

# Cases Argued by Public Citizen in the United States Supreme Court

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**Public Citizen has argued 64 cases before the U.S. Supreme Court, listed**

**below.** [BNSF Railway Co. v. Tyrell, 137 S. Ct. 1549 \(2017\)](#)

**Attorney:** Murray

**Question presented:** May a state court exercise personal jurisdiction to adjudicate a claim under the Federal Employers' Liability Act over a U.S.-based defendant doing business in the state and at home there without violating the Due Process Clause of the Fourteenth Amendment?

**Outcome:** Lost

[Northwest, Inc. v. Ginsberg, 572 U.S. 273 \(2013\)](#)

**Attorney:** Rosenbaum

**Question presented:** Did the court of appeals correctly hold that Ginsberg's contract claim based on the covenant of good faith and fair dealing is not preempted by the Airline Deregulation Act's preemption provision, 49 U.S.C. § 41713(b)(1), which provides that States "may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of an air carrier that may provide air transportation"?

**Outcome:** Lost

[Marx v. General Revenue Corp., 568 U.S. 371 \(2013\)](#)

**Attorney:** Zieve

**Question presented:** Whether a prevailing defendant in an FDCPA case may be awarded costs where the lawsuit was not brought in bad faith and for the purpose of harassment.

**Outcome:** Lost

Tibbals v. Carter, sub nom. Ryan v. Gonzales, 568 U.S. 57 (2012)

**Attorney:** Michelman

**Question presented:** Does a court have discretion to stay habeas proceedings when the petitioner's mental incompetence renders him unable to provide assistance that is necessary to the litigation of his claims?

**Outcome:** Lost

Mims v. Arrow Financial Services, LLC, 565 U.S. 368 (2012)

**Attorney:** Nelson

**Question presented:** Did Congress divest the federal district courts of their federal-question jurisdiction under 28 U.S.C. § 1331 over private actions brought under the Telephone Consumer Protection Act?

**Outcome:** Won

CompuCredit Corp. v. Greenwood, 565 U.S. 95 (2012)

**Attorney:** Nelson

**Question presented:** Whether the plain language of the Credit Repair Organizations Act creates a non-waivable right to sue that forecloses enforcement of a predispute arbitration clause in a consumer contract.

**Outcome:** Lost

AT&T Mobility LLC v. Concepcion, 563 U.S. 333 (2011)

**Attorney:** Gupta

**Question presented:** When a class-action ban that is otherwise unenforceable under generally applicable contract law is embedded in an arbitration agreement, is the contract law preempted by the Federal Arbitration Act?

**Outcome:** Lost

Chase Bank USA, N.A. v. McCoy, 562 U.S. 195 (2011)

**Attorney:** Beck

**Question presented:** Where a creditor reserves discretion to increase a cardholder's interest rate up to a stated maximum rate in the event of default, does the Truth in Lending Act, as implemented by the applicable version of Regulation Z, require the creditor to notify the cardholder when it chooses to increase the cardholder's rate, and to disclose the new rate it has chosen to apply?

**Outcome:** Lost

Shady Grove Orthopedic Associates, P.A. v. Allstate Insurance Co., 559 U.S. 393 (2010)

**Attorney:** Nelson

**Questions presented:**

1. Can a state legislature properly prohibit the federal courts from using the class action device for state law claims?
2. Could state-law class actions eventually disappear altogether, as more state legislatures declare them off limits to the federal courts?

**Outcome:** Won

Taylor v. Sturgell, 553 U.S. 880 (2008)

**Attorney:** Rosenbaum

**Question presented:** Can a non-party be bound by the judgment in a case under the theory that he was "virtually represented" by a party to the case when the non-party had no legal relationship with the party and did not receive notice of the litigation?

**Outcome:** Won

Richlin Security Service Co. v. Chertoff, Secretary of Homeland Security, 553 U.S. 571 (2008)

**Attorney:** Wolfman

**Question presented:** Under the Equal Access to Justice Act (EAJA), 5 U.S.C. § 504(a)(1) and 28 U.S.C. § 2412(d)(1)(A), may a prevailing party be awarded attorney fees for paralegal services at the market rate for such services, or does EAJA limit reimbursement for paralegal services to cost only?

**Outcome:** Won

Warner-Lambert Co., LLC v. Kent, 552 U.S. 440 (2008)

**Attorney:** Zieve

**Question presented:** Whether, under the conflict preemption principles in *Buckman Co. v. Plaintiffs' Legal Committee*, 531 U.S. 341 (2001), federal law preempts the provision in a Michigan statute that allows a product liability claim to be maintained against a drug manufacturer of an FDA-approved drug only if the manufacturer failed to submit to the FDA or misrepresented information to the FDA that was required to be submitted and the FDA would not have approved the drug or would have withdrawn approval if the company had been not done so.

**Outcome:** Won (Affirmed by an equally divided court)

Riegel v. Medtronic, Inc., 552 U.S. 312 (2008)

**Attorney:** Zieve

**Question presented:** Whether the express preemption provision of the Medical Device Amendments to the Food, Drug, and Cosmetic Act, 21 U.S.C. § 360k(a), preempts state-law claims seeking damages for injuries caused by medical devices that received premarket approval from the Food and Drug Administration

**Outcome:** Lost

Jones v. Flowers, 547 U.S. 220 (2006)

**Attorney:** Kirkpatrick

**Question presented:** When mailed notice of a tax sale or property forfeiture is returned undelivered, does due process require the government to make any additional effort to locate the owner before taking the property?

**Outcome:** Won

Will v. Hallock, 546 U.S. 345 (2006)

**Attorney:** Zieve

**Questions presented:**

1. Whether a court of appeals has jurisdiction over interlocutory appeal of a district court's order denying a motion to dismiss based on the Federal Tort Claims Act's judgment bar provision.
2. If a claim under the FTCA is dismissed because it falls within one of the statute's exceptions to liability, does the Act's judgment bar provision preclude the plaintiff from bringing a constitutional claim based on the same facts?

**Outcome:** Won on first question (Court did not reach second question)

Garcetti v. Ceballos, 547 U.S. 410 (2006)

**Attorney:** Robin-Vergeer

**Question presented:** Is speech by a public employee on a matter of public concern entitled to First Amendment protection when the speech is related to the employee's job?

**Outcome:** Lost

Lockhart v. United States, 546 U.S. 142 (2005)

**Attorney:** Wolfman

**Question presented:** May the government withhold social security benefits in order to collect old student loan debt?

**Outcome:** Lost

Cheney v. U.S. District Court, 542 U.S. 367 (2004)

**Attorney:** Morrison

**Question presented:** Can the Federal Advisory Committee Act be construed, consistent with the Constitution, to authorize discovery orders directing the Vice President to produce information about his "Energy Task Force"?

**Outcome:** Lost

Scarborough v. Principi, 541 U.S. 401 (2004)

**Attorney:** Wolfman

**Question presented:** Is an applicant for attorney's fees under the Equal Access to Justice Act barred from obtaining a fee award by the Act's 30-day statute of limitations solely because the applicant's timely-filed fee application did not initially allege that the position of the government in the underlying litigation lacked substantial justification?

**Outcome:** Won

Roell v. Withrow, 538 U.S. 580 (2003)

**Attorney:** Frost

**Question presented:** Did the Court of appeals correctly vacate a final judgment entered by a magistrate judge on the ground that two defendants did not consent to the referral to the magistrate judge prior to trial?

**Outcome:** Lost

Barnes v. Gorman, 536 U.S. 181 (2002)

**Attorney:** Nelson

**Question presented:** Are punitive damages available to plaintiffs in cases brought under Title II of the Americans With Disabilities Act and Section 504 of the Rehabilitation Act?

**Outcome:** Lost

Dusenbery v. United States, 534 U.S. 161 (2002)

**Attorney:** Zieve

**Question presented:** Did the federal government violate the Due Process Clause of the Fifth Amendment by failing to give actual notice to an inmate in its own prison system before it forfeited the inmate's property for its own benefit?

**Outcome:** Lost

Lee v. Kemna, 534 U.S. 362 (2002)

**Attorney:** Robin-Vergeer

**Question presented:** Was a defendant denied his rights to a fair trial and due process of law when the trial court refused to grant him an overnight continuance to locate his three subpoenaed alibi witnesses who unexpectedly, and for reasons not attributable to the defendant, did not return after a lunch break on the last day of trial?

**Outcome:** Won

Jefferson County v. Acker, 527 U.S. 423 (1999)

**Attorney:** Morrison

**Question presented:** Is the Jefferson County occupational license tax unconstitutional as applied to federal judges?

**Outcome:** Lost

Raines v. Byrd, 521 U.S. 811 (1997)

**Attorney:** Morrison

**Question presented:** Did members of Congress have Article III standing to challenge the Line Item Veto Act as a violation of the Presentment Clause in Article I?

**Outcome:** Lost

Richardson v. McKnight, 521 U.S. 399 (1997)

**Attorney:** Vladeck

**Question presented:** Are prison guards employed by for-profit corporations entitled to qualified immunity in civil rights actions?

**Outcome:** Won

Edmond v. United States, 520 U.S. 651 (1997)

**Attorney:** Morrison

**Question presented:** Were civilian judges serving on the Coast Guard appeals court appointed in violation of the Appointment Clause?

**Outcome:** Lost

Medtronic, Inc. v. Lohr, 518 U.S. 470 (1996)

**Attorney:** Wolfman

**Question presented:** Does federal law pertaining to the regulation of medical devices preempt tort claims to compensate injured victims?

**Outcome:** Won

Doctor's Associates, Inc. v. Casarotto, 517 U.S. 681 (1996)

**Attorney:** Sikes

**Question presented:** Is a Montana law requiring all mandatory arbitration clauses be printed on the covers of printed consumer contracts preempted by the Federal Arbitration Act?

**Outcome:** Lost

Yamaha Motor Corp. v. Calhoun, 516 U.S. 199 (1996)

**Attorney:** Morrison

**Question presented:** Does federal law, which is designed to compensate injured seamen, preempt state tort law for maritime accidents occurring within the territorial waters of the United States?

**Outcome:** Won

Stone v. INS, 514 U.S. 386 (1995)

**Attorney:** Morrison

**Question presented:** Must an alien who loses before the Immigration Service and files a timely request for reconsideration seek immediate court review or may he await the decision on reconsideration?

**Outcome:** Lost

Elder v. Holloway, 510 U.S. 510 (1994)

**Attorney:** Tankersley

**Question presented:** May civil rights plaintiffs be denied relief merely because their lawyers fail to cite appropriate case law in the trial court?

**Outcome:** Won

Weiss v. United States, 510 U.S. 163 (1994)

**Attorney:** Morrison

**Question presented:** Does the current system of military judges violate the Appointments and Due Process Clauses?

**Outcome:** Lost

Edenfield v. Fane, 507 U.S. 761 (1993)

**Attorney:** Vladeck

**Question presented:** Do Florida's restrictions on accountants' efforts to attract clients violate the First Amendment?

**Outcome:** Won

Helling v. McKinney, 509 U.S. 25 (1993)

**Attorney:** Hitchcock

**Question presented:** Does the Eighth Amendment prohibition on cruel and unusual punishment apply to prisoners who face health dangers (from being confined in a cell with a heavy smoker)?

**Outcome:** Won

Metropolitan Washington Airports Authority v. Citizens for the Abatement of Aircraft Noise, Inc., 501 U.S. 252 (1991)

**Attorney:** Goldman

**Question presented:** Does congressional review board that can veto actions of authority that runs National and Dulles Airports violate separation of powers?

**Outcome:** Won

Melkonyan v. Sullivan, 501 U.S. 89 (1991)

**Attorney:** Wolfman

**Question presented:** In a Social Security case, in which a court has ordered a remand to the agency, may a claimant wait until winning his case before seeking fees for obtaining the remand?

**Outcome:** Won

International Organization of Masters, Mates & Pilots v. Brown, 498 U.S. 466 (1991)

**Attorney:** Levy

**Question presented:** Did a union violate section 401(c) of the Labor-Management Reporting and Disclosure Act by refusing a request of a member to mail election campaign literature to his

**Outcome:** Won

Public Citizen v. U.S. Department of Justice, 491 U.S. 440 (1989)

**Attorney:** Glitzenstein

**Question presented:** Is the American Bar Association judicial selection committee, which offers its opinions on judicial nominations to the attorney general, an advisory committee under the Federal Advisory Committee Act?

**Outcome:** Lost

American FSA Employees v. Garfinkel, 490 U.S. 153 (1989)

**Attorney:** Goldman

**Question presented:** Do non-disclosure requirements imposed on federal employees violate federal statutes or the Constitution?

**Outcome:** Won

Barnard v. Thorstenn, 489 U.S. 546 (1989)

**Attorney:** Hitchcock

**Question presented:** May the Virgin Islands refuse to admit non-residents to its bar?

**Outcome:** Won

Mistretta v. United States, 488 U.S. 361 (1989)

**Attorney:** Morrison

**Question presented:** Do the federal sentencing guidelines violate principles of separation of powers?

**Outcome:** Lost

Michigan Citizens for an Independent Press v. Thornburgh, 493 U.S. 38 (1989)

**Attorney:** Schultz

**Question presented:** Did the attorney general improperly approve a joint operating agreement between the Detroit News and the Detroit Free Press?

**Outcome:** Lost

Supreme Court of Virginia v. Friedman, 487 U.S. 59 (1988)

**Attorney:** Hitchcock

**Question presented:** May Virginia refuse to let a non-resident be admitted to its bar without taking the bar exam, as Virginia residents are permitted to do?

**Outcome:** Won

Lingle v. Norge, 486 U.S. 399 (1988)

**Attorney:** Levy

**Question presented:** Are claims for wrongful discharge for filing a workers compensation claim preempted by federal labor law?

**Outcome:** Won

U.S. Department of Justice v. Julian, 486 U.S. 1 (1988)

**Attorney:** Glitzenstein

**Question presented:** Are presentence reports, prepared for use by federal judges and shown to prisoners at sentencing and when they are seeking parole, exempt from copying under the FOIA?

**Outcome:** Won

West v. Conrail, 481 U.S. 35 (1987)

**Attorney:** Levy

**Question presented:** Does the filing of the complaint in a duty of fair representation case satisfy the statute of limitations?

**Outcome:** Won

Bowsher v. Synar, 478 U.S. 714 (1986)

**Attorney:** Morrison

**Question presented:** Was the Gramm-Rudman balanced budget act constitutional where it delegated broad authority to the comptroller general, an agent of Congress, to carry out the act?

**Outcome:** Won

Young v. Community Nutrition Institute, 476 U.S. 974 (1986)

**Attorney:** Schultz

**Question presented:** Must the FDA engage in a formal proceeding before permitting certain food products to be sold with dangerous additives in them?

**Outcome:** Lost \*

\* We won on a narrower ground on remand.

Zauderer v. Office of Disciplinary Counsel of the Supreme Court of Ohio, 471 U.S. 626 (1985)

**Attorney:** Morrison

**Question presented:** Was the decision of the Ohio Supreme Court to discipline a lawyer for taking out ads seeking to inform women of his availability to provide legal services in connection with Dalkon Shield litigation a violation of the First Amendment?

**Outcome:** Won

CIA v. Sims, 471 U.S. 159 (1985)

**Attorney:** Levy

**Question presented:** Are the names of persons who are investigators or otherwise took part in a CIA program on the effects of certain psychedelic drugs exempt from disclosure under the FOIA as intelligence sources?

**Outcome:** Lost

Bernal v. Fainter, 467 U.S. 216 (1984)

**Attorney:** Hitchcock

**Question presented:** May a state condition the right to become a notary public on being a citizen of the United States?

**Outcome:** Won

INS v. Chadha, 462 U.S. 919 (1983)

**Attorney:** Morrison

**Question presented:** Is the provision under which either house of Congress may veto certain actions taken by administrative agencies a violation of separation of powers?

**Outcome:** Won

Regan v. Taxation with Representation of Washington, 461 U.S. 540 (1983)

**Attorney:** Sims

**Question presented:** Is the prohibition on all but insubstantial amounts of lobbying by charitable organizations a violation of the First Amendment and the Equal Protection Clause?

**Outcome:** Lost

Frazier v. Heebe, 482 U.S. 615 (1982)

**Attorney:** Hitchcock

**Question presented:** May a federal district court condition admission to its bar on the applicant either residing in or having an office in the state where the federal court is located?

**Outcome:** Won

Barrentine v. Arkansas Best Freight System, 450 U.S. 728 (1981)

**Attorney:** Vladeck

**Question presented:** Does unsuccessful arbitration under a collective bargaining agreement of a dispute about overtime pay preclude workers from suing their employer based on a federal statute also protecting the right to overtime pay?

**Outcome:** Won

GTE Sylvania v. Consumer Product Safety Commission, 445 U.S. 375 (1980)

**Attorney:** Morrison

**Question presented:** May a requestor under the FOIA sue to obtain access to records after the submitter has sued in another court to prevent the records' release?

**Outcome:** Lost

Duke Power Co. v. Carolina Environmental Study Group, 438 U.S. 59 (1978)

**Attorney:** Schultz

**Question presented:** Does the federal statute that puts a cap on the amount of money that victims of a nuclear power plant disaster can recover violate the Constitution?

**Outcome:** Lost

Nader v. Allegheny Airlines, 426 U.S. 290 (1976)

**Attorney:** Robertson

**Question presented:** Does the federal regulatory scheme for interstate air travel preclude a passenger who is wrongfully bumped from a flight for suing for damages?

**Outcome:** Won

Virginia State Board of Pharmacy v. Virginia Citizens Consumer Council, 425 U.S. 748 (1976)

**Attorney:** Morrison

**Question presented:** Does the First Amendment apply to commercial speech, and if so, is the Virginia statute forbidding the advertising of prescription drug prices unconstitutional?

**Outcome:** Won

Administrator, Federal Aviation Administration v. Robertson, 422 U.S. 255 (1975)

**Attorney:** Morrison

**Question presented:** May the FAA withhold documents under the Freedom of Information Act (FOIA) based on a statute giving the agency discretion to do so?

**Outcome:** Lost \*

\* Shortly after the Supreme Court upheld the withholding, Congress overruled the decision.

Goldfarb v. Virginia State Bar, 421 U.S. 773 (1975)

**Attorney:** Morrison

**Question presented:** Are minimum fee schedules promulgated by bar associations unlawful under the federal anti-trust laws?

**Outcome:** Won

Campaign Clean Water v. Train, 420 U.S. 136 (1975)

**Attorney:** Jacks

**Question presented:** Does the President have the power to refuse to spend money appropriated by Congress unless specifically authorized by Congress to do so?

**Outcome:** Won

Alexander v. Americans United, 416 U.S. 752 (1974)

**Attorney:** Morrison

**Question presented:** May an organization that was denied tax exempt status obtain a court ruling directly on the validity of the IRS's action?

**Outcome:** Lost \*

\* Shortly after the Supreme Court ruled against the taxpayer, Congress enacted a special statute providing for such review.