

# The Supreme Court - October 3, 2022

by Ian Blodger

Today, on the first day of the new term, the Supreme Court of the United States granted certiorari in nine cases:

**Gonzalez v. Google LLC**, No. 21-1333: Section 203(c)(1) of the Communication Decency Act shields an “interactive computer service” (like Google, YouTube, Facebook, and Twitter) from liability from publishing information provided by another – for example, a video posted to YouTube or a comment posted on Facebook. The case presents the following question: Does Section 230(c)(1) immunize interactive computer services when they make targeted recommendations of information provided by another information content provider, or only limit the liability of interactive computer services when they engage in traditional editorial functions (such as deciding whether to display or withdraw) with regard to such information.

**Twitter, Inc. v. Taamneh**, No. 21-1496: This case involves the extent to which social media companies can be sued for allegedly aiding and abetting an act of terrorism, when they hosted content expressing support for the group behind the violence. The questions presented are: (1) Whether a defendant that provides generic, widely available services to all its numerous users and “regularly” works to detect and prevent terrorists from using those services “knowingly” provided substantial assistance under 18 U.S.C. § 2333 merely because it allegedly could have taken more “meaningful” or “aggressive” action to prevent such use; and (2) whether a defendant whose generic, widely available services were not used in connection with the specific “act of international terrorism” that injured the plaintiff may be liable for aiding and abetting under Section 2333.

**In re Grand Jury**, No. 21-1397: In this case, the United States sought to compel compliance with two grand-jury subpoenas. The recipients objected, arguing the information sought was protected by the attorney-client privilege. The question presented is: Whether a communication involving both legal and non-legal advice is protected by attorney-client privilege where obtaining or providing legal advice was one of the

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significant purposes behind the communication.

**Turkiye Halk Bankasi A.S. v. United States**, No. 21-1450: This case concerns the federal government's prosecution of a Turkish state-backed lender for allegedly helping Iran evade U.S. sanctions. The question presented is: Whether U.S. district courts may exercise subject-matter jurisdiction over criminal prosecutions against foreign sovereigns and their instrumentalities under 18 U.S.C. § 3231 and in light of the Foreign Sovereign Immunities Act.

**Glacier Northwest, Inc. v. International Brotherhood of Teamsters Local Union No. 174**, No. 21-1449: This case concerns the preemptive force of federal labor law. The question presented is: Does the National Labor Relations Act impliedly preempt a state tort claim against a union for intentionally destroying an employer's property in the course of a labor dispute?

**Financial Oversight & Management Board for Puerto Rico, v. Centro de Periodismo Investigativo, Inc.**, No. 22-96: This case concerns federal jurisdiction over claims against the Financial Oversight and Management Board for Puerto Rico arising from the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA). The question presented is: Does PROMESA's general grant of jurisdiction to the federal courts over claims against the Board and claims otherwise arising under PROMESA abrogate the Board's sovereign immunity with respect to all federal and territorial claims?

**The Ohio Adjutant General's Department v. Federal Labor Relations Authority**, No. 21-1454: This case involves a challenge by the State of Ohio, on behalf of its national guard and related agencies, to certain federal labor regulations. The question presented is: Does the Civil Service Reform Act of 1978, which empowers the Federal Labor Relations Authority to regulate the labor practices of federal agencies only, empower it to regulate the labor practices of state militias?

**Perez v. Sturgis Public Schools**, No. 21-887: This case concerns the Individuals with Disabilities Education Act ("IDEA"), which, among other things, preserves the rights of children with disabilities to bring claims under the Constitution and other federal non-discrimination statutes. If a child brings such a claim and the relief they seek is also available under IDEA, they must exhaust IDEA's administrative remedies. See 28 U.S.C. Section 1415(l). The questions presented are: (1) Whether courts should excuse exhaustion of the IDEA's administrative proceedings under Section 1415(l) when such proceedings would be futile, and (2) whether Section 1415(l) requires exhaustion of a non-IDEA claim seeking money damages that are not available under the IDEA.

**Santos-Sacaria v. Garland**, No. 21-1436: In this case, the petitioner, a non-citizen, appealed an adverse decision from the Board of Immigration Appeals (the "Board"), arguing the Board engaged in impermissible factfinding. The Court of Appeals affirmed, determining that she had not exhausted her claim as required by 8 U.S.C. Section 1252(d)(1) because she failed to bring a motion to reconsider to the Board. The question presented is: Whether the court of appeals correctly determined that 8 U.S.C. 1252(d)(1) prevented the court from reviewing petitioner's claim that the Board engaged in

impermissible factfinding because petitioner had not exhausted that claim through a motion to reconsider.