



The Daily Docket

Reuters

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Good morning. Our colleague Andrew Chung takes a look at the [increasing share of cases](#) at the U.S. Supreme Court that originated in the 5th Circuit. Plus, Terraform Labs reached a [\\$4.47 billion civil settlement](#) with the SEC; the lead singer of Motown group the Four Tops [sued a hospital for racial discrimination](#); and a judge said the U.S. Soccer Federation [must face a trial](#) over claims that it schemed to curb competition for professional soccer leagues. Coming up today, Tesla shareholders are [set to vote](#) on whether to reinstate CEO Elon Musk's \$56 billion pay package, and we have [what you need to know about the potential outcome](#). It's a busy day, so let's get started.

[Explosive cases flow to US Supreme Court from 5th Circuit](#)

The U.S. Supreme Court has yet to issue rulings in most of this term's highest-profile cases, including one on the abortion pill and two on gun rights. But that could change as soon as today, with the court slated to release new opinions.

Many of the most explosive cases we're still waiting on originated in the New Orleans-based 5th Circuit, [writes Andrew Chung](#).

The 5th Circuit is perhaps the most conservative of the 13 federal appellate courts. Cases from the court have represented an increasing share of the Supreme Court's workload in recent years, according to Adam Feldman, a legal scholar who tracks court data on his Empirical SCOTUS blog. It heard 10 cases from the 5th Circuit this term, deciding two thus far.

The fact that such a panoply of cases covering hot-button issues is coming out of the 5th Circuit is the result of conservative plaintiffs choosing to bring litigation before a court they "perceive as a favorable forum," according to Adam Unikowsky, a Washington lawyer who has argued frequently before the Supreme Court.

The justices are currently weighing the 5th Circuit's ruling against the federal ban on gun possession by people subject to domestic violence restraining orders; the circuit court's decision backing restrictions on access to the [abortion pill](#); a ruling that faulted the SEC's [in-house adjudications](#) as a violation of the constitutional right to a jury trial; and another that backed a Texas man who challenged a federal ban on "[bump stock](#)" devices that make semiautomatic weapons fire rapidly like machine guns.

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[The buzz](#)

- A Nevada man facing criminal charges for allegedly scamming investors and misleading the SEC is [hoping to revive his malpractice lawsuit](#) against his former law firm Debevoise. Mykalai Kontilai, also known as Michael Contile, [asked the D.C. Circuit](#) to reverse a 2023 ruling that threw out his

lawsuit against Debevoise and three of its current and former lawyers, including former SEC Enforcement Director Andrew Ceresney.

- President Joe Biden [nominated three women to join the federal bench](#), including Laura Provenzano, a prosecutor who helped put a Republican donor dubbed "Minnesota's Jeffrey Epstein" behind bars for sex trafficking. The nominees also include Superior Court Judge Noël Wise in Alameda County, California, to serve as a federal district court judge in the state's Northern District, and Assistant U.S. Attorney Mary Kay Costello for Pennsylvania's Eastern District.
- Rohit Chopra, director of the CFPB, [called on lawmakers to adopt greater protections](#) against the collection and use of consumers' data from payment processing and so-called buy-now-pay-later services. Chopra delivered his first testimony on Capitol Hill following a U.S. Supreme Court decision last month that upheld the constitutionality of the agency's funding structure.

[\\$4,470,000,000](#)

That's the size of the civil settlement Terraform Labs reached with the SEC, after being found liable by a jury for defrauding cryptocurrency investors who lost an estimated \$40 billion when the TerraUSD and Luna tokens collapsed in 2022. The proposed final judgment covering Terraform and its founder Do Kwon requires approval by U.S. District Judge Jed Rakoff, who oversaw the trial. Terraform's judgment includes \$4.05 billion of disgorgement plus interest, and a \$420 million civil fine. [Much of that is unlikely to be paid because Terraform filed for bankruptcy in January.](#)

[Columnist spotlight: 'Baby Reindeer' is Netflix's latest defamation headache](#)

When a woman who claims she was defamed over her portrayal as Martha in "Baby Reindeer" sued Netflix last week for at least \$170 million, she joined a litany of other defamation plaintiffs taking aim at the streaming service. In her latest column, Jenna Greene looks at what's required to make the claims stick and why the "Baby Reindeer" suit by plaintiff Fiona Harvey may, as one lawyer put it, ["give a lot of folks at Netflix quite a bit of heartburn."](#)

["Though Plaintiffs' grievances are legitimate, they do not fall within the scope of our State's public nuisance statute."](#)

–The Oklahoma Supreme Court, which [dismissed a lawsuit by the last two known living survivors](#) of the 1921 Tulsa race massacre that sought reparations for the violence and destruction. [The court upheld](#) a judge's decision last year to dismiss the case, saying the state's public nuisance law could not be relied upon to address the lingering consequences of "unjust, violent, and tragic moments of our history."

[Coming up today](#)

- Tesla is holding its annual meeting, where shareholders [will be asked to vote](#) on CEO Elon Musk's \$56 billion pay package after a Delaware judge [struck it down](#). The company has asked investors to vote to reaffirm it, and Musk stands to control more than 20% of the company if he gets it. Tesla also is asking investors to vote on its proposal to reincorporate in Texas instead of Delaware and re-elect two directors, including Musk's brother, Kimbal.
- The 11th Circuit is hearing arguments in the ACLU's lawsuit challenging Florida's Stop W.O.K.E. Act, which regulates what can be said in classrooms about topics like race and gender. The group of Florida teachers suing won a preliminary injunction against the law in March 2023.

[In the courts](#)

- SpaceX and its CEO Elon Musk were [sued by eight engineers](#) who say they were illegally fired for raising concerns about alleged sexual harassment and discrimination against women. The engineers - four women and four men - claim Musk ordered their firing in 2022 after they

circulated a letter calling the billionaire a "distraction and embarrassment" and urging executives to disavow sexually charged comments he had made on social media.

- The lead singer of the celebrated Motown group the Four Tops [sued a Michigan hospital](#), claiming he was put into restraints and denied treatment for a serious heart problem after medical personnel did not believe that he was a member of the group. Alexander Morris, who joined the Four Tops in 2018, accused Ascension Macomb-Oakland Hospital of racial discrimination and negligence.
- The 2nd Circuit [tossed a judge's order](#) that required Amazon to refrain from firing union supporters amid a nationwide organizing campaign at its warehouses. A three-judge panel said the judge who issued the order last year at the request of the NLRB failed to explain why such a sweeping mandate was necessary.
- The U.S. Soccer Federation [must face a trial over claims that it schemed to curb competition](#) for professional soccer leagues in the U.S., insulating Major League Soccer from potential rivals, a New York federal judge ruled. [The decision](#) by U.S. District Judge Brian Cogan in Brooklyn tees up a September trial over plaintiff North American Soccer League's allegations that the U.S. Soccer Federation and Major League Soccer conspired to exclude it from Division 1 sanctioned play, the top tier for professional soccer in the country, and schemed to monopolize the market for professional men's soccer.
- Guardant Health sued Tempus AI, an artificial-intelligence-based genetic testing company backed by Japanese investment firm SoftBank, for [allegedly infringing five patents related to DNA-based cancer testing](#), according to [a lawsuit](#). Precision oncology company Guardant said in the lawsuit that Tempus' "liquid biopsy" cancer tests violate Guardant's patent rights in similar technology, adding the filing to a web of DNA-sequencing patent lawsuits among genomics companies that have led to several multi-million dollar verdicts.
- U.S. District Judge John Chun in Seattle [set a June 2025 trial](#) in the FTC's case accusing Amazon of deceptively enrolling millions of online shoppers into the e-commerce giant's Prime service without their consent and making it hard for them to leave. The judge said he would hear the FTC's case against Amazon in a non-jury trial next year, after Amazon had pushed for an earlier trial date.

Industry moves

- Dentons hired capital markets partner Penny Groel in Los Angeles. She most recently was general counsel at NuBridge Commercial Lending. ([Dentons](#))
- Jackson Lewis added labor and employment partner Pamela Williams in Houston. Williams previously was at Fisher Phillips. ([Jackson Lewis](#))
- Polsinelli opened an office in Fort Worth, Texas, with a team from Commercial Law Advisors, including partner Zachary Garsek. ([Polsinelli](#))
- Lathrop GPM hired partner Laurie Huotari for its business transactions practice. She rejoins the firm from Stoel Rives where she was managing partner of the Minneapolis office. ([Lathrop GPM](#))
- McGuireWoods brought on litigation partner Michael Scoville, who is based in Seattle, from Perkins Coie. ([McGuireWoods](#))
- Baker McKenzie added Colin Bowes-Carlson, who focuses on cross-border deals, as a partner in Chicago. He most recently was general counsel at the Illinois Department of Revenue. ([Baker McKenzie](#))
- **Saul Ewing hired partner Carville Collins in Baltimore. Collins was previously with DLA Piper. ([Saul Ewing](#))**

Lawyer speak: [Patent decision offers new look at discretionary denial by PTAB](#)

A current case to watch at the PTAB is Vivendum Product Solutions, Inc. v. Rotolight Ltd, due to its potential impact on the weight accorded to General Plastic discretionary denial factor 1 when multiple petitions are filed against the same patent, [write David Holman, Lestin Kenton Jr and Kristina Caggiano Kelly of Sterne Kessler](#)