A first week of the Term with an unusually high federal-courts content. The Court opened by arguing two cases that are, at bottom, about who decides and where: *Suncor*, where it added a question on its own § 1257(a) jurisdiction, and *Johnson*, a straight jurisdiction-channeling fight over the Veterans' Judicial Review Act. Meanwhile the interim docket converted *D.V.D.* into a merits case with questions presented squarely about district-court jurisdiction and the remedial limits of § 1252(f)(1) — and a fourth question that hands the Solicitor General the pen.

Supreme Court

The Court converts a stay application into a merits case on third-country removals — and lets the SG write a question presented.
Department of Homeland Security v. D.V.D., No. 26-426 (26A406) (U.S. Sept. 29, 2026). The Court stayed the District of Massachusetts's February 25, 2026 order and judgment, treated the stay application as a cert petition, granted it, and set the case for the December sitting. The directed questions are the fed-courts syllabus in miniature: (1) whether the district court had jurisdiction at all; (2) whether it had authority to enter *classwide declaratory relief and APA vacatur* under 8 U.S.C. § 1252(f)(1); and (3) the merits under § 1231(b), due process, and FARRA/CAT. Question (4) directs briefing on "[s]uch other questions that the Government determines are appropriate for the proper disposition of the case." Sotomayor, Kagan, and Jackson would have denied the stay.
Hook: congressional control of remedial jurisdiction. Question (2) is the post-*CASA* question everyone has been waiting for — whether classwide declaratory relief and APA vacatur are independent routes to universal effect, or whether § 1252(f)(1)'s bar on "enjoin[ing] or restrain[ing] the operation of" the removal provisions reaches relief that isn't formally an injunction. Question (4) is a separate scandal of its own: the Court ordinarily controls the questions presented. **Classroom and podcast gold** — a single order that teaches the shadow-docket-to-merits pipeline, § 1252(f)(1), and the *CASA* workarounds.
Order list (Sept. 29, 2026) · SCOTUSblog coverage

Argued: whether the VJRA closed the *Robison* door to district court.
Johnson v. United States Congress, No. 25-735 (U.S. argued Oct. 5, 2026). Floyd Johnson, whose PTSD rating was cut from 80% to 10% upon incarceration, brought a Fifth Amendment equal protection challenge to the statute authorizing the reduction. The Eleventh Circuit held the Veterans' Judicial Review Act channels the claim exclusively to the Court of Appeals for Veterans Claims and the Federal Circuit. The question presented is whether the VJRA stripped district courts of the jurisdiction recognized in *Johnson v. Robison*, 415 U.S. 361 (1974), to hear constitutional challenges to acts of Congress affecting benefits.

Hook: implied preclusion of district-court jurisdiction — *Thunder Basin*/*Elgin* channeling against the *Robison* carve-out for facial constitutional attacks. The pressure point is the familiar one: whether a specialized scheme that cannot invalidate the statute supplies "meaningful" review of a claim that the statute is unconstitutional. **Ideal for the jurisdiction-stripping unit**, because the stripping here is implied rather than express, and the government's answer is channeling rather than no-review-at-all.
SCOTUSblog preview · Cornell LII

A live § 1257(a) finality fight on opening day.
Suncor Energy (U.S.A.) Inc. v. County Commissioners of Boulder County, No. 25-170 (U.S. argued Oct. 5, 2026). The Court granted on climate-tort preemption but added a question on its own appellate jurisdiction, the Colorado Supreme Court having resolved Suncor's preemption defense in a Rule 21 original proceeding while the underlying tort suit continues below. Petitioners argue the Rule 21 proceeding was a self-contained case whose "nature," not its issues, controls finality, invoking *Atlantic Richfield Co. v. Christian*; Boulder argues this is a garden-variety interlocutory appeal and that the fourth *Cox Broadcasting* category fails because other federal defenses survive for the state courts to address on remand. Justice Thomas opened by asking counsel to "spend some time and explain why we have" jurisdiction. Justice Alito has recused, raising a real 4–4 possibility.
Hook: Supreme Court appellate jurisdiction over state judgments — § 1257(a) finality and *Cox* category four, the doctrine every Fed Courts syllabus assigns and no one ever gets a fresh example of. **Teach it this week.** The recusal adds a nice coda on what a 4–4 affirmance does and does not settle.
Walsh, opening-day report · CRS primer on the jurisdictional dispute

Cert granted on mandatory immigration detention — reached by habeas.
Rhoney v. Barbosa da Cunha, No. 26-104 (cert. granted Oct. 2026). The question is whether 8 U.S.C. § 1225(b)(2)(A) mandates detention without a bond hearing for a noncitizen who entered without inspection years ago and was arrested in the interior. The district court ordered a bond hearing and the Second Circuit affirmed, reasoning that a long-resident noncitizen is not "seeking admission"; the circuits have divided, and the grant was without recorded dissent.
Hook: habeas as the operative vehicle for detention challenges, against the § 1252 channeling backdrop. Worth pairing with the split CRS flagged over whether § 1252(b)(9) bars detention habeas before a removal order issues — the Fourth Circuit's *Suri v. Trump* against the Second and Third Circuits. Statutory-habeas scope, not the Suspension Clause, is doing the work.
JURIST · SCOTUSblog

Pending interim application: the 41st of the Term.
Trump v. Kingdom, No. 26A416 (application docketed Sept. 28, 2026). The government seeks a stay of Judge Lamberth's order barring the Bureau of Prisons from implementing a new policy on

medical care for transgender inmates; a D.C. Circuit panel (Wilkins and Garcia, Walker dissenting) declined to disturb it. The Chief Justice ordered a response this week.
Hook: interim-docket practice — the stay standard, irreparable injury, and the increasingly unavoidable question of what weight unexplained emergency orders carry as precedent. Axios counted this as the administration's 41st emergency application of the Term, 82 across both terms, against eight filed by Bush and Obama combined over sixteen years. Whatever one makes of the baseline, the volume is now a structural fact about the Court's docket rather than an anomaly.
SCOTUSblog case page · Axios (Sept. 29)

Also this sitting: *Department of the Air Force v. Prutehi Guåhan*, No. 25-579 (argued Oct. 7), asks whether submitting a RCRA permit-renewal application is "final agency action" reviewable under the APA — reviewability timing in ripeness clothing, after a divided Ninth Circuit held the Air Force had committed itself. And *Marschner v. Marschner*, No. 25-1349 (granted this week, from the North Dakota Supreme Court), presents whether USFSPA preemption voids a divorce stipulation requiring a veteran to indemnify a former spouse for retirement pay waived for disability pay — a modest hook, but a clean instance of federal law constraining state-court remedial power.
SCOTUSblog (*Prutehi Guåhan*) · GW Law Review October-sitting previews

Courts of Appeals

First Circuit presses the government on Tucker Act channeling in the Harvard funding case.
President & Fellows of Harvard College v. HHS (1st Cir., argued Oct. 5, 2026). Judge Burroughs granted Harvard summary judgment and ordered more than $2.6 billion in research funding restored, finding the terminations retaliatory. On appeal the government largely bypassed the First Amendment merits and led with jurisdiction: this is a contract claim for money belonging in the Court of Federal Claims, and DOJ's Michael Velchik told the panel that "the district court lacked jurisdiction to order specific performance." The panel — Lynch, Gelpí, and Dunlap — sounded skeptical, per Law360's report that the court doubted the fight belongs in the Claims Court.
Hook: sovereign immunity and remedial characterization — APA § 702's waiver for relief "other than money damages" against the Tucker Act's grant of exclusive Claims Court jurisdiction over contract claims. The doctrinal move is the one the Court has been making on its interim docket: recharacterize an APA challenge to a policy as a suit for money and the forum changes, the remedy shrinks, and specific relief disappears. **Excellent teaching example** that in suits against the government the remedy sought determines the court, not the other way round.
Courthouse News · Law360 · AP via Boston.com

No significant en banc grants or published circuit decisions on the core justiciability, abstention, or § 1983/Bivens doctrines surfaced in this window. Reported as a null result rather than padded.

Scholarship & Commentary

Vladeck on the *D.V.D.* order.
Steve Vladeck, *Four Things That (Really) Bother Me About "D.V.D. III,"* One First No. 254 (Oct. 1, 2026). His objections, in order: the grant of emergency relief was wholly unexplained; the equities were mishandled, the more so given the simultaneous grant of merits review; the cert grant was procedurally bizarre, principally in effectively inviting the Solicitor General to supply additional questions presented; and commentary has mischaracterized what the lower courts actually held.
Hook: interim-order practice and the reason-giving problem. The third point is the one with real doctrinal teeth and it is independent of one's view of the merits. **Podcast-worthy.**
One First

A non-Article III account of standing.
Jack Boeglin, *A Relational Theory of Standing* (forthcoming, U. Pa. L. Rev.), posted to SSRN Sept. 28, 2026. Boeglin argues that standing rests more securely on prudence, equity, due process, and governmental immunity than on Article III's text, and that in practice the doctrine functions less to police separation of powers than to shield defendants from the burdens of unfair litigation.
Hook: the constitutional status of standing. A useful foil for *Lujan*-centered teaching, and a timely one in a Term whose standing and remedies questions keep collapsing into one another.
SSRN

On the *Suncor* jurisdictional question.
Ryan Walsh's guest post on the *Divided Argument* blog (Sept. 14, 2026) — outside this window but the most developed defense of jurisdiction now that the case has been argued — contends that the Colorado Rule 21 proceeding was "a self-contained case, not an interlocutory appeal," and that under *Atlantic Richfield* the nature of the state proceeding rather than the issues resolved governs finality.
Divided Argument blog

Compiled Oct. 6, 2026. Items included only where a federal-courts doctrine is doing the work. Citations reflect the sources linked; dockets and dates verified against supremecourt.gov where available.