



TO: Interested Parties

FROM: Court Accountability, Revolving Door Project, Take Back the Court, & True North Research

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SUBJECT: 4 Themes We're Watching For At the Supreme Court

Next week, the Supreme Court's October 2024 term will get into full swing, with the justices holding their long conference on September 30th, followed by oral arguments on October 7th. The justices hand-pick their docket, and if history has taught us anything, we can expect the faction dominating the court to once again select cases that offer them opportunities to push an extreme right-wing agenda, stymie efforts to make progress on gun safety, LGBTQ+ rights, and other issues that matter to the American people, and — of course — help out their billionaire friends and benefactors.

Court Accountability/True North Research, Revolving Door Project, and Take Back the Court conducted a [comprehensive audit](#) of the 2023 Supreme Court term to highlight the web of connections between the court's right-wing justices, the right-wing organizations that have weighed in on cases before the court, and the major donors funding them. Our organizations are keeping a close eye on not only which cases the court takes up but also which right-wing groups file amicus briefs to try to sway the decisions of conflicted justices. We're also watching for which of the justices' wealthy friends and benefactors such groups are connected.

For example, this term, the court will consider two major challenges to executive authority: [Consumers' Research v. Federal Communications Commission](#) and [Consumers' Research v. Consumer Product Safety Commission](#). These cases challenge the constitutionality of executive agencies and independent agencies respectively. And both were brought by [Consumers' Research](#), a group [funded](#) (and recently [praised](#)) by extreme right-wing benefactor Leonard Leo, who has funneled payments and perks to Supreme Court justices and at least one family member. Leo's vast web of affiliated right-wing organizations also weighed in on at least 22 cases last term.

As we track developments in these cases and others, we will have experts available to speak in greater depth about these troubling links and the consequences of billionaire influence on our judicial system and our freedoms to assist with your coverage. Please don't hesitate to reach out to alexa@takebackthecourt.today, jeffhauser@gmail.com, and/or press@truenorthresearch.org to get in touch.

At their long conference, the justices will consider whether to review cases that threaten to challenge pregnant people's access to emergency care in states with abortion bans, allow people indicted for felony crimes to purchase firearms, and limit race-neutral efforts to diversify student bodies, among others. Based on what we saw from the Roberts Court last term and in years prior, here are a few of the other dangerous issues we expect the right-wing supermajority to push going forward.

INCREASING THREAT OF GUN VIOLENCE

In the midst of a gun violence epidemic, the Roberts Court has repeatedly aided and abetted shooters by easing restrictions on access to firearms and striking down laws intended to protect the public — to much [applause](#) from the [National Rifle Association](#) and other right-wing groups funded by wealthy right-wing powerbrokers. In 2022, the court opened the floodgates to increased gun violence by throwing out a 100-year-old gun safety provision in *New York State Rifle & Pistol Association, Inc. v. Bruen*. This summer, in *Garland v. Cargill*, it took things even further by rewriting a longstanding law barring machine guns from limiting bump stock devices, which increase the duration, speed, and potential lethality of mass shootings.

This term, there are several cases in the pipeline that the court may choose to use as vehicles to continue its assault on public safety. These range from the ability of states and the federal government to ban assault weapons and machine guns to prohibitions on purchasing and possessing firearms to rules about guns in public spaces, such as houses of worship, places where children gather, and even U.S. post offices.

GHOST GUNS

- **The court already agreed to take up *Garland v. VanDerStok***, a case challenging the Biden-Harris administration's ban on "ghost guns" (firearms without serial numbers that are harder to track). The court will hear oral arguments in this case on October 8, 2024.

ASSAULT WEAPONS & MACHINE GUNS

- The 4th Circuit, sitting en banc, [upheld](#) Maryland's assault weapons ban as constitutional, with all but one of the appeals court's Republican appointees in dissent.
 - The plaintiffs have now [petitioned](#) the [Supreme Court](#) to reverse the 4th Circuit's decision and strike down the state's assault weapons ban
- The 3rd Circuit [refused to block](#) Delaware's assault weapons ban, citing the need for a more developed record.
- Similar challenges to [California](#), [Washington State](#), [Connecticut](#), and [New Jersey](#)'s bans are now before or headed to federal appeals courts.
 - The Supreme Court justices [denied petitions challenging Illinois' ban on assault weapons and high-capacity magazines](#), but likely for procedural reasons.
- If the Court grants certiorari on the issue, such a case could endanger similar bans in [10 states](#) and D.C., which [then-Judge Brett Kavanaugh, in dissent, asserted was unconstitutional](#). All six members of the Supreme Court's right-wing majority, including Kavanaugh, embraced the approach in his D.C. Circuit dissent when they joined together in the *Bruen* case to strike down long-established rules limiting concealed carry licenses.

- A Trump judge in Kansas [struck down](#) a federal ban on possessing machine guns.
- Several challenges to state bans on 18-20 year-olds, certain substance users, and people convicted of felonies possessing firearms are making their way through the lower courts.

GUNS IN PUBLIC

- The Supreme Court [sent](#) a lawsuit concerning the definition of a “sensitive place” — a public space where guns are not allowed — back down to the 2nd Circuit this summer. The “sensitive places” the suit concerned include subways, bars, houses of worship, government buildings, and places where children gather.
- A 9th Circuit panel upheld and struck down parts of Hawaii and California’s “sensitive place” laws, while challenges to similar laws in [New Jersey](#) and [Maryland](#) are awaiting decisions in the courts of appeals, which could give the justices an opportunity to hear challenges on this same issue again soon.
- A Trump judge in Illinois [said](#) the state’s firearm ban on public transportation is unconstitutional.
- A Trump judge in Florida [struck down](#) a federal ban on possessing firearms in U.S. post offices. The case is now on [appeal](#) in the 11th Circuit.

For more information on pending gun safety cases that may reach the Supreme Court this year, check out Court Accountability’s [tracker](#).

HURTING WORKERS AND CONSUMERS BY WEAKENING AGENCIES

The Roberts Court has [proven itself](#) to be the most pro-corporation, anti-people court in recent history. There are currently several cases in the pipeline where the court has opportunities to take up, and potentially affirm, dangerous rulings by Trump judges that will make it easier for exploitative companies and fraudsters to shirk the law and take advantage of consumers — a priority issue for far-right billionaires like [Paul Singer](#) who exert influence over the right-wing justices.

- A Trump judge in Texas said the Federal Trade Commission (FTC) cannot ban non-compete clauses — setting aside an FTC rule that would rein them in nationwide. This followed the same judge’s preliminarily enjoining of the rule and another Republican-appointed judge in Florida doing the same.
- The grocery mega-corp Kroger is challenging antitrust action the FTC took against it in response to its merger with another grocery chain on the grounds that it claims that the agency’s long-standing administrative proceedings are unconstitutional.
 - Kroger’s arguments rely on recent decisions from the Supreme Court’s right-wing majority weakening the independence of executive agencies.

- A Trump judge in Ohio has the opportunity to neutralize in-house proceedings against the Kroger-Albertsons merger as well as counter the FTC's antitrust lawsuit against the merger before a judge in Oregon.

BLOCKING BIDEN-HARRIS EFFORTS TO AFFIRM RIGHTS & FREEDOMS

The Roberts Court has increasingly seized power for itself while disempowering Congress as well as the executive branch — so long as it's held by Democrats. In recent years, right-wing powerbrokers like [Leonard Leo](#) and [John Eastman](#) have made it known through their affiliated groups' amicus briefs that centralizing power in what many consider to be the corrupted judicial branch is essential to advancing their agenda. Even while the court has been in recess, the right-wing supermajority has intervened to block the Biden-Harris administration from enacting policies that would help Americans.

LGBTQ+ RIGHTS

Twice in two weeks, MAGA courts blocked the Biden-Harris administration from protecting LGBTQ+ rights.

- On August 16th, the right-wing Supreme Court majority [ruled](#) that the Biden-Harris administration cannot enforce, pending appeal, a Title IX rule in some Republican-led states that challenged it. The administration aimed to affirm protections granted by the 50-year-old Title IX law to LGBTQ+ students by clarifying that gender identity, sexual orientation, and sex characteristics can be protected under the Act's goal of gender equality.
- But there is an opportunity for the court to weigh in further. On August 30th, Trump judge Jeremy Kennedle intervened to [further hamstring](#) the Biden-Harris health department from implementing an Affordable Care Act rule meant to protect people from sex discrimination.
 - The Department of Justice has already appealed two other challenges to this rule, but Kennedle's ruling went further than any other — including a nationwide injunction on the rule's implementation.

COLLEGE DEBT RELIEF

- After blocking President Biden's college debt relief plan last summer, the Supreme Court [intervened again](#) to block the SAVE Plan, the Biden-Harris administration's most recent effort to help millions of Americans get out from under the crushing weight of college debt.
- Seven Republican-led states have since launched an [additional challenge](#) to the administration's student debt relief efforts that is being heard in a Georgia federal court. The challenge is helmed by Republican attorneys general whose campaigns are fueled

by the Republican Attorneys General Association (RAGA). RAGA is largely funded by groups with ties to [Leonard Leo](#).

IMMIGRATION

- A Trump judge in Louisiana ruled in favor of 16 Republican-led states and their RAGA attorneys general [to block](#) a Biden-Harris administration program that would offer half a million undocumented spouses and stepchildren American citizens a path to citizenship.

UNDERMINING DEMOCRACY TO HELP REPUBLICANS IN THE 2024 ELECTION

Undermining democracy has long been a priority for the Roberts Court — and for [Leo](#), the right-wing funder who has funneled secret payments to Ginni Thomas and arranged luxury vacations for Samuel Alito. From its 2013 decision in *Shelby County v. Holder* to its more recent decisions in *Brnovich v. DNC* (2021) and *Alexander v. NAACP* (2024), the right-wing justices have been carving away at the Voting Rights Act and otherwise working to keep voters — Black and Brown voters in particular — from having their voices fully heard at the ballot box.

- The RNC is challenging state laws permitting election officials to count valid mail-in ballots that arrive after Election Day, even if they are postmarked as mailed *before* Election Day. Federal judges in Nevada and Mississippi have blocked the challenges — which come from the RNC, state Republican parties, and others — but in both cases, the plaintiffs have appealed these judges' rulings. If Mississippi's case advances, it will be heard by the notoriously right-wing 5th Circuit.
 - In a similar suit brought by Republican candidates in Illinois, the 7th Circuit [found](#) that the plaintiffs lacked standing to challenge state law permitting election officials to count valid mail-in ballots that arrive up to two weeks after Election Day.
- Following the Supreme Court's 2023 *Moore v. Harper* decision, which reserved an option for the justices to override state courts' interpretations of state election laws in certain cases, the justices could try to block efforts to make voting more accessible.
 - In Wisconsin, the use of ballot drop boxes may be in question.
 - Montana's legislature is [asking](#) the U.S. Supreme Court to reverse a Montana Supreme Court decision that struck down state laws eliminating same-day voter registration and restricting third-party absentee ballot collection as violations of the state constitution's guarantee of the right to vote.

These efforts follow decisions the Supreme Court already made this year to directly put its thumb on the scale in November's electoral contest in ways that favor Trump.

- In *Trump v. Anderson* (2024), less than a week after scheduling arguments in Trump's immunity case for very late in the term, the court gave Trump an [exemption](#) from the 14th Amendment's prohibition on insurrectionists holding high office — a bar the Constitution says requires a supermajority vote in Congress to remove.

- In *Trump v. United States* (2024), after delaying arguments in the case for months, the Roberts Court declared, for the first time in American history, that a president is immune from prosecution for any “official” criminal acts committed while in office. The ruling helped ensure that Trump’s trial for trying to overturn the 2020 election won’t begin before the 2024 election — if there’s ever a trial at all.
- Just 6 weeks before Arizona’s voter registration deadline, the Supreme Court intervened in *Republican National Committee v. Mi Familia Vota* to help the Republican National Committee (RNC) impose new proof-of-citizenship requirements on Arizonans attempting to register to vote.
 - By contrast, in 2022, the Supreme Court ordered Alabama to use gerrymandered maps a lower court had blocked for constituting a racial gerrymander in violation of the Voting Rights Act on the grounds that changing district lines months before the election would be too disruptive and would violate the so-called *Purcell* principle, which states that courts should not make last-minute changes to election rules.
 - In 2023, the Supreme Court ultimately acknowledged the maps were illegally gerrymandered — but not before its 2022 order requiring their use helped Republicans win control of the House of Representatives.

For more background on the Supreme Court’s ongoing efforts to restrict voting rights and undermine with democratic processes, check out Take Back the Court Action Fund's recent [fact sheet](#).