U.S. Supreme Court Docket Oct. 2015 Term – Antitrust and Trade Regulation Cases

Docket No.	Date filed	Granted Petitions	Subject	Status	Questions Presented
14-857	1/16/15	Campbell-Ewald Co. v. Gomez Cert. granted 5/18/15	Privacy	Oral Argument – 10/14/15 Respondent Brief (3/23/15) Petitioner Reply Brief (4/7/15) Respondent Supp. Brief (4/16/15) Petitioner Supp. Reply Brief (4/14/15) Petitioner Brief (7/16/15) Select Amicus Briefs: U.S. Chamber of Commerce; Consumer Data Industry Association; Lawyers for Civil Justice; Trans Union LLC; Washington Legal Foundation Supreme Court Docket	Whether a case becomes moot, and thus beyond judicial power of Article III, when the plaintiff receives an offer of complete relief on his claims. Whether the answer to the first question is any different when the plaintiff has asserted a class claim under Federal Rule of Civil Procedure 23, but receives an offer of complete relief before any class is certified. Whether the doctrine of derivative sovereign immunity recognized in *Yearsley v. W.A. Ross Construction Co.*, 309 U.S. 18 (1940), for government contractors is restricted to claims arising out of property damage caused by public works projects. Ninth Circuit decision (9/19/14)
14-462	10/21/14	DIRECTV, Inc. v. Imburgia Cert. granted 3/23/15	Advertising	Oral Argument – 10/6/15 Respondent Brief (1/28/15) Petitioner Reply Brief (2/10/15) Select Amicus Briefs: U.S. Chamber of Commerce; Atlantic Legal Foundation; Washington Legal Foundation; Arbitration and Contracts Scholars; Law Professors Supreme Court Docket	Whether the California Court of Appeal erred by holding, in direct conflict with the Ninth Circuit, that a reference to state law in an arbitration agreement governed by the Federal Arbitration Act requires the application of state law preempted by the Federal Arbitration Act. California Court of Appeal decision (4/7/14)

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15-264	6/29/15	A.V.E.L.A., Inc. v. Fifty-Six Hope Road Music, Ltd.	Advertising	Response due 10/2/15 Supreme Court Docket	Does Lanham Act § 43(a) protect a deceased celebrity's persona-successor without it showing that the celebrity's persona acquired secondary meaning so that it identifies the persona-successor as the source of sponsorship or approval? Does a Plaintiff satisfy 43(a)'s "consumer confusion" requirement even without evidence that its sponsorship or approval would have any consequence to purchasers? Ninth Circuit decision (2/20/15)
15-141	7/27/15	American Freedom Defense Initiative v. Massachusetts Bay Transportation Authority	Advertising	Response due 9/28/15 Supreme Court Docket	Whether the Massachusetts Bay Transportation Authority (MBTA) created a public forum by accepting for display on its property a wide array of controversial political and public-issue ads, including ads that address the same controversial subject matter as Petitioners' pro-Israel ad, and thus violated the First Amendment by rejecting Petitioners' ad based on its content. Regardless of the nature of the forum, whether the MBTA's rejection of Petitioners' advertisement based on an advertising guideline that prohibits ads considered by MBTA officials to be "demeaning and disparaging" was a viewpoint-based restriction of speech in violation of the First Amendment. First Circuit decision (3/30/15)

15-138	7/27/15	RJR Nabisco, Inc. v. The European Community	RICO	Respondent Brief (8/21/15) Supreme Court Docket	Whether, or to what extent, the Racketeer Influenced and Corrupt Organizations Act applies extraterritorially. Second Circuit decision (4/23/14)
15-19	6/30/15	Mercer Outdoor Advertising, LLC v. City of Hermitage, Pennsylvania	Advertising	Respondent Brief (7/29/15) Petitioner Reply Brief (8/14/15) Supreme Court Docket	Whether the judgment below should be vacated and the case remanded for further consideration in light of *Reed v. Town of Gilbert*. Third Circuit decision (4/2/15)
14-1509	6/21/15	Lacertosa v. Blackman Plumbing Supply Co., Inc.	RICO	Response due 7/23/15 Respondent Waiver Supreme Court Docket	Whether the District Court for the Eastern District of New York and the 2nd Circuit Court of Appeals erred in their judgment by rendering such judgment with reliance and reference to *Manson v. Stacescu*, 11 F.3d 1127, 1131 (2d Cir. 1993). Whether the 2nd Circuit Court of Appeals erred in not recognizing the "special duty" exception when considering the petitioner's individual standing. Whether the District Court for the Eastern District of New York and the 2nd Circuit Court of Appeals erred in their judgment by ordering their judgment without considering the evidence the petitioner referenced in his allegations and pleadings. Second Circuit decision (11/6/14)
14-1455	6/11/15	Fred Martin Motor Co. v. Spitzer Autoworld Akron, LLC	Franchising & Distribution	Respondent Brief (7/10/15) Petitioner Reply Brief (9/4/15)	Whether by reopening the final order of a federal bankruptcy court and permitting a private arbitrator to reverse it, Section 747 of the Consolidated Appropriations Act of

				Supreme Court Docket	2010 is unconstitutional. Sixth Circuit decision (1/16/15)
14-1299	4/27/15	Felder's Collision Parts, Inc. v. All Star Advertising Agency, Inc.	Antitrust	Respondent Brief (6/29/15) Supreme Court Docket	Whether, for purposes of a predatory pricing claim under the Sherman Act, 15 U.S.C. §§ 1 and 2, cost should be measured at the time of the point-of-sale to the end-consumer, which is when the anticompetitive harm occurs, or whether the predatory competitor is entitled to factor in after-sale kickbacks from a conspiring supplier to show that the sale was not made below its cost. Fifth Circuit decision (1/27/15)
14-1252	4/15/15	City of San Jose v. Office of the Commissioner of Baseball	Antitrust	Respondent Brief (6/17/15) Petitioner Reply Brief (6/30/15) Supreme Court Docket	Whether professional baseball is exempt from antitrust law in matters relating to franchise relocation. Ninth Circuit decision (1/15/15)
14-1194	3/27/15	The Harvard Drug Group, LLC v. Barr	Privacy	Respondent Brief (5/12/15) Petitioner Reply Brief (5/26/15) Supreme Court Docket	Whether a case becomes moot, and thus beyond the judicial power of Article III, when the plaintiff receives an offer of complete relief on his claim. Whether the answer to the first question is any different when the plaintiff has asserted a class claim under Federal Rule of Civil Procedure 23 and receives an offer of complete relief before any class is certified. Eleventh Circuit decision (1/29/15)
14-1091	3/9/15	The Dow Chemical Co. v. Industrial Polymers, Inc.	Antitrust	Respondent Brief (5/11/15) Petitioner Reply Brief (5/22/15)	Whether, in certifying a class under Federal Rule of Civil Procedure 23(b)(3), courts may presume class-

				Select Amicus Briefs: DRI—The Voice of the Defense Bar Supreme Court Docket	wide injury from an alleged price-fixing agreement, even when prices are individually negotiated and individual purchasers frequently succeed in negotiating away allegedly collusive overcharges. Whether a class may be certified or a class-wide damages judgment affirmed where plaintiffs' common "proof" of damages is a model that (a) does not purport to determine the actual damages of most class members, but instead applies an "average" overcharge estimated from a sample of transactions of very different purchasers, or (b) assumes that defendants engaged in multiple antitrust violations, even though plaintiffs attempted to prove only one violation at trial. Tenth Circuit decision (9/29/14)