

# SCOTUS

OCTOBER 2022  
TERM IN REVIEW

AMICUS ON THE MERITS:  
**8 wins, 0 losses**

AMICUS ON CERT:  
**2 granted, 5 denied**



Americans for Prosperity Foundation engages in cases before the Supreme Court with one unifying theme: liberty. This year the victories were significant.

- We stood against the Biden White House unconstitutional student loan handout.
- We stood with a website designer forced by Colorado to express a message she disagreed with.
- We stood with a property owner whose economic liberty was hampered by EPA's onerous and unreasonable regulations.
- We stood against independent agencies trying to delay challenges to the legality of the agency's actions.
- And we stood with a homeowner whose property was stolen by the government without just compensation.

These are just a few examples of our broad engagement. The consistent theme in every case, regardless of the plaintiff or the legal issue, is asking the Court to apply the text of the law and Constitution and, as a result, promote liberty. **This year, liberty won.**

## AMICUS BRIEFS ON THE MERITS

### FREE EXPRESSION

#### *303 Creative LLC v. Elenis*

**WIN** - Lorie Smith can create the wedding websites she wishes to and express the messages she believes. The Court held that states cannot use public accommodation laws to compel speakers to produce speech to which they object.

DECISION

BRIEF

BLOG

STATEMENT

Court's vote: 6-3

### REGULATORY REFORM

#### *Biden v. Nebraska & U.S. Department of Education v. Myra Brown*

**WIN** - President Biden's unconstitutional student loan forgiveness is struck down. The Court held that the executive branch cannot take for itself powers the Constitution grants to Congress just because it has declared an "emergency."

DECISION

BRIEF

STATEMENT

Court's vote: 6-3

#### *Sackett v. EPA*

**WIN** - After 19 years, the Sacketts can finally build their home on their property. The Court held that "waters of the United States" (as referenced in the Clean Water Act) extends to wetlands only when those wetlands have continuous surface connection to another regulable body of water (e.g., a lake, river, or ocean.)

DECISION

BRIEF

Court's vote: 9-0

#### *Axon v. Federal Trade Commission*

**WIN** - If you think the Federal Trade Commission is unconstitutional, you don't need to jump through the FTC's regulatory hoops before you go to court. The Court held that the Federal Trade Commission Act's statutory review scheme does not bar federal district court jurisdiction over constitutional challenges to the FTC's structure or existence.

DECISION

BRIEF

BLOG

OP-ED

Court's vote: 9-0

## AMICUS BRIEFS ON THE MERITS (cont'd)

### REGULATORY REFORM (cont'd)

#### *SEC v. Cochran*

**WIN** - If you think the Securities and Exchange Commission is unconstitutional, you don't need to jump through the SEC's regulatory hoops before you go to court. The Court held that the Securities Exchange Act's statutory review scheme does not bar federal district court jurisdiction over constitutional challenges to the SEC's structure or existence.

[DECISION](#)[BRIEF](#)

**Court's vote: 9-0**

#### *Tyler v. Hennepin County*

**WIN** - Geraldine Tyler gets her money back after the government sold her house and kept the cash. The Court held that the practice of home equity theft—where the government takes real property—is an unconstitutional taking without just compensation, in violation of the Fifth Amendment.

[DECISION](#)[BRIEF](#)

**Court's vote: 9-0**

#### *Calcutt v. FDIC*

**WIN** - If the FDIC fines you, but the reason for doing so was legally wrong, courts can't uphold the fine under another court-created justification. The Court reaffirmed that discretionary agency orders may only be upheld for the reasons given by the agency in the order and that courts may not fix agency decisions infected with legal errors.

[DECISION](#)[BRIEF](#)

**Court's vote: Per Curiam**

### TECHNOLOGY & INNOVATION

#### *Gonzalez v. Google LLC*

**WIN** - Free speech was not further hampered on the internet. The Court declined to rule on the application of §230 of the Communications Decency Act because those suing Google for abetting terrorism presented no plausible claim for relief.

[DECISION](#)[BRIEF](#)[BLOG](#)[STATEMENT](#)

**Court's vote: Per Curiam**

## AMICUS BRIEFS SUPPORTING PETITIONS FOR CERT

*Biden v. Nebraska* | **GRANTED**

*Calcutt v. FDIC* | **GRANTED**

*McClinton v. United States* | **DENIED**

*Buffington v. McDonough* | **DENIED**

*File v. Brost* | **DENIED**

*Mobilize the Message, LLC v. Bonta* | **DENIED**

*Tiwari v. Friedlander* | **DENIED**