate an initiative petition, proponents filed notice with city clerk, and proponents subsequently submitted petitions signed by requisite number of city voters, and measure was thereafter placed on ballot for election and received 65.24 percent of the votes.

A local government entity or official's support of a citizens' initiative to adopt a special tax does not convert the citizens' initiative into a government-sponsored measure that would need two-thirds supermajority vote to pass rather than a simple majority vote.

City and nonprofit convention center corporation controlled by city did not have substantial control over a hotel tax increase measure passed by voters to fund expansion of convention center, address homelessness, and repair streets, and thus the measure qualified as a bona fide "citizens' initiative" that required only a simple majority vote to pass and not a two-thirds supermajority vote, even though one proponent of measure was both vice president of city's regional chamber of commerce that was primary sponsor of measure and a volunteer member of corporation's board, and another board member voted in favor of board resolution supporting measure; vice president did not openly cite her unpaid board membership as a proponent of measure, the voting board member was not involved in proposing measure, and corporation's only action was a resolution passed by board supporting measure.

Statements in newspaper articles purportedly showing involvement of board members of nonprofit convention center corporation controlled by city in sponsoring and/or supporting voters' ballot measure imposing hotel tax increase to fund expansion of city's convention center were not admissible under hearsay exception for admissions by a party-opponent, in city's validation action seeking determinations of the validity of its resolution declaring that the measure had passed and the validity of related bond resolutions; neither member was a named party to the action, and their statements in articles were not authorized by a party to the action.

Statements that board members of nonprofit convention center corporation controlled by city made in newspaper articles were not admissible under hearsay exception for statements of a declarant's then existing mental or physical state, in city's validation action seeking determinations of the validity of its resolution declaring that a voters' ballot measure imposing hotel tax increase to fund expansion of city's convention center had passed and the validity of related bond resolutions, where

proponent of statements did not show that members were unavailable to testify as witnesses or that the hearsay evidence was offered to prove or explain their conduct.

Statements that board members of nonprofit convention center corporation controlled by city made in newspaper articles were not admissible under hearsay exception for statements of a declarant's previously existing mental or physical state, in city's validation action seeking determinations of the validity of its resolution declaring that a voters' ballot measure imposing hotel tax increase to fund expansion of city's convention center had passed and the validity of related bond resolutions, where proponent of statements did not show that members were unavailable to testify as witnesses or that the hearsay evidence was offered to prove or explain their conduct.

Any error in trial court's exclusion of hearsay statements that board members of nonprofit convention center corporation controlled by city made in newspaper articles was harmless, in city's validation action seeking determinations of the validity of its resolution declaring that a voters' ballot measure imposing hotel tax increase to fund expansion of city's convention center had passed and the validity of related bond resolutions; there was no showing that it was reasonably probable that taxpayer advocacy organizations, as proponents of statements, would have received a more favorable result at trial had the error not occurred.

ZONING & PLANNING - CALIFORNIA

New Commune DTLA LLC v. City of Redondo Beach

Court of Appeal, Second District, California - October 10, 2025 - Cal.Rptr.3d - 2025 WL 2886322

Developers brought action against charter city, challenging city's housing element and seeking writ of mandate and declaratory relief.

The Superior Court denied developers' petition and complaint. Developers appealed.

The Court of Appeal held that:

- City's residential overlay zone permitting construction of housing on sites otherwise zoned for commercial and industrial use was subject to mandatory minimum density requirements under Housing Element Law;
- Overlay zone failed to comply with statutory requirements;
- Presumption of validity for housing element was rebutted by failure of overlay zone;
- Substantial evidence supported city's identification of parking lot as site that could accommodate 486 lower income housing units; but
- Substantial evidence did not support city's determination that existing use of other parking lot would be discontinued or not impede development of 175 housing units.

ZONING & PLANNING - NEVADA

Reno Real Estate Development, LLC v. Scenic Nevada, Inc.

Supreme Court of Nevada - October 16, 2025 - P.3d - 2025 WL 2936256 - 141 Nev. Adv. Op. 48

Scenic preservation organization petitioned for writ of mandamus and/or prohibition, challenging

development agreement between city and developers for mixed-use entertainment area based on argument that area identification signs contemplated by agreement constituted billboards that violated city codes.

The District Court issued writ preventing city from issuing building permits for, and developers from erecting, two of three challenged signs. Parties filed cross-appeals.

The Supreme Court held that:

- Under city land use code, area identification signs existed independently from on-premises or off-premises advertising displays and thus did not need to meet the commercial interest requirement for advertising displays;
- City's classification of signs as "area identification signs" rather than advertising displays was not a manifest abuse of discretion;
- Organization did not have a beneficial interest in obtaining writ relief and thus did not have standing;
- Organization did not have standing on behalf of the public to challenge city's development agreement; and
- Organization's settlement agreement with city regarding billboards did not confer standing on organization to challenge development agreement.

OPEN MEETINGS - COLORADO

Sentinel Colorado v. Rodriguez

Supreme Court of Colorado - October 7, 2025 - P.3d - 2025 WL 2835119

Public-media corporation filed complaint against city records custodian seeking release of recording of city council executive session about censure charges against council member, alleging council committed Colorado Open Meetings Law (COML) violations at that executive session.

The District Court, upon reconsideration from initial order to release session recording, determined that COML violations were cured by a subsequent public city council meeting and ordered custodian not to release recording. Corporation appealed. The Court of Appeals reversed, but denied corporation's request for prevailing party attorney fees. Parties cross-petitioned for certiorari review, which petitions were granted.

The Supreme Court held that:

- As a matter of first impression, plain meaning of COML provision, along with legislative history, supported conclusion that corporations, including media organizations, are entitled to reasonable attorney fees when they are prevailing parties;
- City council did not waive attorney-client privilege by publishing special counsel's letter containing factual assertions; and
- Corporation was entitled to seek attorney fees related to litigation in Supreme Court and the court of appeals.

IMMUNITY - NEW YORK

Brown v. City of New York

Supreme Court, Appellate Division, Second Department, New York - October 8, 2025 - N.Y.S.3d - 2025 WL 2845341 - 2025 N.Y. Slip Op. 05493

Student, by his mother, brought action against city and other defendants to recover damages for injuries that student allegedly sustained when he attempted to do a cartwheel during gym class at school.

The Supreme Court, Kings County, granted defendants' motion for summary judgment dismissing the complaint. Student appealed.

The Supreme Court, Appellate Division, held that defendants were not liable for student's injuries.

IMMUNITY - OHIO

Durig v. Youngstown

Supreme Court of Ohio - October 16, 2025 - N.E.3d - 2025 WL 2933709 - 2023-Ohio-4719

Executor of motorcyclist's estate brought action against city and city employees, asserting claims for survivorship, wrongful death, and negligent, reckless, and/or wanton hiring, retention, training, or supervision that alleged motorcyclist sustained serious injuries from tree falling on him on city street, which led to his death.

The Court of Common Pleas denied executor's motion for partial summary judgment and denied city leave to amend its answer to assert political subdivision immunity defense. City appealed. The Court of Appeals affirmed. City appealed.

The Supreme Court held that:

- City's assertion of defense of failure to state a claim upon which relief can be granted in its answer did not preserve the defense of political-subdivision immunity, and
- Trial court's denial of city's motion for leave to amend its answer to assert defense of political-subdivision immunity was not an abuse of discretion.

STUDENT HOUSING - ALABAMA

Campus Crest at Tuscaloosa LLC v. City of Tuscaloosa

Supreme Court of Alabama - October 3, 2025 - So.3d - 2025 WL 2810889

Taxpayers, who alleged that they were out-of-state owners, operators, or lessees of multifamily housing developments that city had designated as student-oriented housing developments (SOHDs), brought action against city, seeking declaratory judgment that city ordinance imposing enhanced business-license fees on SOHDs with more than 200 bedrooms was invalid and further seeking a refund of taxes collected under ordinance.

The Circuit Court entered judgment dismissing action for failure to state a claim. Taxpayers appealed.

The Supreme Court held that:

- Complaint contained sufficient factual averments that, if developed, could show that city had no rational basis for ordinance, and thus taxpayers stated a claim for a judgment declaring that ordinance violated equal protection;
- Taxpayers had standing to seek a judgment declaring that ordinance was void for vagueness on due-process grounds;
- Taxpayers stated claim that ordinance was void for vagueness on due-process grounds;
- Taxpayers stated claim that violated dormant Commerce Clause; but
- Ordinance was not effectively a zoning ordinance, and thus city was not required to adhere strictly to statutory notice and hearing requirements for zoning ordinances before adopting ordinance.

REFERENDUM(B) - CALIFORNIA

Move Eden Housing v. City of Livermore

Court of Appeal, First District, California. - October 7, 2025 - Cal.Rptr.3d - 2025 WL 2837353

Advocacy organization filed petition for writ of mandate seeking to compel city and city clerk to process referendum petition for purpose of proposed referendum on city's resolution authorizing development project that included construction of public park.

The Superior Court, Alameda County, denied petition. Organization appealed. The Court of Appeal reversed and directed trial court to issue peremptory writ of mandate. After trial court issued writ of mandate on remand, city repealed resolution and issued new resolution for same development, but without park project. Organization moved for order compelling compliance with writ of mandate. The Superior Court granted motion. City appealed.

The Court of Appeal held that:

- City "entirely repealed" resolution that adopted development agreement, within meaning of referendum statute;
- City's adoption of second resolution approving development agreement without park provision did not violate stay provision of referendum statute; and
- As a matter of apparent first impression, in determining whether a subsequent enactment is essentially the same as the original enactment within meaning of stay provision of referendum statute, the relevant comparison is with the legislative act or acts in the original enactment that made the enactment subject to the referendum power.

MUNICIPAL GOVERNANCE - CALIFORNIA

People ex rel. Alameda County Taxpayers' Association, Inc. v. Brown

Court of Appeal, First District, Division 4, California - September 30, 2025 - Cal.Rptr.3d - 2025 WL 2787891

Taxpayer advocacy organization and residents brought quo warranto action against county supervisor appointed by county board of supervisors to fill vacancy, seeking judgment removing supervisor from office for allegedly failing to satisfy prior and continuous residency requirements.

The Superior Court ruled that prior residency requirement did not apply to vacancy appointments, and the Superior Court found continuous residency issue moot after supervisor's term ended and

entered judgment in favor of supervisor. Organization and residents appealed and supervisor filed motion to dismiss appeal as moot.

The Court of Appeal held that:

- Court of Appeal would not take judicial notice of newspaper editorial, newsletter, or statute;
- Public interest exception to mootness doctrine applied;
- County administrative code's one-year prior residency requirement did not apply to a supervisor appointed to fill a vacancy;
- Remand was warranted for trial court to address whether supervisor satisfied requirement under county charter and county administrative code to reside in district during his term; and
- Trial court was not required to consider substance of motion by organization and residents for judgment on the pleadings.

EMINENT DOMAIN - GEORGIA

Department of Transportation v. 5.85 Acres of Land and Certain Easements Rights

Court of Appeals of Georgia - October 2, 2025 - S.E.2d - 2025 WL 2801669

Property owner appealed condemnation of 5.85 acres of property by Department of Transportation (DOT), which planned to use the condemned property to construct a bypass around the city and offered owner $37,200 as just and adequate compensation.

Following a jury verdict in owner's favor, awarding damages in the amount of $1,500,000, the Superior Court denied DOT's motion for new trial. DOT appealed.

The Court of Appeals held that jury's award to owner of $1,500,000 was so excessive as to justify inference of gross mistake or undue bias.

Jury's award to property owner of $1,500,000 was so excessive as to justify inference of gross mistake or undue bias, in proceeding, pursuant to takings clauses of federal and state constitutions, regarding condemnation of 5.85 acres of property by Department of Transportation (DOT) to construct bypass around city; considering possibility that jury applied cost of $124,565 per acre, the highest comparable sale amount used by an expert, 5.85 acres taken would only equal $728,705.25, expert who testified about setback did not assign a value to it, nor was she certain about size of setback, highest estimated value as to consequential damages was $445,600, leaving $325,694.75 unaccounted for, and any upward deviation for consequential damages in that amount was unsupported by evidence.

MUNICIPAL ORDINANCE - GEORGIA

Bailey v. McIntosh County

Supreme Court of Georgia - September 30, 2025 - S.E.2d - 2025 WL 2790676

County brought action against probate court judge for declaratory judgment and writ of prohibition to stop referendum on repeal of zoning which purportedly increased allowable maximum dwelling size in historic district on Sapelo Island.

The Superior Court concluded that county's exercise of its zoning powers was not subject to referendum process, granted county's petition, and issued writ of prohibition against probate judge, but also enjoined enforcement of ordinance pending appeal. County residents and probate judge appealed, and county appealed injunction.

The Supreme Court held that:

- Absence of ordinance in appellate record did not preclude Supreme Court from considering legal question of whether ordinance was subject to referendum procedures in Home Rule Provision of state constitution;
- Ordinance was subject to referendum under Home Rule Provision;
- Probate judge had authority under Home Rule Provision to consider referendum petition and set special election for referendum; and
- Supreme Court could not take judicial notice of ordinance and its predecessor not in appellate record and thus could not consider county's arguments for reversal of injunction.

Home Rule Provision, not the Zoning Provision, of state constitution provided express grant of legislative power enabling county to exercise its zoning power by ordinance, and, thus, county ordinance which purportedly increased allowable maximum dwelling size in historic district on Sapelo Island was subject to referendum under Home Rule Provision; Home Rule Provision did not prohibit county from exercising zoning power, and treating zoning ordinance as subject to Home Rule power did not diminish extent of zoning power granted to counties under the Zoning Provision or render that provision mere surplusage since power granted by Home Rule Provision encompassed more than enacting zoning ordinances, and power granted by Zoning Provision was broader than merely power to enact zoning ordinances.

EMINENT DOMAIN - CALIFORNIA

Benedetti v. County of Marin

Court of Appeal, First District, Division 4, California - August 29, 2025 - Cal.Rptr.3d - 113 Cal.App.5th 1185 - 2025 WL 2490638 - 2025 Daily Journal D.A.R. 8513

Landowners filed petition for writ of mandate and complaint for declaratory relief against county, alleging that amended coastal program requirement that condition for constructing residential units in agriculturally-zoned lands in coastal zone, requiring landowners to record restrictive covenant in county's favor that would ensure owners of units would be engaged in agriculture, was facial unconstitutional condition and violated their due process rights.

The Superior Court, Marin County, denied petition and complaint. Landowners appealed.

The Court of Appeal held that:

- Challenge could proceed as facial Nollan/Dolan unconstitutional conditions claim;
- Restrictive covenant condition had the necessary nexus to government's land use interest;
- Restrictive covenant condition was proportional to each landowners' impact on land-use interest; and
- Landowners' due process rights were not violated.

WATER AND SEWER FEES - DISTRICT OF COLUMBIA

Capitol Park IV Condominium Association, Inc. v. District of Columbia Water and Sewer Authority

District of Columbia Court of Appeals - September 18, 2025 - A.3d - 2025 WL 2670811

Condominium association, which operated condominium complex that included over 200 individually owned townhomes that were not individually metered for water services, brought action against water and sewer authority, challenging method for calculating charges for stormwater runoff based on impervious surface area of property and seeking declaratory and injunctive relief.

On cross motions for summary judgment, the Superior Court granted authority's motion for summary judgment. Association appealed.

The Court of Appeals held that:

- Authority failed to provide sufficient explanation showing rational connection between how property was metered for water and that property's assessed charge for its impervious surface area pursuant to regulation, and thus, remand was required, but
- Entry of summary judgment in favor of condominium association was not warranted.

MUNICIPAL ORDINANCE - GEORGIA

WBY, Inc. v. City of Chamblee, Georgia

United States Court of Appeals, Eleventh Circuit - September 23, 2025 - F.4th - 2025 WL 2699142

Owner of former strip club that served alcohol brought action for declaratory and injunctive relief as well as for damages against city, alleging city ordinances relating to the sale of alcohol at adult establishments with nude dancing violated owner's rights under the First Amendment and the Contract Clauses and the Equal Protection Clauses of the United States and Georgia Constitutions.

The United States District Court for the Northern District of Georgia granted in part city's motion to dismiss for lack of standing and granted summary judgment to city on owner's remaining claims. Owner appealed.

The Court of Appeals held that:

- Owner did not have Article III standing to seek equitable relief;
- Owner suffered past injury that was traceable to the ordinances in form of loss of the economic use of its property, as required to have Article III standing to bring action for damages;
- Owner did not have redressable claim, for Article III standing purposes, with respect to ordinance that banned sale of alcohol at establishments offering nude dancing;
- Owner had redressable claim, for Article III standing purposes, with respect to ordinances that required adult establishments at midnight and prohibited fully nude dancing;
- Strict, rather than intermediate scrutiny applied to owner's First Amendment free speech claims;
- Ordinances that required adult establishments close for business at midnight and that prohibited fully nude dancing did not violate club owner's First Amendment free speech rights;
- There was no valid contract between the club and city upon which to base Contracts Clause claims; and
- City did not violate club owner's equal protection rights.

BONDS - OHIO

State Ex Rel. Springfield City School District Board of Education v. Hamilton

Supreme Court of Ohio - September 25, 2025 - N.E.3d - 2025 WL 2724420 - 2025-Ohi--4427

School district brought mandamus action seeking writ compelling county auditor to place voter-approved bond levy on tax list and duplicate for collection through 2031 to pay debt charges on bonds issued pursuant to the levy.

The Ohio Supreme Court denied auditor's motion for judgment on the pleadings, granted an alternative writ, and set schedule for presentation of evidence and filing of briefs on district's requested writ.

The Supreme Court held that:

- Auditor had no discretion to refuse to place voter-approved property tax levy on tax list and duplicate for collection while voter-approved bonds remained outstanding, but
- District had to pass legislation authorizing collection of taxes "in following year" to trigger auditor's duty for future years.

School district lacked an adequate remedy in ordinary course of law for county auditor's refusal to place voter-approved property tax levy on tax list and duplicate for collection while voter-approved bonds issued by district board of education remained outstanding, as element for mandamus relief, even though it could pursue declaratory-judgment action in common pleas court, where such judgment would not provide full relief unless coupled with mandatory injunction compelling auditor to place bond levy on tax list and duplicate.

Fact that it was county treasurer, not the auditor, who had duty to collect property taxes did not prevent auditor from providing relief sought by school district, as element for mandamus relief, even though district asked for mandamus compelling auditor "to collect the bond levy" approved by voters, where district sought mandamus relief after auditor stated she would not place levy on tax list and duplicate for collection, and under statutory process for levying and collecting general obligation bonds, auditor's placement of bond levy on tax list and duplicate for collection was prerequisite to treasurer's duty to collect the property tax.

County auditor had no discretion under statutory process for levying and collecting general obligation bonds to refuse to place voter-approved property tax levy on tax list and duplicate for collection while voter-approved bonds issued by local school district board of education remained outstanding, based on her determination that levy duration had ended; auditor's duty to place bond levy on tax list and duplicate was ministerial.

County auditor did not have legal duty to include bond levy for voter-approved bond for improving school facilities on tax list and duplicate for collection until school district had passed legislation authorizing collection of taxes "in the following year," and thus, school district was not entitled to mandamus relief compelling auditor to place voter-approved property tax levy on tax list and duplicate for collection with respect to voter-approved multi-series bonds issued by local school district board of education to be repaid over maximum of 12 years for future years beyond levy's collection in 2026; governing statute triggered auditor's duty each year only after the taxing authority passed and filed the necessary legislation by November 30 for the following collection year.

EMINENT DOMAIN - TEXAS

Mesquite Asset Recovery Group, L.L.C. v. City of Mesquite, Texas

United States Court of Appeals, Fifth Circuit - September 23, 2025 - F.4th - 2025 WL 2700591

Development groups brought action against city in state court, asserting takings claim under federal and Texas constitutions and seeking declaratory relief and attorneys' fees for breach of contract and other state-law violations, after city allegedly refused to extend time for performance under contract and terminated it.

Following removal, city filed motion to dismiss. United States District Court for the Northern District of Texas granted the motion. Groups appealed.

The Court of Appeals held that:

- Groups failed to state a takings claim, and
- Federal Declaratory Judgment Act claim was subject to dismissal, following remand of claim for breach of contract under Texas law to state court.

PUBLIC EMPLOYMENT - ALABAMA

Personnel Board of Jefferson County v. City of Trussville

Supreme Court of Alabama - September 12, 2025 - So.3d - 2025 WL 2627723

County personnel board brought action against city, seeking declaration that act allowing certain municipalities to remove themselves from jurisdiction of their county's personnel board violated Alabama Constitution's provisions on special and local laws and that city's subsequent departure from board's jurisdiction pursuant to that act was void.

In response to motion by city, the Circuit Court dismissed action with prejudice. Board appealed.

The Supreme Court held that:

- Board was within group affected by act, as required for board to have standing to challenge act's constitutionality pursuant to test for standing as articulated in *Express Enterprise, Inc. v. Waites*, 979 So.2d 754;
- Board's loss of jurisdiction constituted injury-in-fact under the traditional and default test for standing in public-law actions;
- Board's imminent loss of $300,000 if city were allowed to depart from board's jurisdiction under act constituted injury-in-fact under the traditional and default test for standing in public-law actions;
- Board's injury-in-fact had direct causal link to act's passage;
- Board's injury-in-fact was redressable by a favorable court decision; and
- If it turned out to be true that city was the only municipality in the State that met act's requirements, then Legislature, before act's enactment, had to comply with Alabama Constitution's notice requirements for special and local laws.

IMMUNITY - ALABAMA

Ex Parte Riche

Supreme Court of Alabama - September 19, 2025 - So.3d - 2025 WL 2679931

Football game spectator who claimed that she had been injured in a trip and fall in walkway in stadium owned by city board of education brought action against stadium manager, in his official and individual capacities, and asserted claims of negligence, wantonness, premises liability, negligent and/or wanton undertaking, and "combining and concurring negligence."

The Circuit Court denied manager's motion for summary judgment. Manager petitioned for a writ of mandamus.

The Supreme Court held that:

- Manager, who was an employee of the board, had sovereign immunity from the claims insofar as they were asserted against him in his official capacity;
- Pursuant to statute providing for State-agent immunity to those exercising judgment in the discharge of duties in educating students, manager had State-agent immunity from the claims insofar as they were asserted against him in his individual capacity; and
- Manager's alleged failure to follow up regarding the sand that he had put in crack in stadium walkway and the orange cone that he had placed nearby did not defeat finding that he had State-agent immunity.

NEGLIGENCE - INDIANA

Indianapolis Public Transportation Corporation v. Bush

Supreme Court of Indiana - September 15, 2025 - N.E.3d - 2025 WL 2640911

Pedestrian's mother, on behalf of his estate, brought wrongful death action against city public transportation corporation, alleging that when pedestrian was trying to board bus, he fell into the road as the bus left a curbside stop, and was run over and died of his injuries.

Following jury trial, the Superior Court entered judgment for estate, and denied corporation's motion to correct error. Corporation appealed. The Court of Appeals reversed and remanded. Estate petitioned for transfer, which was granted.

The Supreme Court held that:

- As matter of first impression, appropriate standard of review on denial of motion to correct error, when the motion asserts a verdict is clearly erroneous as contrary to the evidence, is de novo;
- Video footage created issue for jury of whether pedestrian was contributorily negligent;
- Evidence of pedestrian's blood alcohol content (BAC) created issue for jury as to whether pedestrian's intoxication was a proximate cause of his injuries;
- Issue of whether pedestrian violated statute prohibiting pedestrians from suddenly leaving a curb and walking into path of vehicle that is so close as to constitute an immediate hazard was for the jury; and
- Issue of whether pedestrian violated statute prohibiting a person from being intoxicated when using public transportation and endangering their own life was for the jury.

REFERENDA - OHIO

State ex rel M/I Homes of Cincinnati, L.L.C. v. Clermont County Board of Elections

Supreme Court of Ohio - September 17, 2025 - N.E.3d - 2025 WL 2658638 - 2025-Ohi--4362

Real estate developer requested writ of prohibition to prohibit county board of elections from placing referendum on general-election ballot challenging township board of trustees' approval of developer's application to rezone parcels of property to planned-development district for purposes of residential development or, alternatively, writ of mandamus to compel board of elections to sustain developer's protest against referendum petition.

The Supreme Court held that:

- Average person reading brief summary would have understood that proposal to be voted on would affect zoning status of roughly 120 acres of property spanning three parcels of land;
- Referendum petition's brief summary accurately stating that affected acreage would be rezoned to "PD" and clarifying that acronym stood for "Planned Development District," complied with governing statute;
- Petition accurately stating zoning change associated with affected acreage and accurately stating nature and number of homes proposed for development complied with governing statute;
- Board of elections did not abuse its discretion or clearly disregard applicable law when it denied protest that involved brief summary that did not mention every feature or condition of zoning amendment;
- Statement from county board of elections' employee, at hearing on developer's protest, that "[t]hese two [maps] were submitted" was sufficient to verify that second map was filed with board of trustees;
- Map used in obtaining signatures that covered up inset "vicinity" map, but nevertheless displaying larger and more detailed map of affected area—as compared to inset vicinity map—on left side of document, complied with governing statute; and
- Developer forfeited its argument in reply brief that maps attached to referendum petition were misleading because they were faded and blurry by failing to raise it in its merit brief.

EMINENT DOMAIN - TEXAS

DM Arbor Court, Limited v. City of Houston, Texas

United States Court of Appeals, Fifth Circuit - August 12, 2025 - 150 F.4th 418

Operator of affordable housing apartment complex for low-income residents brought action against city, alleging that city's refusal to grant permits to operator to repair units damaged in hurricane and subsequent flooding was a regulatory taking under the Fifth Amendment.

Following a bench trial, the United States District Court for the Southern District of Texas ruled against owners, concluding property still had economic life despite permit denial. Operator appealed.

The Court of Appeals held that permit denial effected a categorical taking.

City's denial of a repair permit under city's flood control ordinance for property that was located in

flood zone left no viable way for operator of affordable housing apartment complex for low-income residents to redevelop property after property was flooded by hurricane, and thus permit denial effected a categorical taking of property, although operator was technically free to redevelop property so long as it complied with elevation requirement, and notwithstanding any speculation as to a sale of the property, or fact that operator's Housing Assistance Payment Contract (HAP Contract) from Department of Housing and Urban Development (HUD) had value, which was a separate and distinct property interest; evidence indicated that permit denial ended property's economic life given that there was currently no identifiable economically feasible redevelopment for property without permit, redevelopment was prohibitively expensive and economically unfeasible because it would have required elevation of property, holding property for investment purposes was not an economically beneficial use.

LIABILITY - ALABAMA

Ex Parte City of Birmingham

Supreme Court of Alabama - September 19, 2025 - So.3d - 2025 WL 2680098

Motorist who suffered injuries in collision on interstate highway brought action against city, asserting claims of negligence, wantonness/recklessness, and negligent/wanton hiring, training, supervision and/or retention, which claims stemmed from allegation that city failed to maintain working streetlights at the collision site.

After granting city's motion to dismiss the wantonness/recklessness claim, the Circuit Court denied city's motion for summary judgment. City petitioned for writ of mandamus, and motorist conceded in his answer to the petition that the claim for negligent hiring, training, supervision, and/or retention was due to be dismissed.

The Supreme Court held that, as is relevant to statute governing municipal liability for negligence, when a municipality chooses to provide for the public health, safety, and general welfare of its citizenry by voluntarily assuming the responsibility of maintaining the streetlights on an interstate highway, it does not impose upon itself a legal duty of care to an individual who is allegedly injured as the result of inoperable streetlights.

IMMUNITY - GEORGIA

Bray v. Watkins

Court of Appeals of Georgia - September 4, 2025 - S.E.2d - 2025 WL 2537329

As guardian of child, administratrix of estate of child's father, and in her individual capacity, child's mother sued county sheriff's lieutenant in both her official and individual capacities for damages, alleging that tornado caused tree to fall on bedroom of their home, which tree killed child's father and injured child and herself, and that lieutenant failed to activate a tornado warning system while working in county emergency center.

The Superior Court entered summary judgment for lieutenant and mother appealed. The Court of Appeals affirmed. Mother petitioned for certiorari review. The Supreme Court granted mother's petition for certiorari, vacated, and remanded. On remand, the Court of Appeals adopted the Supreme Court's opinion as its own, vacated the trial court's order, and remanded for trial court to resolve the sovereign immunity issue in the first instance. After remand, mother filed motion

requesting that trial court deny lieutenant's motion for summary judgment. The trial court granted lieutenant's motion for summary judgment and found that sovereign immunity applied, and mother appealed.

The Court of Appeals held that:

- Sovereign immunity applied and barred mother's claims against lieutenant in her official capacity, and
- Mother's claims against lieutenant, in her individual capacity, were barred by the public duty doctrine.

EMINENT DOMAIN - IDAHO

Hansen v. Boise School District #1

Supreme Court of Idaho, Boise, May 2025 Term - August 15, 2025 - P.3d - 2025 WL 2371200

Guardians of minor student, in their individual capacities, as guardians of student, and as class representatives, brought proposed class action against school district for inverse condemnation under state constitution and violation of Fifth Amendment's Takings Clause, under § 1983, alleging fees charged for second half of full-day kindergarten violated Idaho Constitution's free common schools provision and constituted a taking without due process.

The Fourth Judicial District Court granted district's motion to dismiss. Guardians appealed.

The Supreme Court held that:

- Student did not suffer particularized injury-in-fact necessary to have standing, and
- Statute providing that time for the commencement of the action would exclude period while plaintiff was still a minor did not apply to toll limitations period.

Minor student did not suffer a deprivation of property due to tuition charged for second half of full-day kindergarten, and thus did not suffer particularized injury-in-fact necessary to have standing to bring proposed class action against school district for violation of Takings Clause, under § 1983, alleging tuition violated Idaho Constitution's free common schools provision and constituted a taking without due process, where tuition payments were made solely by minor's guardians, using their funds and not any property belonging to minor.

Statute, providing that time for the commencement of the action would exclude the period during which plaintiff was still a minor, did not apply to toll limitations period for proposed class action brought by guardians of minor student against school district for violation of Takings Clause, under § 1983, alleging tuition charged for second half of full-day kindergarten violated Idaho Constitution's free common schools provision and constituted a taking without due process, where it was guardians, not student, who had standing to bring the takings claim.

PUBLIC UTILITIES - OHIO

In re Application of Dayton Power and Light Company

Supreme Court of Ohio - August 22, 2025 - N.E.3d - 2025 WL 2421810 - 2025-Ohio-2953

Office of Ohio Consumer's Counsel (OCC) filed appeal from Ohio Public Utility Commission's decision in three cases finding that electric utility's electric security plan resulted in excessive earnings in two years, and that utility could offset its excessive earnings by making future capital investments.

Utility filed cross-appeal, and the cases were consolidated.

The Supreme Court held that:

- Commission's determination that utility could offset its significantly excessive earnings in two years through future committed investments was unlawful;
- Commission's finding that utility could offset its significantly excessive earnings by offsetting its future committed investments based on utility's financial condition was not reasonable or supported by evidence;
- Commission's inclusion of utility's distribution-modernization rider in calculating whether utility's electric security plan resulted in utility having significantly excessive earnings in two years was appropriate;
- Commission's exclusion of rate-stabilization charge amounts from electric utility's earnings was appropriate, in calculating whether utility's electric security plan resulted in utility having significantly excessive earnings in two years; and
- An appellee may defend a lower tribunal's decision by asserting alternative grounds for affirmance than those adopted by the tribunal, without having to file a protective cross-appeal; abrogating *In re Application of Duke Energy Ohio, Inc.,* 50 Ohio St.3d 437, 82 N.E.3d 1148.

PUBLIC UTILITIES - PENNSYLVANIA

Transource Pennsylvania, LLC v. DeFrank

United States Court of Appeals, Third Circuit - September 5, 2025 - F.4th - 2025 WL 2554133

Electric utility brought action against Pennsylvania Public Utility Commission (PUC) seeking declaratory judgment that PUC's order denying utility's siting applications to build transmission lines, as part of project selected through a federal process aimed at identifying and relieving regional transmission congestion, was preempted under federal law and violated the dormant Commerce Clause.

The United States District Court for the Middle District of Pennsylvania granted utility's motion for summary judgment and denied PUC's cross-motion for summary judgment. PUC appealed.

The Court of Appeals held that:

- Issue preclusion did not apply to preclude litigation of preemption claim;
- PUC's order was preempted as posing obstacles to accomplishing federal objectives in regulating electricity industry; and
- Regional transmission organization (RTO) did not wield eminent-domain power under Pennsylvania law.

Pennsylvania Public Utility Commission's (PUC) order denying electric utility's siting applications to build transmission lines, as part of project selected through a federal process aimed at identifying and relieving regional transmission congestion, posed obstacles to accomplishing federal objectives in regulating the electricity industry, and thus PUC's order was preempted by federal law; Federal

Energy Regulatory Commission (FERC) determined that the benefit-cost methodology used by regional transmission organization (RTO) for selecting project was a just and reasonable means by which to measure whether an economic-based enhancement or expansion should be included in a regional transmission expansion plan, and PUC's rejection of that measure arose from PUC's disagreement with constructing project.

Pennsylvania Public Utility Commission's (PUC) order denying electric utility's siting applications to build transmission lines, as part of project selected through a federal process aimed at identifying and relieving regional transmission congestion, was preempted as posing an obstacle to accomplishing federal objectives in regulating the electricity industry, despite argument that PUC's independent determination of public need for project was necessary to prevent a wasteful and counterproductive project due to decrease in congestion in years since project was approved; task of reevaluating need based on changing congestion patterns belonged with RTO and not with PUC since the need determination fell in the first instance to RTO.

Regional transmission organization (RTO) that was responsible for maintaining the bulk electricity transmission system of a 13-state region did not wield eminent-domain power of a public utility under Pennsylvania law when RTO identified areas of transmission congestion and proposed transmission-line construction project as solution to reduce congestion; RTO was not a public utility, and any utility was required to prevail in a condemnation action at the court of common pleas before private property could be condemned.

Even after the Pennsylvania Public Utility Commission (PUC) authorizes an electric utility to exercise the power of eminent domain, a condemnation is far from final; rather, the utility must still prevail in a condemnation action at the court of common pleas.

IMMUNITY - VIRGINIA

Lytle v. City of Suffolk

Court of Appeals of Virginia, Williamsburg - September 16, 2025 - S.E.2d - 2025 WL 2649524

Motorist brought action against city for declaratory judgment and injunctive relief, alleging that he received speeding ticket in the mail for a fine detected by a photo speed camera, and that city failed to issue a proper summons, failed to follow the appropriate procedures for initiating a traffic case, failed to follow procedures for filing an affidavit for non-liability, committed fraud, and was guilty of maladministration of government.

City filed plea in bar, asserting sovereign immunity, and a demurrer. The Suffolk Circuit Court sustained plea in bar. Motorist appealed.

The Court of Appeals held that:

- City's use of third-party private vendor for administration of photo-speed-monitoring system did not indicate that implementation of system was proprietary function solely for city's benefit, and thus, did not preclude city from raising sovereign-immunity defense;
- City's use of photo-speed-monitoring system involved governmental function, and thus, city was entitled to sovereign immunity;
- Motorist, waived on appeal his argument that under Dillon's Rule there was exception to sovereign immunity by which a plaintiff could seek declaratory judgment against a municipality; and

- Motorist had recourse to challenge process involved in assessing his violation.

IMMUNITY - ALABAMA

Ex parte City of Montgomery

Supreme Court of Alabama - August 29, 2025 - So.3d - 2025 WL 2487401

Police officer employed by municipality brought action against municipality and other defendants, asserting claims for breach of contract, bad faith, fraudulent misrepresentation, failure to settle, violation of the Alabama Legal Services Liability Act, negligence, wantonness, conspiracy, and failure to procure insurance, based on allegations that municipality voluntarily acted as officer's insurer but refused to satisfy judgment obtained against officer in underlying negligence action brought by motorcyclist injured in collision with officer.

The Circuit Court denied municipality's motions to dismiss. Municipality petitioned for writ of mandamus.

The Supreme Court held that:

- Municipality waived statutory immunity defense that it might have asserted against some of police officer's claims;
- Municipality was not entitled at pleading stage to statutory immunity from police officer's fraudulent-misrepresentation claim; and
- Trial court's denial of municipality's motion to dismiss police officer's claim alleging violation of Alabama Legal Services Liability Act was not reviewable on municipality's petition for mandamus.

EMINENT DOMAIN - FEDERAL

Anaheim Gardens v. United States

United States Court of Federal Claims - September 5, 2025 - Fed.Cl. - 2025 WL 2573359

Owners of low-income housing projects brought consolidated actions against the United States Department of Housing and Urban Development (HUD), alleging that enactment of Emergency Low Income Housing Preservation Act (ELIHPA) and Low-Income Housing Preservation and Resident Homeownership Act (LIHPRHA) constituted temporary regulatory takings under Fifth Amendment in that they prevented owners from exercising their contractual right to prepay government-insured mortgages on their respective housing projects, to terminate government rent restrictions.

The Court of Federal Claims granted summary judgment in favor of government. Property owners appealed. The Court of Appeals affirmed in part, vacated in part, and remanded.

On remand, the Court of Federal Claims held that:

- Owner did not establish that expectation to prepay its mortgage and convert to market rate rentals after 20 years was primary or "but for" reason for its investment;
- Other owner established that expectation to prepay its mortgage and convert to market rate rentals after 20 years was primary or "but for" reason for its investment;
- Expectation of owner to prepay its mortgage and convert to market rate rentals after 20 years was objectively reasonable in view of industry practice as whole;
- Expectation of owner to prepay its mortgage and convert to market rate rentals after 20 years was

objectively reasonable in view of testimony from former employees of Department of Housing and Urban Development (HUD) supporting owner's expectation and language used on owner's secured note;
- Testimony from certified public accountant (CPA), determining that early tax benefits were more valuable than hypothetical residual 20 years later, did not refute objectively reasonable expectation of owner;
- District court could not credit economic loss calculation of owners' primary expert who died prior to court's decision, as adopted and promulgated by secondary financial analyst;
- Methodology of government's expert for calculating economic loss was consistent, replicable, and reliable, and therefore admissible; and
- Economic impact of LIHPRHA on owners of between 5.9% and 27.4% did not constitute temporary regulatory taking.

EMINENT DOMAIN - IDAHO

Bear Crest Limited LLC v. State by and through Idaho Transportation Department

Supreme Court of Idaho, Boise, February 2025 Term - September 3, 2025 - P.3d - 2025 WL 2525340

Operator of drive-through wildlife park, property owner that leased land to operator, and owner of both operator and property owner brought action against state, acting by and through Idaho Transportation Department (ITD), for breach of contract and inverse condemnation, alleging that closure of intersection of highway and county road near park was a taking and breached deed, which reserved access to county road connection.

The Seventh Judicial District Court granted ITD's motion for summary judgment and denied plaintiffs' motion for partial summary judgment. Plaintiffs appealed.

The Supreme Court held that:

- Property owner had standing to bring claims;
- Property owner had cognizable breach-of-contract claim against ITD based on deed's reservation for access to connection;
- Deed referenced express reservation of access to connection, not to county road itself;
- Deed's express reservation of access rights constituted an easement that ran with the land, and thus property owner could enforce easement against ITD through breach-of-contract action.
- Closure of intersection breached express reservation of access rights;
- Closure of intersection constituted taking of access rights that were reserved in deed; and
- Property owner's right of access as abutting landowner was substantially impaired, and thus a taking occurred.

ZONING & PLANNING - MISSISSIPPI

Busby Outdoor LLC v. City of Jackson

Supreme Court of Mississippi - August 28, 2025 - So.3d - 2025 WL 2475952

City, its former mayor, and a limited liability company (LLC) brought action against the Mississippi Department of Agriculture and Commerce (MDAC) and the operator of a billboard that was owned

by MDAC and located on the State Fairgrounds seeking declaratory and injunctive relief based on claims that the billboard violated the city's sign ordinance and a zoning ordinance.

MDAC filed motion to dismiss and billboard operator filed motion to dismiss or for summary judgment.

The Chancery Court denied the motions to dismiss but dismissed former mayor and LLC for lack of standing, found that the billboard violated city's sign ordinance and was therefore a public nuisance, and issued a temporary injunction. MDAC filed motion to clarify or for entry of final judgment and motion for stay pending appeal, and both MDAC and billboard operator filed notices of appeal. The Chancery Court subsequently granted the motion to clarify and denied the motion for stay. Billboard operator petitioned for interlocutory appeal, which was granted, and the appeals were consolidated and the trial court proceedings were stayed.

The Supreme Court held that city's ordinance did not apply to the billboard.

City ordinance governing billboards did not apply to billboard owned by Mississippi Department of Agriculture and Commerce (MDAC) and located on State Fairgrounds; statutes that empowered municipalities to pass and enforce zoning laws such as the ordinance at issue did not specifically provide for such laws to be applicable against the state, and statutes empowering MDAC to use its property, including the State Fairgrounds, did not specifically subject MDAC to municipal zoning laws.

MUNICIPAL ORDINANCE - NEBRASKA

Nebraska Firearms Owners Association v. City of Lincoln

Supreme Court of Nebraska - August 29, 2025 - N.W.3d - 319 Neb. 723 - 2025 WL 2486649

Firearm owners association and gun owners brought a pre-enforcement action against city and mayor for declaratory and injunctive relief raising state-law preemption challenges to mayor's executive order prohibiting weapons on city property and to ordinances regulating use and possession of firearms and weapons.

The District Court granted motion to dismiss for lack of standing. Association and gun owners appealed, and their petition to bypass was granted.

The Supreme Court held that:

- Association lacked standing to sue on behalf of its members;
- Owners had standing to challenge executive order and ordinance banning weapons on city property including parks;
- Owners had standing to challenge ordinance requiring reporting of sales of firearms in city;
- One owner had standing to challenge ordinance prohibiting sale or possession of multiburst trigger activators;
- Owners had standing to challenge ordinance prohibiting sale or possession of switchblade knives; and
- Owners lacked standing to challenge ordinance regulating storage of firearms in vehicles.

PUBLIC UTILITIES - OHIO

In re Application of Ohio Power Company

Supreme Court of Ohio - August 27, 2025 - N.E.3d - 2025 WL 2456670 - 2025-Ohio-3034

Power company sought review of Public Utilities Commission decision authorizing electric distribution company's implementation of its fifth electric-security plan, including provisions denying power company's motion to establish a reasonable protective agreement for discovery and authorizing electric distribution company to continue its basic-transmission-cost rider as nonbypassable.

The Supreme Court held that:

- Power company failed to establish that electric distribution company's proposed protective agreement harmed power company;
- Commission did not abuse its discretion when it authorized electric distribution company to continue the basic-transmission-cost rider as nonbypassable;
- Electric distribution company was not required to cite to statute in its application to implement a fifth electric-security plan in order for the commission to rely upon statute when issuing authorization of nonbypassable basic-transmission costs rider under statute;
- Supreme Court lacked jurisdiction to consider power company's argument that the commission should have analyzed transmission rider in electric distribution company's fifth electric-security plan only under repealed electric security plan statute;
- Commission did not violate administrative code; and
- Commission's approval of nonbypassable basic-transmission-cost rider did not violate electric policies embodied in state policy statute.

PUBLIC RECORDS - PENNSYLVANIA

Penncrest School District v. Cagle

Supreme Court of Pennsylvania - August 19, 2025 - A.3d - 2025 WL 2400297

Records requester appealed school district's denial of his request for district school board members' social networking website posts and comments related to same sex relations and district, its officials, employees, students, curriculum, physical resources, or electronic resources in an 18-month period.

The Office of Open Records granted relief to requester. District appealed. The Court of Common Pleas affirmed. District appealed. The Commonwealth Court vacated and remanded with instructions.

The Supreme Court held that:

- Resolving whether social media posts of school board members were records within meaning of Right-to-Know Law (RTKL) required consideration of whether information documented transaction or activity of agency and whether information was created, received or retained pursuant to law or in connection with a transaction, business or activity of the contracting agency, and
- Resolving under RTKL whether profile or page on social media website was record "of an agency" required consideration of facts that would be relevant only to that particular form of communication, under those specific facts.

IMMUNITY - ALABAMA

Rogers v. Cedar Bluff Volunteer Fire Department

Supreme Court of Alabama - August 29, 2025 - So.3d - 2025 WL 2487426

Administratrix of deceased automobile accident victim's estate brought wrongful-death action against town's volunteer fire department, county association of volunteer fire departments, and volunteer firefighter, alleging that firefighter negligently or wantonly contributed to victim's death after responding to accident scene.

In addition to entering summary judgment for association, the Circuit Court also entered summary judgment for town, determining that department was a political subdivision of town and that, therefore, town, under the Volunteer Service Act (VSA), was immune from liability for the negligence of its volunteer firefighters.

Administratrix appealed after her postjudgment motion to alter, amend, or vacate the summary judgment was denied and the circuit court had entered an order certifying its judgment as final under rule on judgment upon multiple claims or involving multiple parties. The Supreme Court dismissed the appeal. In response to stipulations filed by the parties, the Circuit Court then entered an order of pro tanto dismissal, which dismissed all claims against association, and also entered a final consent judgment in favor of administratrix and against volunteer firefighter. Administratrix appealed.

The Supreme Court held that:

- Volunteer fire department was a political subdivision of town;
- Volunteer firefighter was acting within the scope of his official functions and duties as a volunteer; and
- Even if volunteer firefighter's conduct was wanton, that did not preclude town from having immunity from the wrongful-death claim.

Volunteer fire department was a political subdivision of town and did not exist separately from town, as would support finding under Volunteer Service Act (VSA) that town was vicariously immune from liability for allegedly negligent conduct of volunteer firefighter at scene of automobile accident; department was not a separately incorporated entity, town partially funded department, department's chief reported directly to town's mayor, and state statute expressly authorized municipalities to operate and maintain volunteer fire departments.

Volunteer firefighter was acting within the scope of his official functions and duties as a volunteer when he responded to scene of automobile accident, as required for firefighter to have immunity under Volunteer Service Act (VSA) from wrongful-death claim that administratrix of deceased automobile-accident victim's estate was asserting in regard to firefighter's allegedly negligent conduct at accident scene, even though scene was outside department's service area and department had not dispatched firefighter to scene; firefighter responded to scene after hearing about accident on department-issued radio, and firefighter, after advising that efforts to resuscitate purportedly dead victim should stop, stated over radio that death had occurred.

Even if alleged failure of volunteer firefighter with town's volunteer fire department to provide basic life support and first aid at automobile-accident scene was wanton, which would mean that he lacked immunity under Volunteer Service Act (VSA) from resulting wrongful-death claim, that did not preclude town from having vicarious immunity wrongful-death claim; town could not be liable for the

wanton conduct of its servant.

WATER LAW - NEBRASKA

State ex rel. Seeman v. Lower Republican Natural Resources District

Supreme Court of Nebraska - August 22, 2025 - N.W.3d - 319 Neb. 681 - 2025 WL 2423678

Corporate landowner and individual landowner brought separate mandamus actions against board members and general manager of natural resources district (NRD), challenging NRD's cease-an--desist order reducing certified irrigated acres pursuant to Nebraska Ground Water Management and Protection Act as penalty for tampering with flow meters.

The District Court granted mandamus relief and attorney fees to both landowners. Members and general manager appealed and landowners cross-appealed.

The Supreme Court held that:

- NRD's order was void as to corporate landowner;
- Individual landowner failed to show that NRD's order was void as to him;
- NRD's order was not void as perpetual prohibition against irrigation and upon transfer of title and use of land;
- Individual landowner was not entitled to recover attorney fees; and
- Trial court acted within its discretion in awarding corporate landowner attorney fees.

EMINENT DOMAIN - NORTH CAROLINA

Town of Apex v. Rubin

Supreme Court of North Carolina - August 22, 2025 - S.E.2d - 2025 WL 2427569

Town brought condemnation action to acquire an easement across landowner's property and to connect sewer access to an adjoining parcel.

After town installed sewer line, the Superior Court found the taking was for a private purpose, and entered judgment for landowner, and denied town's motion for reconsideration. Town appealed, and the Court of Appeals affirmed.

Landowner then filed motion to enforce the judgment, and town commenced separate action seeking a declaratory judgment that it had acquired an easement by inverse condemnation when it installed the sewer line.

Landowner filed motion to dismiss town's inverse condemnation action, and town filed motion for relief from judgment in the condemnation action. The Superior Court, Wake denied landowner's motions and granted town's motion for relief from the judgment. Property owner appealed.

In the condemnation action, the Court of Appeals affirmed in part, reversed in part, and vacated in part, while in the inverse condemnation action, the Court of Appeals affirmed in part, vacated in part, and remanded. Town filed petitions for discretionary review and landowner filed conditional petition for review, which were allowed.

The Supreme Court held that:

- Prior pending action doctrine precluded town's declaratory judgment action regarding inverse condemnation;
- Court's judgment that taking was for a private purpose revested title in the property to landowner;
- Trial court had inherent authority to order mandatory injunctive relief requiring town to remove sewer pipe; and
- Question of the proper remedy, including whether a mandatory injunction was warranted, required remand to the trial court.

CONSTITUTIONAL LAW - NORTH CAROLINA

Howell v. Cooper

Supreme Court of North Carolina - August 22, 2025 - S.E.2d - 2025 WL 2427597

Bar owners brought action against State, Governor, and other state officials, alleging that the Governor's executive orders issued in response to the COVID-19 pandemic, which closed bars or severely restricted their operations, violated their fundamental rights to earn a living under the "fruits of their labor" and "law of the land" clauses in state Constitution.

The Superior Court denied defendants' motion to dismiss. Defendants appealed. The Court of Appeals affirmed. Defendants' petition for discretionary review was granted.

The Supreme Court held that owners stated a colorable claim for violation of their fundamental right to earn a living under "fruits of their labor" and "law of the land" clauses in the Constitution.

Bar owners' allegations that Governor's executive orders in response to COVID-19 either overtly ordered them to close their facilities or so severely restricted their operations that owners found it no longer practicable to remain open stated a colorable claim against state and state officials for violating owners' fundamental right to earn a living under "fruits of their labor" and "law of the land" clauses in state Constitution; orders to remain closed, and then to not serve alcoholic beverages for onsite consumption and only allowing operation in outdoor seating areas, forced owners to keep doors shuttered either outright or in practice for nine months with no end then in sight.

Bar owners were not required to seek least intrusive remedy to avoid dismissal, based on sovereign immunity, of their claims alleging state and state officials abridged their fundamental right to earn a living under state Constitution's "fruits of their labor" and "law of the land" clauses, when Governor issued executive orders that shuttered their businesses during COVID-19 pandemic; since least intrusive remedy limitation was not incorporated into the test for pleading a valid claim that state action violated a state constitutional right, it could not be the basis for a viable motion to dismiss.

STUDENT HOUSING - SOUTH DAKOTA

South Dakota Board of Regents v. Madison Housing and Redevelopment Commission

Supreme Court of South Dakota - August 20, 2025 - N.W.3d - 2025 WL 2416180 - 2025 S.D. 50

State university which leased two apartment buildings from city housing and redevelopment commission for student housing brought action against commission, seeking a declaration of its

rights under leases and alleging breach of contract regarding university's option to purchase.

Commission counterclaimed for declaratory relief and breach of contract. The Circuit Court granted university's motion for summary judgment, and commission appealed.

The Supreme Court held that:

- Leases did not constitute a single, continuous contract, and thus terms of original lease regarding commission's obligation to maintain reserve account were not still in effect when university exercised its option to purchase, and
- Option to purchase the property "for an amount equal to the then existing mortgage principal and interest balance" referred to the mortgage balance at the time of the exercise of the option.

Multiple leases between state university and city housing and redevelopment commission for two apartment buildings did not constitute a single, continuous contract, and thus terms of original lease regarding commission's obligation to maintain reserve account were not still in effect when university exercised its option to purchase the apartment buildings under lease executed 17 years after original lease; each lease stood on its own, expired on its own terms, and was not dependent upon the execution of another, and addenda to later lease which referenced the original lease were executed to continue the later lease after account dispute arose, and explicitly stated they did not admit any facts and could not be used against the parties.

Student apartment lease between state university and city housing and redevelopment commission which granted university the option to purchase the property "for an amount equal to the then existing mortgage principal and interest balance" referred to the mortgage balance at the time of the exercise of the option, which had been refinanced, rather than the mortgage balance at the time of the original construction of the apartment buildings.

IMMUNITY - FLORIDA

Huggins v. School District of Manatee County

United States Court of Appeals, Eleventh Circuit - August 15, 2025 - F.4th - 2025 WL 2374371

Community member, who was allegedly removed from public school-board meeting at which he intended to speak about approval of funds for charter school, brought state-court action against public school board and, in their individual and official capacities, school superintendent, board's chief of security, board's communications director, and city police officer for speech restriction and retaliation under the First Amendment, and for violations of the Fourth Amendment, the equal-protection clause of the Fourteenth Amendment, the equal-benefit clause of § 1981, and state laws.

Following removal, defendants moved to dismiss for failure to state a claim. Member moved to amend his complaint. The United States District Court for the Middle District of Florida denied motion to amend and granted motion to dismiss as to federal claims and declined to exercise supplemental jurisdiction over state-law claims. Member appealed.

The Court of Appeals held that:

- Superintendent was not entitled to qualified immunity from member's First Amendment claims;
- Member stated First Amendment speech-restriction claim against superintendent;
- Member stated First Amendment retaliation claim against superintendent;

- Chief of security and police officer were entitled to qualified immunity from member's First Amendment claims;
- Communications director was entitled to qualified immunity from community member's First Amendment retaliation claim;
- Member failed to show that board had opportunity to review superintendent's decision to remove him from board meeting and agreed with both decision and decision's basis, precluding member's Monell claim against board based on ratification theory; and
- Member was not entitled to leave to amend.

ROADS - MASSACHUSETTS

Town of Concord v. Rasmussen

Supreme Judicial Court of Massachusetts, Suffolk - August 15, 2025 - N.E.3d - 2025 WL 2370204

Town brought action against abutters of disputed road, seeking declaration that public had access and use rights to road.

Following bench trial, the Land Court Department entered judgment in favor of town. Abutters appealed. The Appeals Court modified judgment and affirmed. Abutters sought further appellate review, which was granted.

The Supreme Judicial Court held that:

- Direct, as opposed to circumstantial, evidence documenting that a public way was laid out is not required to support a finding that a particular way is public on basis of layout by a public authority in accordance with statute;
- Evidence was sufficient to support finding that particular portion of road was properly laid out and thus was a public way;
- County commissioners' adjudication that road should be a "private way," pursuant to statute providing for adjudication of way as a private way whenever common convenience and necessity no longer required such way to be maintained in a condition reasonably safe and convenient for travel, did not eliminate public access to road but rather simply removed the requirement that town maintain the road; and
- Trial court acted within its discretion in excluding abutters' proffered evidence as to status of other public roads which had been adjudicated "private ways" pursuant to same statutory provision as was at issue in instant case.

CONTRACTS - MISSISSIPPI

Retro Metro, LLC v. City of Jackson by and through City Council

United States Court of Appeals, Fifth Circuit - August 7, 2025 - F.4th - 2025 WL 2249348

Commercial property lessor brought breach-of-contract action against city which leased the property after city purportedly terminated the lease.

The United States District Court for the Southern District of Mississippi granted summary judgment to city. Lessor appealed.

The Court of Appeals held that:

- Under Mississippi law, lease was not sufficiently placed in minutes of city council and thus, pursuant to "minutes rule," was not an enforceable contract;
- Mississippi law rather than federal law applied to determination of whether city was judicially estopped from asserting that lease was invalid based on "minutes rule";
- Under Mississippi law as predicted by Court of Appeals, city's admission in prior litigation between same parties that city had entered into lease could not judicially estop city from arguing that lease was invalid based on "minutes rule"; and
- Under Mississippi law as predicted by Court of Appeals, the "minutes rule" is not an affirmative defense that can be waived but rather goes to the issue of whether a contract was ever formed in the first place.

NEGLIGENCE - NEW YORK

Harris v. New York City Transit Authority

Supreme Court, Appellate Division, Second Department, New York - August 13, 2025 - N.Y.S.3d - 2025 WL 2326682 - 2025 N.Y. Slip Op. 04635

Subway passenger brought action against city transit authority to recover damages for injuries that she allegedly sustained after slipping and falling on snow and ice that accumulated on uncovered staircase at subway station.

The Supreme Court, Kings County, denied transit authority's motion for summary judgment dismissing the complaint. Transit authority appealed.

The Supreme Court, Appellate Division, held that pursuant to storm-in-progress rule, transit authority was not liable for passenger's injuries.

At the time that subway passenger slipped and fell on snow and ice that accumulated on uncovered staircase at subway station, less than five hours had passed since the end of an extraordinary snowstorm, and thus, pursuant to storm-in-progress rule, city transit authority was not liable for injuries that passenger allegedly sustained as a result of her fall.

MUNICIPAL ORDINANCE - OHIO

Huron v. Kisil

Supreme Court of Ohio - August 20, 2025 - N.E.3d - 2025 WL 2404306 - 2025-Ohio-2921

City charged property owner with violating city ordinances requiring properties to be maintained and kept in clean, safe, and sanitary condition.

The Municipal Court granted property owner's motion to dismiss two of the six counts as unconstitutionally vague. City appealed. The Sixth District Court of Appeals reversed, and certified conflict. Property owner filed notice of certified conflict and notice of appeal.

The Supreme Court held that:

- Alleged condition of owner's property clearly fell within proscriptions of city ordinance requiring vacant structures and land be maintained in clean, safe, secure and sanitary condition, and

- Alleged condition of owner's property clearly fell within proscriptions of city ordinance requiring exterior property be maintained in clean, safe and sanitary condition.

IMMUNITY - UTAH

Armenta v. Unified Fire Authority

Supreme Court of Utah - August 7, 2025 - P.3d - 2025 WL 2265589 - 2025 UT 26

Patient, who suffered a heart attack one week after being treated for chest pain and shortness of breath by emergency medical technicians (EMTs) for governmental entity who told him everything looked normal, brought negligence action against governmental entity, alleging that failure of EMTs to properly diagnose his condition caused him injuries.

The Third District Court granted governmental entity's motion to dismiss, and patient appealed.

The Supreme Court held that:

- As matter of first impression, having immunized entities engaged in activities involving emergencies of certain type, what legislature had in mind when it enacted the "providing emergency medical assistance" exception to waiver of immunity under Utah Governmental Immunity Act (UGIA) is government's ability to respond to those types of emergencies, and
- As matter of first impression, the "providing emergency medical assistance" exception to waiver of immunity under UGIA did not apply.

PUBLIC UTILITIES - CALIFORNIA

Center for Biological Diversity, Inc. v. Public Utilities Commission

Supreme Court of California - August 7, 2025 - P.3d - 2025 WL 2253765

Environmental and utility ratepayer advocacy groups petitioned for writ of review challenging the Public Utilities Commission's decision adopting a tariff that reduced the price utilities pay for customer-generated power, arguing the tariff was inconsistent with the Public Utilities Code.

The First District Court of Appeal granted the petition and affirmed the Commission's decision. Supreme Court granted review.

The Supreme Court held that Court of Appeal erred by upholding Commission's decision under unduly deferential standard of review instead of applying its independent judgment; disapproving *Southern Cal. Edison Co. v. Public Utilities Com.*, 117 Cal.App.4th 1039, 12 Cal.Rptr.3d 441, *The Utility Reform Network v. Public Utilities Com.*, 166 Cal.App.4th 522, 82 Cal.Rptr.3d 791, and *Ames v. Public Utilities Com.*, 197 Cal.App.4th 1411, 128 Cal.Rptr.3d 702.

Court of Appeal, in performing inquiry required by statutory amendments governing judicial review of Public Utilities Commission decisions when making its conclusion on Commission's adoption of successor tariff that utilities paid for energy from solar panel power systems, was required to independently review whether tariff was based on costs and benefits of renewable electrical generation facility as required by customer-generator provision of PUC, rather than apply unduly deferential standard of review, because amendments retained "regularly pursued its authority" standard, to which uniquely deferential review applied, only for decisions pertaining solely to water corporations.

EMINENT DOMAIN - GEORGIA

Fulton v. Fulton County Board of Commissioners

United States Court of Appeals, Eleventh Circuit - July 31, 2025 - F.4th - 2025 WL 2166416

Property owner brought action against county, alleging county took his horses without justification and without paying for them in violation of the Takings Clause of the Fifth Amendment.

The United States District Court for the Northern District of Georgia denied owner's motion to amend complaint to substitute county for board of commissioners and to add alternative claim directly under the Takings Clause, and dismissed claim against board of commissioners without prejudice. Owner appealed.

The Court of Appeals held that:

- District court had federal question jurisdiction to independently evaluate merits of Takings Clause claim that was not patently without merit;
- Owner's state-law claim for recovery of personal property taken by county seven years previously was barred for not providing that notice to county under state procedural requirement
- Four-year statute of limitations applied to claim directly under Takings Clause in Georgia for recovery of personal property taken by county;
- On issue of first impression, a litigant in Georgia can sue a county, a political subdivision of the state, directly under the Takings Clause to obtain just compensation for a taking;
- On issue of first impression, direct cause of action against county under Takings Clause was available to horse owner;
  Georgia, as exclusive forum, unilaterally and unconstitutionally imposed procedural bar on horse owner's Takings claim, assuming owner could have ever sought relief in Georgia courts, because of Monell; and
- On issue of first impression, sovereign immunity did not bar direct cause of action against county under Takings Clause by horse owner.

BOND ISSUANCE - KANSAS

Vianello v. City of Prairie Village, Kansas

United States District Court, D. Kansas - August 4, 2025 - Slip Copy - 2025 WL 2208041

Plaintiff Marc Vianello filed an action challenging Defendant City of Prairie Village's issuance of general obligation bonds associated with building a new City Hall. Plaintiff challenged the City's ability to issue general obligation bonds without voter approval, bringing claims under 42 U.S.C. § 1983 and Kansas law.

The dispute centered in large part around the City Council's approval of a resolution, which passed on June 16, 2025. The resolution authorized the issuance of general obligation bonds in the amount of up to $30,000,000.00 to pay for improvements to certain City buildings, including City Hall.

Defendant moved to dismiss for lack of jurisdiction and for failure to state a claim.

Defendant asked the Court to expedite its decision on the motion to dismiss, i.e., give it priority over other pending motions, because it claimed that this action functioned as an injunction and prevented it from issuing bonds and moving forward on its improvement plans. It asserted that "delays on the project would result in an increase in costs of $120,000 per month, or approximately $28,000 per week; expediting briefing by even a week could save $28,000 in taxpayer funds." In contrast, Defendant asserted that Plaintiff would suffer no damage if briefing was expedited.

The premise of Defendant's motion was that it "prevent[s] Defendant from issuing bonds that it is legally entitled to issue." This is because Defendant is required to obtain a non-litigation certificate prior to issuing the bonds authorized by the June 16, 2025 resolution. Defendant contends that "[w]ithout an expedited hearing, Defendant would be prevented from making an offering of bonds, effectively being enjoined from issuing bonds even without a court order that it should be enjoined." And Defendant contended that it would be prevented from issuing bonds in the current market, which it contemplated when preparing to issue them, which could increase the cost of the bonds and construction materials.

The US District Court denied the motion for expedited briefing and ruling on Defendant's motion to dismiss. The Court found the City's assertions of the cost associated with delay are speculative at best, particularly given the short period of time that had passed since the resolution was passed. And Defendant's assertion that the lawsuit operated as an injunction preventing it from issuing bonds that it was legally entitled to issue called for a decision on the merits.

"According to Defendant's own brief, it passed the resolution authorizing these bonds on June 16. Plaintiff filed his federal lawsuit one month later. Defendant quickly moved to dismiss. The normal schedule for briefing on this motion is 21 days to respond and 14 days to reply. Defendant asks the Court to shorten this period to 14 and 7 days, respectfully. Given how quickly this case was filed after the bond resolution, the Court cannot find that expediting the briefing schedule by two weeks is warranted. It is not true that Plaintiff would suffer no damage from expediting deadlines. Plaintiff would be denied an extra week of briefing on this dispositive motion. Once fully briefed, the Court will endeavor to decide the motion to dismiss as soon as practicable given the demands of its caseload."

MUNICIPAL ORDINANCE - NORTH DAKOTA

Liquid Hospitality, LLC v. Board of City Commissioners of City of Fargo

Supreme Court of North Dakota - July 31, 2025 - N.W.3d - 2025 WL 2166077 - 2025 ND 136

Saloon brought action against city board of commissioners, challenging board's decision to uphold city liquor control board's determination that saloon violated municipal ordinance prohibiting service of alcoholic beverages to obviously intoxicated or impaired persons.

The District Court reversed, finding the ordinance unconstitutionally vague. Board appealed.

The Supreme Court held that:

- Ordinance placing restrictions on serving of obviously intoxicated or impaired persons was not unconstitutionally vague on its face in violation of due process, and

- Evidence supported determination that saloon had served an obviously intoxicated person in violation of city ordinance.

City ordinance placing restrictions on serving of obviously intoxicated or impaired persons was not unconstitutionally vague on its face in violation of due process; whether a person is intoxicated or impaired by alcohol or drugs is something a reasonable person can determine, and the criteria for obvious intoxication was clearly set forth in the ordinance.

REFERENDA - UTAH

Mathews v. Tooele County

Supreme Court of Utah - August 7, 2025 - P.3d - 2025 WL 2265330 - 2025 UT 30

Sponsors of referendum to repeal site specific zoning ordinance, which had rezoned parcel in unincorporated area of county from agricultural to planned-community zoning, brought action against county and governor after county clerk rejected referendum petition due to lack of signatures.

After ordinance went into effect, and parcel became part of newly-incorporated city, the Third District Court granted summary judgment for county and granted governor's motion for judgment on the pleadings. Sponsors appealed.

The Supreme Court held that:

- Action was moot in light of incorporation of town and the parcel's location within the new town's boundaries, and
- Potential impact on developer's alleged vested rights in zoning ordinance did not save action from mootness.

Action by sponsors of referendum petition rejected by county clerk, which proposed to repeal site specific zoning ordinance rezoning parcel in unincorporated area of county from agricultural to planned-community zoning, in which sponsors sought declaration that petition was legally sufficient and that Governor's actions imposing COVID-19 restrictions, which allegedly hampered signature-gathering, violated their constitutional rights, and sought order requiring placement of the measure on the ballot, was moot in light of incorporation of town and the parcel's location within the new town's boundaries; town, not county, was the current entity regulating the parcel, and had enacted zoning ordinances affecting the property.

Issue of whether nonparty developer had vested rights under county site specific zoning ordinance, which had rezoned parcel in unincorporated area of county from agricultural to planned-community zoning, was not before the Supreme Court on appeal by sponsors of referendum to repeal the ordinance following summary judgment on their claim that county clerk improperly rejected their referendum petition due to lack of signatures, and thus alleged vested rights could not save appeal from being moot after town was incorporated and took over zoning of the parcel.

Referendum sponsors failed to establish that potential impact on developer's alleged vested rights in zoning ordinance, which had rezoned parcel in unincorporated area of county from agricultural to planned-community zoning, precluded finding that sponsors' action to repeal the ordinance was moot on grounds that town had been formed which encompassed and governed the parcel; sponsors made no legal argument in support assumption that any future successful referendum would strip developer of vested rights, or that vested rights would not remain intact if referendum would repeal

the ordinance prospectively only, and any successful referendum would not have retroactive effect.

ZONING & PLANNING - VERMONT

In re Costco Wholesale Administrative Decision

Supreme Court of Vermont - August 8, 2025 - A.3d - 2025 WL 2264346 - 2025 VT 44

Retail store appealed, and commercial neighbors cross-appealed, state and municipal determinations that amendment to land use permits was not necessary for retail store to begin operating gas station on its property at full-time hours.

Following two-day merits hearing in four coordinated proceedings, the Superior Court, Environmental Division, issued final judgment order stating that store had satisfied all conditions in existing permits and that it did not need an amendment to operate gas station at full-time hours. Neighbors appealed, and store cross-appealed.

The Supreme Court held that:

- Issues related to full-time operation of gas station were not moot;
- Environmental court had jurisdiction to review issues;
- Environmental court addressed all related matters raised in neighbors' statement of questions; and
- Store was not required to obtain permit amendments before it began operating gas station full-time.

Environmental court's determination that traffic mitigation conditions in retail store's state-level land use permit contemplated full-time operation of gas station on the property as part of initially approved project, such that amendment to permit was not required, did not create an invalid condition subsequent; conditions were not open-ended and they did not purport to vest state commission with authority to continuously amend the permit as necessary to redress future state permit violations, thus expropriating another agency's enforcement authority, but instead, they were type of reasonable, evidence-based conditions with prospective application that courts recognized as permissible.

BALLOT INITIATIVE - ARIZONA

Roundtree v. City of Page

Supreme Court of Arizona - July 30, 2025 - P.3d - 2025 WL 2155408

Residents filed a special action complaint against city and city clerks, challenging city's decision that an initiative they submitted to decree that a certain street in the city never be narrowed was non-legislative and thus would not be placed on the ballot.

Following an expedited show-cause hearing, the Superior Court, Coconino County denied residents' requests for declaratory, injunctive, mandamus, and other relief, agreed with the city that the subject matter of the initiative was administrative rather than legislative, and entered judgment for city. Residents appealed. The Court of Appeals affirmed. The Supreme Court granted residents' petition for review.

The Supreme Court held that:

- Residents, as qualified electors of city, had the power to propose an initiative on any matter legislative in nature, and
- Initiative set the public policy of preserving the street as it existed and preventing use of public funds to narrow the street was legislative in nature and therefore could proceed to the ballot.

EMINENT DOMAIN - FEDERAL

United States v. Bennett

United States Court of Appeals, Fifth Circuit- July 24, 2025 - F.4th - 2025 WL 2078190

United States, which built border wall on easement it held on private property abutting the border with Mexico, brought condemnation action to take that portion of the land and areas surrounding it to further build up the wall and make related improvements.

Landowner sought compensation for the value of the wall, contending the United States exceeded the scope of the easement when it built the wall, and sought to introduce expert testimony regarding the value of the wall, which the United States moved to exclude.

The United States District Court for the Southern District of Texas granted the motion to exclude and certified the question for interlocutory appeal.

The Court of Appeals sitting by designation, held that:

- Government built border wall in easement for public purposes and thus was acting through its eminent domain power such that trespass rule could not apply to grant landowner title to the wall, and
- Wall did not exist when the taking occurred, and thus no compensation was due, as the government had not built the wall when it entered into possession.

PUBLIC EMPLOYMENT - MARYLAND

Nguyen v. State

Supreme Court of Maryland - July 30, 2025 - A.3d - 2025 WL 2155720

Following bench trial, defendant, who was former police officer, was convicted in the Circuit Court of reckless endangerment for failing to prevent unprovoked and spontaneous assault on individual by a third person that occurred in defendant’s presence. Defendant appealed.

The Appellate Court affirmed. Defendant filed petition for a writ of certiorari.

The Supreme Court held that:

- State failed to prove that defendant owed duty to protect individual from third person’s kicking individual in head, and
- State failed to establish that special relationship existed between defendant and individual for purposes of special relationship exception to public duty doctrine.

EMINENT DOMAIN - MINNESOTA

Fletcher Properties, Inc. v. City of Minneapolis

Supreme Court of Minnesota - July 30, 2025 - N.W.3d - 2025 WL 2155530

Residential landlords brought action against city, challenging ordinance prohibiting landlords from refusing to rent to tenants because of desire to avoid complying with Section 8 housing voucher program as preempted by state law, for unlawful interference with freedom of contract, and under Due Process, Takings, and Equal Protection Clauses of Minnesota Constitution.

The District Court granted summary judgment to landlords on due process and equal protection claims, and entered permanent injunction against enforcement of ordinance. City appealed. The Court of Appeals reversed and remanded, and the Supreme Court affirmed. On remand, the District Court, Hennepin County, granted city's motion for summary judgment, denied landlords' motion for summary judgment, and dissolved temporary injunction. Landlords appealed. The Court of Appeals affirmed. Landlords petitioned for review.

The Supreme Court held that:

- Ordinance did not cause a "physical taking" under Minnesota Takings Clause by appropriating landlords' right to exclude others from their property by allowing voucher holders to occupy it;
- Landlords failed to establish that ordinance would result in a negative economic impact that would rise to the level of a regulatory taking;
- Ordinance did not interfere with residential landlords' investment-backed expectations;
- The character of the government action weighed against finding that ordinance constituted a regulatory taking;
- Ordinance was not conflict preempted; and
- Minnesota Human Rights Act (MHRA) did not demonstrate any legislative intent to preempt local action by occupying the field of housing discrimination.

NUISANCE - UTAH

Barrani v. Salt Lake City

Supreme Court of Utah - July 31, 2025 - P.3d - 2025 WL 2177876 - 2025 UT 25

City residents brought public and private nuisance claims against city, alleging city's failure to eliminate unsheltered people's encampments on city-owned land adjoining their properties was interfering with their use and enjoyment of their land.

The Third District Court, Salt Lake County, granted city's motion to dismiss. Residents appealed.

The Supreme Court held that:

- Allegation that city's failure to eliminate encampments constituted a nuisance was a claim that city failed to adequately perform a public duty, and thus the public duty doctrine applied, and
- Special relationship exception to the doctrine did not apply.

City residents' allegation that city's failure to eliminate encampments created by unsheltered people on the city's public land constituted a nuisance was a claim that city failed to adequately perform a public duty, and thus the public duty doctrine applied to the claim; any actions the city could take stemmed from powers it had as a government actor, and city had a duty to exercise its enforcement authority for the benefit of all residents.

City residents did not have a special relationship with city in connection with encampments created by unsheltered people on the city's public land, even if they lived near the land, and thus special relationship exception to the public duty doctrine did not apply to preclude application of the doctrine to residents' claim that the city's failure to eliminate the encampments was a public and private nuisance; virtually all residents of the city "adjoined" city-owned land, encampments and the unsheltered people who lived in them were transient, and city had not done anything to reach out to the residents that would create a special relationship.

LIABILITY - ARIZONA

Sanchez v. Maricopa County

Supreme Court of Arizona - July 21, 2025 - P.3d - 2025 WL 2025888

Motorists brought action against county for negligence and negligence per se for injuries suffered when deputy sheriff rear-ended their vehicle while he was driving a vehicle owned by the county.

The Superior Court granted county's motion to dismiss for failure to state a claim. Motorists appealed. The Court of Appeals affirmed. The Supreme Court granted review.

As matters of first impression, the Supreme Court held that:

- County was not liable under the doctrine of respondeat superior for any negligence of deputy in rear-ending motorists' vehicle;
- When duties are imposed upon a county sheriff by law rather than by the county, the latter will not be responsible for their breach of duty or for their nonfeasance or misfeasance in relation to such duty; and
- Sheriff was the public entity with whom a notice of claim could have been filed.

PUBLIC UTILITIES - MAINE

Snakeroot Solar, LLC v. Public Utilities Commission

Supreme Judicial Court of Maine - July 15, 2025 - A.3d - 2025 WL 1934508 - 2025 ME 64

Solar energy company brought petition before the Public Utilities Commission seeking a good-cause exemption from statutory deadline for qualifying its proposed photovoltaic generating facility for participation in state's net energy billing program.

The Maine Public Utilities Commission denied company's petition. Solar energy company appealed.

The Supreme Judicial Court held that:

- PUC's conclusion that "external delays" that would justify a good-cause exemption meant events that were "external" to, or outside of, the interconnection process was a reasonable interpretation of the statute;
- The record supported PUC's determination that delays in company's ability to complete a "cluster study" analyzing all energy projects in the area, and company's extended upgrade construction schedule, were routine parts of a typical interconnection process and thus not a external delay; and
- PUC did not abuse its discretion when it denied company's request for a good-cause exemption

from operational deadline.

POLITICAL SUBDIVISIONS - MARYLAND

Trustees of Walters Art Gallery, Inc. v. Walters Workers United

Supreme Court of Maryland - July 29, 2025 - A.3d - 2025 WL 2115486

Labor unions filed complaint against art museum's board of trustees, board president, and museum director, seeking to compel production of records requested under the Maryland Public Information Act (MPIA).

On cross-motions for summary judgment, the Circuit Court entered summary judgment for unions and directed defendants to respond to the MPIA requests. Defendants appealed, and the Circuit Court stayed its ruling pending appeal. The Appellate Court affirmed. Defendants petitioned for further review.

After granting certiorari, the Supreme Court held that:

- Method and purpose of board's formation favored finding that board, which had been founded due to a bequest to mayor and city council and whose board of trustees had been incorporated by the General Assembly as an "educational corporation," was not a government instrumentality;
- General Assembly's decision to incorporate board by special act under Maryland Constitution's provision on formation of corporations did not reflect an intent to create a municipal entity; disapproving *Moberly v. Herboldsheimer*, 276 Md. 211, 345 A.2d 855.
- "Degree of governmental control" factor weighed against finding that board was a government instrumentality;
- "Public funding" factor leaned modestly against finding that board was a government instrumentality;
- "Performance of traditionally governmental functions" factor went against finding that board was a government instrumentality;
- "Tax treatment" factor leaned in favor, albeit with relatively little weight, of finding that board was a government instrumentality;
- "Sovereign immunity" factor weighed against finding that board was a government instrumentality; and
  Considering all factors, board was not a government instrumentality and thus was not subject to the MPIA.

EMINENT DOMAIN - MICHIGAN

Jackson v. Southfield Neighborhood Revitalization Initiative

Supreme Court of Michigan - July 16, 2025 - N.W.3d - 2025 WL 1959046

Former owners of real property that had been subjected to tax-foreclosure process by which county sold their properties to city for the minimum bid through right-of-first-refusal process under former version of General Property Tax Act (GPTA) brought action against city, county treasurer, and other defendants and alleged, among other things, violations of due process, equal protection, the takings clauses of the United States and Michigan Constitutions, and the GPTA, which were claims that all stemmed from former property owners' contention that they were entitled to any surplus proceeds.

The Circuit Court entered summary disposition for defendants. Former property owners appealed. The Court of Appeals affirmed. Former property owners sought leave to appeal. The Supreme Court vacated and remanded in lieu of granting leave to appeal. On remand, the Circuit Court granted defendants summary disposition. Former property owners appealed. The Court of Appeals affirmed in part, reversed in part, vacated in part, and remanded. County sought leave to appeal.

The Supreme Court held that:

- A violation of the Takings Clause of the Michigan Constitution occurs when there are no surplus funds from a public auction but instead the government obtains surplus value from tax-foreclosed properties that were transferred between governmental units for the minimum bid under the right-of-first-refusal process set forth in former version of the GPTA without ever offering the property for sale at a public auction;
- Although GPTA's newly enacted provision that set forth procedure for claimant to seek any surplus proceeds from eventual tax-foreclosure sale applied retroactively to existing claims, provision did not govern relief in the instant case; and
- Recent GPTA amendment that provides that any unit of government exercising its right of first refusal to purchase tax-foreclosed property must pay the foreclosing governmental unit (FGU) the greater of the minimum bid or the fair market value of the property applies only prospectively to claims accruing after the public act became effective.

MUNICIPAL GOVERNANCE - NEW JERSEY

Bulur v. New Jersey Office of Attorney General

Supreme Court of New Jersey - July 23, 2025 - A.3d - 2025 WL 2055210

In first case, city public safety director and city police chief brought action against Attorney General, Office of Attorney General, and officer in charge appointed to lead city police department, seeking declaratory judgment that Attorney General's decision to supersede control of city police department after officer-involved shooting exceeded his statutory authority, and seeking injunctive relief.

In second case, city mayor and police chief brought action against Attorney General, Office of Attorney General, and officer in charge, seeking declaratory and injunctive relief with respect to actions taken while in charge of police department.

In both cases, the Superior Court granted Attorney General's motion for transfer of venue to the Superior Court, Appellate Division. The Superior Court, Appellate Division, granted plaintiffs' motion to consolidate and reversed Attorney General's decision. Attorney General's petition for certification was granted.

The Supreme Court held that legislature authorized Attorney General's supersession of city police department.

Legislature authorized Attorney General's supersession of city police department after officer-involved shooting over objection of local authorities; after Attorney General's announcement that he had assumed control over department and appointed an officer in charge to lead department, legislature took affirmative steps to ensure that officer in charge, who was New York police officer, would succeed in his crucial role in that supersession by enacting law that waived training requirements established for New Jersey police officers, and legislature specifically appropriated funds for the State's operation of department during period in which municipal control was superseded.

EMINENT DOMAIN - VIRGINIA

Association of American Railroads v. Hudson

United States Court of Appeals, Fourth Circuit - July 18, 2025 - F.4th - 2025 WL 2011675

Railroad trade industry association brought pre-enforcement action to challenge Virginia statute establishing streamlined procedures by which internet broadband service providers could access railroad property and lay cable across railroad tracks, alleging federal preemption and an unconstitutional taking.

The United States District Court for the Eastern District of Virginia granted Virginia defendants' motion to dismiss for lack of jurisdiction based on finding that association lacked standing to pursue its claims. Association appealed.

The Court of Appeals held that:

- Association's claim that the Interstate Commerce Commission Termination Act (ICCTA) impliedly preempted the Virginia statute on grounds that the Virginia statute discriminated against railroads did not require participation of the association's individual member railroads, and thus association had standing to bring that claim;
- Association's claim that the ICCTA impliedly preempted the Virginia statute on grounds that the Virginia statute's application, cumulatively and in the aggregate, would unreasonably interfere with rail transportation in Virginia, did not require the participation of the association's individual members, and thus association had standing to bring that claim; and
- Takings challenge to Virginia statute involved individualized proof that required the participation of the association's members, and thus association lacked standing to bring that claim.

ZONING & PLANNING - VIRGINIA

Oak Valley Homeowners Association, Inc. v. Prince William County Board of Supervisors

Court of Appeals of Virginia, Arlington - July 22, 2025 - S.E.2d - 2025 WL 2043957

Landowners sought declaratory judgment against county board of supervisors to invalidate amendment to comprehensive plan to build data centers, alleging board violated statutory public-hearing requirements by failing to listen to and consider public comments received at hearing before voting to adopt amendment.

The Prince William Circuit Court sustained board's demurrer. Landowners appealed.

The Court of Appeals held that:

- Landowners' allegations were sufficient to establish that they had standing to challenge board's land-use decision, but
- Statute governing advertising and written notice requirements relating to a comprehensive plan, an ordinance, or amendments to a comprehensive plan or ordinance for local governing body's land-use decision does not impose a listen-to-and-consider requirement.

Landowners' allegations were sufficient to establish that they had standing to challenge county board of supervisors' land-use decision, seeking declaratory judgment to invalidate amendment to

board's comprehensive plan to build data centers; ten of 11 landowners owned and resided on parcels that abutted land where the comprehensive-plan amendment allowed data centers or owned land that was less than 2,000 feet away, landowners alleged that amendment had already reduced their property values, and they cited quantitative analysis and modeling that data centers would increase noise they currently experienced to over 75 decibels, making it similar to constant noise experienced while standing 50 feet from heavily traveled highway.

COUNTIES - WASHINGTON

Washington State Association of Counties v. State

Court of Appeals of Washington, Division 2 - July 22, 2025 - P.3d - 2025 WL 2048214

Counties and coordinating agency for county legislative authorities brought action for declaratory and injunctive relief against State, alleging that funding system for indigent defense services provided by counties violated rights to counsel, due process, and equal protection under federal and state constitutions.

The Superior Court granted State's motion to dismiss for failure to state a claim, based on lack of standing. Plaintiffs appealed.

The Court of Appeals held that:

- Counties were within zone of interest for constitutional rights to counsel and equal protection, as component for their standing
- Counties sufficiently alleged an injury in fact, as component for standing; and
- Liberal approach to standing was applicable.

PUBLIC CONTRACTS - LOUISIANA

23rd Psalm Trucking, L.L.C. v. Madison Parish Police Jury

Supreme Court of Louisiana - June 27, 2025 - So.3d - 2025 WL 1788077 - 2024-00808 (La. 6/27/25)

Garbage collection company brought action against parish police jury for breach of contract and unfair trade practices after police jury terminated company's residential waste collection and disposal contract early.

The District Court granted police jury's motion for summary judgment. Company appealed, and the Second Circuit Court of Appeal affirmed. Company petitioned for certiorari review.

The Supreme Court held that:

- Police jury lacked authority to enter into trash disposal contract absent approval by the State Bond Commission or a non-appropriation clause in the contract, and
- Company did not detrimentally rely upon unequivocal advice from an unusually authoritative source.

Police jury lacked authority to enter into four-year, residential waste collection and trash disposal contract with garbage collection company absent approval by the State Bond Commission or a non-appropriation clause in the contract that would allow the police jury to terminate the contract for

lack of funding without a penalty.

Garbage collection company did not detrimentally rely upon unequivocal advice from an unusually authoritative source, and thus could not maintain detrimental reliance claim against parish police jury following early termination of garbage collection contract, where company had the opportunity before executing the contract to seek legal advice from an attorney on the laws applicable to contracting with the police jury, but did not, and neither the police jury nor its attorney issued a legal opinion relating to the contract prior to signing it.

ZONING & PLANNING - GEORGIA

DeThomas Investments, LLC v. LMRK PropCo, LLC

Court of Appeals of Georgia - July 14, 2025 - S.E.2d - 2025 WL 1923873

Billboard easement holder brought action against owner of property neighboring property on which easement was located, city, and city development authority, asserting fraud, negligent misrepresentation, fraudulent concealment, civil conspiracy, tortious interference with contractual and business relations, nuisance, inverse condemnation, and breach of easement contract, and seeking punitive damages and litigation expenses, relating to alleged destruction of billboard easement through rezoning.

The trial court denied motions to dismiss by neighboring owner and city and authority. Neighboring owner and city and authority brought interlocutory appeals.

The Court of Appeals held that:

- Holder adequately pleaded claims against neighboring owner;
- Acts of city and authority in connection with rezoning were governmental functions, and thus, there was no waiver of sovereign immunity for such acts for holder's claims of fraud, fraudulent concealment, negligent misrepresentation, tortious interference with contract, and fraud-based civil conspiracy; and
- Holder did not state cause of action against city or authority for nuisance, inverse condemnation, or breach of easement contract.

NEGLIGENCE - MARYLAND

Mayor and City Council of Baltimore v. Wallace

Supreme Court of Maryland - July 17, 2025 - A.3d - 2025 WL 1982241

Bicyclist who fell and sustained injuries while biking home from work on promenade in city park brought negligence action against city.

The Circuit Court denied city's motion for summary judgment, and subsequently entered verdict in bicyclist's favor for $100,000 following jury trial and denied city's motion for judgment notwithstanding the verdict. City appealed. The Appellate Court affirmed. City's petition for writ of certiorari was granted.

The Supreme Court held that Recreational Use Statute's protection for landowners who make property available to public for recreational purposes did not apply to promenade in city park and

thus did not preclude bicyclist's negligence action against city.

EMINENT DOMAIN - MICHIGAN

Yono v. County of Ingham

Supreme Court of Michigan - July 16, 2025 - N.W.3d - 2025 WL 1957960

Delinquent taxpayer brought action against county, county treasurer, and county land bank authority, alleging unconstitutional taking of property without just compensation after county foreclosed on property to recover delinquent taxes and property failed to sell at public auction.

The Circuit Court granted defendants' motion for summary disposition. Taxpayer appealed. The Court of Appeals affirmed in part, reversed in part, and remanded, directing trial court to calculate surplus owed to property owner. Defendants sought leave to appeal.

The Supreme Court held that because taxpayer's foreclosed real property did not sell at public auction, there were no "surplus proceeds" and, therefore, no taking that required just compensation.

Because delinquent taxpayer's foreclosed real property did not sell at public auction held in compliance with the General Property Tax Act (GPTA), there were no "surplus proceeds" and, therefore, no taking under state constitution that required just compensation; foreclosure sale demonstrated that value of the property interest the government retained was less than what taxpayer owed in property taxes because the property did not sell for the minimum bid, and because there were no proceeds from the sale, taxpayer was not entitled to any compensation.

For purposes of takings claim under state constitution, when property foreclosed upon to recover delinquent property taxes is sold at a public auction, the result of that sale determines the value of the property.

MUNICIPAL GOVERNANCE - NEW JERSEY

Bulur v. New Jersey Office of Attorney General

Supreme Court of New Jersey - July 23, 2025 - A.3d - 2025 WL 2055210

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In second case, city mayor and police chief brought action against Attorney General, Office of Attorney General, and officer in charge, seeking declaratory and injunctive relief with respect to actions taken while in charge of police department.

In both cases, the Superior Court, Law Division, Passaic County, granted Attorney General's motion for transfer of venue to the Superior Court, Appellate Division. The Superior Court, Appellate Division, granted plaintiffs' motion to consolidate and reversed Attorney General's decision. Attorney General's petition for certification was granted.

The Supreme Court held that legislature authorized Attorney General's supersession of city police

department.

Legislature authorized Attorney General’s supersession of city police department after officer-involved shooting over objection of local authorities; after Attorney General’s announcement that he had assumed control over department and appointed an officer in charge to lead department, legislature took affirmative steps to ensure that officer in charge, who was New York police officer, would succeed in his crucial role in that supersession by enacting law that waived training requirements established for New Jersey police officers, and legislature specifically appropriated funds for the State’s operation of department during period in which municipal control was superseded.
