

The Supreme Court Update - May 26, 2026

by Andrew Brantingham, Ian Blodger, Jessica M. Leano, and Brock Huebner

On May 21, 2026, the Supreme Court of the United States issued two decisions:

M & K Employee Solutions, LLC v. Trustees of the IAM National Pension Fund, No. 23-1209: This case addresses the actuarial assumptions used in calculating withdrawal liability under the Employee Retirement Income Security Act of 1974 (“ERISA”). When an employer stops participating in an underfunded multiemployer pension plan (“MPP”), it must pay its share of withdrawal liability. Withdrawal liability is calculated based on the value of the MPP’s unfunded vested benefits “as of” the measurement date—the last day of the plan year preceding the employer’s withdrawal. Petitioners withdrew from an underfunded MPP, and the MPP’s actuarial firm applied a discount rate that it had adopted after the measurement date. In arbitrations challenging the withdrawal liability assessments, the arbitrators held that the MPP should have used assumptions in effect on the measurement date. The district courts reviewing the awards disagreed, holding that actuaries could use assumptions adopted after the measurement date. The D.C. Circuit affirmed the district courts. In a 9-0 opinion written by Justice Jackson, the Court affirmed, holding that ERISA’s provisions governing the calculation of withdrawal liability do not require the actuarial assumptions to be selected on or before the measurement date. While the “as of” requirement sets the reference point for factual inputs, it has no bearing on when actuaries must select their assumptions. The assumptions must be “reasonable,” consider the plan’s experience and reasonable expectations, and offer the actuaries’ “best estimate of anticipated experience under the plan.” 29 U.S.C. § 1393. But § 1393 does not provide a deadline by which actuaries must select their assumptions, and the Court does not generally read limitations into a statute that do not appear in the text.

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

Havana Docks Corporation v. Royal Caribbean Cruises, Ltd., No. 24-983: This case addressed whether the Cuban Liberty and Democratic Solidarity Act of 1996 (the “Act”) imposes liability on four cruise lines that used docks that the Cuban Government took

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from an American company in 1960. The Act creates a private right of action for U.S. nationals who own claims to property confiscated by the Cuban Government on or after January 1, 1959, and imposes liability for knowingly and intentionally trafficking in such property. Havana Docks sued the cruise lines under the Act for their use of the docks from 2016 to 2019. A divided Eleventh Circuit panel reversed the district court's entry of summary judgment against the cruise lines, finding that because Havana Docks' property interest would have expired before 2016, the cruise lines' conduct did not constitute trafficking. In an 8-1 decision with Justice Thomas writing for the majority, the Court reversed, finding the Act generally makes those who use any property tainted by a past confiscation liable to any U.S. national who owns a claim to the property, and Havana Docks did not have to prove that the cruise lines interfered with a property interest that would have existed in a counterfactual scenario in which the Cuban Government did not confiscate it. Justice Sotomayor concurred, joined by Justice Kavanaugh. Justice Kagan dissented.

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

On May 18, 2026, the Court granted certiorari in one case:

Crowther v. Board of Regents, No. 25-183: Title IX of the Education Amendments of 1972 prohibits federally funded educational institutions from discriminating “on the basis of sex.” In *Jackson v. Birmingham v. Board of Education*, 544 U.S. 167 (2005), the Supreme Court held that employees of federally funded educational institutions may invoke an implied private right of action to bring retaliation claims under Title IX. Following *Jackson*, eight courts of appeals have held that a teacher may sue under Title IX for sex discrimination in their employment, while three have held that Title IX does not provide a private right of action. The question presented is: Whether Title IX provides employees of federally funded educational institutions a private right of action to sue for sex discrimination in employment.