Research Report

AMY CONEY BARRETT:
Siding with Corporations While Ruling Against Consumers, Workers, and Immigrants

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I. CONEY BARRETT SIDED AGAINST CONSUMERS EVERY THREE OUT OF FOUR CASES

CONSUMERS: Amy Coney Barrett Sided Against Consumers In 78% Of Cases She Saw While Serving On The 7th Circuit.

Amy Coney Barrett Sided With Entities Accused Of Harming Consumers 78% Of The Time In Matters That Came Before Her Court.

Of the 32 Instances Where Consumers Brought Cases Against Entites Accused Of Mistreating Them, Amy Coney Barrett Sided With The Companies 78% Of The Time.

NOTE: Red in the chart below denotes a decision benefitting corporations. Blue denotes benefitting individuals. White is neutral.

OPINION DATE	CASE TITLE	CASE NUMBER	BARRETT'S VOTE	DESCRIPTION
1/29/18	Mehdi Abdollahzadeh v. Mandarich Law Group, LLP	18-1904	Barrett joined in the opinion affirming the District Court's ruling.	Mehdi Abdollahzadeh sued Mandarich Law Group for attempting to collect a time-barred debt in violation of the Fair Debt Collection Practice Act (FDCPA). The debt collector asked the judge to rule in their favor citing the "bona fide error" defense. The District Court ruled in favor of the debt collector, determining that the violations were unintentional.
2/6/18	Rojas v. X Motorsport Inc.	17-2250	Barrett joined the court in affirming the district court's judgment.	Edward Rojas claimed X Motorsport, a car dealership, violated the Truth in Lending Act by failing to state a sale was dependent upon a financier's approval. The district court ruled for X Motorsport, noting a second document mentioned the approved financing.
3/23/18	Chellappa v. Summerdale Court Condo Association	17-2740	Barrett joined the court in affirming the district court's dismissal.	Raja Chellappa sued Summerdale Court Condo Association due to refusing to hear noise complaints, and a complaint over a judge's denial of a delay request. The district court ruled for the defendants, but told Chellappa he could appeal.
5/8/18	Paula Casillas v. Madison Avenue Associates, Inc.	17-3162	Barrett wrote an opinion affirming the district court's decision for Madison Avenue Associates.	A woman filed a class action against a debt collector for not properly disclosing required materials under the Fair Debt Collection Practices Act (FDCPA). The District Court dismissed the claim due to lack of harm.
6/25/18	Davis v. Bank of Am. Corp.	17-3656	Barrett joined the court in affirming the district court's dismissal.	This case was a follow-up to a foreclosure case, ruled for the defendants; the plaintiffs refiled separately, with Davis (not a lawyer) claiming to be a spokesman. A district court dismissed the case for lack of argument.
7/5/18	Parker v. Capital One Auto Fin. Inc.	17-2123 & 17-3101	Barrett joined the court in affirming the district court's dismissal.	Brenda Parker called the police following a tow-truck repossession, then multiple entities for taking her car without due process, as well as a claim against her auto loan for violating consumer-protection statutes. The

				claims were dismissed; the auto loan claim received a summary judgment against Parker, with the 7th being asked to affirm.
8/29/18	Shameca S. Robertson (on behalf of class) v. Allied Solutions, LLC	17-3196	Barrett voted to reverse the judgment of the district court dismissing the claim for lack of jurisdiction, and remanded the case for further proceedings.	A woman sued on behalf of a potential class of victims alleging that Allied Solutions, Inc. violated the Fair Credit Reporting Act in the way they checked prospective employee's backgrounds. The District court dismissed the case for improper jurisdiction.
9/4/18	Sarah Steffek v. Client Services, Incorporated	19-1491	Barrett joined the opinion reversing the District Court's ruling that Client Services, Inc.'s notices satisfied FDCPA and were not obligated to disclose more information to debtors.	Steffek and Jill Vandenwyngaard received debt collection notices from Client Services Inc. that did not clearly identify the creditor currently holding their debt, in violation of the Fair Debt Collection Practices Act. The District Court ruled the notices sufficiently identified the current creditor.
9/10/18	Isaac Paz v. Portfolio Recovery Associates, LLC	17-3259	Barrett joined in the opinion affirming the District Court's ruling for the lower attorney award.	Isaac Paz engaged in a lengthy legal battle with Portfolio Recovery Associates, LLC over the course of several years, rejecting several opportunities to settle. Paz was ultimately awarded $1000 at trial - and sought over $180,000 in attorney's fees, but the District Court only rewarded ~$10,000. Paz appealed that decision.
10/4/18	Momo Enterprises, LLC v. Popular Bank, et al.	17-3223	Barrett joined the court in affirming the district court's judgment.	The plaintiffs challenged the sales and foreclosures of a commercial condo in Chicago and their subsequent evictions, citing a range of law violations. A district court dismissed the claims.
11/8/18	Knopp v. Wells Fargo Bank N.A.	18-2752	Barrett joined the court in affirming the district court's denial.	Justin Knopp, following an affirmation of a decision for Wells Fargo on the merits, filed a motion claiming fraud on the part of Wells Fargo, specifically a 'forensic audit.' A district court denied the motion.
12/7/18	Hahn v. Bank of America	17-3563	Barrett joined the court in dismissing the appeal.	Eloise Hahn sued Bank of America for violation of the terms of a trust, identity theft, and pilfering tax returns. The court describes Hahn's allegations as "extremely difficult, if not impossible, to follow." The court ruled against Hahn, saying she failed to present an argument.
1/8/19	Humphrey v. Trans Union LLC	18-1584	Mixed. Barrett joined the court in affirming the CRA judgment and partially vacated the judgment for Navient, saying Humphrey presented sufficient evidence they disseminated inaccurate information.	Plaintiff sued Transunion and Navient for continuing to present inaccurate information on his credit reports. District court ruled in favor of CRA's and against Navient.
1/23/19	Deborah Walton v. EOS CCA	17-3040	Barrett wrote the opinion affirming the District Court's ruling.	A woman argued a debt collector violated the Fair Debt Collection Practices Act and the Fair Credit Reporting Act by failing to verify her debt ($247 to AT&T) with the original creditor; case involved a misprint of an account number. A district court ruled for the agency (EOS CCA).

2/11/19	Walton v. BMO Harris Bank N.A. and Equifax	18-2877	Barrett joined the court in affirming the lower court's decision.	Deborah Walton sued BMO and Equifax under the Fair Credit Reporting Act, saying BMO gave inaccurate information to Equifax, which Equifax then reported. The district court sided with the defendants, saying Walton lacked evidence.
4/11/19	Peters v. Sloan	18-3554	Barrett joined the court in affirming the lower court's decision.	Elizabeth Peters sued defendants involved with the foreclosure of her Iowa home, citing a lack of proper information from Wells Fargo. On technical grounds involving jurisdiction, the district court dismissed her case.
4/11/19	Chancellor v. Select Portfolio Servicing	18-3037 & 18-3246	Barrett joined the court in affirming the lower court's decision.	This case concerned enforcement of an oral settlement between Terence Chancellor and his mortgage suppliers, following an oral settlement. The district court dismissed Chancellor's objection.
6/21/19	In re Francis	18-3523	Barrett joined the court in affirming the lower court's decision.	A district court denied a request to reopen a bankruptcy case following the closure of a mortgaged property.
6/24/19	Blanchette v. Navient Corp.	19-1312	Barrett joined the court decision affirming the lower court.	Jeremy Blanchette had a dismissed complaint against four federal student loan entities. The complaint was dismissed by a district court as the Higher Education Act of 1965 did not create a private right of action.
7/23/19	Kathryn G. Collier and Benjamin M. Seitz, et al. v. SP Plus Corporation	17-2431	Barrett joined in the opinion vacating the District Court's judgment and remanding.	The case was a class action suit alleging a parking company violated the Fair and Accurate Credit Transaction Act (FACTA).
7/26/19	Vanessa Mathews v. REV Recreation Group, Inc.	18-1982	REV Recreation Group, Inc. Barrett's wrote the opinion affirming the district court's ruling in favor of REV Recreation Group, Inc.	Vanessa and Randy Mathews purchased an RV, which came with a one-year warranty from the manufacturer, REV Recreation Group, Inc. The RV was riddled with problems from the time that they bought it, and these problems ultimately led the Mathews to sue REV.
8/2/19	Federal Trade Commission v. Credit Bureau Center LLC and Michael Brown	18-2847 & 18-3310	Barrett voted against hearing this case en banc, rejecting a chance to overturn the appellate decision.	A 7th Circuit Court Of Appeals panel held that “held that the Federal Trade Commission (FTC) cannot seek restitution for victims of consumer fraud” by vacating a $5 million judgment for consumers against a credit monitoring company.
1/10/20	Von Germeten v. Planet Home Lending	19-2459	Barrett joined the court in affirming the lower court's decision.	Plaintiff sued defendant in alleging violations of the Truth In Lending Act. District court ruled in favor of defendant and case was dismissed
2/19/20	Ali Gadelhak v. AT&T Services, Inc.	19-1738	Barrett wrote the opinion affirming the District Court's ruling for AT&T.	Gadelhak sued AT&T after receiving unwanted marketing text messages from the company. Under dispute was if the system AT&T used violates the Telephone Consumer Protection Act. The ruling was seen as "a big bite out of the TCPA."
2/25/20	Dunn v. Wells Fargo Bank, N.A. (aka Hoipkemier v. Wells Fargo Bank)	20-1080	Barrett joined the court's decision.	The Seventh Circuit has struck down a challenge to a $17.85 million deal resolving six proposed class actions accusing Wells Fargo of blasting consumers with autodialed calls in violation of the Telephone Consumer Protection Act, ruling that the objector hadn't adequately demonstrated he had received one of the disputed calls.

3/11/20	Mussat v. IQVIA, Inc.	19-1204	Barrett joined the court in siding with Florence Mussat, vacating and remanding the lower court's decision.	Physician Florence Mussat received two unsolicited faxes from IQVIA which did not include opt-out notices. Mussat filed a class-action claim against IQVIA, which was dismissed by a district court as Mussat lacked standing for non-Illinois recipients of the notices.
3/17/20	Zummo v. City of Chicago	18-3531	Barrett affirmed the district court ruling dismissing the case	A Chicago taxi medallion holder sued the City of Chicago for allowing rideshare services, which created more competition than anticipated when the medallion was purchased, thereby reducing the value of the medallion. The District court dismissed the case.
4/29/20	United States v. Kincaid	19-2654	Barrett joined the court in affirming the lower court's decision.	A district court ruled a criminal defendant fraudulently quitclaimed an interest in a property to Steven Collins, therefore entering a turnover order under the Federal Debt Collection Procedures Act. The man attempted to demonstrate that his version of the story was correct, but repeatedly requested continuances for over a year. The District Court eventually ruled against him.
4/30/20	Thomas Dennis v. Niagara Credit Solutions, Inc.	19-1654	Barrett joined the court in affirming the district court's judgment.	Thomas Dennis received a debt collection letter that listed both "original" and "current" creditors, which he alleged was in violation of the Fair Debt Collection Practices Act's requirement that notices clearly identify the entity to whom the debt is owed. The District Court ruled that the letter sufficiently identified the creditor.
7/2/20	Kasprzyk v. Axiom Fin. LLC	19-2402	Barrett joined the court in affirming the lower court's decision.	Augustyn Kasprzyk lost his home in an Illinois foreclosure, leading to a wide-ranging lawsuit against 22 lending institutions, citing fraud in the mortgage securitization industry. The district court dismissed the case for lack of jurisdiction.
7/7/20	Walton v. First Merchant's Bank	19-3370	Mixed. Barrett joined a decision that affirmed the district court's judgment in all but a claim for TCPA violations, which was remanded.	Deborah Walton had unsuccessfully gone through a bench trial against her bank, claiming violations due to robocalls and overdraft charges. Walton wanted a jury trial, but a district court ruled the bench trial was a contractual waiver of a right to jury trial.
8/21/20	Neal Preston v. Midland Credit Management	18-3119	Mixed. Barrett joined in the opinion affirming the marking was false and/or deceptive, and reversing the ruling that the marking did not violate the FDCPA.	Neal Preston initiated a class action after receiving an envelope from Midland with "Time Sensitive Document" on it. Preston claimed this was a violation of Fair Debt Collection Practices Act privacy provisions barring unnecessary envelope markings. A district court ruled for Preston, but did not affirm the marking was in violation of the FDCPA.

Methodology: *Accountable.US reviewed all cases Amy Coney Barrett heard during her time on the U.S. Court of Appeals for the 7th Circuit and analyzed her position on any case in which someone was alleging mistreatment as a consumer. Once each relevant opinion was catalogued, Accountable.US calculated the percentage of cases in which Barrett ruled in favor of the entity accused of harming the consumer*

Amy Coney Barrett Wrote The Seventh Circuit Opinion That Found Sending Unwanted Text Messages To Consumers Did Not Violate The Telephone Consumer Protection Act (TCPA) In Certain Instances – Industry Attorneys Said This Ruling Would Help Other Businesses Get Away With Text Spam.

Case at Issue: Ali Gadelhak v. AT&T Services, Inc. (No. 19-1738)

In *Gadelhak V. AT&T*, The District Court Found That AT&T Had Not Violated The Telephone Consumer Protection Act [TCPA] When Sending Unwanted Texts To Its Customers As The TCPA Barred "Automatic Telephone Dialing Systems," While The Company Was Using A Database Of Customer Phone Numbers.

In *Gadelhak V. AT&T Services, Inc.,* The Plaintiff Sued AT&T Alleging It Had "Impermissibly Used An Automatic Telephone Dialing System To Text Him Without His Prior Express Consent." "In Gadelhak, the plaintiff asserted that the defendant impermissibly used an automatic telephone dialing system to text him without his prior express consent. The defendant had texted the plaintiff using a system that drew on a database containing the numbers of existing customers. The district court entered summary judgment for the defendant, ruling that the defendant's system did not constitute an ATDS under the TCPA." [National Law Review, 02/26/20]

- **The District Court Ruled In AT&T's Favor As The Dialing System "Did Not Constitute An [Automatic Telephone Dialing System] Under The [Telephone Consumer Protection Act].** [National Law Review, 02/26/20]

Judge Amy Coney Barrett Wrote The Seventh Circuit Opinion Affirming The District Court's Decision That AT&T Had Not Violated The TCPA Because It Did Not "Generate Random Or Sequential Numbers."

February 19, 2020: Judge Amy Coney Barrett Wrote The Seventh Circuit Opinion Affirming The District Court's Ruling In *Gadelhak v. AT&T Services, Inc.* That AT&T's System For Dialing Numbers "Did Not Qualify As An 'Automatic Telephone Dialing System'" In Violation Of The Telephone Consumer Protection Act As It Did Not "Generate Random Or Sequential Numbers." "The district court held that AT&T's system did not qualify as an "automatic telephone dialing system" because it lacked the capacity to generate random or sequential numbers. Although we adopt a different interpretation of the statute, under our reading, too, the capacity to generate random or sequential numbers is necessary to the statutory definition. The district court's judgment is therefore AFFIRMED." [Ali Gadelhak v. AT&T Services, Inc., Case No. 19-1738, 02/19/20]

Judge Barrett Wrote That Because AT&T's "'Customer Rules Feedback Tool'" Only Dialed Numbers "Stored In A Customer Database," As Opposed To Randomly Produced, The Company Did Not Violate The Telephone Consumer Protection Act When It Sent "Unwanted Automated Text Messages" To The Plaintiff. "The system at issue in this case, AT&T's 'Customer Rules Feedback Tool,' neither stores nor produces numbers using a random or sequential number generator; instead, it exclusively dials numbers stored in a customer database. Thus, it is not an 'automatic telephone dialing system' as defined by the Act—which means that AT&T did not violate the Act when it sent unwanted automated text messages to Ali Gadelhak." [Ali Gadelhak v. AT&T Services, Inc., Case No. 19-1738, 02/19/20]

Industry Attorneys Believed The Seventh Circuit's Decision In *Gadelhak* Would Help Other Businesses Fight Lawsuits Alleging Violations Of The TCPA.

Attorneys for K&L Gates' TCPA Watch Believed The Seventh Circuit's Decision In *Gadelhak V. AT&T Services, Inc*. Would "Be Of Assistance To Businesses Operating Within The Seventh Circuit In Defending Against [Telephone Consumer Protection Act] Lawsuits." "The Seventh Circuit's decision that a system which places calls using an existing database of numbers does not qualify as an ATDS will be of assistance to businesses operating within the Seventh Circuit in defending against TCPA lawsuits. And the split between the Third, Seventh, and Eleventh Circuits, on the one hand, and the Ninth Circuit, on the other, may eventually spur the Supreme Court to provide its own interpretation of the definition of ATDS." [K&L Gates TCPA Watch, accessed 10/08/20]

Amy Coney Barrett Voted Not To Reconsider A Seventh Circuit Case That Effectively Ended FTC Restitution To Harmed Consumers In Within The Circuit (Illinois, Indiana, And Wisconsin.)

Case at Issue: Federal Trade Commission v. Credit Bureau Center LLC and Michael Brown. (Nos. 18-2847 & 18-3310)

The Federal Trade Commission (FTC) Sued Credit Bureau Center (CBC) Alleging The Company Fraudulently Enrolled Customers Into Costly Credit Monitoring Services It Initially Offered As "'Free' Credit Reports" – A Court Eventually Ordered CBC Permanently Stop The Practice And Pay $5 Million In Restitution To Harmed Consumers.

In *FTC V. Credit Bureau Center* (CBC), The Federal Trade Commission Alleged CBC Engaged In A Fraudulent Scheme In Which It Enrolled Customers Into A Credit Monitoring Service That Costs "Almost $360 Per Year" After Offering "'Free' Credit Reports Via Online Websites.'" "The FTC sued Credit Bureau Center (CBC) because of a fraudulent scheme in which CBC offered consumers 'free' credit reports via online websites, but then automatically enrolled customers, without notice, in a credit monitoring service for $29.94 per month – almost $360 per year." [People for the American Way, 09/04/19]

A Federal Judge Ordered That CBC Permanently Stop The Practice As Well As Pay "$5 Million In Restitution To The FTC To Be Provided To Victims." "A federal judge entered an order permanently stopping the practice, and also required CBC to pay $5 million in restitution to the FTC to be provided to victims, similar to orders in other FTC fraud cases." [People for the American Way, 09/04/19]

After The Seventh Circuit Ruled That The FTC Did Not Have The Authority To Seek Restitution Despite Acknowledging That CBC Was "'Liable'" For The Fraud, Judge Amy Coney Barrett Voted Not To Reconsider The Prior Court Decision Barring FTC Restitution.

After CBC Appealed To The Seventh Circuit, The Court Found That Although CBC Was "Liable And Could Be Enjoined From Continuing The Fraud In The Future," The FTC Did Not Have The Authority To Seek Restitution And Vacated The $5 Million Restitution Order. "CBC appealed to the Seventh Circuit. A three-judge panel including Brennan agreed that CBC was liable and could be enjoined from continuing the fraud in the future. But even though the 7th Circuit had upheld the FTC's ability to seek restitution 20 years ago, the court overruled its prior decision and held that the FTC cannot seek restitution for consumers and vacated the $5 million restitution order." [People for the American Way, 09/04/19]

The Court Believed That Implying The FTC Had The Authority To Seek Restitution Did Not "'Sit Comfortably With The Text' Of The FTC Law," As A 1996 Supreme Court Decision Which Ruled That "Private Plaintiffs Could Not Seek Restitution When Enforcing A Federal Environmental Law" Had "'Displaced'" The Seventh Circuit's Prior Ruling Allowing Restitution. "The court stated that implying FTC authority to seek restitution does not 'sit comfortably with the text' of the FTC law, and that a Supreme Court decision in 1996, which ruled that private plaintiffs could not seek restitution when enforcing a federal environmental law, had 'displaced' the 7th Circuit's prior ruling upholding the FTC's authority to seek consumer restitution." [People for the American Way, 09/04/19]

Judge Amy Coney Barrett Voted To Refuse The Reconsideration Of A Prior Court Decision That Found The "The Federal Trade Commission (FTC) Cannot Seek Restitution For Victims Of Consumer Fraud That Is Central To The Agency's Mission." "Trump 7th Circuit judges Amy Coney Barrett, Michael Brennan, Michael Scudder, and Amy St. Eve joined the 7th Circuit majority in refusing to reconsider a three-judge decision, in which Brennan participated, which overruled a prior decision and held that the Federal Trade Commission (FTC) cannot seek restitution for victims of consumer fraud that is central to the agency's mission." [People for the American Way, 09/04/19]

Due To Amy Coney Barrett's Decision Not To Reconsider This Case, Harmed Consumers In The Seventh Circuit, Including Consumers In Illinois, Indiana, And Wisconsin, Can No Longer Expect FTC Restitution, An "Essential Remedy For Corporate Fraud."

Due To This Decision, Harmed Consumers In States Within The Seventh Circuit, Such As Illinois, Indiana, And Wisconsin, Will No Longer Be Able To Receive FTC Restitution, An "Essential Remedy For Corporate Fraud." "Fortunately, most federal appeals courts still permit the FTC to seek restitution for consumers in cases of fraud, at least for now. But for consumers in the Midwestern states of Illinois, Indiana, and Wisconsin who live in the 7th Circuit, this essential remedy for corporate fraud is no longer an option, due in large part to the Trump judges' votes." [People for the American Way, 09/04/19]

Amy Coney Barrett Wrote An Opinion Affirming A District Court Decision Relating To Fair Debt Collection Practices Act (FDCPA) Disclosures That Dissenting Judges, Including One Appointed By A Republican President, Believed Would Make It More Difficult For Consumers To Fight Violations Of The FDCPA's Protections Against Abusive Debt Collection Practices.

Case at Issue: Paula Casillas v. Madison Avenue Associates, Inc. (No. 17-3162)

Madison Avenue Associates, A Debt Collector, Was Sued By The Plaintiff Paula Casillas For Failing To Inform Her That "She Had To Communicate With The Company In Writing In Order To Trigger Her Rights Under The FDCPA," In And Of Itself A Violation Of The FDCPA.

Madison Avenue Associates Was Sued By Paula Casillas For Violating The Fair Debt Collection Practices Act (FDCPA) After It Sent A Letter To Her Attempting To Collect An Owed Debt But Failed To Inform Her That "She Had To Communicate With The Company In Writing In Order To Trigger Her Rights Under The FDCPA." "Madison Ave. Associates sent Paula Casillas a letter attempting to collect a debt she allegedly owed to a credit union. But the letter failed to state, as required by the FDCPA, that she had to communicate with the company in writing in order to trigger her rights under the FDCPA. These rights include, for example, the right to demand verification of the underlying debt and stop debt collection until the debt is

verified. Ms. Casillas thus filed suit against Madison, on behalf of herself and other consumers who had been similarly treated." [People for the American Way, 06/11/19]

Judge Barrett Wrote The Opinion Affirming The District Court's Decision That The Plaintiff Did Not Have Standing As She Was Unable To "Show Specific Injury" While Adding That Madison Avenue Associates' Failure To Inform Her Of Her Rights Was Nothing More Than A "'Bare Procedural' Error."

Judge Amy Coney Barrett Wrote The Opinion In Casillas V. Madison Ave. Associates Inc. Affirming The District Court's Decision That The Plaintiff "Did Not Have Standing To Enforce A Clear Violation Of The Federal Fair Debt Collection Practices Act (FDCPA)," Which "Directly Contradicted A Previous Ruling By Another Court Of Appeals." "Trump 7th Circuit judge Amy Coney Barrett wrote an opinion in Casillas v. Madison Ave. Associates Inc. ruling that Paula Casillas did not have standing to enforce a clear violation of the federal Fair Debt Collection Practices Act (FDCPA). Even though that decision directly contradicted a previous ruling by another federal court of appeals, the majority of the 7th Circuit, including the other three Trump appointees, refused to reconsider the decision." [People for the American Way, 06/11/19]

The District Court And The Court Of Appeals Dismissed The Plaintiff's Suit Because She Was Unable To "Show Specific Injury," With Barrett Minimizing The Defendant's Failure To Properly State A Consumer's Rights Under The FDCPA As A "'Bare Procedural' Error." "Both the district court and the court of appeals, however, dismissed her suit because they claimed she lacked standing since she did not show a specific injury. Barrett minimized Madison's omission as a 'bare procedural' error, and claimed that Casillas had not shown that Madison's violation of the Act 'presented an appreciable risk of harm to the underlying concrete interests Congress sought to protect.'" [People for the American Way, 06/11/19]

Dissenting Judges, Including One Originally Appointed By A Republican President, Thought Barrett's Decision Would "'Make It Much More Difficult For Consumers' To Enforce The FDCPA's 'Protections Against Abusive Debt Collection Practices.'"

In Their Dissent, Judges Diane Wood, David Hamilton, And Ilana Rovner – A Judge Originally Appointed By Republican President George H.W. Bush – Thought Barrett's Decision Would "'Make It Much More Difficult For Consumers' To Enforce The FDCPA's 'Protections Against Abusive Debt Collection Practices.'" "But Chief Judge Diane Wood, joined by Judges David Hamilton and Ilana Rovner, who was appointed by President George H.W. Bush, strongly dissented. Barrett's decision, the dissent wrote, 'will make it much more difficult for consumers' to enforce the FDCPA's 'protections against abusive debt collection practices.' Failure to notify consumers that they must communicate in writing, the dissent went on, "is anything but a picky procedural gaffe" because a consumer's written complaint can require a collector to stop collection altogether until the debt is fully verified." [People for the American Way, 06/11/19]

II. CONEY BARRETT SIDED AGAINST IMMIGRANTS IN NEARLY NINE OUT OF EVERY TEN CASES

IMMIGRATION: Amy Coney Barrett Ruled Against Immigrants 88% Of The Time While Serving On The 7th Circuit

Amy Coney Barrett Sided With The Government In Immigration Cases 88-Percent Of The Time.

Of The 25 Immigration Cases That Came Before Barrett's Court, She Sided With Defendants 88-Percent Of The Time.

NOTE: Blue in the chart below denotes a decision siding with migrants, asylum-seekers, or pro-immigration organizations. Red denotes a decision against them. White is neutral.

OPINION DATE	CASE TITLE	CASE NUMBER	BARRETT'S VOTE	DESCRIPTION
3/10/20	Ali Alkady v. Corinna Luna	19-1838	Luna (L.A. USCIS official). Barrett voted with the majority to uphold the district court's dismissal of Alkady's case on moot grounds.	A US citizen submitted application for his 3 children to receive permanent resident status and failed to notice the application was denied.
7/26/18	Christopher Fliger v. Kirstjen M. Nielsen	17-2492	Nielsen. Barrett sided with the majority in affirming the district court's ruling against the Fligers, although the 7th circuit held "There is no question that Christopher and Anna's marriage is legitimate."	Christopher Fliger filed a visa petition to adjust his wife Anna's immigration status following their marriage. The petition was denied due to Anna's past attempt to gain lawful permanent resident status through a marriage. The Fligers sued for review in district court, which ruled against them.
1/31/18	Gerardo Correa-Diaz v. Jefferson B. Sessions III	16-3198	Sessions. Barrett voted to deny a petition for review of a removal order for a Mexican citizen who came to the US as a minor.	A Mexican citizen who had pleaded guilty to two counts of attempted sexual assault was petitioning for a review of a removal order (deportation) from DHS.
1/29/19	Aleksey Arkadyevich Ruderman v. Matthew G. Whitaker, Acting US AG	17-1689	Ruderman. Barrett wrote this opinion granting review for Ruderman's asylum claim.	An immigration judge ruled Aleksey Arkadyevich Ruderman inadmissible and ordered his removal to Belarus. Ruderman petitioned for review.
3/18/19	Rafael Giovanni Herrera-Garcia v. William P. Barr, US AG	18-3196 & 18-1511	Barr. Barrett wrote this opinion denying Herrera-Garcia asylum despite his claims he would be subject to torture and gang violence should be returned to El Salvador because he "had not shown that he, specifically, would be in danger."	Rafael Giovanni Herrera-Garcia argued before an immigration judge that he should not be removed to El Salvador because he would be endangered there. The judge ruled that he could not prove that he in particular would be threatened. Herrera-Garcia petitioned for review.

4/24/19	Mauricio Gonzalez Ruano v. William P. Barr	922 F.3d 346	Gonzalez Ruano. Barrett voted with the majority to grant Gonzalez Ruano's petition for review and to remand to the BIA.	Gonzalez Ruano was victimized by a Mexican cartel and fled the U.S. to seek asylum. While an immigration judge granted relief under the Convention Against Torture, they denied asylum. The BIA agreed with the judge and he petitioned for review.
7/13/20	Eugeniusz Wojciechowicz v. William P. Barr	19-3460	Barr. Barrett voted with the majority to deny Wojciechowic's petition to review the BIA's decision, ruling the 7th circuit didn't have jurisdiction to review the immigration judge's discretionary power.	A Polish citizen who lived in the US for decades was convicted of multiple business-related crimes in 2008. In 2019, Wojciechowicz was denied re-admission due to his crimes, but requested a waiver for his family on hardship grounds.
6/5/18	Xiu Juan Zhang v. Jefferson B. Sessions III	17-2758	Sessions. Barrett sided with the majority in denying review of the BIA's refusal to reopen Zhang's asylum case.	A Chinese citizen denied asylum following connections to Falun Gong, then sued over ineffective counsel.
6/10/20	Cook County, Illinois v. Chad F. Wolf	19-3169	The 7th circuit upheld the injunction, against DHS's appeal – but Barrett wrote a *DISSENT* arguing that the DHS rule's definition of "public charge" was not too broad and/or harsh, based on the term's historical meaning and its definition in the Immigration and Nationality Act.	Cook County, Illinois requested a preliminary injunction against the Trump DHS's rule to block immigrants who might become a "public charge" and need public assistance. This case concerned their standing to do so.
2/8/18	Andre Ray Bernard v. Jefferson B. Sessions III	17-2290	Sessions. Barrett voted to dismiss a petition for reversal of a "serious crime" designation for a Jamaican immigrant and voted to deny a petition for review of a removal order.	A Jamaican immigrant was found to have committed a "serious crime" and was issued a removal order. He petitioned to have the serious crime designation overturned and the removal order reviewed
5/21/18	Rodrigo Ramos-Braga v. Jefferson B. Sessions III	17-1998	Sessions. Barrett voted to affirm BIA's denial of Ramos-Braga's appeal.	Brazilian citizen Rodrigo Ramos-Braga petitioned against the Board of Immigration Appeals (BIA) removal order, citing protection under the Convention Against Torture. The BIA denied claims his case should be reopened due to conditions changing in Brazil, and Ramos-Braga appealed.
5/25/18	Ruslana Melnik AKA Ruslana Gnatyuk et. al. v. Jefferson B. Sessions III	Nos. 15-2212, 15-2929, 15-3615	Sessions. Barrett voted to dismiss the asylum-seekers' petition for review of BIA's decision.	Ukrainian citizens applied for asylum, citing upheaval in their home country and fear of "racketeers" there. An immigration judge denied them asylum and ordered their removal, and the BIA dismissed their appeal and other motions.
8/28/18	Gerson E. Alvarenga-Flores v. Jefferson B. Sessions III	17-2920	Sessions. Barrett's opinion dismissed the asylum-seeker's petition for review of BIA's decision.	El Salvadorean citizen Alvarenga-Flores applied for asylum, citing fear of gang torture and persecution. An immigration judge ruled Alvarenga-Flores lacked credibility and denied asylum, and BIA dismissed his appeal.
9/3/20	Yeison Meza Morales v. William Barr	19-1999	Morales. Barrett's opinion dismissed Meza Morales' primary argument but still granted his petition for review on the basis that the immigration judge wrongly rejected alternatives to ordering his removal.	Yeison Meza Morales, a Mexican citizen who entered the US as a child, applied for a special "U nonimmigrant" visa protecting victims of certain crimes.

1/2/19	Eliseo Beltran-Aguilar v. Matthew G. Whitaker, Acting US AG	18-1799	USA. Barrett wrote this opinion denying a man's petition to set aside his removal (deportation) order.	A man was challenging his deportation based on a domestic violence case in Wisconsin. The man said the case did not count as a "crime of violence" but the District court disagreed and approved his removal from the United States.
12/30/19	Elvira Garcia-Arce v. William P. Barr	19-1453 & 19-2312	Barr. Barrett voted with the majority to deny the asylum-seeker's petitions for review.	Mexican citizen Garcia-Arce applied for asylum, citing fear of violence from family members there. An immigration judge denied Garcia-Arce's application and the BIA issued 2 orders against her, which she petitioned for review.
4/3/20	Eduin Perez-Castillo v. William P. Barr	19-2298	Barr. Barrett voted with the majority in denying review of Perez-Castillo's removal order.	DHS deemed Guatemalan citizen Perez-Castillo was removable after he was arrested in 2018 for domestic violence. Perez-Castillo applied to have his removal canceled, citing potential hardship for his daughter, but an immigration judge denied him. The BIA upheld the decision, finding Perez-Castillo didn't substantiate his hardship claims, and he peiitioned for review.
10/28/19	Kiril Vidinski v. William P. Barr	18-3413	Barr. Barrett voted with the majority in denying Vidinski's petition for review, arguing he did not object to his hearing notice in a timely manner and he didn't substantiate his argument that the BIA overstepped its authority.	Bulgarian citizen Vidinski challenged his removal order, claiming his hearing notice was flawed and that the BIA exceeded its authority. Vidinski petitioned for review of BIA's decision.
8/28/19	Maria Azucena Pomposo Lopez v. William P. Barr	19-1026	Barr. Barrett voted with the majority in denying Pomoso Lopez's petition for review, ruling she didn't establish her fear of being persecuted or tortured if returned to Mexico.	Mexican citizen Pomposo Lopez and her 3 children applied for asylum, citing past violence and threats. An immigration judge found the claims credible, but denied asylum because the the threats Pomposo Lopez described were of a personal nature, and not covered by asylum law. The BIA upheld that decision, and she petitioned for review
6/19/19	Hernel Silais v. William P. Barr	18-2981	Barr. Barrett sided with the majority in denying Silais' petition for review, holding he didn't establish a reason to extend a filing deadline so he could reopen his case.	Haitian citizen Silais requested asylum in 2011, citing fear of a political armed gang. An immigration judge denied his application, citing inconsistencies in his testimony. The BIA upheld that decision in 2015 and Silais petitioned the 7th circuit for review, and it denied him 2017. Silais petitioned BIA to reopen the case, but he missed a filing deadline and then filed a new petition for review with the 7th circuit.
7/22/19	Asad Umrani v. William P. Barr	18-1229	Barr. Barrett sided with the majority in denying Umrani's petition for review, holding he didn't demonstrate why BIA should reopen his removal case.	In 2017, the BIA upheld a 2009 order to deny Umrani asylum and remove him to Malawi. Umrani stayed and in 2017 asked the BIA to reopen his case after he received a DOL certifiication. The BIA deemed the motion as untimely, having missed a 90-day filing deadline, and he petitioned for review.
6/5/19	Ruben Lopez Ramos v. William P. Barr	19-1728	Barr. Barrett sided with the majority in denying Ramos' stay of removal. A dissenting	Ramos, a lawful permanent resident for thirty years with a mother who was a U.S. citizen, was ordered removed due to a technical "conundrum." Under statutes that had been repealed but still apply

			judge said he was only removable due to an "odd, arguably irrational, conundrum."	to Ramos, he could have earned citizenship if his mother had not actually been a citizen. The BIA upheld his removal and he petitioned for review.
5/24/19	Parvinder Singh v. William P. Barr	18-3257	Barr. Barrett sided with the majority in denying Singh's petition for review, upholding a BIA ruling that the threats to Singh didn't constitute persecution.	Indian citizen Singh sought asylum, citing persecution for his role in a Sikh political faction. An immigration judge denied his applications, ruling his past incidents didn't amount to persecution and finding he could safely relocate within India to avoid threats. The BIA dismissed his appeal and Singh petitioned for review.
5/4/18	Weihua Qu v. Jefferson B. Sessions III	16-3720	Sessions. Barrett sided with the majority in denying Qu's petition for review, holding the BIA and immigration judge didn't abuse their discretion. The 7th circuit's denial came despite its claim it was "disheartened by the advocacy Qu has received throughout this case."	Chinese citizen Qu requested asylum, citing fear of persecution for violating the Chinese government's one-child policy. Qu's immigration court hearing was scheduled for 2016, but it was moved to 2014 and she claimed she wasn't notified due to ineffective counsel. The immigration judge refused to reopen her case, the BIA affirmed, and Qu petitioned for review.
1/4/19	Mohsin Yafai and Zahoor Ahmed v. Mike Pompeo, SoS	18-1205	Pompeo. Barrett wrote this opinion upholding the District Court's ruling that the woman was correctly denied a visa.	A Yemeni woman married to a United States citizen applied for a visa to come to the United States. The consular officer denied her request twice because she had previously sought to smuggle two children into the US. The District Court upheld the denial of the visa.

Methodology: *Accountable.US reviewed all cases Amy Coney Barrett heard during her time on the U.S. Court of Appeals for the 7th Circuit and analyzed her position on any case involving immigration issues. Once each relevant opinion was catalogued, Accountable.US calculated the percentage of cases in which Barrett ruled against the party identified as an immigrant.*

In Mohsin Yafai and Zahoor Ahmed v. Mike Pompeo, Barrett Wrote An Opinion That Refused To Review A Denied Visa Claim – Despite The Existence Of Evidence That The Reason For The Denial Was Unfounded.

Case at Issue: *Mohsin Yafai and Zahoor Ahmed v. Mike Pompeo, SoS* (Case No. 18-1205)

Zahoor Ahmed Applied For A Visa To Come To The United States To Be With Her Husband, An American Citizen.

Zahoor Ahmed Was Denied A Visa Application On The Grounds She Had Allegedly Sought To Smuggle Two Children Into The United States In The Past. "A consular officer twice denied the visa application of Zahoor Ahmed, a citizen of Yemen, on the ground that she had sought to smuggle two children into the United States. Ahmed and her husband Mohsin Yafai—a United States citizen—filed suit challenging the officer's decision. But the decision is facially legitimate and bona fide, so the district court correctly dismissed the plaintiffs' challenge to it under the doctrine of consular nonreviewability." [Mohsin Yafai and Zahoor Ahmed v. Mike Pompeo (18-1205), 1/4/19]

US Citizen Mohsin Yafai, Ahmed's Husband, Filed Petitions With DHS For His Wife And Several Of His Children. "Mohsin Yafai and Zahoor Ahmed were born, raised, and married in Yemen. Yafai became a naturalized United States citizen in 2001. After receiving his citizenship, Yafai filed I130 petitions with the U.S. Citizenship and Immigration Service of the Department of Homeland Security on behalf of his wife and several of their children." [Mohsin Yafai and Zahoor Ahmed v. Mike Pompeo (18-1205), 1/4/19]

Her Visa Application Was Denied Twice Because She Had Allegedly Sought To Smuggle Two Children Into The Country Previously – Children Who Were Now Deceased.

Ahmed's Application Visa Was Denied On The Grounds That Ahmed Had Allegedly Attempted To Smuggle Two Children Into The Country – But The Children Were Deceased. "But the consular officer denied Ahmed's visa application.1 The officer based the denial on attempted smuggling under 8 U.S.C. § 1182(a)(6)(E), which provides that '[a]ny alien who at any time knowingly has encouraged, induced, assisted, abetted, or aided any other alien to enter or to try to enter the United States in violation of law is inadmissible.' The denial stated: 'You attempted to smuggle two children into the United States using the identities Yaqub Mohsin Yafai and Khaled Mohsin Yafai.' Yafai and Ahmed told the embassy that Yaqub and Khaled were their children, both of whom had tragically drowned." [Mohsin Yafai and Zahoor Ahmed v. Mike Pompeo (18-1205), 1/4/19]

- **In A Dissent, Judge Ripple Claimed The Denial Of The Visa Included A "Single Laconic Statement" That Ahmed Attempted To Smuggle Children – But Mr. Yafai Claimed The Children Drowned Accidentally As The Applications Were Pending.** "The denial included a single laconic statement that Ms. Ahmed violated the smuggling provision in § 1182(a)(6)(E): 'You attempted to smuggle two children into the United States using the identities Yaqub Mohsin Yafai and Khaled Mohsin Yafai.'8 According to Mr. Yafai, while the family's applications were pending, two of the children had drowned accidentally." [Mohsin Yafai and Zahoor Ahmed v. Mike Pompeo (18-1205), 1/4/19]

A Dissenting Judge Said The Court Had Functionally "Rubber Stamp[ed]" A Judge's Decision Despite A Lack Of National Security Interest And The Rights Of An American Citizen And Said The Theory About Smuggled Children Lacked Evidentiary Support.

In A Dissent To Barrett, Judge Ripple Argued The Court Had Functionally "Rubber Stamp[ed]" A Judge's Decision Despite A Lack Of National Security Interest And The Rights Of An American Citizen. "This case is, therefore, precisely the unusual case that has made some of the Justices and our own court hesitate to sanction an ironclad, judge-made rule admitting of no exceptions. Here, in a case where the Government asserts no national security interest and where the important familial rights of an American citizen are at stake, the Government asks us to rubber stamp the consular decision on the basis of a conclusory assertion." [Mohsin Yafai and Zahoor Ahmed v. Mike Pompeo (18-1205), 1/4/19]

In The Dissent, Judge Ripple Argued Yafai's Constitutional Rights Were Deprived, And That The Immigration Officer Had Invented A Theory Of Smuggling Children That Lacked Evidentiary Support. "Mohsin Yafai, a United States citizen, brought this action in the district court, alleging that a consular officer's decision to deny his wife an immigrant visa violates his right to due process of law. He submits that the officer, without any evidentiary support and with substantial evidence to the contrary, invented a theory that his wife had attempted to smuggle two children into the United States. My colleagues interpret the judicially created doctrine of consular non-reviewability to dictate dismissal of such a claim. I respectfully dissent because I believe that their view of the doctrine sweeps more broadly than required by the Supreme Court and our own precedent, and deprives Mr. Yafai of an important constitutional right." [Mohsin Yafai and Zahoor Ahmed v. Mike Pompeo (18-1205), 1/4/19]

- **People For The American Way: Ahmed Was Denied Despite "Clear Evidence" There Was No Smuggling Attempt.** "Mr. Yafai and his wife Zahoor Ahmed were born in Yemen. When he became a naturalized U.S. citizen in 2001, he filed petitions with the Department of Homeland Security to permit his wife and several of their children to apply for immigrant visas, which were granted. But a consular official denied his wife's application, making what the dissent called a 'single laconic statement' that she had improperly attempted to smuggle children into the United States. Despite clear evidence submitted by Yafai and Ahmed denying that claim, the denial stood and they filed suit in federal court." [People For The American Way, 1/30/19]

- **People For The American Way: Barrett's Decision Utilized A "Consular Non-Reviewability Doctrine" That Prevented Further Consideration Of The Denial.** "The district court dismissed the claim as a matter of law under the 'consular non-reviewability doctrine,' a standard designed by the Supreme Court based on its interpretation of federal immigration law. Under that doctrine, a court should not review a decision by a consular official to deny a visa when the official acts 'on the basis of a facially legitimate and bona fide reason.' Barrett's 2-1 opinion affirmed the lower court decision, maintaining that the non-reviewability doctrine requires 'nothing more' than the 'assertion' of a legitimate reason for visa denial, as the consular official did in this case." [People For The American Way, 1/30/19]

In Gerson E. Alvarenga-Flores v. Jefferson B. Sessions III, Amy Coney Barrett Wrote An Opinion Rejecting An Asylum-Seeker's Application Based On Fears Of Gang Torture Due To What She Called "Inconsistencies" In A Story Of A Gang Attack.

Case at Issue: *Gerson E. Alvarenga-Flores v. Jefferson B. Sessions III* (Case No. 17-2920)

Amy Coney Barrett Ruled That A Man's Fears Of Gang Persecution In El Salvador Were Not Credible Despite The Fact That The Country Has "One Of The World's Highest Homicide Rates."

Barrett Wrote A Decision That Upheld A District Court's Ruling Against Gerson Alvarenga-Flores, Saying His Fears Of Torture And Gang Persecution If He Returned To El Salvador Were Not Credible. "Alvarenga seeks asylum, withholding of removal, and relief under the Convention Against Torture because he fears torture and persecution from gang members if he returns to El Salvador. The immigration judge concluded that Alvarenga lacked credibility and denied him relief. Finding no clear error in the immigration judge's decision, the Board of Immigration Appeals dismissed the appeal. Substantial evidence supports the decisions of the immigration judge and the Board, and the record does not compel a contrary conclusion. We therefore deny Alvarenga's petition for review." [Gerson E. Alvarenga-Flores v. Jefferson B. Sessions III (17-2920), 8/28/18]

- **In 2019, Human Rights Watch Wrote That El Salvador "El Salvador Has One Of The World's Highest Homicide Rates" And That "Approximately 60,000 Gang Members Are Present In At Least 247 Of The Country's 262 Municipalities."** [Human Rights Watch, 2019]

Barrett Cited The Immigration Judge's Claim That The Man's Story Had "Inconsistencies" – The Man Said It Was Due To His Lack Of English Language Skills.

Barrett Cited Inconsistencies Between Alvarenga-Flores' Description Of Being Attacked By Gang Members In A Taxi And On A Bus. "He based the adverse credibility finding on inconsistencies in Alvarenga's testimony about the two events that had prompted him to leave El Salvador for fear of persecution. One involved his escape from gang members who attacked him in a taxi; the other involved his escape from gang members who approached him on a bus." [Gerson E. Alvarenga-Flores v. Jefferson B. Sessions III (17-2920), 8/28/18]

Barrett Described How Alvarenga's Story Changed Where He Was Sitting In A Taxi He Claims Was Attacked By A Gang. "First, the taxi: Alvarenga claimed that he and three friends were riding in a taxi that was stopped by a gang, which fired shots at the car and ultimately killed one person. He offered two different accounts of what happened. In his written statement, Alvarenga said that his friend Jose Diaz was sitting in the front passenger seat. After the attack began, Diaz exited his door and fled on foot, which distracted the gunmen and allowed the taxi to get away. In his oral testimony before the IJ, Alvarenga described events differently. He testified that no one was seated in the front—in this version, all four passengers were seated in the back. He said that Diaz, the friend who fled on foot, was sitting in the middle seat. Because everyone else stayed in the taxi, this position would have required Diaz to climb over one or more passengers to exit the car. When asked about the inconsistency in his stories, Alvarenga had no explanation for it." [Gerson E. Alvarenga-Flores v. Jefferson B. Sessions III (17-2920), 8/28/18]

In Defense Of The Inconsistencies, Alvarenga Said He Does Not Speak English Yet Was Only Sent An English Copy To Sign, And That The Statement Was Prepared Telephonically. "Alvarenga offers several explanations for the differences: he does not speak English, his statement was prepared telephonically while he was detained, and he was sent only an English copy to sign." [Gerson E. Alvarenga-Flores v. Jefferson B. Sessions III (17-2920), 8/28/18]

A Dissenting Judge Said The Immigration Judge Who Originally Ruled On The Case "Put Great Significance In Small Variations In Alvarenga's Personal Statements."

District Judge Durkin Dissented On The Case, Saying The Immigration Judge Put Great Significance In Small Variations In Alvarenga's Personal Statements. "Viewed in fuller context, I believe the IJ placed 'great significance in small variations' among Alvarenga's personal statement and his more detailed testimony. See Cojocari, 863 F.3d at 624. The IJ's focus on these small variations 'call[s] the [IJ's] overall analysis into question.' Id. at 626" [Gerson E. Alvarenga-Flores v. Jefferson B. Sessions III (17-2920), 8/28/18]

In Cook County, Illinois v. Chad Wolf, Amy Coney Barrett Wrote A Dissent In Defense Of Chad Wolf And The Department Of Homeland Security Over A Policy Intended To Deny Any Change In Status To Any Immigrant Who Received Public Assistance

Case at Issue: *Cook County, Illinois v. Chad F. Wolf* (Case No. 19-3169)

Under The Trump Administration, The Department Of Homeland Security Instituted A New Rule To Prevent Immigrants Receiving Public Assistance From Entering The Country Or Adjusting Immigration Status – Cook County, IL Sued To Overturn The Rule.

The Department Of Homeland Security Instituted A New Rule To Prevent Immigrants Receiving Public Assistance From Entering The Country Or Adjusting Immigration Status. "Recognizing this, Congress has chosen to make immigrants eligible for various public benefits; state and local governments have done the same. Those benefits include subsidized health insurance, supplemental nutrition benefits, and housing assistance. […] Recently, however, the Department of Homeland Security (DHS) issued a new rule designed to prevent immigrants whom the Executive Branch deems likely to receive public assistance in any amount, at any point in the future, from entering the country or adjusting their immigration status." [Cook County, Illinois v. Chad F. Wolf (19-3169), 6/10/20]

- **DHS Utilized The Immigration And Nationality Act, Which Provides A Noncitizen May Be Denied Admission Or Adjustment If They Are "Likely" To "Become A Public Charge," By Referencing Any Noncitizen Receiving Any Kind Of Benefits For 12 Months In A 3-Year Period.** "The Immigration and Nationality Act (INA, or 'the Act') provides that a noncitizen may be denied admission or adjustment of status if she 'is likely at any time to become a public charge. […] In it, DHS defines as a 'public charge' any noncitizen (with some exceptions) who receives certain cash and noncash government benefits for more than '12 months' in the aggregate in a 36-month period." [Cook County, Illinois v. Chad F. Wolf (19-3169), 6/10/20]

Cook County, IL, Brought A Case Against DHS To Overturn The New Rule, With The Seventh Circuit Affirming A Lower Court Decision Of Accepting The Case. "States, cities, and nonprofit groups across the country have filed suits seeking to overturn the Rule. Cook County, Illinois, and the Illinois Coalition for Immigrant and Refugee Rights, Inc. (ICIRR) brought one of those cases in the Northern District of Illinois. They immediately sought a preliminary injunction against the Rule pending the outcome of the litigation. Finding that the criteria for interim relief were satisfied, the district court granted their motion. We conclude that at least Cook County adequately established its right to bring its claim and that the district court did not abuse its discretion by granting preliminary injunctive relief. We therefore affirm." [Cook County, Illinois v. Chad F. Wolf (19-3169), 6/10/20]

The Majority On The 7th Circuit Upheld The Preliminary Injunction Leveled By The District Court Against The DHS Rule.

The 7th Circuit Upheld The Injunction, Against DHS's Appeal. "While we disagree with the district court that this case can be resolved at step one of the Chevron analysis, we agree that at least Cook County has standing to sue. We make no ruling on ICIRR's standing, and so we have based the remainder of our opinion on Cook County's situation only. The district court did not abuse its discretion or err as a matter of law when it concluded that Cook County is likely to succeed on the merits of its APA claims against DHS. Nor did the district court's handling of the balance of harms and lack of alternative legal remedies represent an abuse of discretion. We therefore AFFIRM the district court's order entering a preliminary injunction." [Cook County, Illinois v. Chad F. Wolf (19-3169), 6/10/20]

Amy Coney Barrett Dissented, Saying That The Department Of Homeland Security's Definition Of A Public Charge Was Reasonable.

Judge Barrett Dissented On The Ruling, Saying DHS's Definition Of "Public Charge" Was Reasonable. "The plaintiffs have worked hard to show that the statutory term 'public charge' is a very narrow one, excluding only those green card applicants likely to be primarily and permanently dependent on public assistance. That argument is belied by the term's historical meaning—but even more importantly, it is belied by the text of the current statute, which was amended in 1996 to increase the bite of the public charge determination. When the use of 'public charge' in the Immigration and Nationality Act (INA) is viewed in the context of these amendments, it becomes very difficult to maintain that the definition adopted by the Department of Homeland Security (DHS) is unreasonable." [Cook County, Illinois v. Chad F. Wolf (19-3169), 6/10/20]

III. CONEY BARRETT SIDED WITH LAW ENFORCEMENT IN NEARLY NINE OUT OF EVERY TEN CASES

LAW ENFORCEMENT: Amy Coney Barrett Sided With Law Enforcement 86% Of The Time When Police Actions Were At Issue In the 7th Circuit.

Amy Coney Barrett Sided With Law Enforcement 86% Of The Time, When Cases Before Her Questioned Police Actions, Including In Multiple Officer-Involved Shootings.

Of 29 Law Enforcement-Centric Cases That Came Before Barrett's Court, She Sided With Police Interests 86 Percent Of The Time.

NOTE: Red in the chart below denotes a decision siding with police. Blue denotes siding with individuals. White is a neutral.

DATE	CASE TITLE	CASE NO.	HOW DID BARRETT RULE?	BRIEF DESCRIPTION
3/8/18	Dwane Sanzone, representative of Keith R. Koster, deceased v. James Gray	17-2103	Barrett voted to "reverse the district court's decision and remand with instructions to enter judgment" in favor of police.	Officer Gray fatally shot Keith R. Koster after "Koster threatened to fire a 'warning shot' and then pointed his gun at police officers gathered in the doorway of his apartment." Koster's sister sued claiming that Gray used excessive force and violated the Fourth Amendment. "The district court denied Gray's motion for summary judgment based on qualified immunity. "
1/7/19	Johnnie Lee Savory v. William Cannon, Sr. as special representative for Charles Cannon, et. al.	17-3543	Barrett voted to reverse the district court's ruling and remand for further proceedings.	Savory spent 30 years in prison on a double murder charge and has proclaimed his innocence even after his release. The governor of Illinois has since pardoned him. Almost two years after the pardon, Savory filed a civil rights suit against the City of Peoria and several Peoria police officers, alleging they framed him. The district court dismissed the suit as untimely.
7/31/20	Estate of Joseph Biegert v. Thomas Molitor	19-2837	Barrett wrote the opinion affirming the district court's ruling in favor of police.	Biegert's mother called the police concerned that her son was going to die by suicide. Though he was initially compliant, Biegert began to resist and officers tried to "subdue Biegert with fists, Tasers, and a baton." Biegert eventually "began to stab one of the officers, they shot him, and he died at the scene." Biegert's mother argued the officers used excessive force and the district court disagreed.
6/9/20	Harry O'Neal v. James Reilly	19-2981	Barrett wrote the opinion affirming the District Court's ruling in favor of the police.	Harry O'Neal filed civil rights charges against the police officers who arrested him for aggravated battery during a traffic stop. O'Neal's civil rights claim was barred pending his battery conviction, but it was able to proceed after the conviction was

				overturned. However, O'Neal's motions to initiate the civil rights claims had procedural flaws, and the district court held that he waived his rights by not invoking the right rule.
2/5/20	Ronald Crosby v. City of Chicago	18-3693 & 19-1439	Barrett wrote the opinion affirming the District Court's ruling in favor of police.	In 2015, Ronald Crosby won a settlement against Eduardo Gonzalez, a police officer, for allegedly shoving him out of a third-story window. Crosby went to court dispute whether the terms of the settlement barred a new lawsuit claiming the City and other police officers covered up Gonzalez's misconduct by falsely claiming he had a gun at the time of the incident.
1/28/20	Urija Elston v. County of Kane	19-1746	Barrett wrote this opinion affirming the lower court's decision in favor of the County	An off-duty Kane County sheriff's deputy got into a verbal and physical skirmish with Urija Elston in a park, resulting in the officer grabbing him by the neck, climbing on top of him, and pulling his arms behind his back. Urija successfully sued Demeter, but lost a court case against Kane County, with the court ruling the officer was not acting in his official capacity.
8/2/19	Marcus Torry v. City of Chicago City of Chicago	18-1935	Barrett wrote this opinion affirming the district court's decision that the scope of the stop was lawful, and that the officers were entitled to qualified immunity regardless.	Three black men in a grey sedan were stopped by Chicago police officers in 2014, on suspicion of a shooting that had happened three hours earlier. The men filed suit, alleging they lacked reasonable suspicion to initiate the stop (this followed some other charges being dropped).
1/15/19	William Rainsberger v. Charles Benner	17-2521	Barrett wrote the opinion affirming that Benner could not claim qualified immunity to defend himself from accusations that he violated the Rainsberger's 4th amendment rights by filing a false affidavit.	Charles Benner was a detective who filed a false affidavit indicating that William Rainsberger had murdered his own mother. The case was eventually dismissed due to evidentiary problems and Rainsberger sued Detective Benner. Benner moved to end the case claiming qualified immunity, but the District Court said Benner did not have qualified immunity in this case because he made materially false statements in the affidavit.
2/1/19	Mack A. Sims v. William Hyatte	18-1573	Barrett wrote a *DISSENT* arguing that the majority did not give deference to the Indiana Court of Appeals in granting relief to Sims.	Mack Sims alleged the state violated his due process rights by withholding evidence favorable to his case. Sims was convicted of a 1993 attempted murder and later found in 2012 that the only witness in his case had been hypnotized before trial to "enhance his recollection of the shooting." After Sims's habeas petitions in state courts failed, he filed a habeas petition in district court, which was denied. Sims appealed.
2/7/19	USA v. Travis S. Vaccarro	18-1753	Barrett wrote this opinion affirming the district court ruling in favor of the police.	Travis Vaccaro, who entered a conditional guilty plea to possessing a firearm as a felon, contested a pat-down search and search of his vehicle that led to charges.
5/9/19	Lopez-Aguilar v. Marion Cnty. Sheriff's Dep't	18-1050	Barrett voted to "reverse the judgment of the district court and remand the	The State of Indiana attempted to intervene after Lopez-Aguilar alleged that when he was detained for transfer into ICE custody,

			case for proceedings consistent with this opinion," in favor of police.	officers violated his Fourth Amendment rights and the parties agreed on a judgment and order for relief.
3/1/19	United States v. Street	18-1209	Barrett voted to affirm the district court's ruling in favor of police.	Street was stopped and questioned by officers law enforcement officers that were "searching for two African-American men who moments before had committed an armed robbery." Street was not arrested then, but provided information during the stop that helped lead to his later arrest. "Street contends that the stop violated his Fourth Amendment rights because he was stopped based on just a hunch and his race and sex. "
7/13/20	Gysan v. Francisko	19-1471	Barrett voted to affirm the District Court ruling in favor of police.	Officers Francisko and Kuehl attempted to stop Cataline for a welfare stop and Cataline did not comply with officers' demands to turn off his car and "hand over his keys." Instead, Cataline turned his car around, hit one of the police cars, and allegedly pinned one of the officers behind a car door. Francisko shot and killed Cataline. Cataline's mother in this suit contends the police violated the Fourth Amendment in shooting him. The district court granted summary judgment to both defendants and rejected the argument after concluding that Francisko is entitled to qualified immunity.
3/31/20	King v. Hendricks County Commissioners	19-2119	Barrett voted to affirm the District Court ruling in favor of police.	After arriving for a welfare check, an officer shot King, who suffered from paranoid schizophrenia. Officers allege that King charged at them with a knife, which prompted the shooting. King's father alleges the officers violated King's fourth amendment rights but the district court found there was no violation.
1/10/20	Day v. Wooten	19-1930	Barrett voted to reverse the district court's ruling, the outcome that favored the police.	Wooten died in police custody "after he complained of difficulty breathing" following a chase and the position in which he was hand cuffed. The district court ruled "the officers were not entitled to qualified immunity because 'reasonable officers would know they were violating an established right by leaving Day's hands cuffed behind his back after he complained of difficulty breathing.'"
12/17/19	Johnson v. Rogers	19-1366	Barrett voted to affirm the District Court ruling in favor of police.	An officer used a leg sweep, effectively to trip, Johnson into a sitting position as he kept attempting to stand while in custody. The fall resulted in a compound fracture in one leg that he contends "resulted from a kick designed to punish him rather than to return him to a sitting position." The district court ruled that the officer was entitled the qualified immunity.
8/22/19	United States v. Kelerchian	18-1320	Barrett voted to affirm Kelerchian's conviction.	Kelerchian colluded with police officers to defraud weapons manufacturers and avoid restrictions on selling certain weapons

				to private individuals. "Kelerchian went to trial and was convicted on four counts of conspiracy and four counts of making false writings. On appeal, Kelerchian raises numerous issues."
8/21/19	United States v. Simon	18-2442	Barrett voted to affirm the District Court's ruling in favor of police.	Simon was found to be a felon in possession of a gun and pleaded guilty. Simon raised a "litany of issues on appeal," including allegations that officers lacked probable cause to initiate a traffic stop and that they inappropriately prolonged the stop to allow for a dog sniff.
7/26/19	Ruiz-Cortez v. City of Chicago	18-1078	Barrett voted to affirm the District Court ruling dismissing the City of Chicago, but overturned the jury trial that found in favor of the dirty cop.	After a dirty cop's false testimony lead to his imprisonment, Ruiz-Cortez sued the City of Chicago and the dirty police officer for violating his constitutional rights. "The district court dismissed the claim against the City at summary judgment, concluding that there was no evidence of municipal liability." A jury trial found for the dirty cop after he invoked his 5th Amendment Rights.
7/9/19	United States v. Sawyer	18-2923	Barrett voted to affirm the District Court ruling in favor of police.	Sawyer pleaded guilty to possessing a firearm as a felon. In appeal, Sawyer contests the search of his backpack, in which police found guns. The district court denied the motion to suppress and concluded "that Sawyer, as a trespasser, had no legitimate expectation of privacy in the house and therefore none in the unattended backpack."
4/6/20	Conner v. Vacek	19-1160	Barrett voted to affirm the District Court ruling in favor of police.	Conner was arrested by Vacek and was found guilty of domestic abuse charges. Conner is suing Vacek and a fire sergeant involved in the initial response, alleging they violated his fourth amendment right "when they entered his apartment and arrested him without a warrant." The district court entered summary judgment for the defendants.
5/21/20	Stingley v. Chisholm	19-2364	Barrett voted to affirm the District Court ruling in favor of prosecutors.	Craig Stingley sued Wisconsin prosecutors, "alleging that they unlawfully failed to investigate and charge those responsible for his son's murder. The district court correctly dismissed the complaint because the prosecutors are absolutely immune for these alleged acts."
8/27/19	Perkins v. Milwaukee County	18-3710	Barrett voted to affirm the District Court ruling in favor of Milwaukee Transit Services.	Perkins protested "after a Milwaukee police officer killed his brother" and later applied for a job with Milwaukee Transit Services, Inc. (MTS) and he was not hired. He sued Milwaukee County and alleges his first amendment rights were violated because "he learned that a hiring manager had said that MTS would not hire him because of his family's protests."
6/24/19	Royal v. Norris	18-3039	Barrett voted to reverse the lower ruling, the order claiming there was no law that "would have put the officers on	Royal ingested cocaine just before he was arrested and then died in police custody. His estate sued the officers involved, "alleging that they violated Royal's constitutional right to medical

			notice that their conduct violated the Fourth Amendment," therefore ruling in favor of police.	treatment by not sending him immediately to the hospital." The magistrate judge denied the officers' motion for summary judgment and concluded that they were not entitled to qualified immunity.
8/27/19	United States v. Bean	18-2195	Barrett voted to affirm the District Court ruling in favor of police.	"Devon Bean challenges the denial of his motion to suppress a gun and marijuana found during a traffic stop. The district court denied Bean's motion on the ground that police officers, in blocking his car and then smelling marijuana in it, had probable cause to search him and the car."
5/17/19	Bogan v. German	18-2927	Barrett voted to affirm the District Court ruling in favor of police.	Bogan, a parolee, sued several officers for searching his apartment without a warrant and for seizing and searching his vehicle. The district court granted a summary judgement for the defendants and denied Bogan's cross motion on the basis that as a parolee, he did not have a "reasonable expectation of privacy."
3/21/19	McNett v. Robertson	18-1508	Barrett voted to affirm the District Court ruling in favor of police.	McNett, an Illinois inmate, challenged the dismissal of his complaint that alleged two officers detained him in violation of the Fourth Amendment, and that the Village of Palatine "has a policy or practice of arresting people without probable cause." The district court dismissed the complaint.
8/15/18	Miller v. Gonzales	17-2386	Barrett voted to affirm the District Court ruling in favor of police.	In the midst of a chase and jumping over a fence, an officer landed on Miller and broke Miller's jaw, Miller alleges it was intentional and an excessive use of force. A jury disagreed and ruled in favor of the officer.
6/25/18	Hoeft v. Joanis	17-2701	Barrett voted to affirm the District Court ruling in favor of police.	Hoeft alleges that two police officers violated his rights under the Fourth and Fifth Amendments when they held, interrogated, and threatened him until he falsely confessed to burglaries. He later pleaded no contest to the burglary and served his sentence. Upon release he sued the officers involved, but the District court dismissed it as untimely.

Methodology: *Accountable.US reviewed all cases Amy Coney Barrett heard during her time on the U.S. Court of Appeals for the 7th Circuit and analyzed her position on any case in which law enforcement was named a party. Once each relevant opinion was catalogued, Accountable.US calculated the percentage of cases in which Barrett ruled for law enforcement.*

Amy Coney Barrett Ruled That Police Officers Who Let A Black Teenager In Their Custody Die – After He Told Them He Couldn't Breathe – Had Qualified Immunity From A Civil Suit.

Case At Issue: *Shanika Day et al v. Franklin Wooten* (Case No. 19-1930)

January 2020: Barrett's Ruling In A Qualified Immunity Case Was Described As A "Radical Departure" From Previous Court Decisions That Put The "Burden On The Person Who's Dying" Instead Of Police.

2020: Barrett Granted Qualified Immunity To Police In The 2015 Death Of A Black Teen Accused Of Shoplifting Who Told Officers He Couldn't Breathe.

January 10, 2020: Barrett Ruled In Favor Of Giving Qualified Immunity To Two Police Officers Involved In The Death Of A Black Teenager Accused Of Shoplifting, Overturning The Lower Court's Decision. [United States Court of Appeals for the Seventh Circuit, *Day v. Wooten*, 1/10/20]

Indianapolis Star HEADLINE: "Teen Told Police He Couldn't Breath. Officers Aren't Liable For His Death, Court Says." [Indianapolis Star, 1/28/20]

- **2015: Eighteen-Year-Old Terrell Day Fled After A Security Guard Accused Him Of Shoplifting A Watch.** "Day died after police held him in connection with a shoplifting incident at Burlington Coat Factory on the afternoon of Sept. 26, 2015. A loss-prevention officer confronted Day after the teen allegedly tried to take a watch from the store. A security officer then saw a gun in Day's pocket, according to court documents. Day fled on foot." [Indianapolis Star, 1/28/20]

- **Police Handcuffed Day As He Lay Collapsed On The Ground And Told An Officer He Was Having Trouble Breathing.** "By the time police caught up to Day, he'd collapsed onto a patch of grass behind a nearby gas station. The gun was not found on Day, but was found near him at the scene. Indianapolis Metropolitan Police Officer Randall Denny arrived at the scene and handcuffed Day. He noticed that Day was 'overweight, sweating and breathing heavily,' the court said. Day told police he was having trouble breathing." [Indianapolis Star, 1/28/20]

- **Video Shows Day, Still Handcuffed, Surrounded By Officers And Having Trouble Standing; He Collapses, Officers Lay Him On His Back "And That's Where He Remains Until He Dies."** "Video taken by a bystander shows several officers trying to stand Day up while he's still handcuffed. Day stands for a few seconds, but his legs appear to go out and his body then tilts toward the ground, with officers still appearing to hold him up. Surveillance video captures some of the incident from further away. 'They stood him up to try and have the ambulance examine him, but his legs go out,' Alvarez said. 'And then they just place him lying on his back. And that's where he remains until he dies.'" [Indianapolis Star, 1/28/20]

- **Day Died Of "Sudden Cardiac Death" With His "Hands Being Cuffed Behind His Back" Listed As A "Contributing Cause."** "Day's death was caused by "sudden cardiac death," according to an autopsy filed in the case. Listed as a contributing cause, court documents said, was Day's hands being cuffed behind his back." [Indianapolis Star, 1/28/20]

- **The 7th Circuit Opinion: "This Case Arose From An Unfortunate Tragedy. However, The Officers Did Not Violate Any Clearly Established Right. Accordingly, The District Court's Judgment Denying Officer Denny And Sergeant Wooten's Qualified Immunity Defense Is REVERSED."** [United States Court of Appeals for the Seventh Circuit, *Day v. Wooten*, 1/10/20]

The Family's Attorney Said The Ruling Was A "Radical Departure" From Previous Decisions And Put The "Burden On The Person Who's Dying" Instead Of Police.

"Attorneys For Day's Mother, Shanika, Believe The Decision Could Set A 'Dangerous' Precedent For Future Civil Cases Alleging Police Misconduct." [Indianapolis Star, 1/28/20]

- **One Of The Family's Attorney Said The Ruling Was A "'Radical Departure'" From Its Prior Decisions.** "They plan to ask the U.S. Court of Appeals for the Seventh Circuit to reconsider the court's ruling, which attorney Nathaniel Lee calls a 'radical departure' from its prior decisions." [Indianapolis Star, 1/28/20]

- **"Now, Burden Is On The Person Who's Dying. It's No Longer On The Police To Be Trained."** [Indianapolis Star, 1/28/20]

Amy Coney Barrett Ruled That Police Officers Who Killed A Suicidal Man – After Being Called To The Scene By The Man's Mother – Did Not Commit Any Constitutional Violations.

Case At Issue: *Estate of Joseph Biegert v. Thomas Molitor* (Case No. 19-2837)

A Mother Called The Police To Help Her Suicidal Son And The Police Officers Ended Up Shooting Him To Death; Still, Barrett Ruled That No Constitutional Violation Had Occurred.

July 2020: Barrett Wrote The Opinion Declaring That "Officers Might Have Made Mistakes" But They "Did Not Violate The Fourth Amendment By Shooting" A Man With Mental Illness Whose Mother Called To Help Him Through A Suicidal Episode.

The Mother Of A Man Who Was Fatally Shot By Police Sued After Her Welfare Check For His Suicidal Episode Ended In His Killing. "Joseph Biegert's mother called the police for help because she was concerned that her son was attempting to kill himself. Officers went to Biegert's apartment to check on him, and when they arrived, Biegert initially cooperated. He began resisting, though, when the officers tried to pat him down. A scuffle ensued, and the officers tried 2 No. 19-2837 to subdue Biegert with fists, Tasers, and a baton. All of these efforts to restrain Biegert failed, and Biegert armed himself with a kitchen knife. When he began to stab one of the officers, they shot him, and he died at the scene. Biegert's mother, on behalf of his estate, argues that the officers used excessive force both by restraining Biegert during a pat down and by shooting him." [United States Court of Appeals for the Seventh Circuit Court, No. 19-2837, *Estate of Joseph Biegert v. Thomas Molitor*, 7/31/20]

- **"Biegert's Mother Called The Police For Help Because She Was Concerned That Her Son Was Attempting To Kill Himself."** [United States Court of Appeals for the Seventh Circuit Court, No. 19-2837, *Estate of Joseph Biegert v. Thomas Molitor*, 7/31/20]

- **Biegert's Mother Disclosed Her Son's History Of Depression, Suicide Attempts, That He Was Alone, And Had "Neither Weapons Not Vehicles."** "On February 24, 2015, Joseph Biegert texted his mother that he had taken a number of pills in an apparent suicide attempt. His mother, concerned for his safety, called the Green Bay, Wisconsin, police and requested a welfare check. She told the dispatcher that Biegert was depressed, had a history of suicide attempts, was alone, and had access to neither weapons nor vehicles." [United States Court of Appeals for the Seventh Circuit Court, No. 19-2837, *Estate of Joseph Biegert v. Thomas Molitor*, 7/31/20]

- **When Officers Arrived "Biegert Initially Cooperated" But "Began Resisting" When Officers Restrained Him During Pat Down.** "Officers went to Biegert's apartment to check on him, and when they arrived, Biegert initially cooperated. He began resisting, though, when the officers tried to pat him down. […] Biegert's mother, on behalf of his estate, argues that the officers used excessive force both by restraining Biegert during a pat down and by shooting him." [United States Court of Appeals for the Seventh Circuit Court, No. 19-2837, *Estate of Joseph Biegert v. Thomas Molitor*, 7/31/20]

- **"Officers Tried To Subdue Biegert With Fists, Tasers, And A Baton."** [United States Court of Appeals for the Seventh Circuit Court, No. 19-2837, *Estate of Joseph Biegert v. Thomas Molitor*, 7/31/20]

- **Officers Shot And Killed Biegert After He Armed Himself With A Knife In Defense Of Their Restraint Methods.** "As he patted him down, Dunn held two of Biegert's fingers with one hand in a way that Dunn concedes may have been painful. While Dunn searched Biegert, Krueger advised the rescue team that they could approach the apartment. Biegert recoiled when Dunn's pat down neared Biegert's belt, and Biegert pulled his right hand out of Dunn's grasp. Krueger then grabbed Biegert's left hand while Dunn sought to regain control of Biegert's right hand. Biegert pulled away, dragging the officers toward the kitchen. Krueger told Biegert '[d]on't do anything stupid' and tried to put Biegert in a secure hold so that he could place him in handcuffs. Dunn attempted to block Biegert with his leg, and both Biegert and Dunn fell to the floor. Biegert rose again, pulled the officers into the kitchen and all three men fell to the floor while Biegert continued to thrash against the officers. Krueger drew his Taser and attempted to use it on Biegert, but it did not fire. When Krueger then tried to put the Taser directly against Biegert, Biegert squeezed Krueger's genitals and reached for the Taser. Krueger knocked the Taser out of Biegert's hand and began punching Biegert in the face, apparently with no effect. Dunn then drew his Taser, and although he tried to aim at Biegert, he hit Krueger instead. Once Krueger recovered from the shock, he expanded his baton and prepared to continue striking Biegert. At this point, Biegert managed to grab a knife from the kitchen counter, and he stood over Dunn with the knife in his right hand." [United States Court of Appeals for the Seventh Circuit Court, No. 19-2837, *Estate of Joseph Biegert v. Thomas Molitor*, 7/31/20]

- **The Estate Contended There Was A Pause Where Officers "Stopped Shooting When Biegert Ceased To Pose A Threat And Then Resumed After He Had Collapsed To The Ground."** "The estate also contends that there was a pause in the shooting—that the officers stopped shooting when Biegert ceased to pose a threat and then resumed after he had collapsed to the ground." [United States Court of Appeals for the Seventh Circuit, No. 19-2837, *Estate of Joseph Biegert v. Thomas Molitor*, 7/31/20]

    - **OPINION: Dash Cameras Offered "Gargled Audio" And Could Not Confirm The Pause.** "The estate's best evidence for this theory is the audio captured by one of the officers' dash cameras. But the garbled audio, in which the officers can barely be heard over the background noise, contains no clearly audible pause." [United States Court of Appeals for the Seventh Circuit, No. 19-2837, *Estate of Joseph Biegert v. Thomas Molitor*, 7/31/20]

Barrett Wrote The Opinion Affirming The Lower Court's Decision In Favor Of The Officers Involved In Biegert's Death. [United States Court of Appeals for the Seventh Circuit, No. 19-2837, *Estate of Joseph Biegert v. Thomas Molitor*, 7/31/20]

- **"The Officers Might Have Made Mistakes, And Those Mistakes Might Have Provoked Biegert's Violent Resistance. Even If So, However, It Does Not Follow That Their Actions Violated The Fourth Amendment."** [United States Court of Appeals for the Seventh Circuit, No. 19-2837, *Estate of Joseph Biegert v. Thomas Molitor*, 7/31/20]

- **"The Estate Also Emphasizes That The Officers Violated Police Department Regulations And That These Violations Bear On The Officers' Reasonableness. But The District Court Was Correct To Give No Weight To These Arguments."** [United States Court of Appeals for the Seventh Circuit, No. 19-2837, *Estate of Joseph Biegert v. Thomas Molitor*, 7/31/20]

- **"Policies And Procedures Do Not Shed Light On The Reasonableness Of An Officer's Behavior."** [United States Court of Appeals for the Seventh Circuit, No. 19-2837, *Estate of Joseph Biegert v. Thomas Molitor*, 7/31/20]

- **"The Officers Did Not Violate The Fourth Amendment By Shooting Biegert. Not Did Their Actions Preceding The Shooting Render Their Use Of Force Unreasonable. Because We Conclude That No Constitutional Violation Occurred, We Need Not Determine Whether The Officers Are Entitled To Qualified Immunity. The District Court's Decision is AFFIRMED."** [United States Court of Appeals for the Seventh Circuit, No. 19-2837, *Estate of Joseph Biegert v. Thomas Molitor*, 7/31/20]

March 2020: Barrett Ruled Police Were Justified In Killing A Paranoid Schizophrenic Man Who Called Them For Help, Despite Circumstantial Evidence That Undermined The Officers' Account Of What Happened.

Case At Issue: *King v. Hendricks County Commissioners* (Case No. 19-2119)

In 2020 A Man Called Police Asking For Help And Two Officers Went To His House To Perform A Welfare Check.

November 29, 2016: Police Fatally Shot Bradley King, "A 29-Year-Old Resident Of Hendricks County, Indiana, Who Suffered From Paranoid Schizophrenia … During An Encounter At His Home." [Justia, United States Court of Appeals for the Seventh Circuit, No. 19-2119, *Matthew King v. Hendricks County Commissioners*, 3/31/20]

- **"Two Hendricks County Reserve Deputies Went To The King's Family Home To Perform A 'Welfare Check' After Bradley Called 9-1-1 And Requested Help."** [Justia, United States Court of Appeals for the Seventh Circuit, No. 19-2119, *Matthew King v. Hendricks County Commissioners*, 3/31/20]

The Police Officers Claim That After They Arrived, The Man Charged Them, Unprovoked, With A Knife, Though The Victim's Father Says He "Was Never Violent, Even When Suffering A Psychotic Episode."

The Victim Was Right Handed, But Police Claim He Held The Knife In His Left Hand.

Once The Officers Arrived Matters "Spun Horribly Out Of Control, Though What Precisely Happened Is Disputed, Aside From The Fact That Bradley Wound Up Dead." [Justia, United States Court of Appeals for the Seventh Circuit, No. 19-2119, *Matthew King v. Hendricks County Commissioners*, 3/31/20]

- **"The Only Living Eyewitnesses Are The Officers Involved."** [Justia, United States Court of Appeals for the Seventh Circuit, No. 19-2119, *Matthew King v. Hendricks County Commissioners*, 3/31/20]

- **Officers Contended That King Charged At Them, Unprovoked, With A Knife.** "The evidence developed for purposes of the defendants' motion for summary judgment was as follows. The deputies, Jason Hays and Jeremy Thomas, testified that upon their arrival, Bradley came out of the house, walked toward them, and pulled a ten-inch knife out of his shorts pocket. Hays and Thomas backpedaled, drew their service firearms, and yelled at Bradley to stop and drop the knife. Bradley disregarded their commands and kept moving forward. Then, with the knife in his left hand, left arm raised in front of him so that the blade was pointing toward the officers, he started running at Hays. When Bradley was approximately eight feet away, Hays fired one shot. It proved to be fatal." [Justia, United States Court of Appeals for the Seventh Circuit, No. 19-2119, *Matthew King v. Hendricks County Commissioners*, 3/31/20]

- **King's Father Disputed The Officers' Account, Saying "Bradley Was Never Violent, Even When Suffering A Psychotic Episode, And Would Not Have Charged At The Police With A Kinfe."** [Justia, United States Court of Appeals for the Seventh Circuit, No. 19-2119, *Matthew King v. Hendricks County Commissioners*, 3/31/20]

- **"And The Fact That Bradley Was Right-Handed And This Probably Would Not Have Held The Knife With His Left Hand, Substantially Undermines The Deputies' Account."** [Justia, United States Court of Appeals for the Seventh Circuit, No. 19-2119, *Matthew King v. Hendricks County Commissioners*, 3/31/20]

Barrett Ruled In Favor Of The Police Officers, Saying The Record Did Not Indicate They Were "Deliberately Indifferent."

Barrett Joined The Court In Affirming The District Court's Ruling In Favor Of Police. " [Justia, United States Court of Appeals for the Seventh Circuit, No. 19-2119, *Matthew King v. Hendricks County Commissioners*, 3/31/20]

> **"Bradley's Death At The Hands Of Police Officers Whom He Called For Help When He Was Suffering A Mental-Health Crisis Is Undoubtedly Heartbreaking For His Family, As Well As A Sobering Reminder About The Difficulties Of Dealing With The Mentally Ill. Nonetheless, The Record Before Us Does Not Indicate That [Police Were] Deliberately Indifferent To The Needs Of Community Members Suffering From Mental Illness And Failed Adequately To Train Officers In How To Handle Such Persons."** [Justia, United States Court of Appeals for the Seventh Circuit, No. 19-2119, *Matthew King v. Hendricks County Commissioners*, 3/31/20]

IV. CONEY BARRETT SIDED WITH WORKERS FEWER THAN ONE OUT OF EVERY TEN CASES

WORKERS: Amy Coney Barrett Sided With Workers In Just 8% Of Cases During Her Tenure On The 7th Circuit Court Of Appeals

Amy Coney Barrett Sided With Employers In 78% Of Her Labor-Related Rulings, And Sided With Workers Just 8% Of The Time.

Of The 36 Labor-Related Issues That Came Before Barrett's Court, She Sided With Employers 78% Of The Time And Workers In Just 8% Of Cases; The Other Cases Were Mixed Decisions.

NOTE: Red in the chart below denotes a decision benefitting employers or companies. Blue denotes benefitting workers. White is neutral and/or mixed.

OPINION DATE	CASE TITLE	CASE NUMBER	BARRETT'S VOTE	DESCRIPTION
9/23/19	Adriel Osorio v. The Tile Shop, LLC	18-2609	The Tile Shop. Barrett voted to affirm the District Court's ruling that the Tile Shops wage system did not violate Illinois wage law	Adriel Osorio alleged that the Tile Shop's commission system - which offers employees prepaid wages during slow business periods, offset by later paycheck withdrawals - violated Illinois wage laws by drawing more than 15% from his paychecks. The district court ruled that the Tile Shop's prepaid wages did not constitute 'cash advances,' and did not fall under Illinois wage laws. The court also ruled that Osorio agreed to the system when he signed his offer of employment.
5/29/19	Brian Weil and Melissa Fulk v. Metal Technologies, Inc.	18-2556 & 18-2440	Metal Technologies. Barrett wrote the opinion affirming the decertification of the class on the wage claim issue and vacated the judgment on the uniform cost withholding issue.	Two individuals filed a class action suit against Metal Technologies for allegedly withholding wages and withholding the cost of uniform rentals from employee paychecks. The District Court ruled that the plaintiffs did not have standing for a class on the wage withholding issue, but that they did have standing on the uniform rental cost issue.
12/14/18	Bruce Betzner and Barbara Betzner v. The Boeing Company	18-2582	Boeing. Barrett voted to reverse the District Court's decision - the outcome Boeing was seeking.	Two people sued Boeing in a personal injury lawsuit. Boeing filed to have the case removed under the federal officer removal statute. The District Court remanded the case to state court. Boeing appealed saying the District Court erred by requiring evidentiary submission to support the notice of removal.

8/4/20	Carmen Wallace v. Grubhub Holdings, Inc.	19-1564 & 19-2156	Grubhub. Barrett authored opinion upholding lower court rulings forcing arbitration on gig workers; seen as a "pivotal victory" for industry	Are gig workers who sign arbitration agreements with employers forced to arbitrate wage disputes or is their right to sue in court protected by certain Federal Arbitration Act protections for interstate workers?
2/20/19	Holloway v. Soo Line Railroad Co,	18-2431	Soo Line Railroad. Barrett voted to affirm the District Court ruling in favor of Canadian Pacific.	A man with a record of safety violations at Canadian Pacific was fired for getting in a car wreck while not wearing a seatbelt. The man sued Canadian Pacific saying he was actually fired for reporting a workplace injury, not for violating rules. The District Court ruled in favor of Canadian Pacific.
5/15/19	Jeffrey Martensen v. Chicago Stock Exchange	17-2660	Chicago Stock Exchange. Barrett voted to affirm the District Court's dismissal of Martensen's suit on the grounds that he didn't report the issue at hand to the SEC.	A man who used to work at the Chicago Stock Exchange was fired and he contends this violated whistleblower protections under Dodd-Frank.
2/1/19	Kurt V. Cornielsen, et al. v. Infinium Capital Management, LLC, et al.	17-2583	Infinium Capital Management. Barrett voted to affirm the District Court decision in favor of Infinium.	A group of employees pooled capital to loan to their company for investments. Those loans were later converted to equity in the company. A year later their redemption rights were suspended and six months after that they were told their investments were worthless. The employees sued for securities fraud and breach of fiduciary duty. The District Court dismissed the case for failure to state a claim.
5/14/18	Leonid Burlaka v. Contract Transport Services LLC	19-1703	Contract Transport Services. Barrett wrote the opinion upholding a lower court ruling denying these drivers overtime pay	Former Contract Transport Services (CTS) employees claimed they were denied overtime pay after the company misclassified them as 'over-the-road' drivers, which DOT exempts from some labor standards.
1/21/20	Pamela Herrington (and class) v. Waterstone Mortgage Corporation	17-3609	Mixed. Barrett voted to vacate the District Court's enforcement of the arbitration award and remanded the cases for further consideration as to the legitimacy of collective arbitration in this instance.	A woman sued Waterstone Mortgage Corporation on behalf of a class alleging Wage and Hour violations. The woman won a collective arbitration and was awarded damages and fees, but a recent SCOTUS case called into question whether a court was allowed to "impose" collective arbitration on the company. The District Court ruled to enforce the arbitration award.
8/2/18	Susie Bigger v. Facebook, Inc.	19-1944	Facebook. Barrett voted to block employees with arbitration agreements from receiving notice of class action claims. It was seen as a "win for employers"	Susie Bigger, a client solutions manager for Facebook, sued the company for being misclassified and denied overtime. Bigger brought a class action on behalf of herself and other CSMs. Facebook claimed the other CSMs signed arbitration agreements preventing them from joining the class action, and the district court ruled in its favor.

8/27/18	Jennifer Sloan v. American Brain Tumor Association	18-1103	American Brain Tumor Association. Barret joined the court in affirming the lower court's decision in favor of the American Brain Tumor Association	A woman sued her former employer for retaliation under the Fair Labor Standards Act
5/8/18	Nicholas Webb, et al v. Financial Industry Regulatory Authority Inc. (FINRA)	17-2526	N/A - Remanded To State Court. Barrett wrote the opinion which did not take a view on the merits of the case, but instead remanded the case to state court.	Two men were fired from an investment bank and challenged their termination pursuant to their employment contract - via arbitration through FINRA. FINRA declared the case dismissed with prejudice and the two men sued FINRA over the arbitration process. That suit was dismissed and the two men appealed to the Seventh Circuit.
6/21/18	Brooks Goplin v. WeConnect, Inc.	18-1193	WeConnect, Inc. Barrett wrote the opinion affirming the District Court's ruling that WeConnect could not enforce an arbitration agreement an employee had signed with a separate entity, even if that entity was now connected to WeConnect.	A man sued his employer, WeConnect, under the Fair Labor Standards Act. WeConnect attempted to enforce an arbitration agreement the man had signed with a corporate predecessor called AEI, but the District Court found that AEI and WeConnect were separate entities and ruled that WeConnect could not enforce the AEI arbitration agreement.
11/1/18	Elisa S. Gallo, MD v. Mayo Clinic Health System-Franciscan Medical Center, Inc. et. al.	17-1623	Mayo Clinic. Barrett voted to uphold the District Court ruling in favor of the Mayo Clinic.	A woman negotiated a separation agreement that said the Mayo Clinic would not say anything negative about her to prospective employers. Years later her former supervisor rated her performance as "Fair" and she sued for breach of agreement. The District Court sided with the Mayo Clinic.
8/6/20	Frank Pierri v. Medline Industries, Inc.	19-3356	Medline. Barrett voted to affirm the District Court's ruling in favor of Medline	An employee alleged his supervisor started harassing him after he took FMLA time to care for his ailing grandfather. The employee took long-term leave and never returned, citing the stress his supervisor caused him.
7/20/20	Daniel Sarauer v. International Association of Machinists and Aerospace Workers, District 10	19-3142	IAMAW. Barrett joined the court in affirming the court's dismissal in favor of IAMAW, remanding the case to state court	Conflict over whether Wisconsin's right-to-work law invalidated a union security agreement; additional conflict over whether or not the case should be handled under state or federal jurisdiction
9/10/18	Gary Cleven v. Paul R. Soglin et. al.	17-3332	Paul R. Soglin, et. al. Barrett wrote the opinion upholding the judgment of the district court for the state.	Gary Cleven was a public employee in Madison, WI, who was incorrectly marked as an independent contractor when his state employment began. The mistake was rectified twenty years later, but led to a subsequent dispute about overdue contributions to the employee trust fund. A two year legal battle ensued; during this battle, the state did not backlog twenty years of backpay, letting the dispute play out. Cleven alleged the delay in the back wages functionally deprived him of a few years of retirement as the case wore on.

4/8/19	Brock Indus. Servs., LLC v. Constr. & Gen. Laborers Local 100	17-2597 & 17-2688	Brock Industrial Services. Barrett joined the court in reversing the lower court's ruling and dismissing the cross-appeal in favor of Brock	Conflict over whether the Review Subcommittee of the National Maintenance Agreement Policy Committee had jurisdiction over a labor dispute
9/20/19	Buford v. Laborers' Int'l Union Local 269	19-1266	Laborers' Local 269. Barrett joined the court in affirming the lower court's decision in favor of Local 269	A man sued his union for opting not to file a grievance against his employer on claims of racial discrimination
3/26/18	Reliford v. Advance/Newhouse P'ship	17-2227	Advance/Newhouse. Barrett joined the court in affirming the district court's judgment in favor of Advance	A woman claimed her employer retaliated against her in violation of discrimination protections
7/16/20	Adam Delgado v. U.S. Department of Justice	19-2239	Delgado. Barrett voted to vacate and remand the Merit System Protections Board's ruling.	An ATF Agent sought protection under Federal Whistleblower Protection Act for retaliation he believed he suffered as a result of reporting his suspicions that another ATF agent may have committed perjury. The Merit System Protections Board had denied relief.
9/10/18	EEOC v. Costco Wholesale Corp	17-304017-2432 & 17-2454	Mixed. Barrett wrote the opinion which remanded the case to district court to decide whether the woman was entitled to backpay during her unpaid leave, but declared she was not entitled to backpay after Costco fired her.	A woman employed at Costco was stalked by a customer for over a year. She got a restraining order, but was so traumatized by the experience she took unpaid medical leave. When she did not come back, Costco terminated her employment. EEOC sued on the woman's behalf for backpay. The district court denied backpay, but did not judge in favor of Costco either, both parties appealed.
12/17/19	University of Chicago v. National Labor Relations Board	18-3659 & 19-1146	NLRB. Barrett voted to uphold the NLRB's decision	The University of Chicago asked the National Labor Relations Board to consider certain evidence in a dispute with employees who wanted to bargain collectively. The NLRB denied admittance to the evidence as it would not "sustain the University's position." The University appealed.
3/6/19	Anthony Sansone v. Megan J. Brennan, US Postmaster General	17-2534 & 17-3632	Brennan. Barrett wrote the opinion vacating a district court judgment in favor on Sansone on the basis that the treatment of an expert witness was prejudicial against USPS.	Tony Sansone, who worked for USPS since 1981 and is wheelchair-bound, sued USPS for failing to accommodate his disability with an accessible parking space.
7/16/20	Scott McCray v. Robert Wilkie	19-3145	Mixed. Barrett joined the court in affirming and reversing in part the dismissal of McCray's compliant	A VA employee sued for failure to accommodate his disabilities under the Rehabilitation Act of 1973
12/24/20	Youngman v. Peoria County	18-2544	Peoria County. Barrett joined the court in affirming the lower court's decision in favor of Peoria County	A man sued his former employer for failure to accommodate his disability; the lower court ruled that the plaintiff was "responsible for the breakdown of the interactive process required by the ADA."
8/7/19	Lavite v. Dunstan	18-3465	Dunstan. Barrett joined the court in affirming the ruling of the lower court in affirming the	A combat veteran sued after his state workplace banned him from the building following a PTSD episode.

			ruling of the district court in favor of Dunstan (the employer)	
6/30/20	Reese v. Krones, Inc.	19-3195	Krones, Inc. Barrett joined the court in affirming the ruling of the lower court in favor of Krones	A man sued his former employer for failure for accommodate his disability as well as age discrimination
5/20/20	Bumphus v. Unique Personnel Consultants	19-2621	Unique Personnel Consultants. Barrett joined the court in affirming the ruling of the lower court in favor of Unique Personnel Consultants	A man sought to contest the rejection of his claims for wrongful termination under the Americans with Disabilities Act
5/20/20	Moens v. City of Chicago	19-1913	City of Chicago. Barrett joined the court in affirming the ruling of the lower court in favor of City of Chicago	A woman challenged her termination for absenteeism alleging disability discrimination and harassment
7/19/19	Oesterlin v. Cook County Sheriff's Department	18-3228	Cook County Sheriff's Dept. Barrett joined the court in affirming the ruling of the lower court in favor of the Cook County Sheriff's Department.	A man was fired from his job with the Cook County Sheriff's Department, which he claimed was unconstitutional; on appeal he argued various challenges, including First Amendment retaliation
4/24/19	Betts v. United Airlines Inc.	18-3336	United Airlines. Barrett joined the court in affirming the lower court's decision in favor of United Airlines	A woman was fired from her job after failing two alcohol tests; she challenged the arbitration award which also found in United Airlines' favor
4/11/19	Nayak v. Farley and Voith Holding Inc.	18-3098 & 18-3120	Farley and Voith Holding Inc. Barrett joined the court in dismissing appeals and affirming the judgment in favor of Voith	A former employee filed several lawsuits against Voith Turbo; all were dismissed on various grounds
2/12/19	Chaudhry v. Amazon.com.dedc LLC	18-1849	Amazon. Barrett joined the court in affirming the lower court's decision in favor of Amazon	A former Amazon Fulfillment Center employee alleged discrimination, retaliation, and hostile work environment under the Americans with Disabilities Act; the court ruled her lawsuit frivolous
6/25/18	Teledyne Techs. Inc. v. Shekar	17-2171	Telodyne Tech. Barrett joined the court in affirming the lower court's decision in favor of Teledyne Tech	"Teledyne Technologies fired Raj Shekar from his job as a marketing and sales manager. Shekar did not go quietly—he took Teledyne's property with him and flouted the district court's order that he return it. The court held him in civil contempt, but even that did not inspire his obedience. Instead of complying with the court's order, Shekar engaged in a campaign of defiance, deceit, and delay. The court's patience finally ran out: it found that Shekar had failed to purge himself of contempt and entered sanctions against him. Despite the utter lack of respect that Shekar has shown for the judicial process throughout this entire suit, he now asks us to reverse the district court's judgment. We affirm it."

6/25/18	Hurn v. Macy's Inc.	17-3055	Macy's. Barrett joined the court in affirming the lower court's decision in favor of Macy's	"David Hurn brought several employment-related claims in arbitration against his former employer, Macy's, Inc. The arbitrator entered an award for Macy's. Hurn challenged that award in the district court, and the district judge confirmed it. Because nothing in the record supports a valid ground for vacating the award, we affirm."

Methodology: *Accountable.US reviewed all cases Amy Coney Barrett heard during her time on the U.S. Court of Appeals for the 7th Circuit and analyzed her position on any case in which an individual or group of workers stood opposite an employer. Once each relevant opinion was catalogued, Accountable.US calculated the percentage of cases in which Barrett ruled in favor of the employer.*

Amy Coney Barrett Authored An Opinion To Force Grubhub Workers Into Arbitration For Their Overtime Pay Disputes—The Ruling Was Seen As A "Pivotal Victory" For Gig Companies For Its "Wide-Sweeping Rationale."

Amy Coney Barrett Wrote An Opinion Forcing Grubhub Workers Into Arbitration Over Claims The Company Wrongly Misclassified Them As Independent Contractors And Denied Them Overtime Pay.

Amy Coney Barrett Wrote The 7th Circuit Opinion For Carmen Wallace Et Al. V. Grubhub Holdings, Inc. And Grubhub Inc., Decided August 4, 2020. [Opinion, Carmen Wallace et al. v. Grubhub Holdings, Inc., and Grubhub, Inc., Case Nos. 19-1564 & 19-2156, 08/04/20]

At Dispute Was Whether Or Not Grubhub's Workers Are Covered By A Federal Arbitration Act (FAA) Exemption For 'Any Other Class Of Workers Engaged In Foreign Or Interstate Commerce." "Section 1 of the Federal Arbitration Act exempts from the Act's coverage 'contracts of employment' of two enumerated categories of workers—'seamen' and 'railroad employees.' But it also exempts the contracts of a residual category—'any other class of workers engaged in foreign or interstate commerce.' This appeal requires us to decide whether food delivery drivers for Grubhub are exempt from the Act under § 1's residual category." [Opinion, Carmen Wallace et al. v. Grubhub Holdings, Inc., and Grubhub, Inc., Case Nos. 19-1564 & 19-2156, 08/04/20]

- **Grubhub Is An "'Online And Mobile Food-Ordering And Delivery Marketplace.'"** "Grubhub calls itself an 'online and mobile food-ordering and delivery marketplace.' It provides a platform for diners to order takeout from local restaurants, either online or via its mobile app." [Opinion, Carmen Wallace et al. v. Grubhub Holdings, Inc., and Grubhub, Inc., Case Nos. 19-1564 & 19-2156, 08/04/20]

Grubhub's Workers, Which The Company Classifies As Independent Contractors, Filed Two Suits Alleging The Company Violated The Fair Labor Standards Act By Failing To Pay Overtime. "Grubhub considers its drivers to be independent contractors rather than employees entitled to the protections of the Fair Labor Standards Act. The plaintiffs in these consolidated appeals—who worked as drivers in cities including Chicago, Portland, and New York—disagree. Between them, they filed two suits against Grubhub, alleging, among other things, that Grubhub violated the Fair Labor Standards Act by failing to pay them overtime." [Opinion, Carmen Wallace et al. v. Grubhub Holdings, Inc., and Grubhub, Inc., Case Nos. 19-1564 & 19-2156, 08/04/20]

- **The Grubhub Workers Asserted The Company Misclassified Them As Independent Contractors.** "The case began when two Grubhub drivers, Carmen Wallace and Broderick Bryant, brought a proposed class action claim against the company, alleging they were misclassified as contractors and should have been paid as employees." [JD Supra, 08/10/20]

Grubhub Moved To Compel Arbitration In Both Cases, And The Workers Appealed To The 7th Circuit, Arguing The FAA Protected Them From Being Forced into Arbitration. "In both cases, Grubhub moved to compel arbitration, and in both cases, the plaintiffs responded that the district court could not compel them to arbitrate because, as 'workers engaged in foreign or interstate commerce,' their contracts with Grubhub were exempt from the Federal Arbitration Act (FAA). Both district courts concluded that the FAA applied and compelled arbitration." [Opinion, Carmen Wallace et al. v. Grubhub Holdings, Inc., and Grubhub, Inc., Case Nos. 19-1564 & 19-2156, 08/04/20]

Barrett Affirmed The District Court's Rulings Against The Grubhub Workers. "Accordingly, the judgments are AFFIRMED." [Opinion, Carmen Wallace et al. v. Grubhub Holdings, Inc., and Grubhub, Inc., Case Nos. 19-1564 & 19-2156, 08/04/20]

Although The Grubhub Workers' Argument Was Based On A 2019 Supreme Court Decision That Protected Independent Contractors From Arbitration, Amy Coney Barret's Opinion Argued They "Completely Ignore The Governing Framework" Of That Precedent.

The Grubhub Workers' Case Cited A 2019 Supreme Court Ruling That Applied The Federal Arbitration Act's (FAA's) Interstate Commerce Exemption For Independent Contractors. "The drivers cited the *New Prime* decision and argued that they were exempt from arbitration because of the same transportation-worker exemption in the FAA that won the day for the New Prime drivers. While they didn't say that they physically crossed state lines while delivering food, they claimed that they were engaged in interstate commerce through their work by shuttling food that had, at one point, been delivered across state lines." [JD Supra, 08/10/20]

- **In 2019, The Supreme Court's *New Prime V. Oliveira* Ruled That The FAA's Interstate Commerce Exemption Covered "'Contracts Of Employment Of Workers Engaged In Interstate Commerce'"** "Last year, the Supreme Court ruled in *New Prime v. Oliveira* that the Federal Arbitration Act's (FAA's) exemption that excludes those with 'contracts of employment of workers engaged in interstate commerce' from arbitration includes workers with independent contractor agreements." [JD Supra, 08/10/20]

Barrett's Opinion Centered On The Question Of Whether Or Not Interstate Movement Of Goods Was "A Central Part Of The Class Members' Job Description." "To determine whether a class of workers meets that definition, we consider whether the interstate movement of goods is a central part of the class members' job description." [Opinion, Carmen Wallace et al. v. Grubhub Holdings, Inc., and Grubhub, Inc., Case Nos. 19-1564 & 19-2156, 08/04/20]

Barrett's Opinion Said The Grubhub Workers' Argument "Completely Ignore The Governing Framework" Of The 2019 Supreme Court Precedent. "The plaintiffs in today's case, however, completely ignore the governing framework. Rather than focusing on whether they belong to a class of workers actively engaged in the movement of goods across interstate lines, the plaintiffs stress that they carry goods that have moved across state and even national lines. A package of potato chips, for instance, may travel across several states before landing in a meal prepared by a local restaurant and delivered by a Grubhub driver; likewise, a piece of dessert chocolate may have traveled all the way from Switzerland. The plaintiffs insist that delivering such goods brings their contracts with Grubhub within § 1 of the FAA." [Opinion, Carmen Wallace et al. v. Grubhub Holdings, Inc., and Grubhub, Inc., Case Nos. 19-1564 & 19-2156, 08/04/20]

Barrett's Opinion Said, "The Workers Must Be Connected Not Simply To The Goods, But To The Act Of Moving Those Goods Across State Or National Borders." "But to fall within the exemption, the workers must be connected not simply to the goods, but to the act of moving those goods across state or national borders. Put differently, a class of workers must themselves be 'engaged in the channels of foreign or interstate commerce.'" [Opinion, Carmen Wallace et al. v. Grubhub Holdings, Inc., and Grubhub, Inc., Case Nos. 19-1564 & 19-2156, 08/04/20]

Barrett's Opinion Said The Grubhub Workers "Did Not Even Try" To Show They Were Covered By What She Called The FAA's "Narrow" Interstate Exemption. "Section 1 of the FAA carves out a narrow exception to the obligation of federal courts to enforce arbitration agreements. To show that they fall within this exception, the plaintiffs had to demonstrate that the interstate movement of goods is a central part of the job description of the class of workers to which they belong. They did not even try do that, so both district courts were right to conclude that the plaintiffs' contracts with Grubhub do not fall within § 1 of the FAA." [Opinion, Carmen Wallace et al. v. Grubhub Holdings, Inc., and Grubhub, Inc., Case Nos. 19-1564 & 19-2156, 08/04/20]

Amy Coney Barrett's Opinion Was Called A "Pivotal Victory" For Gig Companies Due To Its "Wide-Sweeping Rationale."

Headline: Federal Appeals Court Hands Gig Companies Best New Prime News Yet, Requiring Grubhub Workers To Arbitrate Dispute. [JD Supra, 08/10/20]

The Decision Was Called A "Pivotal Victory" For Gig Economy Companies And "The Most Significant Yet" For Its "Wide-Sweeping Rationale." "A federal appeals court just handed Grubhub – and gig economy companies in general – a pivotal victory by narrowly interpreting an exception allowing certain transportation workers (including independent contractors) to escape arbitration agreements. The 7th Circuit Court of Appeals joined a Massachusetts federal court by ruling that gig workers cannot avoid arbitration provisions by claiming they are exempt transportation workers. But what makes this ruling the most significant yet is not just simply because it came from a federal appeals court instead of a lower district court, but because of the wide-sweeping rationale used to justify the decision. What do gig economy businesses need to know about this ruling?" [JD Supra, 08/10/20]

The Ruling Was Called "Terrific News For Gig Economy Businesses In Illinois, Indiana, And Wisconsin" And Seen As Relief For Gig Companies Elsewhere. "This ruling is terrific news for gig economy businesses in Illinois, Indiana, and Wisconsin, all under the purview of the 7th Circuit Court of Appeals. They can feel comfortable that all workers whose jobs do not center on the interstate movement of goods will be subject to any valid arbitration agreements they have entered into. For gig businesses elsewhere, this news is still pretty good. You now have authority from a federal appeals court supporting the validity of your arbitration agreements without having to engage in a detailed fact-specific analysis like the Massachusetts federal court required." [JD Supra, 08/10/20]

Amy Coney Barrett's Opinion Created A Circuit Split, Increasing The Likelihood The Supreme Court Would Weigh In On Gig Companies' Arbitration Agreements.

The 7th Circuit Decision Conflicted With The 3rd Circuit's Ruling Against Uber's Arbitration Agreements , Increasing The Likelihood Of The Supreme Court Intervention. "However, note that we now have a true split of the circuits, as the 3rd Circuit's ruling (covering New Jersey, Pennsylvania, and Delaware) runs contrary to this court's decision. Might we one day see the Supreme Court stepping in to take the next step in the *New Prime* battle and resolve the circuit split? The chances of that happening have now increased with this ruling." [JD Supra, 08/10/20]

The 3rd Circuit Court Of Appeals Previously Blocked Uber's Arbitration Agreements, Based On The FAA's Interstate Exemption. "While a Massachusetts federal court ruled in gig businesses' favor shortly thereafter in a ruling for DoorDash, the 3rd Circuit Court of Appeals blocked Uber from enforcing its arbitration pact in New Jersey because of the FAA exemption." [JD Supra, 08/10/20]

Amy Coney Barrett Ruled Against A Facebook Worker Who Tried To File A Collective Action (Similar To A Class Action) For Overtime Violations—The Decision Was Seen As "A Win For Employers" And "A Blow To Plaintiff-Employees" Trying To File Fair Labor Standards Act Class Actions.

Amy Coney Barrett Ruled Against A Facebook Worker Who Started A Collective Action (Similar To A Class Action) Against The Company Over Overtime Violations—Barrett's Court Struck Down A District Court's Order To Have Action Notices Sent To All Of The Worker's Similarly-Situated Colleagues.

Amy Coney Barrett Was On The Panel Of 7th Circuit Judges Who Heard Susie Bigger V. Facebook, Inc., Decided on January 24, 2020. [Opinion, Bigger v. Facebook, Inc., Case No. 19-1944, 01/24/20]

The Fair Labor Standards Act (FLSA) Requires Employers To Pay Overtime Wages To Certain Workers And Also Allows Workers To Bring Collective Actions—Similar To Class Actions—On Behalf Of Themselves And " 'Similarly Situated'" Employees. "The Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201 et seq. ('FLSA'), requires employers to pay overtime wages to certain employees, see id. §§ 207(a), 213. For enforcement, the Act allows employees to sue their employer for damages and to bring the action on behalf of themselves and other 'similarly situated' employees, id. § 216(b), who may join the so-called 'collective action.'" [Opinion, Bigger v. Facebook, Inc., Case No. 19-1944, 01/24/20]

- **A Collective Action, Similar To A Class Action, Is A "Multiple-Plaintiff Suit Is Filed For Employees Alleging Violations Of Their Right To Minimum Wage Or Overtime Pay Under The Fair Labor Standards Act."** "A different type of multiple-plaintiff suit is filed for employees alleging violations of their right to minimum wage or overtime pay under the Fair Labor Standards Act ('FLSA'). Under the FLSA, any injured employee may maintain a collective action against the employer. Unlike certification for a class action, certification for a collective action is significantly easier." [Siegel & Dolan LTD, accessed 10/08/20]

Facebook Employee Susie Bigger Sued The Company For Overtime Violations On Behalf Of Herself And Her Class Of Similarly Situated Workers, And The District Court Authorized Notifications To Be Sent To Those Workers. "Facebook employee Susie Bigger sued Facebook for violations of the FLSA overtime-pay requirements. She brought the action on behalf of herself and all other similarly situated employees. The district court authorized notice of the action to be sent to the entire group of employees Bigger proposed." [Opinion, Bigger v. Facebook, Inc., Case No. 19-1944, 01/24/20]

The 7th Circuit Vacated And Remanded The District Court's Order To Notify Facebook Employees Of The Collective Action, Ruling That Courts May Not Order Class Action Notices To Employees With Valid Arbitration Agreements. "Because the district court here did not apply this framework, we vacate the court's order issuing notice and we remand for the court to apply the proper standard. We also affirm the court's denial of summary judgment to Facebook." ." [Opinion, Bigger v. Facebook, Inc., Case No. 19-1944, 01/24/20]

- **The Ruling Held That Courts May Not Authorize Collective Action Notices To Employees With Valid Arbitration Agreements.** "Given these considerations, we conclude that a court may not authorize notice to individuals whom the court has been shown entered mutual arbitration agreements waiving their right to join the action. And the court must give the defendant an opportunity to make that showing." [Opinion, Bigger v. Facebook, Inc., Case No. 19-1944, 01/24/20]

Susie Bigger Was A "Client Solutions Manager" Focused On Selling Advertisements On Facebook's Platforms. "Facebook generates revenue by selling advertisements on its electronic platforms. To help clients navigate various advertising options—which Facebook calls 'solutions' to client objectives—Facebook employs 'sales teams, or 'pods.' Sales pods are made up of managers; 'Client Partners'; and 'Client Solutions Managers,' or 'CSMs.' Susie Bigger was a CSM. The CSM role was created by merging two positions: one focusing on 'analytical work' (looking at data to make advertising recommendations), and the other focusing on 'upselling' (increasing advertisement sales to existing clients)." [Opinion, Bigger v. Facebook, Inc., Case No. 19-1944, 01/24/20]

Susie Bigger First Sued Facebook In 2017, Claiming That She And Others In Her Position Should Be Eligible For Overtime Pay. "Facebook categorizes all CSMs into numbered 'Individual Contributor,' or 'IC,' levels based on the experience and expectations involved in each CSM position. CSMs in levels 1 and 2 are deemed eligible for overtime pay, while CSMs in levels 3 and higher are deemed overtime ineligible. Bigger was a level-4 CSM; when she worked over 40 hours in a week, she did not receive overtime compensation. In 2017, she brought an action against Facebook on behalf of herself and all other similarly situated employees. She claimed that, by not paying them overtime wages, Facebook violated the FLSA."

- **Bigger Herself Had Not Signed An Arbitration Agreement With A Class Or Collective Action Waiver.** "Because Bigger did not sign an arbitration agreement with a class or collective action waiver, she could bring an FLSA claim on behalf of herself and other CSMs. To counter, Facebook alleged that many of their CSMs had previously signed arbitration agreements preventing them from joining the class action." [American Bar Association, 04/08/20]

Facebook Argued It Would "Unfairly Amplify Settlement Pressure" If Collective Action Notices Were Sent To Workers With Arbitration Agreements Barring Them From Joining The Lawsuit—And Barrett's Opinion Was Sympathetic.

Facebook Claimed That The Collective Action Notifications Were Improper Because The Other Workers Had Signed Arbitration Agreements Blocking Them From Joining The Lawsuit. "Facebook argued this authorization was improper because many of the proposed notice recipients had entered arbitration agreements precluding them from joining the action. Facebook also argued the court's authorization of notice was improper because Facebook is entitled to summary judgment." [Opinion, Bigger v. Facebook, Inc., Case No. 19-1944, 01/24/20]

Facebook Argued That The District Court Abused Its Discretion by Ordering The Collective Action Notice And, As The Opinion Put It, Would "Unfairly Amplify Settlement Pressure" Against The Company. "Arguing that the court abused its discretion by authorizing notice to the proposed group of employees, Facebook gives the following reasoning: Most employees in the group entered arbitration agreements waiving their right to participate in the action. Those agreements make the employees who entered them neither 'potential plaintiffs' nor "similarly situated" to Bigger. Thus, the notice would misinform most recipients—by indicating that they may join the action when, in truth, they may not—and the notice would unfairly amplify settlement pressure." [Opinion, Bigger v. Facebook, Inc., Case No. 19-1944, 01/24/20]

The Opinion Said, "Collective Actions Also Present Dangers," Arguing "Expanding The Litigation With Additional Plaintiffs Increases Pressure To Settle, No Matter The Action's Merits." "But collective actions also present dangers. Hoffmann–La Roche, 493 U.S. at 171. One is the opportunity for abuse of the collective-action device: plaintiffs may wield the collective action format for settlement leverage. See id. Generally speaking, expanding the litigation with additional plaintiffs increases pressure to settle, no matter the action's merits." [Opinion, Bigger v. Facebook, Inc., Case No. 19-1944, 01/24/20]

Amy Coney Barrett's Ruling Was Seen As "A Win For Employers" And "A Blow To Plaintiff-Employees" Trying To File Fair Labor Standards Act Collective Actions.

The Ruling Was Seen As "A Win For Employers Seeking To Enforce Mutual Arbitration Agreements." "In a win for employers seeking to enforce mutual arbitration agreements, the Seventh Circuit has joined the Fifth Circuit's ruling blocking employees with valid arbitration agreements from receiving court-authorized notice of collective action claims. Bigger v. Facebook, Inc., No. 19-1944 (7th Cir. 2020)." [American Bar Association, 04/08/20]

The Ruling Was Seen As A "Blow To Plaintiff-Employees Filing FLSA Collective Actions" Where Many Of Their Co-Workers Have Signed Arbitration Agreements. "The Bigger decision is a blow to plaintiff-employees filing FLSA collective actions in circumstances where many of their fellow employees have signed arbitration agreements. As of today, each of the two circuits to weigh in on the dispute has ruled that employees who signed arbitration agreements may not receive notice of the collective action." [American Bar Association, 04/08/20]

Barrett's Ruling Aligned With A 5th Circuit Ruling Against A Collective Action Begun By JPMorgan Chase Employees.

The 7th Circuit's Decision Avoided A Split With A 5th Circuit Decision Holding That JPMorgan Chase Employees With Valid Arbitration Agreements Should Not Have Received Collective Action Notices. "The decision of the Seventh Circuit avoids a circuit split with the Fifth Circuit. In *In re JPMorgan Chase & Co.,* No. 18-20825 (5th Cir.), notice was sent to 42,000 current and former workers in Chase Banks' call centers. Yet, 85 percent of the workers had signed arbitration agreements. The Fifth Circuit ruled that workers who signed valid arbitration agreements should not receive court-authorized notice." [American Bar Association, 04/08/20]

In An "Expansive Application" Of An Overtime Exemption Largely Meant For Interstate Truck Drivers, Amy Coney Barrett Wrote An Opinion Denying Overtime To Local Truck Drivers Who Had Only A "'Remote'" Chance Of Interstate Assignments.

Amy Coney Barrett Wrote An Opinion Ruling Against Former Contract Service Transport Services LLC (CTS) Drivers Who Sued The Company For Overtime Violations Under The Fair Labor Standards Act (FLSA).

Amy Coney Barrett Wrote The 7th Circuit Opinion For Burlaka Et Al. V Contract Transport Services LLC, Decided On August 21, 2020. [Leonid Burlaka et al. v. Contract Transport Services LLC, Case No. 19-1703, 08/21/20]

The Case Was Brought By Truck Drivers Who Claimed Contract Transport Services (CTS) Failed To Pay Overtime Wages, In Violation Of The Fair Labor Standards Act (FLSA). "Leonid Burlaka, Timothy Keuken, Travis Frischmann, and Roger Robinson are truck drivers who brought individual, collective, and class action claims against Contract Transport Services (CTS), their former employer, for failing to provide overtime pay in violation of the Fair Labor Standards Act (FLSA), which requires overtime pay for any employee who works more than forty hours in a workweek." [Leonid Burlaka et al. v. Contract Transport Services LLC, Case No. 19-1703, 08/21/20]

Amy Coney Barrett's Opinion Affirmed A District Court's Judgement In Favor Of CTS. "Because the evidence establishes that plaintiffs were subject to performing spotting duties that comprised one leg of a continuous interstate journey, the district court's grant of summary judgment is AFFIRMED." [Leonid Burlaka et al. v. Contract Transport Services LLC, Case No. 19-1703, 08/21/20]

The Truck Drivers Argued They Should Not Be Held Under An Overtime Exemption Intended For Interstate Drivers Because They Were Local "Spotters" Who Had Only A "'Remote'" Chance Of Being Assigned Interstate Assignments,

The Motor Carrier Act (MCA) Includes An Overtime Exemption For Drivers Under The Secretary Of Transportation's Jurisdiction—This "MCA Exemption" Is Meant To Prevent Drivers From Spending An Excessive Number Of Hours On The Road. "The entitlement to overtime pay, however, is not absolute: as relevant here, the statute exempts employees who are subject to the Secretary of Transportation's jurisdiction under the Motor Carrier Act (MCA). 29 U.S.C. § 213(b)(1). This carveout is known as the 'MCA exemption,' and its rationale is safety. It is dangerous for drivers to spend too many hours behind the wheel, and 'a requirement of pay that is higher for overtime service than for regular service tends to ... encourage employees to seek' overtime work." [Leonid Burlaka et al. v. Contract Transport Services LLC, Case No. 19-1703, 08/21/20]

The MCA Exemption Generally Applies Interstate Carriers And Their Drivers Who, As The DOT States, "'Could Reasonably Have Been Expected To Make One Of The Carrier's Interstate Runs.'" "As the Department of Transportation has explained through a notice of interpretation, the MCA exemption applies even to drivers who have not driven in interstate commerce so long as they are employed by a carrier that 'has engaged in interstate commerce and that the driver could reasonably have been expected to make one of the carrier's interstate runs.'" [Leonid Burlaka et al. v. Contract Transport Services LLC, Case No. 19-1703, 08/21/20]

The Drivers Argued They Were Only Assigned To "Spotting Duties," Which Include Local Transportation Of Loaded And Empty Trailers "Over Short Distances Among And Within Clients' Facilities." "The plaintiffs, on the other hand, insist that they asked to be assigned only to spotting duties and that CTS, respecting that request, did not reprimand them for turning down over-the-road assignments. Thus, they say, longer hauls were not actually within the scope of their employment." [Leonid Burlaka et al. v. Contract Transport Services LLC, Case No. 19-1703, 08/21/20]

- **CTS' Spotting Duties Include Transportation Of Loaded And Empty Trailers Over Short Distances Among And Within Clients' Facilities."** "It employs drivers that provide both over-the-road services—transportation of clients' goods over long distances (up to 500 miles) within and across state lines—as well as yard management and spotting services—transportation of loaded and empty trailers over short distances among and within clients' facilities." [Leonid Burlaka et al. v. Contract Transport Services LLC, Case No. 19-1703, 08/21/20]

The Drivers Argued There Was "Only A 'Remote' Chance That They'd Be Sent On Interstate Runs." "First, they argue that as spotters, they were not likely to be given over-the-road assignments. Thus, they claim, there was only a 'remote' chance that they'd be sent on interstate runs." [Leonid Burlaka et al. v. Contract Transport Services LLC, Case No. 19-1703, 08/21/20]

The Drivers Argued That There Was Only A Weak Link Between Their Spotting Duties And CTS' Interstate Operations. "The plaintiffs also argue that any link between their spotting services and the interstate shipment is too attenuated to form a continuous interstate journey. They emphasize that the interstate shipment process entailed several steps between the initial spotting and the eventual delivery of the goods across state lines." [Leonid Burlaka et al. v. Contract Transport Services LLC, Case No. 19-1703, 08/21/20]

CTS Argued The Overtime Exemption Should Apply To The Drivers Merely Because They Were Subject To Over-The-Road Assignments.

CTS Argued That The Drivers Could Have Been Assigned Over-The-Road Duties, And That Was Enough To Subject Them To The MCA Exemption. "CTS contends that the scope of the plaintiffs' employment included over-the-road driving—which matters because merely being subject to over-the-road assignments would be enough to render the plaintiffs subject to the MCA exemption." [Leonid Burlaka et al. v. Contract Transport Services LLC, Case No. 19-1703, 08/21/20]

Amy Coney Barrett's Opinion Argued The Drivers Should Be Subject To The Overtime Exemption Because "At Least Some Spotters Drove Trailers Carrying Finalized Goods Destined For Out-Of- State Delivery"—It Was Seen As An "Expansive Application" Of The Exemption.

Amy Coney Barrett's Opinion Argued That Because "At Least Some Spotters Drove Trailers Carrying Finalized Goods Destined For Out-Of- State Delivery," They Should Be Subject To The MCA Exemption. "These facts plainly demonstrate that at least some spotters drove trailers carrying finalized goods destined for out-of- state delivery. Such a service, even if purely intrastate and interrupted briefly, would nevertheless constitute 'driving in interstate commerce' because it would be part of the goods' continuous interstate journey." [Leonid Burlaka et al. v. Contract Transport Services LLC, Case No. 19-1703, 08/21/20]

One Legal Expert Said Amy Coney Barrett's Ruling Was An "Expansive Application Of The Motor Carrier Act Exemption From The FLSA." "Richard Reibstein, a partner with Locke Lord LLP and co-head of its independent contractor misclassification and compliance practice, said Judge Barrett's Wallace opinion was consistent with a limited application of the FAA's Section 1, but her decision in the Burlaka case was based on an 'expansive application of the Motor Carrier Act exemption from the FLSA.'" [Law360, 09/29/20]

V. CONEY BARRETT SIDED WITH THOSE ACCUSED OF DISCRIMINATION IN NEARLY NINE OUT OF EVERY 10 CASES

DISCRIMINATION: Amy Coney Barrett Sided With Entities Accused Of Discrimination 85% Of The Time During Her Tenure On The 7th Circuit Court Of Appeals

Amy Coney Barrett Sided With Entities Accused Of Discrimination In 85% Of Cases.

On The Bench, Barrett Sided With Entities Accused Of Discrimination 85% Of The Time.

Of The 47 Discrimination Cases That Came Before Barrett's Court, She Sided With Defendants 85% Of The Time (40 Out Of 47 Cases.)
NOTE: Red in the chart below denotes a decision benefitting corporations. Blue denotes benefitting individuals. White is neutral.

OPINION DATE	CASE TITLE	CASE NUMBER	BARRETT'S VOTE	DESCRIPTION
11/8/19	David Lee v. Northeast Illinois Regional Commuter Railroad Corporation	18-1930	Barrett voted to affirm the District Court's decision to dismiss the case - the ruling the company was seeking.	Employees of METRA sued the company alleging various forms of discrimination. Their filings were deemed to have substantial deficiencies and the case was ultimately dismissed by the District court.
1/22/19	Dale E. Kleber v. CareFusion Corporation	17-1206	Barrett was in the minority affirming the district court ruling in favor of CareFusion	Job applicant sued CareFusion for age discrimination; dispute over whether ADEA protections apply to job applicants or just employees
8/6/20	James Graham, Jr. v. Arctic Zone Iceplex, LLC	18-3508	Barrett wrote opinion affirming judgment in favor of Arctic Zone	Former employee alleged Artic Zone failed to accommodate his work-induced disability and then fired him for it
9/4/18	Ray K. Haynes v. Indiana University, et al	17-2890	Barrett joined the court in affirming the district court's judgment in favor of Indiana University	A black professor alleged he was denied tenure on the basis of race
10/22/18	Robert Smith v. Rosebud Farm, Inc. d/b/a Rosebud Farmstand	17-2626	Barrett wrote opinion affirming judgment in favor of Smith	District Court found in favor of a Black man who alleged racial and sexual discrimination from other men during work; Rosebud challenging the judgment on procedural grounds
1/24/20	Vicki Barbera v. Pearson Education, Inc.	18-1085	Barrett joined the court in affirming the district court's ruling in favor of Pearson	A woman alleged she was not given the same severance pay options as her male colleagues; she appealed on procedural grounds over a lost email exchange
7/17/19	Lawrence L. Pickett v. Chicago Transit Authority	18-2785	Barrett joined the court in affirming the district court's ruling in favor of Chicago Transit Authority	Bus driver claimed age discrimination after being reassigned from light-duty tasks
6/26/20	Lisa Purtue v. Wisconsin Department of Corrections	19-2706	Barrett wrote opinion upholding the district court's judgment in favor of Wisconsin DOC	Correctional officer alleged sex discrimination after she was fired

4/7/20	Lydia Vega v. Chicago Park District	19-1926 & 19-1939	Barrett wrote opinion affirming all of the district court's ruling, except for the calculation of Vega's tax calculation award, which it vacated and remanded.	Lydia Vega worked for the Chicago Park District from 1986 to 2012. In 2012, she began getting anonymous calls accusing her of time theft and investigators began constantly surveilling her—252 times over the course of 56 days. Vega complained of unfair treatment as she tried to resolve this with HR. After her firing, she sued the District for discrimination and the district court ultimately awarded her about $530,000. The Park District appealed multiple aspects of the ruling, including the maximum damages award and several evidentiary rulings.
8/21/19	Terry Smith v. Illinois Department of Transportation	18-2948	Barrett wrote opinion upholding the district court's summary judgment in favor of the DOT	Former Illinois DOT employee Terry Smith alleged he was fired as retaliation for racial discrimination complaints and was subjected to a hostile work environment. Smith alleged the district court wrongly disallowed testimony from an industrial relations expert and a former supervisor.
9/3/20	Ware v. Illinois Department of Corrections	19-3521	Barrett joined the court in affirming the district court's judgment in favor of Illinois Department of Corrections	Employee and union leader appealed district court's decision to dismiss a second lawsuit against IDOC for age discrimination, harassment, and retaliation; the first action was for racial discrimination
8/27/20	Penny v. Lincoln's Challenge Acad.	19-3168	Barrett joined the court in affirming the district court's judgment in favor of Lincoln's Challenge Academy	Penny claimed his employer fired him for opposing disability discrimination against a coworker
8/14/20	Lewandowski v. City of Milwaukee	19-2995	Barrett joined the court in affirming the district court's judgment in favor of the City of Milwaukee; "Our decision should not be interpreted as saying that the City has definitively shown that no discrimination or retaliation occurred. Rather, Lewandowski's litigating tactics have failed to engage with the district court's reasoning, and she has failed to show a reversible error on any issue she presented fairly to the district court."	Former Milwaukee police officer alleged the department discriminated and retaliated against her based on sex
6/27/19	Fields v. Bd. of Educ. of City of Chicago	17-3136	Barrett joined the court in affirming the district court's judgment in favor of Board of Education	Retired teacher sued Board of Education on the basis of race and age and retaliated against her for the lawsuit
6/11/19	Nestorovic v. Metro. Water Reclamation Dist.	18-2562	Barrett joined the court in dismissing Nestrorovic's appeal	Employee alleged sex and disability discrimination; the appeal was litigating whether she could file an appeal after the deadline had passed
5/8/19	Yelena Levitin and Chicago Surgical Clinic, LTD v. Northwest Community Hospital, et al	16-3774	Barrett voted to affirm the District Court's ruling in favor of the hospital.	Dr. Yelena Levetin sued Northwest Community Hospital after they terminated her practice privileges. Levetin claimed the hospital had discriminated against her based on her sex, religion and ethnicity under Title VII of the Civil Rights Act.

				The District Court ruled in favor of the hospital, finding that as Levetin was not a hospital employee, she was precluded from making a Title VII claim.
2/13/18	Grussgott v. Milwaukee Jewish Day School, Inc.	17-2332	Barrett joined the court in affirming the district court's judgement in favor of Milwaukee Jewish Day School	Employee claimed disability discrimination following brain tumor treatment; court ruled that because she was a religious teacher (which she disputed), ADA protections did not apply
3/23/18	Thomas v. Bridgeview Bank Group	17-2696	Barrett joined the court in affirming the lower court's ruling in favor of Bridgeview Bank Group	A man alleged he was fired for his disability; he appealed eight months later on the basis he did not receive notification of dismissal
2/1/18	Lundy v. Hebron House of Hosp., Inc.	17-2388	Barrett joined the court in dismissing Lundy's appeal in favor of Hebron House	A Black woman filed suit against a homeless shelter under the Fair Housing Act, alleging racial discrimination
2/1/18	Lofton v. SP Plus Corp	17-1745	The District court dismissed this case due to lack of standing, agreeing with SP Plus Corporation. Barrett voted to vacate that judgment and remand the case to state court.	A class action suit alleging a parking company violated the Fair and Accurate Credit Transaction Act (FACTA)
11/21/17	United States Equal Employment Opportunity Commission v. Autozone, Inc. and AutoZoners, LLC	15-3201	Barrett voted against hearing this case en banc, thus affirming the ruling In AutoZone's favor	AutoZone transferred a black employee out of a store in a predominantly Hispanic neighborhood. The employee sued saying he was transferred based on racial considerations. The District Court and the Appellate Court both held for AutoZone; this case denied a subsequent en banc hearing in the 7th Circuit
7/30/18	Charmaine Hamer v. Neighborhood Housing Services of Chicago and Fannie Mae	15-3764	Neighborhood Housing Services of Chicago and Fannie Mae. Barrett joined the court in affirming the district court's ruling in favor of Neighborhood Housing Services and Fannie Mae.	A former Fannie Mae Mortgage Help Center employee alleged discrimination and retaliation under the Civil Rights Act of 1964 and the Age Discrimination in Employment Act
11/1/18	Robert Young v. Megan Brennan	18-1790	Barrett joined the court in upholding the lower court ruling there was no discrimination.	A man sued the USPS arguing that he was discriminated against based on his race, sex and age. The district court sided with USPS saying there was no discrimination.
7/16/20	Scott McCray v. Robert Wilkie	19-3145	Mixed. Barrett joined the court in affirming in part and reversing in part, saying McCray had a viable claim and could amend his complaint but dismissal was otherwise affirmed.	In this Rehabilitation Act action, dismissal of employee's complaint was reversed in part because factfinder might conclude 11-month delay in accommodating employee's disability was unreasonable as replacing van arguably was not an especially complex or burdensome accommodation and, indeed, the following year, new vans were given to all counselors.
8/28/20	Burton v. Bd. of Regents of Univ. of Wis. Sys.	20-1579	Barrett joined the court in affirming the district court's ruling in favor of University of Wisconsin System	Formerly tenured professor appealed the denial of a second motion to reopen her claims of sex discrimination

8/27/20	Griffin v. Board of Regents of University of Wisconsin System	20-1575	Barrett joined the court in affirming the district court's ruling in favor of Board of Regents	A black woman sued the Board of Regents for discriminatory admissions and tuition based on race, gender, and national origin
7/9/20	Harris v. YRC Worldwide, Inc.	19-1721 & 19-3255	Barrett joined the court in affirming the magistrate judge's ruling in favor of YRC	Various employees alleged discrimination under Title VII of the Civil Rights Act of 1964
7/1/20	Howard v. Defrates	19-3252	Barrett joined the court in affirming the district court's ruling in favor of Defrates (CVS)	A woman alleged age discrimination and retaliation against CVS; after the Illinois Department of Human Rights dismissed her claim, she sued the investigator, alleging bias in favor of the employer
4/29/20	Taylor-Reeves v. Marketstaff, Inc.	19-2620	Barrett joined the court in affirming the district court's dismissal in favor of Marketstaff	A black woman was fired for leaving work early with permission for a medical appointment, she sued for discrimination, sexual harassment, and retaliation
4/6/20	Rosas v. R.K. Kenzie Corp.	19-3040	Barrett joined the court in affirming the lower court's ruling in favor of Kenzie	A woman alleged discrimination against various fast food restaurants on the basis of race, age, and disability
9/18/19	Novotny v. Plexus Corp.	18-1745	Barrett joined the court in affirming the lower court's ruling in favor of Plexus	Novotny sued Plexus for employment discrimination while also petitioning for bankruptcy; when it was did not disclose the suit against Plexus in these proceedings, the judge found the omission intentional and dismissed the discrimination claim
9/13/19	Agüero v. Board of Trustees of the University of Illinois	19-1068	Barrett joined the court in affirming the lower court's ruling in favor of the Board of Trustees	University employee's contract was not renewed; she alleged racial and national-origin discrimination
5/20/19	Jones v. M/A Mgmt. Corp.	18-3667	Barrett voted to affirm the magistrate judge's ruling in favor of M/A	Plaintiff sought a reopening of his racial discrimination case against his landlord because he was in the hospital on the day of the discovery deadline
6/20/19	Jones v. Ill. Department of Children & Family Services	18-3457	Barrett joined the court in dismissing the appeal in favor of Illinois Department of Children and Family Services	A man who is hearing impaired sued his former employer for harassment, retaliation, and discrimination
4/26/19	Stephens v. Baker & McKenzie LLP	18-2375 & 18-296	Barrett joined the court in affirming the lower court's decision in favor of Baker & McKenzie LLP	A woman brought suit against her former employer on the basis of age, sex, and national-origin discrimination
4/24/19	Brown v. Wal-Mart Stores Inc.	18-2587	Barrett joined the court in affirming the district court's ruling in favor of Wal-Mart	A Black employee alleged he was fired for his race, color, and sex, and in retaliation for internal complaints against coworkers
4/24/19	Motley v. IAMAW Dist. Lodge 141	18-3230	Barrett joined the court in affirming the district court's ruling in favor of IAMAW	A former union member sued his union for racial discrimination after it opted not to arbitrate his firing
4/23/19	Phillips v. Baxter	18-1381	Mixed. Barrett joined the court in vacating the dismissal of Phillips' claims, but affirming in all other respects	A former Illinois Department of Human Services employee sued it and four supervisors for national-origin, and ethnicity

				discrimination, retaliation, conspiracy, and intentional infliction of emotional distress
3/28/19	Njie v. Dorethy	17-2771	Mixed. Barrett joined the court in affirming and vacating in part	A Rastafarian inmate sued the Hill Correctional Center for religious discrimination
4/24/19	Collins v. Barnes & Thornburg LLP	18-3362	Barrett joined the court in affirming the lower court's decision in favor of Barnes & Thornburg LLP	A former employee sued his former company for racial discrimination
2/11/19	Schlemm v. Carr	17-3110	Barrett joined the court in affirming the lower court decision in favor of the Wisconsin Department of Corrections	A Native American inmate re-appealed after his religious discrimination suit was found in his favor but was not allowed fresh game meat to make a traditional meal for Ghost Feast
3/21/19	Joseph v. Engleson	18-2627	Barrett joined the court in dismissing the appeal of Joseph in favor of prison officials	A Rastafarian inmate sued after prison guards forcibly removed him from his cell and cut his hair against his will
2/12/19	Davis v. Ford Motor Company and United Auto Workers	18-2109	Barrett joined court in affirming the lower court ruling in favor of Ford Motor Company and United Auto Workers	A woman sued her employer and union for racial and sex discrimination after they "denied her request to transfer from the work location at which she agreed to remain"
2/11/19	Rubin v. Sanchez	18-3483	Barrett joined the court in affirming the lower court's decision in favor of Sanchez (Illinois Department of Human Rights)	A man alleged he was the victim of a hate crime but the emergency line operator refused to record his call when he learned he was Jewish; he sued the investigatory agency for inadequate investigation
12/13/18	Ortiz-Quinones v. Cook County	17-2757	Barrett joined the court in affirming the lower court's ruling in favor of Cook County	A woman entered into a racial discrimination settlement but later said she signed it under duress
6/5/18	Covington v. National University	17-2508	Barrett joined the court in affirming the lower court's ruling in favor of National University	Covington appealed the dismissal of his claims of age and racial discrimination leading to revocation of his financial aid
7/26/19	Stepp v. Covance Central Laboratory	18-3292	Barrett joined the court in vacating the judgment on a failure-to-promote claim and remanding the case to the district court in favor of Stepp	Stepp alleged retaliation against him for earlier discrimination complaints

Methodology: *Accountable.US reviewed all cases Amy Coney Barrett heard during her time on the U.S. Court of Appeals for the 7th Circuit and analyzed her position on any case in which there was an allegation of discrimination. Once each relevant opinion was catalogued, Accountable.US calculated the percentage of cases in which Barrett ruled in favor of the party accused of discrimination.*

Amy Coney Barrett Voted Against Rehearing A Ruling On Racial Segregation That The Seventh Circuit Chief Judge Said Legalized The "Separate But Equal" Doctrine.

Case at Issue: *United States EEOC vs. AutoZone Inc., AutoZoners, LLC* (No. 15-3201)

Barrett Voted Against Rehearing A Case On Racial Segregation In AutoZone Stores That The 7th Circuit's Chief Judge Said Legalized A "Separate But Equal" Doctrine.

In 2017, The Equal Employment Opportunity Commission Sued AutoZone Over Allegedly Using "Race As A Determining Factor In Assigning Employees To Different Stores – For Example, Sending African-American Employees To Stores In Heavily African-American Neighborhoods." In 2017, "the federal government asked the full court of appeals to reconsider a ruling against the EEOC in its lawsuit against AutoZone, an auto parts store. The EEOC had argued that the store violated Title VII of the Civil Rights Act, which bars employees from segregating or classifying employees based on race, when it used race as a determining factor in assigning employees to different stores – for example, sending African-American employees to stores in heavily African-American neighborhoods." [SCOTUSBlog, 07/04/18]

Barrett Voted Against Rehearing The Case In Front Of The Entire 7th Circuit (En Banc), Which Effectively Upheld The Previous Ruling That AutoZone's Conduct Wasn't An "Adverse Employment Action"… "Because The Lateral Transfer Wouldn't Diminish His Wages, Benefits, Or Employment Opportunities." "The Equal Employment Opportunity Commission didn't show former AutoZone manager Kevin Stuckey experienced an 'adverse employment action' because the lateral transfer wouldn't diminish his wages, benefits, or employment opportunities, the U.S. Court of Appeals for the Seventh Circuit said June 20." [Bloomberg Law, Daily Labor Report, 6/21/17]

- **The Equal Employment Opportunity Commission Argued AutoZone Employee Was Transferred Between Stores "To Ensure The Racial Homogeneity Of Both Locations."** "The Equal Employment Opportunity Commission argues that AutoZone violated this provision when it used race as the defining characteristic for sorting employees into separate facilities—in this case, a 'Hispanic' store located at South Kedzie Avenue and West 49th Street, and an 'African American' store in Chicago's Roseland neighborhood. The Commission, whose factual allegations we must credit at this stage, claims that AutoZone went so far as to transfer one African-American employee, Kevin Stuckey, from the Kedzie store to the Roseland store in order to ensure the racial homogeneity of both locations." [United States Court of Appeals for the Seventh Circuit, *United States Equal Employment Opportunity Commission v. AutoZone, Inc.*, No. 15-3201, 11/21/17]

The Chief Judge Of The 7Th Circuit Dissented, Writing: "The Importance Of The Question And The Seriousness With Which We Must Approach All Racial Classifications Convince Me That This Case Is Worth The Attention Of The Full Court." [United States Court of Appeals for the Seventh Circuit, *United States Equal Employment Opportunity Commission v. AutoZone, Inc.*, No. 15-3201, 11/21/17]

- **"Under The Panel's Reasoning, This Separate-But-Equal Arrangement Is Permissible Under Title VII So Long As The 'Separate' Facilities Really Are 'Equal.'"** [United States Court of Appeals for the Seventh Circuit, *United States Equal Employment Opportunity Commission v. AutoZone, Inc.*, No. 15-3201, 11/21/17]

- **"In Other Words, If A Title VII Plaintiff Cannot Prove That Her Employer's Intentional Maintenance Of Racial Segregated Facilities Diminished Her 'Pay, Benefits, Or Job Responsibilities,' Then Her Employer Has Not Violated" The Law.** "Under the panel's reasoning,

this separate-but-equal arrangement is permissible under Title VII so long as the 'separate' facilities really are 'equal.' In other words, if a Title VII plaintiff cannot prove that her employer's intentional maintenance of racially segregated facilities diminished her 'pay, benefits, or job responsibilities,' then her employer has not violated section 2000e-2(a). See EEOC v. AutoZone, Inc., 860 F.3d 564, 565, 566, 567, 568 (7th Cir. 2017)." [United States Court of Appeals for the Seventh Circuit, *United States Equal Employment Opportunity Commission v. AutoZone, Inc.*, No. 15-3201, 11/21/17]

- **"That Conclusion … Is Contrary To The Position That The Supreme Court Has Taken In Analogous Equal Protection Cases As Far Back As *Brown V. Board Of Education*, And It Is Contrary To The Position That This Court Took In [A 2000 Case]."** "That conclusion, in my view, is contrary to the position that the Supreme Court has taken in analogous equal protection cases as far back as Brown v. Board of Education, 347 U.S. 483 (1954), and it is contrary to the position that this court took in Kyles v. J.K. Guardian Security Services, Inc., 222 F.3d 289 (7th Cir. 2000)." [United States Court of Appeals for the Seventh Circuit, *United States Equal Employment Opportunity Commission v. AutoZone, Inc.*, No. 15-3201, 11/21/17]

- **"We Can Start With *Brown* To Support For The Proposition That Separate Is Inherently Unequal, Because Deliberate Racial Segregation By Its Very Nature Has An Adverse Effect On The People Subjected To It."** [United States Court of Appeals for the Seventh Circuit, *United States Equal Employment Opportunity Commission v. AutoZone, Inc.*, No. 15-3201, 11/21/17]

- **"In Addition To The Dignitary Harm Stuckey Suffered By Being Victim Of Overt Racial Segregation, AutoZone's Practice Of Designating" Stores By Race "Deprived People Who Did Not Belong To The Designated Racial Group Of Employment Opportunities At Their Preferred Geographic Location."** "The Commission made the point that, in addition to the dignitary harm Stuckey suffered by being the victim of overt racial segregation, AutoZone's practice of designating the Kedzie store as the "Hispanic" store and the Roseland store as the "African-American" store deprived people who did not belong to the designated racial group of employment opportunities at their preferred geographic location. This easily describes an adverse effect, based on impermissible characteristics, on employment opportunities." [United States Court of Appeals for the Seventh Circuit, *United States Equal Employment Opportunity Commission v. AutoZone, Inc.*, No. 15-3201, 11/21/17]

- **"The Fact That Racial Segregation Carries With It A Unique Stigma, Which Makes It Inherently Harmful, Does Not Provide Grounds To Think That The Statutory Language Requiring Segregation To Have An Adverse Effect Is Superfluous."** [United States Court of Appeals for the Seventh Circuit, *United States Equal Employment Opportunity Commission v. AutoZone, Inc.*, No. 15-3201, 11/21/17]

- **"The Panel's Opinion … Endorses The Erroneous View That 'Separate-But-Equal' Workplaces Are Consistent With Title VII."** "Because the panel's opinion, as I read it, endorses the erroneous view that "separate-but-equal" workplaces are consistent with Title VII, I respectfully dissent from denial of rehearing en banc." [United States Court of Appeals for the Seventh Circuit, *United States Equal Employment Opportunity Commission v. AutoZone, Inc.*, No. 15-3201, 11/21/17]

Amy Coney Barrett Voted To Uphold The Ruling In Favor Of The Company Because "'Requesting Leave For Strep Throat' Is Not A Statutorily Protected Activity."

Case at Issue: *Taylor-Reeves v. Marketstaff, Inc.* (No. 19-2620)

In 2015, A Black Woman Was Fired By Her Employer For Leaving Work Early To Go To A Doctor's Appointment, Even Though She Had Permission From Her Supervisor.

In 2015, Renee Taylor-Reeves Sued Marketstaff Inc., As Well As Her Employer Bright Start Child Care & Preschool After She Was Fired For "Leaving Work Early For A Medical Appointment" For Suspected Strep Throat. "After she was fired for leaving work early for a medical appointment, Renee Taylor-Reeves sued for violations of her rights under Title VII of the Civil Rights Act of 1964 and 42 U.S.C. § 1981. The district court dismissed the action, and we affirm." [Justia, United States Court of Appeals for the Seventh Circuit, Order No. 19-2620, *Taylor-Reeves v. Marketstaff Inc.*, 4/29/20]

- **Taylor-Reeves Was Called Into Work Despite Feeling Sick, And Told She Could Leave Early For The Medical Appointment." "**Once at work, however, Taylor-Reeves felt increasingly ill, so she sent her supervisor a note asking for permission to go to the doctor immediately. The supervisor responded, 'do what you need to do.' Taylor-Reeves left work early." [Justia, United States Court of Appeals for the Seventh Circuit, Order No. 19-2620, *Taylor-Reeves v. Marketstaff Inc.*, 4/29/20]

- **After She "Felt Increasingly Ill," Her Supervisor Let Her Leave Early Saying, "Do What You Need To Do."** "Once at work, however, Once at work, however, Taylor-Reeves felt increasingly ill, so she sent her supervisor a note asking for permission to go to the doctor immediately. The supervisor responded, 'do what you need to do.' Taylor-Reeves left work early." [Justia, United States Court of Appeals for the Seventh Circuit, Order No. 19-2620, *Taylor-Reeves v. Marketstaff Inc.*, 4/29/20]

- **She Received An Email From MarketStaff The Same Day Saying She Was "'Considered "Resigned" For Leaving The Workplace Without Permission.'"** "Later that day, she received an email from Marketstaff—the school's third-party provider of human resources support—stating that she was "considered 'resigned' for leaving the workplace without permission." [Justia, United States Court of Appeals for the Seventh Circuit, Order No. 19-2620, *Taylor-Reeves v. Marketstaff Inc.*, 4/29/20]

- **Taylor-Reeves Sued For Racial Discrimination, Sexual Harassment, And Retaliation, Saying Non-Black Employees Were Allowed To Stay Home For Being Sick.** "Taylor-Reeves filed a charge of discrimination against Bright Start with the Illinois Department of Human Rights. She alleged that her supervisor had sexually harassed her and then discharged her for going to the doctor, despite not firing similarly situated "non-black" teachers for staying home sick." [Justia, United States Court of Appeals for the Seventh Circuit, Order No. 19-2620, *Taylor-Reeves v. Marketstaff Inc.*, 4/29/20]

After Hearing The Case, Amy Coney Barrett Voted To Uphold The Lower Court Ruling Dismissing The Suit Because "'Requesting Leave For Strep Throat' Is Not A Statutorily Protected Activity."

Barrett Sided With The District Court, Which Dismissed Taylor-Reeves' Suit, Saying "'Requesting Leave For Strep Throat' Is Not A Statutorily Protected Activity." "The district court dismissed the amended complaint with prejudice on Marketstaff's motion. The court ruled that the complaint failed to state a claim for retaliation, see FED.R.CIV.P.12(b)(6), because Taylor-Reeves 'alleges only that Defendant terminated her for leaving the workplace without permission.' And 'requesting leave for strep throat' is not a statutorily protected activity. See 42 U.S.C. § 2000e–3(a). Alternatively, the district court ruled that res judicata bars Taylor-Reeves's claim in light of the state-court judgment in favor of Bright Start." [Justia, United States Court of Appeals for the Seventh Circuit, Order No. 19-2620, *Taylor-Reeves v. Marketstaff Inc.*, 4/29/20]

- **The Order Affirmed The Lower Court Ruling The Same Day It Was Submitted For Appeal.** "So dismissal of her suit was proper. AFFIRMED" [Justia, United States Court of Appeals for the Seventh Circuit, Order No. 19-2620, *Taylor-Reeves v. Marketstaff Inc.*, 4/29/20]

Amy Coney Barrett Said A Woman With Cognitive Impairments Could Not Sue Under The Americans With Disabilities Act After She Was Terminated For Responding To A Parent Who Mocked Her Memory Issues.

Case at Issue: *Grussgott v. Milwaukee Jewish Day School, Inc.* (No. 17-2332)

Barrett Ruled The Americans With Disabilities Act Did Not Protect A Hebrew Teacher With Cognitive Impairments Following A Brain Tumor From Being Fired.

Miriam Grussgott Sued Milwaukee Jewish Day School, Inc., After She Was Fired For Her Husband Sending A Critical Email To A Parent On Her Account After The Parent Mocked Grussgot's Memory Impairment, A Symptom Of Her Previous Treatment For A Brain Tumor. "Grussgott underwent medical treatment for a brain tumor in 2013 and ceased working during her recovery. She has since suffered memory and other cognitive issues. She re-turned to work in June 2014. During a March 2015 telephone call from a parent, Grussgott was unable to remember an event, and the parent taunted her about her memory prob-lems. Grussgott's husband (a rabbi) then sent an email, from Grussgott's work email address, criticizing the parent for being disrespectful. The school terminated Grussgott after the incident. Grussgott then sued the school under the Americans with Disabilities Act, claiming that she was terminated be-cause of her cognitive issues resulting from her brain tumor." [Justia, United States Court of Appeals for the Seventh Circuit, No. 17-2332, *Grussgott v. Milwaukee Jewish Day School, Inc.*, 2/13/18]

- **Barrett Ruled The Americans With Disabilities Act Did Not Apply Because Grussgot Was A Religious Teacher.** "The school moved for summary judgment, arguing that because of Grussgott's religious role at the school, the ministerial exception barred her lawsuit. […] The primary issue before us is whether Grussgott was a ministerial employee. In 2012, the Supreme Court adopted the 'ministerial exception' to employment discrimination laws that the lower federal courts had been applying for years. […] Some factual disputes exist in this case, but they are not enough to preclude summary judgment. […] For these reasons, we AFFIRM the district court's grant of summary judgment in favor of the defendant-appellee." [Justia, United States Court of Appeals for the Seventh Circuit, No. 17-2332, *Grussgott v. Milwaukee Jewish Day School, Inc.*, 2/13/18]

    - **Grussgot Maintained That She Was Solely A Hebrew Teacher With No Religious Duties; The School Disputed.** "She was then rehired for the 2014-15 school year as a second- and third-grade teacher, but the parties' opinions regarding her duties at this time differ. Grussgott states that she was rehired solely as a Hebrew teacher and that she had no job responsibilities that were religious in nature. She says that during the 2014–15 school year, she was no longer invited to attend the Jewish Studies meetings that she had been required to attend previous year. She does acknowledge, however, that she taught Hebrew from an integrated Hebrew and Jewish Studies curriculum, known as Tal Am, and that she attended community prayer sessions. She also concedes that she discussed Jewish values with her students, taught about prayers and To-rah portions, and discussed Jewish holidays and symbolism. But, she asserts, this teaching was done from a cultural and historical, rather than a religious, perspective. She also attests that these portions of her lessons were taught voluntarily, not as part of her formal job requirements. The school maintains that Grussgott continued to be employed as a Hebrew and Jewish Studies teacher during the 2014–15 school year and that she should have continued to attend the Jewish Studies meetings at this time. The school also disputes that Grussgott's teaching of prayer and the To-rah was voluntary, maintaining that this was in fact

part of the school's curriculum and mission generally." [Justia, United States Court of Appeals for the Seventh Circuit, No. 17-2332, *Grussgott v. Milwaukee Jewish Day School, Inc.*, 2/13/18]

- **Milwaukee Jewish Day School Is A Private Non-Orthodox Jewish School That Does Not Require Its Teachers To Be Jewish And Had A Policy Explicitly Expressing Its Nondiscrimination On The Basis Of Religion.** "Milwaukee Jewish Day School is a private school dedicated to providing a non-Orthodox Jewish education to Milwaukee schoolchildren. Students are taught Jewish studies and Hebrew and engage in daily prayer. The school also employs a rabbi on staff and has its own chapel and Torah scrolls. But the school does not require its teachers to be Jewish and has an antidiscrimination policy expressly barring discrimination on the basis of religion, as well as race, gender, and sexual orientation. The school hired Grussgott in 2013 to teach both Hebrew and Jewish studies to first- and second-graders. Grussgott had an extensive background teaching both of these subjects, which was relevant to the school's decision to hire her." [Justia, United States Court of Appeals for the Seventh Circuit, No. 17-2332, *Grussgott v. Milwaukee Jewish Day School, Inc.*, 2/13/18]

Amy Coney Barrett Ruled That Congress Protected Employees From Age Discrimination, But Did Not Protect Job Applicants, And Limited The Types Of Age Discrimination Claims That Can Be Brought.

Case At Issue: *Dale E. Kleber v. CareFusion Corporation* (No. 17-1206)

Dale Kleber, An Experienced Attorney, Applied For A Legal Job With A Posting That Limited Applicant's Experience To Seven Years And The Employer, CareFusion, Hired A 29-Year-Old"; Kleber Sued On The Premise That A Limit On Experience "Ruled Out Older Applicants."

In 2014, Dale Kleber Applied For A "Legal Position" That Specified "Applicants Should Have No More Than Seven Years Of Experience," Despite Having Been An Experienced Attorney And "CareFusion Ended Up Hiring A 29-Year-Old" So Kleber "Sued, Arguing That A Limit On Experience Effectively Ruled Out Older Applicants." "Dale E. Kleber had been out of work for three years when he saw a posting in 2014 for a legal position at CareFusion, a medical technology company. […] So even though the ad specified that applicants should have no more than seven years of experience, Mr. Kleber applied. CareFusion ended up hiring a 29-year-old. Mr. Kleber, a veteran lawyer and former general counsel of a national dairy and food company, sued, arguing that a limit on experience effectively ruled out older applicants." [Patricia Cohen, "New Evidence of Age Bias in Hiring, and a Push to Fight It," *The New York Times*, 06/07/19]

After Hearing The Case, Amy Coney Barrett Supported The Majority Opinion That Congress Did Not Protect Job Applicants When It Protected "Employees From Disparate Impact Age Discrimination."

Amy Cohen Barrett Supported The Majority Opinion In *Kleber v. CareFusion* "That Congress, While Protecting Employees From Disparate Impact Age Discrimination, Did Not Extend That Same Protection To Outside Job Applicants." "The district court dismissed [Kleber's] claim, concluding that § 4(a)(2) of the Age Discrimination in Employment Act did not authorize job applicants like Kleber to bring a disparate impact claim against a prospective employer. A divided panel of this court reversed. We granted en banc review and, affirming the district court, now hold that the plain language of § 4(a)(2) makes clear that Congress, while protecting employees from disparate impact age discrimination, did not extend that same protection to outside job applicants. While our conclusion is grounded in § 4(a)(2)'s plain language, it is

reinforced by the ADEA's broader structure and history." [United States Court of Appeals for the Seventh Circuit, *Dale E. Kleber v. CareFusion Corporation*, No. 17-1206, 01/23/19]

The Ruling Also Limited The Kinds Of Age Discrimination Claims Job Applicants, As Opposed To Employees, Could Bring.

The Ruling Held "Job Applicants May Not Bring Claims For Unintentional Age Discrimination Under The Age Discrimination In Employment Act (ADEA)." "A divided U.S. Court of Appeals for the Seventh Circuit, sitting en banc, recently ruled 8-4 that job applicants may not bring claims for unintentional age discrimination under the Age Discrimination in Employment Act (ADEA). In rejecting plaintiff Dale Kleber's claim, the court chiefly relied on the text of the statute, but also supported its position by examining the overall structure of the ADEA. *See Kleber v. CareFusion Corp.* (7th Cir. Jan. 23, 2019)." [Ford Harrison, 1/25/19]

- **Ford Harrison HEADLINE: "Seventh Circuit Limits Job Applicants' Age Discrimination Claims."** [Ford Harrison, 1/25/19]

- **Littler HEADLINE: "Seventh Circuit Rules Age Bias Protections Don't Extend To Prospective Employees For Disparate Impact Claims"** [Littler, 1/28/19]

"The Split Panel (8-4) Held That The Plain Language Of The Statute Made Clear That While Congress Intended To Protect Employees From The Disparate Impact Of Age Discrimination, Congress Did Not Intend For Those Protections To Extend To External Job Applicants." [Littler, 1/28/19]

- **"The Court Stated That It Is Up To Congress To Amend The Statute To Include Job Applicants In That Section's Ambit."** [Ford Harrison, 1/25/19]

One Law Firm Noted That, In Light Of The 7th Circuit's Ruling, "Employers Can Breathe A Collective Sigh Of Relief."

McGuire Woods: "Employers Can Breathe A Collective Sigh Of Relief In Light Of The Recent En Banc Holding Of The 7th U.S. Circuit Court Of Appeals In Kleber V. CareFusion Corporation." ["7th Circuit Rejects Applicant's Age Bias Theory," McGuire Woods, 01/30/19]