

The Supreme Court - April 27, 2020

Today, the Supreme Court of the United States issued the following three opinions:

Maine Community Health Options v. United States, No. 18-1023: The Patient Protection and Affordable Care Act (“ACA”) – as part of its goal to expand healthcare coverage – established online marketplace exchanges where insurers could sell plans. The ACA, in §1342, included a now-expired “Risk Corridors” program which was intended to limit the plans’ profits and losses during the first three years of these online exchanges. Under a set formula, §1342 established that the Government “shall pay” the insurance plan if it lost a certain amount of money; conversely, the plan “shall pay” the Government if it made a certain amount of money. Certain plans that lost money and were not paid by the Government brought suits for damages under the Tucker Act, 28 U.S.C. §1491, in the United States Court of Federal Claims, claiming a right to payment under §1342 for the unpaid amounts. The Federal Circuit found for the Government on appeal, holding that later-enacted appropriations riders impliedly “repealed or suspended” the Government’s obligation under §1342. The Court today reversed, holding that §1342 of the ACA established a money-mandating obligation to pay insurers the full amount of their computed losses, that Congress did not repeal this obligation, and that petitioners may sue the Government for damages in the Court of Federal Claims. Justice Sotomayor delivered the Court’s opinion. Justice Alito dissented.

The Court's decision is available [here](#).

Georgia v. Public.Resource.Org, Inc., No. 18-1150: The State of Georgia’s official code – the Official Code of Georgia Annotated (“OCGA”) – includes the text of every Georgia statute, along with non-binding annotations, and is assembled by the State’s Code Revision Commission. The Commission contracted out the annotations’ preparation under its supervision to a division of the LexisNexis Group, with an agreement that any copyright vested with the State of Georgia, acting through the Commission, but that Lexis had the exclusive right to publish, distribute, and sell the annotated OCGA. When Public.Resource.Org (“PRO”) posted a digital version of the

Related Capabilities

- Appellate
- Healthcare & Life Sciences
- Healthcare Litigation
- Trademark, Copyright + Advertising
- Intellectual Property Litigation

OCGA where it could be downloaded for free and also distributed copies to various organizations and Georgia officials, the Commission sued PRO on behalf of the State and Georgia Legislature, claiming PRO's publication of the annotations was copyright infringement. The District Court found for the Commission, but the Eleventh Circuit reversed. Today, the Court affirmed, holding that the annotations in Georgia's official code are ineligible for copyright protection, recognizing that the government edicts doctrine – which the Court had previously applied to hold that non-binding, explanatory legal materials are not copyrightable when created by judges who possess the authority to make and interpret the law – also applies to non-binding, explanatory legal materials created by a legislative body vested with the authority to make law. Chief Justice Roberts delivered the Court's opinion. Justices Thomas, Alito, Breyer, and Ginsburg dissented.

The Court's decision is available [here](#).

New York State Rifle & Pistol Assn., Inc. v. City of New York, No. 18-280: The Court granted review to hear petitioners' Second Amendment challenge to a New York City rule regarding the transport of firearms to the extent it prevented them from transporting firearms to a second home or shooting range outside the city. After certiorari was granted, the State of New York amended its statute, and the City of New York its rule, such that petitioners could now transport firearms to a second home or shooting range outside of the city. The Court today, in a *per curiam* decision issued over petitioners' objections, held that the claim for declaratory and injunctive relief for which it had granted certiorari was moot, and any claim for damages should first be addressed by the lower courts on remand. Justice Kavanaugh concurred. Justices Alito, Gorsuch, and Thomas dissented.

The Court's decision is available [here](#).