

The Supreme Court - June 25, 2021

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

TransUnion LLC v. Ramirez, No. 20-297: This standing case concerns a class of individuals that sued TransUnion, a credit reporting agency, under the Fair Credit Reporting Act. The allegations concerned TransUnion's add-on product which, when running a credit check, would compare the consumer's name against OFAC's list of individuals deemed threats to America's national security, and if there was a match, would place an alert of a "potential match." A class of 8,185 individuals who were false positives sharing a first and last name with someone on the OFAC list brought suit, claiming TransUnion failed to use reasonable procedures to ensure the accuracy of the credit files they maintained internally. It was stipulated that only 1,853 of the class members had their misleading credit reports provided to third-party businesses. All class members also raised claims under the Act regarding formatting defects in certain mailings sent to them by TransUnion. The District Court determined all class members had standing on all claims, and a jury issued a \$40 million verdict, which the Ninth Circuit affirmed. Today, the Court reversed and remanded, reiterating that without any concrete harm, there is no standing. The Court held that the 1,853 class members whose credit reports were provided to third-party business had suffered a concrete harm and had standing, but that the 6,332 class members whose credit reports were not provided to third-party businesses did not. As for the claims pertaining to the format of TransUnion's mailings, the Court held that none of the 8,185 class members other than the named plaintiff suffered a concrete harm. Justice Kavanaugh issued the Court's opinion, joined by Chief Justice Roberts, and Justices Alito, Gorsuch, and Barrett. Justice Thomas dissented, joined by Justices Breyer, Sotomayor, and Kagan. Justice Kagan also issued a separate dissenting opinion, joined by Justices Breyer and Sotomayor.

View the Court's [decision](#).

HollyFrontier Cheyenne Refining, LLC v. Renewable Fuels Assn., No. 20-472: The renewable fuel program ("RFP") Congress created in 2005 and 2007 ordered that most

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domestic refineries blend a certain amount of ethanol and other renewable fuels into transportation fuels. When Congress first created these mandates, it temporarily exempted small refineries from those requirements. On a going forward basis, Congress then authorized individual small refineries, on hardship grounds, to petition for an “extension of the exemption” from the federal government “at any time.” 42 U.S.C. §7545(o)(9)(B)(i). In this case, three small refineries petitioned again for an exemption after they had let their exemption lapse. The Environmental Protection Agency granted the exemptions, but the Tenth Circuit vacated upon objections from a group of renewable fuel producers, on the basis that they were ineligible for the extension having let their exemption lapse. The Court today reversed, holding that a small refinery that manages to comply with renewable fuel mandates in one year is not forever forbidden from applying for an “extension” in any future year, because the statute’s text nowhere commands a continuity requirement. Justice Gorsuch issued the Court’s opinion, joined by Chief Justice Roberts, and Justices Thomas, Breyer, Alito, and Kavanaugh. Justice Barrett dissented.

View the Court's [decision](#).

Yellen v. Confederated Tribes of Chehalis Reservation, No. 20-543: Included in Title V of Congress’ passage of the Coronavirus Aid, Relief, and Economic Security (“CARES”) Act, was the allocation of \$8 billion in monetary relief to “Tribal governments,” 42 U.S.C. §801(a)(2)(B), which are in turn defined as the “recognized governing body of an Indian tribe” as defined in the Indian Self-Determination and Education Act (“ISDA”). §801(g)(5), (1). Based on the Interior Department’s view that Alaska Native Corporations (“ANCs”) qualified, the Department of Treasury set aside \$500 million of CARES Act funding for the ANCs. A number of federally recognized tribes brought suit, claiming that only federally recognized tribes are Indian tribes under the ISDA, and in turn, the CARES Act. The District Court found for the Treasury Department and ANCs, but the D.C. Circuit reversed, concluding that the recognized-as-eligible clause is a term of art requiring any Indian tribe to be federally-recognized, and ANCs are not. Today, the Court reversed, holding that ANCs are Indian tribes under the ISDA, and thus in turn Indian tribes under the CARES Act and eligible for Title V funding. Justice Sotomayor issued the Court’s opinion, joined in full by Chief Justice Roberts, and Justices Breyer, Kavanaugh, and Barrett. Justice Alito joined the opinion in part. Justice Gorsuch dissented, joined by Justices Thomas and Kagan.

View the Court's [decision](#).