

The Supreme Court - September 30, 2021

Today, the Supreme Court of the United States granted certiorari in four cases:

Cassirer v. Thyssen-Bornemisza Collection Foundation, No. 20-1566: Whether a federal court hearing state law claims brought under the Foreign Sovereign Immunities Act must apply the forum state's choice-of-law rules to determine what substantive law governs the claims at issue, or whether it may apply federal common law.

Boechler, P.C. v. Commissioner of Internal Revenue, No. 20-1472: Whether the time limit in 26 U.S.C. §6330(d)(1), which establishes a 30-day time limit to file a petition for review in the Tax Court of a notice of determination from the Commissioner of Revenue, is a jurisdictional requirement or a claim-processing rule subject to equitable tolling.

Shurtleff v. City of Boston, No. 20-1158: This case involving the City of Boston's refusal to allow a Christian civic organization to raise its flag on City Hall Flag Poles designated as "public forums" raises three issues: 1) Whether the First Circuit's failure to apply this Court's forum doctrine to this First Amendment challenge conflicts with this Court's precedents holding that speech restrictions based on religious viewpoint or content violate the First Amendment or are otherwise subject to strict scrutiny and that the Establishment Clause is not a defense to censorship of private speech in a public forum open to all comers. 2) Whether the First Circuit's classifying as government speech the brief display of a private religious organization's flag on a city flagpole in these circumstances unconstitutionally expands the government speech doctrine, in direct conflict with this Court's decisions in *Matal v. Tam*, 137 S. Ct. 1744 (2017), *Walker v. Texas Div., Sons of Confederate Veterans, Inc.*, 576 U.S. 200 (2015), and *Pleasant Grove City v. Summum*, 555 U.S. 460 (2009). 3) Whether the First Circuit's finding that the requirement for perfunctory city approval of a proposed brief display of a private religious organization's flag on a city flagpole transforms the religious organization's private speech into government speech, conflicts with this Court's precedent in *Matal v. Tam*, 137 S. Ct. 1744 (2017), and Circuit Court precedents from the Second, Eighth, and

Related Capabilities

- Appellate
- International Arbitration & Litigation
- Tax Controversy & Litigation

Ninth Circuits.

Concepcion v. United States, No. 20-1650: Whether, when deciding if it should “impose a reduced sentence” on an individual under Section 404(b) of the First Step Act of 2018, 21 U.S.C. §841 note, a district court must or may consider intervening legal and factual developments.