

The Supreme Court - March 22, 2017

The Supreme Court of the United States issued decisions in three cases today:

Czyzewski v. Jevic Holding Corp., No. 15-649: Respondent Jevic Transportation filed for Chapter 11 bankruptcy. This spawned two lawsuits. In one case, the parties reached a settlement calling for the structured dismissal of the bankruptcy case. Under the Bankruptcy Code, debtors and creditors may negotiate a plan for dividing an estate, and the Code also permits the court to dismiss the case if the parties cannot agree on a plan. But the Bankruptcy Code ordinarily provides for restoring the status quo pre-petition when such a dismissal occurs. Here instead, the structured settlement and dismissal would give money to high-priority secured creditors and low-priority general unsecured creditors, but would skip certain mid-priority creditors. The skipped mid-priority creditors, petitioners here, would have been entitled to payment ahead of the general unsecured creditors in a Chapter 11 plan, and challenged the settlement. The Bankruptcy Court approved the settlement and dismissed the case, and the District Court and Third Circuit affirmed. Today, the Court reversed and remanded, holding that a distribution scheme ordered in connection with the dismissal of a Chapter 11 case cannot, without the consent of the affected parties, deviate from the basic priority rules that apply under the primary mechanisms the Code establishes for final distributions of estate value in business bankruptcies.

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

Star Athletica, L.L.C. v. Varsity Brands, Inc., No. 15-866: A copyright dispute between two companies that sell cheerleader uniforms raised the issue of the proper test for whether an item is an original work of art entitled to copyright protection, or an industrial design, which is not. Respondents sued petitioner Star Athletica for infringing their copyrights for two-dimensional designs appearing on their cheerleading uniforms, which are “combinations, positions, and arrangements of elements” including “chevrons . . . , lines, curves, stripes, angles, diagonals, inverted [chevrons], coloring, and shapes.” Under the Copyright Act, “pictorial, graphic, or sculptural features” of the “design of a

Related Capabilities

- Appellate

useful article” can be copyrighted if they “can be identified separately from, and are capable of existing independently of, the utilitarian aspects of the article.” 17 U.S.C. §101. The District Court granted summary judgment for Star Athletica, because the designs served the “utilitarian” function of identifying the garments as “cheerleading uniforms.” The Sixth Circuit reversed, reasoning that the “graphic designs” were “separately identifiable.” The Court today affirmed, holding that a feature incorporated into the design of a useful article is eligible for copyright protection only if the feature (1) can be perceived as a two- or three-dimensional work of art separate from the useful article and (2) would qualify as a protectable pictorial, graphic, or sculptural work—either on its own or fixed in some other tangible medium of expression—if it were imagined separately from the useful article into which it is incorporated, and that the test is satisfied here.

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

Endrew F. v. Douglas County School Dist. RE-1, No. 15-827: The Individuals with Disabilities Education Act (“IDEA”) provides a right to a “free appropriate public education” (“FAPE”) for certain children with disabilities. See 20 U.S.C. §1400 et seq. States under the IDEA must provide a disabled child with special education and related services “in conformity with the [child’s] individualized education program” (“IEP”), which must *inter alia*, set out “measurable annual goals, including academic and functional goals.” Petitioner Endrew F. has autism. His parents sued respondent Douglas County School District RE-1, alleging that Endrew’s progress had stalled and that the IEP included the same basic goals and objectives from one year to the next. An Administrative Law Judge rejected the claim that Endrew had been denied a FAPA, and the District Court and Tenth Circuit affirmed, both relying on the Court’s decision in *Board of Ed. of Hendrick Hudson Central School Dist., Westchester Cty. V. Rowley*, 458 U.S. 176 (1982). The Court today vacated and remanded, holding that under *Rowley*, the IDEA requires an educational program reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances, a standard markedly more demanding than the “merely more than *de minimis*” test applied by the Tenth Circuit.

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