FED COURTS WEEKLY

September 16–22, 2026

A heavy week, and unusually well-suited to the syllabus. The First Circuit handed down the most consequential post-*CASA* remedial opinion yet, holding that § 1252(f)(1) bars neither classwide declaratory relief nor APA vacatur — while trimming the judgment on Article III grounds. The Eighth Circuit ordered Missouri to use a congressional map that the Missouri Supreme Court has forbidden, and stayed itself for seven days to let the Justices intervene a third time. And the Court's own new Term opens on October 5 with a federal-courts doubleheader: an added question on § 1257 jurisdiction in *Suncor*, and a straight jurisdiction-stripping case in *Johnson*. Nothing on the legislative side moved this week.

Courts of Appeals

First Circuit: § 1252(f)(1) does not reach vacatur or classwide declaratory relief. *D.V.D. v. U.S. Department of Homeland Security*, No. 26-1212 (1st Cir. Sept. 18, 2026) (Montecalvo, Howard, Aframe, JJ.), largely affirmed Judge Brian Murphy's judgment against the third-country removal Guidance. On remedy, the panel held that *Brito v. Garland*, 22 F.4th 240 (1st Cir. 2021), survives *Garland v. Aleman Gonzalez*, 596 U.S. 543 (2022), and controls the declaratory-judgment question — invoking the "hen's-teeth-rare" exception to law-of-the-circuit only reluctantly, and noting that *Aleman Gonzalez* expressly reserved classwide declaratory relief at 551 n.2. It then extended *Brito*'s reasoning to APA vacatur: neither the caption ("Limit on injunctive relief") nor the text mentions vacatur; vacatur is a "milder remedy" under *Monsanto*; and § 1252(e)(1)(A) shows Congress knows how to bar declaratory relief when it wants to. The panel leaned on *Trump v. CASA, Inc.*, 606 U.S. 831, 847 n.10 (2025), which reserved "whether the [APA] authorizes federal courts to vacate federal agency action."
Doctrinal hooks: congressional limits on remedial jurisdiction; the vacatur-vs.-universal-injunction problem left open by *CASA*; law-of-the-circuit and the conditions for a panel to abandon precedent. Note also the standing holding: the panel **vacated two declarations for want of Article III standing**, because the named plaintiffs never pleaded injury from DHS's alleged violation of the § 1231(b)(2)(A)–(D) sequencing requirements — *Spokeo*, 578 U.S. 330, 338 n.6 (class representatives must themselves have standing). A single opinion that runs standing, class standing, jurisdiction-stripping, and remedy scope in sequence; the remedial section is close to a ready-made class handout. Opinion (PDF)

Eighth Circuit orders Missouri to use the map its own supreme court blocked. On September 21 a three-judge panel (No. 26-2797) affirmed the Eastern District of Missouri and directed entry of a permanent injunction requiring the 2025 map for the November general

election, holding that Article I, § 2 requires continuity of constituency between primary and general: "Missouri's current plan to use the 2022 map in the November 2026 general election violates the Constitution." The panel rejected a *Purcell* objection by recharacterizing the 2025 map as the practical status quo — candidates filed under it and roughly 1.2 million voters used it in August — and laid the late-breaking change at the state court's door. It stayed its mandate one week, to September 28, expressly to permit a third trip to the Supreme Court.
Doctrinal hooks: state-court/federal-court relations in their sharpest form. The Missouri Supreme Court held on September 3 in *von Glahn v. Hoskins* that the 2022 map governs unless voters approve the referred map; Justice Kavanaugh denied Secretary Hoskins's application on September 8 (No. 26A304); and the full Court stayed the district court's September 8 order on September 10 in *People Not Politicians v. Onder* (No. 26A326), "pending the disposition of the appeal in the United States Court of Appeals for the Eighth Circuit and disposition of a petition for a writ of certiorari." The panel now reads that stay as having cleared the way for it. Worth pressing students on what exactly the September 10 stay preserved, and on the odd spectacle of a federal court of appeals invoking the Supremacy Clause to displace a state high court's construction of its own constitution's referendum provision. Podcast-ready. NBC News · Roll Call · 26A326 docket

Supreme Court

A pure traceability question, fully briefed on the interim docket.
DHS v. League of Women Voters, No. 26A308, went to the Chief Justice on September 8; the response landed September 15 and the government replied September 16. No order had issued as of this writing. The stay application asks the Court to lift a block on the modified SAVE citizenship-verification system, and the standing fight is the whole ballgame: the government says any injury is inflicted by *States*, since SAVE "merely notifies the States whether the federal government can confirm citizenship," while respondents invoke the predictable-third-party-reaction line.
Doctrinal hook: causation and traceability where the injury runs through an unregulated third party — the *Department of Commerce v. New York* / *Murthy* axis, being resolved (if at all) without argument and probably without an opinion. A clean example for the interim-docket unit. Docket · SCOTUSblog

Mootness kills a granted case; the SG returns with a replacement vehicle.
Genalo v. Black, No. 25-886 — the § 1226(c) prolonged-detention case — collapsed after one respondent left the country before the grant and Governor Hochul's August pardon removed the other's removability predicate; the parties agreed to dismissal this month. On September 21 the

Solicitor General filed a **petition for certiorari before judgment** in *Genalo v. D.C.*, No. 26-379, out of the Second Circuit (No. 26-1396), response due October 21.
Doctrinal hooks: mootness by events extrinsic to the litigation, and the increasingly routine use of Rule 11 certiorari before judgment — here not to accelerate a case but to substitute one. A tidy pairing for the justiciability unit: the Article III rule that bites hardest is the one that makes the Court's docket hostage to a governor's clemency pen. 26-379 docket · SCOTUSblog

October 5: two federal-courts cases back to back.
The argument calendar (amended September 14) opens the Term with *Suncor Energy (U.S.A.) Inc. v. County Commissioners of Boulder County*, No. 25-170, and *Johnson v. United States Congress*, No. 25-735. In *Suncor* the Court added its own question on February 23: "Whether this Court has statutory and Article III jurisdiction to hear this case" — i.e., whether § 1257 finality permits review of an interlocutory Colorado Supreme Court judgment (No. 24SA206) refusing dismissal, a *Cox Broadcasting* category-four problem, alongside standing. *Johnson* presents the question whether the Veterans' Judicial Review Act "strip[ped] district courts of the jurisdiction, recognized by this Court in *Johnson v. Robison*, 415 U.S. 361 (1974), to hear challenges to the constitutionality of acts of Congress affecting veterans' benefits" (below, 151 F.4th 1287 (11th Cir. 2025)).
Doctrinal hooks: SCOTUS appellate jurisdiction over state judgments; congressional control of federal jurisdiction and the *Robison*/*Webster v. Doe* presumption that constitutional claims survive channeling statutes absent clear statement. Two cases, one morning, that between them cover a third of the course. Calendar (PDF) · 25-170 · 25-735

Commentary

Chemerinsky on *Suncor*: preemption without a preemption theory.
Writing September 22, Chemerinsky argues the energy companies' position fits none of the standard categories — no express provision, no genuine conflict — and instead rests on a constitutional claim that States simply lack power over interstate pollution, a Clean Air Act argument, and a dormant foreign-affairs theory. The first of those is the interesting one for our purposes: it is *AEP v. Connecticut* and *Ouellette* read as a structural bar rather than as displacement of federal common law, which is a considerably larger claim than it looks.
Doctrinal hook: federal common law of interstate nuisance and what survives displacement. Read alongside the added § 1257 question, *Suncor* is the rare case where the jurisdictional and merits questions are both worth a class. SCOTUSblog

Items are included only where a federal courts doctrine is doing the work. No legislative developments on jurisdiction-stripping or remedies surfaced this week.