

United States Supreme Court Update

On June 30, 2014, the United States Supreme Court concluded its latest term. Below is a recap of specific cases having an impact on employers.

National Labor Relation Board v. Canning: Described in more detail in our second quarter newsletter, this decision resulted in a finding that President Barack Obama's recess appointments of three judges to the National Labor Relations Board ("NLRB") in 2012 were unconstitutional. As a result, more than one year's worth of NLRB decisions addressing such issues as protected-concerted activity and social media policies will likely be overturned.

Harris v. Quinn: In this case, the Supreme Court held that public employees that do not belong to a union are not required to pay agency fees which are similar to union dues in that they are used by unions to help with employment contract negotiations or employee representation. As a result, although public employees can be encouraged to pay agency fees, those payments are no longer mandatory. It should be noted that this decision is limited on its facts and does not have an impact on the requirement of non-union public or private employees to pay union dues.

Burwell v. Hobby Lobby Stores, Inc.: In the *Hobby Lobby* decision, the Supreme Court held that Hobby Lobby, as well as other "closely held companies," cannot be required to provide a health care plan that includes contraception methods mandated by the Affordable Care Act. This decision was based, in part, upon Hobby Lobby's argument that such a requirement would violate the religious beliefs of the family owning Hobby Lobby.

Sandifer v. U.S. Steel: In this case, the Supreme Court determined that union workers are not owed wages for time spent changing in and out of protective clothing if their collective bargaining agreement says so. In addition, if an employer has a long-standing practice of not paying employees for the time spent changing their clothing, it is assumed that the union and its members have implicitly agreed to that policy and are not owed wages for such time.