

# THE YEAR IN LAW 2014-2015

[parallel citation: 2016 Green Bag Alm. 33]



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*A review of some highlights of law in America (with a few overseas detours) during the past twelve months or so.*

## NOVEMBER 2014

**November 3:** The Supreme Court hears argument in *Zivotovsky v. Kerry*, which presents the question whether Congress can allow U.S. citizens born in Jerusalem to list “Israel” as their birthplace on their passports, notwithstanding the Executive Branch’s long-held position of neutrality on sovereignty over Jerusalem. • The State of Maine reaches a settlement with Kaci Hickox, a nurse who treated Ebola patients in West Africa and refused to comply with a state-ordered quarantine. Under the settlement, Hickox is allowed to move freely in public, but must submit to health monitoring and notify health officials if she develops any Ebola symptoms.

**November 4:** The U.S. Court of Appeals for the D.C. Circuit hears oral argument in *Klayman v. Obama*, a challenge to the NSA’s bulk phone-surveillance program. The ruling under review was issued by U.S. Dis-

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strict Judge Richard Leon, and declared that the NSA's program "almost certainly" violates the Constitution.

**November 5:** Kansas voters choose to retain Kansas Supreme Court Justices Eric Rosen and Lee Johnson, despite a campaign to oust them based on their decision to overturn the death sentences of two brothers convicted of murder. To date, no Kansas Supreme Court justice has ever lost in a retention election. • The Department of Justice discloses emails in which Attorney General Eric Holder displays contempt for Rep. Darrell Issa, who is conducting an investigation into a gun-tracking operation run by ATF. In the emails, Holder asserts that "Issa and his idiot cronies" are attempting to "cripple ATF and suck up to the gun lobby." • The Federal Circuit reprimands Edward Reines, a patent litigator, for attempting to solicit clients by publicizing an email sent to him by former Chief Judge Randall Rader praising Reines's advocacy. The disclosure of the email had led to Judge Rader's resigning from the bench. • The Supreme Court hears oral argument in *Yates v. United States*, which presents the question whether undersized red grouper count as "tangible objects" under a provision of federal law criminalizing the destruction of "any record, document, or tangible object" with the intent to obstruct an investigation. • Chief Justice John Roberts gives a speech praising the 800-year-old Magna Carta, but cautioning litigants not to cite it in briefs or at argument because "[w]e like our authorities a little more current."

**November 6:** U.S. District Judge Douglas P. Woodcock delays the sentencing of two former college friends of Dzhokhar Tsarnaev, the alleged Boston Marathon bomber, based on the Supreme Court's consideration of *Yates v. United States* (the undersized red grouper case). The two friends were charged under the statutory provision at issue in *Yates* based on their obstruction of the investigation into Tsarnaev. • In a divided decision, the U.S. Court of Appeals for the Sixth Circuit issues an opinion upholding prohibitions on same-sex marriage in Kentucky, Michigan, Ohio, and Tennessee. The Supreme Court will later grant certiorari in these cases and reverse, finding that the Constitution guarantees marriage equality (see June 26 entry).

**November 7:** The White House announces that the President will be nominating Loretta Lynch, the U.S. Attorney for the Eastern District of New York, to be the next Attorney General. • U.S. Bankruptcy Judge

Steven Rhodes issues an opinion upholding the City of Detroit's municipal bankruptcy plan. • The Supreme Court grants certiorari in *King v. Burwell*, which addresses whether consumers can receive premium tax credits under the Affordable Care Act to help defray the costs of insurance purchased through a federal insurance exchange. The case is viewed as a major challenge to the continued implementation of the Affordable Care Act. • New York judge Robert Stolz refuses to dismiss a criminal accounting fraud case brought against former employees of the law firm Dewey & LeBoeuf.

**November 12:** The family of Thomas Eric Duncan, the first Ebola patient in the U.S., reaches a settlement with the Texas hospital that initially treated him by giving him antibiotics and then releasing him. Duncan returned to the hospital days later, much sicker, and eventually passed away. • An advocacy group launches an advertising campaign called "Fix the Court," which criticizes the Supreme Court as the "most powerful" and "least accountable" institution in the U.S. government.

**November 13:** Don Blankenship, the former CEO of Massey Energy Company, is indicted in federal court on charges that he conspired to violate federal mine safety laws prior to a mine explosion that killed 29 coal miners in 2010.

**November 14:** The U.S. Court of Appeals for the D.C. Circuit upholds the accommodation process that allows nonprofit religious employers to opt out of the Affordable Care Act's contraceptive mandate. The court concludes that the accommodation process does not violate the Religious Freedom Restoration Act both because it does not substantially burden the employers' religious beliefs and because it is the least restrictive means of satisfying the government's compelling interest in ensuring that women have access to contraceptive coverage.

**November 17:** The Herald Fund SPC and Primeo Fund agree to return \$497 million that they received from investing with Bernard Madoff, bringing Madoff's investors' recovery above \$10 billion. Madoff is currently serving a 150-year prison sentence. • In an interview with the *New York Times*, Attorney General Eric Holder predicts that a jurisdiction in the U.S. will one day execute an innocent person, if that has not already happened.

**November 18:** Speaker of the House John Boehner announces that the House has retained George Washington University law professor Jonathan

Turley to represent the House in its upcoming suit against President Obama for allegedly overstepping his authority in implementing the Affordable Care Act. Turley is the third lawyer retained by the House, after previous attorneys withdrew from the case.

**November 19:** The Department of Justice announces it collected nearly \$25 billion in criminal and civil penalties in the previous budget year. The amount is more than triple the amount collected the previous year.

**November 20:** President Obama announces an executive action (entitled “Deferred Action for Parents of Americans and Lawful Permanent Residents,” or “DAPA”) directing the non-enforcement of certain immigration laws, that will allow more than four million immigrants who are not lawfully present in the U.S. to remain in the country and receive an opportunity to apply for work permits.

**November 21:** The House of Representatives files *House v. Burwell*, a lawsuit challenging the Administration’s implementation of the Affordable Care Act. The suit challenges the Administration’s decisions to delay implementation of the employer mandate and to make certain advance payments of federal financial assistance to individuals purchasing health coverage on the insurance exchanges.

**November 24:** St. Louis County prosecuting attorney Robert McCulloch announces that a grand jury found no probable cause to charge Ferguson, Missouri police officer Darren Wilson in connection with the shooting death of Michael Brown. Shortly following the announcement, violent protests break out in Ferguson.

**November 26:** Justice Ruth Bader Ginsburg undergoes heart surgery to address a blockage found in her right coronary artery. She returns to court days later for oral argument.

## DECEMBER 2014

**December 1:** The Supreme Court (with Justice Ginsburg) hears oral argument in *Elonis v. United States*, a constitutional challenge to Anthony Elonis’s 2011 conviction for threatening his estranged wife on Facebook.

- President Obama pledges support for a nationwide conversation about race and police enforcement after participating in several meetings relating to events in Ferguson (see November 24 entry).

**December 3:** A Staten Island grand jury declines to indict officer Daniel Pantaleo in connection with the death of Eric Garner. Garner died of a heart attack after being placed in a chokehold by Pantaleo. The decision not to indict touches off a wave of protests nationwide. • Texas and 16 other states file a lawsuit challenging President Obama's executive actions on immigration (see November 20 entry), claiming they "trample[] the U.S. Constitution's Take Care Clause and federal law."

**December 4:** The Department of Justice announces that its probe of the Cleveland Division of Police has revealed that the Division has a pattern and practice of using excessive force, both in firing weapons and in using non-lethal force. • Assistant Attorney General Leslie Caldwell announces that the Department of Justice is creating a dedicated cybersecurity unit to ensure that electronic surveillance tools are properly used. • A New York appeals court declines to grant habeas corpus to "Tommy," a chimpanzee being held in a cage at a business in upstate New York. The court concludes that "a chimpanzee is not a 'person' entitled to the rights and protections afforded by the writ of habeas corpus."

**December 5:** The Supreme Court grants review in *Walker v. Texas Division, Sons of Confederate Veterans*, which presents the question whether a state can refuse to issue a specialty license plate because the message on the plate may be offensive.

**December 8:** Columbia Law School announces that it will allow students to reschedule final exams if they feel traumatized by the grand jury decisions in the Eric Garner and Michael Brown cases (see entries for November 24 and December 3). • The Supreme Court declines to grant review in BP's challenge to its class action settlement in connection with the Deepwater Horizon oil rig explosion. • Portland, Oregon announces that it has sued Uber, a popular ride-hailing application, seeking to halt the company's operations in the city.

**December 9:** Senate Democrats issue a report concluding that interrogation techniques employed by the CIA after the September 11, 2011 attacks were ineffective, that the management of the interrogation program was flawed, and that the program was "far more brutal" than previously acknowledged. Former CIA officials release an op-ed in response, calling the report a "one-sided study marred by errors of fact and interpretation."

**December 10:** The U.S. Court of Appeals for the Second Circuit issues an opinion overturning the convictions of hedge fund managers Anthony Chiasson and Todd Newman. The opinion is widely viewed as a setback for U.S. Attorney Preet Bharara, who had secured dozens of convictions in a multiyear crackdown on insider trading on Wall Street.

**December 16:** U.S. District Judge Arthur Schwab rules that President Obama's executive actions on immigration (see November 20 entry) are unconstitutional, concluding that the President's "unilateral legislative action violates the separation of powers provided for in the United States Constitution as well as the Take Care Clause." • Justices Antonin Scalia and Elena Kagan are pictured together at a hunting lodge, along with retired U.S. District Judge Charles Pickering and Mississippi Secretary of State Delbert Hosemann.

**December 17:** The Supreme Court declines an emergency request by Arizona officials seeking to prohibit the issuance of state driver's licenses for young immigrants who are allowed to remain in the country in light of President Obama's executive actions on immigration (see November 20 entry). • President Obama announces that the U.S. will begin discussions to reestablish diplomatic relations with Cuba, will review Cuba's designation as a State Sponsor of Terrorism, and will take steps to increase travel, commerce, and the flow of information to and from Cuba.

**December 18:** The Federal Communications Commission renews the license of a radio station owned by Washington Redskins owner Daniel Snyder, dismissing a petition urging the agency not to renew the license because it repeatedly uses the team's name on-air, which (according to the petition) is a racial slur. • The U.S. Court of Appeals for the Sixth Circuit invalidates a federal law prohibiting gun ownership for anyone "adjudicated as a mental defective or who has been committed to a mental institution," concluding that the law violates the Second Amendment. • A report released by the Death Penalty Information Center reveals that America executed 35 prisoners in 2014, representing the lowest number of executions in 20 years. The report also shows that only 72 people were sentenced to death in 2014, which is the lowest number in 40 years. • The Indiana Supreme Court upholds the state's public intoxication law, which imposes a criminal penalty on someone who "harasses, annoys, or alarms another person" while intoxicated in public. The court decides to

“read a reasonableness standard into” the statute “when analyzing the term ‘annoys.’” • Nebraska and Oklahoma file an original action in the Supreme Court challenging Colorado’s decision to legalize marijuana use. The states claim that Colorado’s actions violate the Supremacy Clause and create negative externalities in neighboring states.

**December 22:** Sony Pictures Entertainment sends a letter to Twitter, Inc. asking it to suspend the account of an indie songwriter who posted Sony documents stolen in a cyberattack and leaked online.

**December 23:** The Food and Drug Administration ends its lifetime ban on blood donations from gay and bisexual men, announcing a new policy allowing donations from men if they have not had sex with men in more than a year.

**December 24:** The Brookings Institution reports that President Obama’s judicial confirmation rate over the first six years of his presidency was 92%, outpacing the 84% confirmation rate for President George W. Bush and the 89% rate for President Bill Clinton. The report also shows that President Obama has had 307 judicial nominations confirmed, compared to 324 during George W. Bush’s term in office. • U.S. District Judge Beryl Howell dismisses a lawsuit filed by Maricopa County Sheriff Joe Arpaio challenging President Obama’s executive actions on immigration (see November 20 entry). The opinion concludes that Sheriff Arpaio lacks standing to challenge the actions, disagreeing with a previous opinion issued by a district court in Pennsylvania (see December 16 entry).

**December 26:** The Dublin High Court rules that removing life support from a 26-year-old woman who is both clinically brain-dead and pregnant does not violate the country’s constitutional ban on abortion.

**December 29:** A criminal defense lawyer in Colorado announces that he will offer a \$1,000 college scholarship to a high school senior who provides a detailed account of a situation in which he or she drove while intoxicated, and outlines the concrete steps the student will take to ensure that he or she will not drive while intoxicated in the future.

**December 31:** Chief Justice John Roberts issues his year-end report on the federal judiciary, in which he announces that all Court filings will be placed online starting in 2016. • Maryland Governor Martin O’Malley announces that he will commute the capital sentences of the state’s final four inmates on death row. The state abolished the death penalty in 2013.

## JANUARY 2015

**January 5:** A member of the Ferguson grand jury (see November 24 entry) files suit challenging a lifetime gag order placed on the grand jury proceedings. • Nazih Abdul-Hamed al-Ruqai, an alleged al-Qaeda operative accused of planning 1998 bombings of U.S. embassies in Kenya and Tanzania, dies 10 days before the scheduled start date of his trial in a federal district court in Manhattan. • The trial of Dzhokhar Tsarnaev, the Boston Marathon bomber, begins in federal district court in Massachusetts.

**January 6:** U.S. District Judge James R. Spencer sentences former Virginia Governor Bob McDonnell to two years in prison for his convictions of conspiracy and fraud for accepting loans and lavish gifts in exchange for helping a donor's business.

**January 7:** U.N. Secretary-General Ban Ki-moon announces that Palestine will have a seat at the International Criminal Court starting in April.

**January 8:** The Connecticut Supreme Court rules that a 17-year-old girl suffering from a treatable form of cancer must undergo chemotherapy against her will and the wishes of her mother. The state had taken the girl into custody after the girl and her mother objected to treatment.

**January 9:** The Supreme Court dismisses *Chen v. Mayor and City Council of Baltimore*, a case it had granted for review, based on Chen's failure to file a merits brief. Chen had disappeared after his case had been granted. • Ohio announces it will no longer use midazolam in its lethal injection protocol, and will instead resume using sodium thiopental and pentobarbital. In June, the Supreme Court will issue an opinion upholding Oklahoma's use of midazolam (see June 29 entry).

**January 12:** President Obama announces a package of legislative proposals aimed at safeguarding data privacy in education, energy, and the tech sector.

**January 14:** U.S. District Judge George O'Toole refuses to suspend jury selection in the trial of Dzhokhar Tsarnaev, the Boston Marathon bomber, in light of terrorist attacks at the Charlie Hebdo offices in Paris.

**January 14:** The U.S. Court of Appeals for the Ninth Circuit upholds baseball's exemption from the antitrust laws, labeling it "one of federal law's most enduring anomalies," but one that only Congress or the Supreme Court can fix.

**January 16:** The Supreme Court grants review in *Obergefell v. Hodges* and three other cases from the Sixth Circuit (see November 6 entry) addressing whether the Constitution guarantees same-sex couples the right to marry.

**January 20:** The Supreme Court issues its opinion in *Holt v. Hobbs*, concluding that federal law permits a Muslim inmate to grow a half-inch beard. The Court rejects the prison's argument that the beard ban is necessary to prevent inmates from hiding contraband in their facial hair, noting that the prison permits quarter-inch beards, and that more than 40 other prisons permit half-inch beards. • A New York woman reaches a \$134,000 settlement with the U.S. and a DEA agent based on the agent's impersonating her on Facebook without her permission. The woman's phone had been seized during her arrest for participation in a cocaine distribution ring, and the DEA agent then created a Facebook profile in an effort to lure the woman's criminal associates.

**January 21:** Individuals protesting the Supreme Court's *Citizen United* ruling disrupt oral arguments at the Supreme Court. The protest marks the group's second successful protest effort in the past year.

**January 23:** The Supreme Court grants review in *Glossip v. Gross*, a challenge to Oklahoma's use of midazolam in its three-drug lethal injection protocol (see January 9 entry). Days later, the Oklahoma Attorney General asks the Supreme Court to postpone three pending executions in light of its consideration of Oklahoma's protocol. • The NFL hires Ted Wells to issue a report on "Deflategate," the controversy over whether the New England Patriots altered footballs during the AFC Championship Game against the Indianapolis Colts.

**January 28:** The Senate Judiciary Committee holds a hearing on Loretta Lynch's nomination to serve as Attorney General. • U.S. District Judge Jed Rakoff resigns from the Justice Department's National Commission on Forensic Science in protest, after being told that the Commission will not examine how scientific evidence is shared in the discovery phase of trial preparation. Two days later, Judge Rakoff returns to the Commission after DOJ agrees to allow panel members to raise questions about discovery.

**January 29:** The Obama Administration announces that it has no intention of giving the Guantanamo Bay naval base back to Cuba, even though the Administration remains of the view that the prison at the base should be closed.

## FEBRUARY 2015

**February 2:** Justice Elena Kagan states that she is “conflicted” about whether the Supreme Court should allow cameras in the courtroom, noting that “[t]here’s some reason to be a little bit careful about going down this road.” • The White House proposes a 5% rise in the budget for the Department of Justice, to \$28.7 billion.

**February 3:** The House of Representatives holds its 56th vote to repeal the Affordable Care Act. • The British House of Commons votes to legalize “three-parent babies,” or in vitro fertilization procedures in which fertility labs use genetic material from a mother, father, and another donor.

**February 4:** California Attorney General Kamala Harris appeals a district court decision overturning the state’s two-year ban on sales of foie gras. • Senators Lamar Alexander and Mike Lee introduce a resolution that would allow the Senate to confirm Supreme Court justices with a simple majority. • A jury in Manhattan convicts Ross Ulbricht of seven criminal charges in connection with his role in Silk Road, an online drug bazaar that accepted payment in Bitcoin. • The FCC announces a new net neutrality proposal, which would treat mobile and fixed broadband providers like utilities. • Bobby Chen, whose Supreme Court case was dismissed based on his failure to file a merits brief (see November 9 entry), resurfaces by filing a rehearing petition in his case.

**February 9:** Residents of Ferguson, Missouri file a federal lawsuit claiming that the city is violating the Constitution by jailing individuals in unsanitary conditions based on their inability to pay outstanding fines for misdemeanors. • Alabama Chief Justice Roy Moore orders probate judges to refuse to issue marriage licenses to same-sex couples, claiming that judges in the state are not bound by a federal district court ruling invalidating the state’s ban on same-sex marriages. The Supreme Court had previously issued an order permitting the district court ruling to take effect. • In an interview with Vox, President Obama calls on the Senate to eliminate routine use of the filibuster.

**February 11:** The trial of Eddie Ray Routh, the man accused of killing “American Sniper” Chris Kyle, begins in Texas court. • In an interview with BuzzFeed, President Obama pushes back on the claim that he had concealed his true position on same-sex marriage during the 2008 cam-

paign. David Axelrod, the President's former top political strategist, had recently published a book stating otherwise. • The Obama Administration awards the Medal of Valor to law-enforcement officials who worked on the Boston Marathon bombing case, as well as first responders on the scene of a 2012 shooting at a Wisconsin Sikh temple.

**February 12:** FBI Director James Comey states that all Americans carry various biases with them, and that some law enforcement officials become jaded due to their dealings with criminals.

**February 17:** U.S. District Judge Andrew Hanen issues a ruling temporarily blocking the implementation of President Obama's executive actions on immigration, granting Texas's request for a temporary injunction (see November 20 entry).

**February 19:** U.S. District Judge Virginia Kendall rules that the Chicago Cubs may continue to install large outfield signs near Wrigley Field, rejecting a request to halt the construction filed by owners of rooftop clubs near the ballpark that sell tickets to fans to allow them to watch Cubs games from across the street.

**February 23:** A federal jury finds the Palestinian Authority and the Palestine Liberation Organization liable for supporting six terrorist attacks in Israel in the early 2000s, and orders the groups to pay \$218.5 million to the victims' families. • The Supreme Court denies Bobby Chen's rehearing petition, which sought to reopen his case, which had been dismissed based on his failure to file a merits brief (see November 9 entry).

**February 24:** Attorney General Eric Holder announces that the Justice Department will not bring federal criminal charges against George Zimmerman for his involvement in the 2012 shooting death of Trayvon Martin.

**February 25:** The Supreme Court, per Justice Ginsburg, issues its 5-4 opinion in *Yates v. United States*, concluding that undersized red grouper are not "tangible objects" under federal criminal law. Justice Kagan's dissent notes that a law criminalizing the destruction of undersized red grouper may be foolish, but judges "are not entitled to replace the statute Congress enacted with an alternative of our own design."

**February 26:** The Senate Judiciary committee votes, 12-8, to advance to the Senate floor the nomination of Loretta Lynch to be Attorney General.

MARCH 2015

**March 3:** David Petraeus, the former director of the CIA, pleads guilty to a misdemeanor charge of mishandling classified information.

**March 4:** The Justice Department issues a report finding that the Ferguson, Missouri police department routinely violated the constitutional rights of the city's African-American residents. The report includes a sample of emails from within the police department, which include a depiction of President Obama as a chimpanzee and others playing on racial stereotypes. The same report concludes that there was no indication that Officer Darren Wilson violated Michael Brown's civil rights or committed any prosecutable violation when he fatally shot Brown. • The Supreme Court hears oral argument in *King v. Burwell*, the challenge to the Administration's provision of premium tax credits to individuals purchasing health insurance on federal insurance exchanges.

**March 5:** The State Department announces that it will review and possibly release Hillary Clinton's emails from her time at the agency, but also indicates that the review process will take some time.

**March 6:** In an interview, Edward Snowden asserts that the U.S. government will not guarantee him a fair trial, precluding him from returning to the country. • A report issued by the Brookings Institution finds that ISIS supporters used at least 46,000 Twitter accounts in late 2014.

**March 10:** The Wikimedia Foundation, the organization that runs Wikipedia, sues the National Security Agency challenging its use of mass surveillance programs.

**March 13:** The FCC announces that it will place on hold its review of the mergers between Comcast Corporation and Time Warner Cable and between AT&T and DirecTV, pending a court decision regarding access to video-programming contracts between the merging companies and television channel owners.

**March 17:** The U.S. Court of Appeals for the Ninth Circuit hears oral argument on whether collegiate athletes should receive a share of the revenue generated from the use of their names, images, and likenesses.

**March 18:** Tairod Nathan Webster Pugh, a U.S. Air Force veteran, pleads not guilty to terrorism charges based on his alleged attempts to join ISIS

in Syria. • The United Kingdom announces that it plans to apply anti-money laundering regulations to digital currency exchanges, like Bitcoin.

**March 25:** The Army charges Sergeant Bowe Bergdahl with misbehavior before the enemy and desertion for leaving his base in Afghanistan in 2009. Less than a year earlier, Bergdahl had been freed from Taliban captivity in a prisoner exchange.

**March 26:** U.S. District Judge William Pauley issues a ruling criticizing the parties in a pending case for “choking the docket” with “behemoth pleadings.” Judge Pauley notes that “[a] troubling trend toward prolixity in pleading is infecting court dockets in this district and elsewhere.”

**March 27:** A federal jury concludes that venture-capital firm Kleiner Perkins did not discriminate against Ellen Pao because she is a woman. The trial had attracted a great deal of publicity over possible sexism in Silicon Valley. • Italy’s top court reverses the murder conviction of Amanda Knox, who had been convicted twice and acquitted twice of killing a British student in the apartment they shared.

**March 31:** President Obama commutes the sentences of 22 drug offenders, including eight individuals serving life sentences, and writes letters to the commutation recipients urging them to “make the most of this opportunity.”

## APRIL 2015

**April 1:** In an unexpected development, the Supreme Court issues an order granting immediate briefing and argument in the “Deflategate” matter (see January 23 entry), asking the parties to address whether NFL Commissioner Roger Goodell’s decision to suspend Tom Brady for alleged interference with the balls used in the AFC Championship game constituted a usurpation of Congress’s Article I power to define “offenses against the law of nations.”\*

**April 3:** The Alabama Department of Human Resources concludes that Harper Lee was not the victim of elder abuse when she agreed to publish her new book, “Go Set a Watchman.” • The Federal government charges Keonna Thomas of attempting to join ISIS based on intercepted communications between her and an overseas fighter. • A Georgia jury finds

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\* April Fools!

Chrysler responsible in the death of a four-year-old Georgia boy in a fiery Jeep crash. The jury also imposes a \$150 million judgment against the company.

**April 6:** Manhattan Supreme Court Justice Matthew Cooper issues a ruling permitting lawyers to serve divorce papers through a Facebook message. The court notes that “the next frontier in the developing law of the service of process over the internet is the use of social media sites as forums through which a summons can be delivered.”

**April 7:** The jury begins deliberating in the Boston Marathon bombing trial. The next day, the jury convicts Dzhokhar Tsarnaev of carrying out the bombings.

**April 8:** U.S. District Judge Andrew Hanen refuses to lift his injunction blocking President Obama’s immigration actions (see February 17 entry). The court also accuses the Administration of misleading the court regarding the rollout of the program, and suggests that sanctions may be proper. • The Arizona Supreme Court rules that convicted felons with valid medical marijuana cards can smoke medical marijuana while on probation.

**April 9:** The U.S. Sentencing Commission adopts a new framework for fraud cases that gives more weight to an offender’s intent and role within a scheme. The new guidelines also shift emphasis from punishing those who caused a large group of victims to lose money to those who cause “substantial” financial harm to any number of victims. • Arkansas Governor Asa Hutchinson signs a bill instructing the state to erect a privately funded Ten Commandments monument on the State Capitol grounds. The ACLU of Arkansas announces that it will consider filing a constitutional challenge to the monument.

**April 13:** U.S. District Judge Royce Lamberth imposes lengthy prison sentences on four former Blackwater guards for their role in a shooting incident in Baghdad in 2007 that left multiple Iraqis dead and wounded. One of the guards receives a life sentence, and the other three receive 30-year sentences.

**April 16:** The Virginia Supreme Court rules that the online rating site Yelp does not have to disclose the identities of online users accused of posting fraudulent negative reviews about a carpet-cleaning company.

**April 17:** The U.S. Court of Appeals for the Third Circuit rules that the U.S. Mint must return 10 “Double Eagle” gold coins to a Philadelphia coin dealer. The court concludes that the government improperly confiscated the coins in 2004.

**April 19:** 25-year old Freddie Gray dies in police custody in Baltimore, after sustaining serious spinal cord injuries several days earlier while being transported in a van to a detention facility in what is alleged to have been a deliberately “rough ride” (see May 3 entry).

**April 20:** U.S. District Judge Andrew Gordon rules that FBI agents violated the Fourth Amendment when they disrupted a guest’s Internet service, posed as repairmen, and then tricked a butler into letting them into the luxury suite occupied by the guest, who was suspected of running an illegal gambling ring from inside the suite.

**April 22:** The U.S. Court of Appeals for the Ninth Circuit overturns former baseball player Barry Bonds’s obstruction of justice conviction, concluding that his answer to a grand jury in 2003 was not material to the government’s steroid distribution investigation.

**April 23:** The Senate confirms Loretta Lynch as Attorney General by a 56-43 vote. • A report issued by the Law School Admissions Council indicates that law school applications are down 2.6% compared to the previous year, 4.7% compared to 2014, and 40% compared to 2005.

**April 28:** The Supreme Court hears oral argument in *Obergefell v. Hodges*, the same-sex marriage cases.

**April 29:** The Supreme Court submits proposed amendments to the Federal Rules of Civil Procedure to Congress, which will take effect in December 2015 absent congressional action. The rules changes primarily deal with discovery and early case management, and provide greater specificity in Rule 37(e) concerning how courts should handle lost electronically stored information (ESI).

**April 30:** The Ohio Supreme Court strikes down Cleveland’s “jock tax,” which calculates a professional athlete’s taxable income based on how many games the athlete plays in the city. The plaintiffs are football players who challenged Cleveland’s decision to tax 1/20th of their income because they participated in one game a year in the city over a 20-game season.

MAY 2015

**May 1:** The U.S. Court of Appeals for the D.C. Circuit invalidates portions of the EPA's 2013 rule regulating backup generators and emergency engines, which typically use diesel fuel. Delaware and other challengers contended that the EPA's blanket exemption for the first 100 hours of usage was insufficiently protective of the environment.

**May 3:** The National Guard withdraws from Baltimore, and Gov. Larry Hogan lifts city curfews, following rioting that began on April 25 related to the death of Freddie Gray in police custody. The riots are estimated to have caused \$9 billion in property damage, including the incineration of 144 vehicles and 15 buildings (see April 19 entry).

**May 4:** Law 360 reports that 7,964 Fair Labor Standards Act (FLSA) cases were filed in federal court in 2014, a 3% increase from the year before, continuing a growth trend. Florida and New York are the two biggest FLSA hotspots.

**May 6:** The U.S. Court of Appeals for the Second Circuit rules that under a 1940s antitrust decree, music publishers Sony and Universal cannot withdraw just their Internet streaming rights from their blanket ASCAP licenses, but rather must be all-in or all-out with ASCAP, handing Pandora Media a significant victory.

**May 14:** Norton Rose Fulbright LLP's annual litigation survey shows that corporate general counsels' greatest liability concern is the increasingly tough regulatory/investigation environment. Of pending litigation against responding companies, the dockets are dominated by contract (38%) and labor and employment (37%) disputes.

**May 18:** The Connecticut Supreme Court upholds a ruling that IBM's 2007 loss of 130 tapes containing personal information of IBM employees out of the back of a van driving on the highway, which caused IBM to implement more than \$6 million in remedial measures, did not constitute a covered "personal injury" within the meaning of IBM's insurance policy because the lost information was never "published."

**May 21:** A Baltimore grand jury indicts six police officers for their involvement in the death of Freddie Gray, including a charge of second-degree murder for the driver of the van in which Gray was transported (see May 3 entry).

**May 26:** The Supreme Court notes probable jurisdiction in *Evenwel v. Abbott*, which raises the question whether states must equalize actual voters in drawing legislative districts, or can instead equalize total numbers of citizens. • The U.S. Court of Appeals for the Fifth Circuit declines to lift Judge Andrew Hanen’s order enjoining implementation of DAPA (see April 8 entry).

**May 27:** Seven current FIFA officials are arrested in Zürich, Switzerland for extradition to the U.S. on suspicion of receiving (along with two other indicted FIFA officials) over \$150 million in bribes.

## JUNE 2015

**June 1:** The Supreme Court issues its decision in *Elonis v. United States*. The Chief Justice, joined by six other Justices, reverses Anthony Elonis’s 2011 conviction for threatening his estranged wife on Facebook (see December 1 entry). The Court concludes that the statute requires some level of knowledge by the defendant that his communication would be viewed as a threat, but remands the case to the lower court to determine whether a mental state of recklessness suffices under the statute. Justice Alito concurs in part and dissents in part, contending that the Court should declare that recklessness suffices. Justice Thomas dissents. • The Supreme Court issues its decision in *EEOC v. Abercrombie & Fitch Stores, Inc.*, holding that Title VII of the Civil Rights Act of 1964 prohibits an employer from refusing to hire a job applicant to avoid accommodating a religious practice even where the applicant did not inform the employer of the need for an accommodation.

**June 5:** Arrests by Baltimore’s police force have dropped sharply in the wake of the Freddie Gray riots (see May 3 entry), from 3,801 in May 2014 to 1,177 in May 2015. At the same time, murders in Baltimore have risen to their highest level since 1972, with significant accompanying spikes in other forms of violent crime.

**June 8:** The Supreme Court issues its opinion in *Zivotovsky v. Kerry*, concluding, in an opinion by Justice Kennedy, that the President has the exclusive power to recognize foreign governments, and invalidating a statute requiring the Secretary of State to issue (upon request) passports listing “Israel” as the birthplace for individuals born in Jerusalem. Justices Breyer and Thomas issue concurring opinions. The Chief Justice, joined

by Justice Alito, dissents, concluding that the Constitution does not grant recognition power exclusively to the Executive, and that the statute does not involve recognition, but simply the content of passports. Justice Scalia, joined by the Chief Justice and Justice Alito, also dissents, echoing similar themes.

**June 9:** The New Jersey Supreme Court rules 5-2 that Gov. Chris Christie cannot be required to pay \$1.57 billion in contributions into the state's underfunded public employee pension system, stating that provisions in New Jersey's 2011 pension overhaul law that promised the payment would be made were not "legally binding, enforceable obligation[s]." • In *Murray Energy Corp. v. EPA*, a panel of the U.S. Court of Appeals for the D.C. Circuit (consisting of Judges Kavanaugh, Griffith and Henderson) declines to halt, before issuance, a final rule to EPA's rulemaking to restrict carbon dioxide emissions from existing power plants.

**June 12:** The FCC's "net neutrality" rule goes into effect, after the U.S. Court of Appeals for the D.C. Circuit refused the day before to grant a stay.

**June 17:** 21-year-old Dylann Roof kills nine worshipers, including the senior pastor and a state senator, at the Emmanuel African Methodist Episcopal Church in Charleston, South Carolina. Arrested the next day, Roof states he committed the shooting in the hopes it would start a race war (see June 19 entry).

**June 18:** The Supreme Court issues its decision in *Walter v. Texas Division, Sons of Confederate Veterans*, concluding that Texas did not violate the First Amendment when it declined to issue specialty license plates featuring a Confederate battle flag. The Court, per Justice Breyer, concludes that Texas's specialty license plates convey government speech, even though private parties participate in the design of potential plates. Justice Alito, joined by the Chief Justice and Justices Scalia and Kennedy, dissents, arguing that private messages conveyed on the many specialty plates issued by Texas convey the messages of motorists, not the State. Justice Alito's dissent asks, "If a car with a plate that says 'Rather Be Golfing' passed by at 8:30 am on a Monday morning, would you think: 'This is the official policy of the State — better to golf than to work?'" • The U.S. Court of Appeals for the Federal Circuit holds that Sequenom Inc.'s patent on a test that detects fetal DNA in a pregnant woman's blood is invalid because the DNA's presence in the blood is a naturally occurring phe-

nomenon. • The U.S. Court of Appeals for the Ninth Circuit revives a RICO suit against Foley & Lardner LLP for allegedly helping a client operate a scheme to conceal documents and undervalue property during a 2000 eminent domain dispute.

**June 19:** Charged with nine counts of murder in a South Carolina court, Dylann Roof receives forgiveness from one impacted family member after another. Says one family member: "I forgive you. I will never talk to her ever again, never be able to hold her again. I forgive you and have mercy on your soul. You hurt me, you hurt a lot of people, but I forgive you." Says another: "My grandfather and the other victims died at the hands of hate. Everyone's plea for your soul is proof that they lived in love and their legacies live in love."

**June 24:** Boston Marathon bomber Dzhokhar Tsarnaev is formally sentenced to death. In a seven-minute address, he admits his role in the bombing, apologizes to his victims, and thanks Allah. • Nine California students represented by appellate power lawyers Ted Olson and Ted Boutros, Jr. file their respondents' brief in the California Court of Appeal in *Vergara v. California*, defending a lower court decision that struck down California's teacher tenure system as unconstitutional on the grounds that it leads to grossly ineffective teaching. Oral argument is scheduled for early 2016.

**June 25:** Chief Justice John Roberts issues a 6-3 opinion for the Court in *King v. Burwell*, concluding that premium tax credits under the Affordable Care Act are available to individuals purchasing health insurance on both state and federal insurance exchanges. The Chief Justice's opinion concludes, "Congress passed the Affordable Care Act to improve health insurance markets, not to destroy them. If at all possible we must interpret the Act in a way that is consistent with the former, and avoids the latter." Justice Scalia, joined by Justices Thomas and Alito, dissents, calling the majority's analysis "quite absurd," accusing the majority of "interpretive jiggery-pokery," and suggesting that "We should start calling this law SCOTUScare." • Justice Kennedy announces the Supreme Court's 5-4 opinion in *Texas Department of Housing and Community Affairs v. The Inclusive Communities Project, Inc.*, holding that disparate impact liability claims are cognizable under the Fair Housing Act. Justice Thomas authors the principal dissent.

**June 26:** The Supreme Court issues a 5-4 opinion in *Obergefell v. Hodges*, concluding “[t]he Constitution . . . does not permit the State to bar same-sex couples from marriage on the same terms as accorded to couples of the opposite sex.” Justice Kennedy’s opinion for the Court notes that the petitioners “ask for equal dignity in the eyes of the law,” and that “[t]he Constitution grants them that right.” The Chief Justice, joined by Justices Scalia and Thomas, dissents, arguing that the issue should be left to the democratic process. Justice Scalia, joined by Justice Thomas, issues a separate dissent, decrying “this Court’s threat to American democracy” and accusing the majority opinion of containing “mummeries and straining-to-be-memorable passages” and being written “in a style that is as pretentious as its content is egotistic.” Justice Thomas and Justice Alito also issue separate dissents. • The Supreme Court, per Justice Scalia, rules in *Johnson v. United States* that the Armed Career Criminal Act’s residual clause is unconstitutionally vague. Justice Thomas concurs in the judgment, contending that the case should have been decided on statutory, not constitutional, grounds. Justice Alito also dissents.

**June 29:** The Supreme Court, per Justice Alito, issues a 5-4 opinion in *Glossip v. Gross*, upholding Oklahoma’s use of midazolam in its three-judge lethal injection protocol. Justice Breyer, joined by Justice Ginsburg, dissents, suggesting that the Court should ask for full briefing on whether the death penalty violates the Constitution. Justice Sotomayor, joined by Justices Ginsburg, Breyer, and Kagan, also dissents, contending that the majority’s analysis “leaves petitioners exposed to what may well be the chemical equivalent of being burned at the stake.” • Justice Ginsburg issues the opinion for the Court in *Arizona State Legislature v. Arizona Independent Redistricting Commission*, upholding Arizona voters’ decision to turn over the redistricting process to an independent commission. The Chief Justice dissents, joined by Justices Scalia, Thomas, and Alito, and Justices Scalia and Thomas also issue separate dissenting opinions. • The Supreme Court grants review in *Fisher v. University of Texas*, deciding to evaluate for the second time whether the University of Texas’s use of race in college admissions violates the Constitution. • President Obama signs into law renewed trade promotion authority, which narrowly passed the Senate with just 60 votes on June 24 over substantial Democratic opposition. The legislative package is viewed as essential to the administration’s completion of a Trans-Pacific Partnership trade deal.

**June 30:** The Supreme Court grants review in *Friedrichs v. California Teachers Association*, which addresses whether the Court should overrule its decision in *Abood v. Detroit Board of Education* and prohibit public-sector “agency shop” arrangements under the First Amendment. • A split panel of the U.S. Court of Appeals for the Second Circuit upholds a lower court ruling that Apple violated the antitrust laws by orchestrating a horizontal conspiracy among e-book publishers to hike the price of e-books.

## JULY 2015

**July 1:** The Export-Import Bank’s charter expires, lapsing for the first time since the bank was created in 1934. • NPR reports recent significant spikes in shootings and murders in large cities such as New York, Baltimore, Chicago, and Los Angeles, bringing to an end more than two decades of steady violent crime decreases.

**July 6:** In an access lawsuit filed by The Associated Press, U.S. District Court Judge Eduardo C. Robreno of the Eastern District of Pennsylvania unseals 2005 court documents relating to Andrea Constand’s civil lawsuit against Bill Cosby. Judge Robreno explains that Cosby has a diminished right to privacy because he “donned the mantle of public moralist.” The documents contain a deposition quote in which Cosby admits to purchasing Quaaludes in the 1970s “for young women that [he] wanted to have sex with” (see July 18 entry). • For the second time, former Goldman Sachs programmer Sergey Aleynikov’s criminal conviction for stealing Goldman’s computer code for high-frequency trading is overturned.

**July 7:** The U.S. House of Representatives adopts a late-night amendment to the Interior Department funding bill by voice vote that would ban the display of Confederate flags at federal cemeteries. Two days later, House leadership cancels a vote on the bill.

**July 10:** Following a public outcry, Michigan Family Court Judge Lisa Gorcyca releases three children (ages 9, 10, and 15) from juvenile detention, one month after she found them in contempt of court for refusing to have lunch with their father, despite the oldest’s explanation that “I have a reason for that and that’s because he’s violent and I saw him hit my mom and I’m not going to talk to him.” When Gorcyca held the children in contempt in June, she told them they were “mentally messed up” while making “crazy” circles at her temple with her finger, and threatened

them that in juvenile detention they would be forced to go to the bathroom in front of other people. Michigan's Judicial Tenure Commission would file charges against Gorcyca in December 2015, and Gorcyca would recuse herself from the case. • The Confederate battle flag is removed from the South Carolina Statehouse, where it has flown since 1962. Gov. Nikki Haley proclaims "it's a great day," and says "no one should drive by the Statehouse and feel like they don't belong."

**July 16:** The Wisconsin Supreme Court rules that Gov. Scott Walker and a coalition of conservative groups did not violate campaign-finance laws in 2012, and orders prosecutors investigating them to "cease all activities related to the investigation" and "return all property seized."

**July 18:** The *New York Times* obtains the complete Bill Cosby deposition transcript that contains his admission about Quaaludes (see July 6 entry). The paper explains it was able to obtain the transcript without a leak because the court reporter had the deposition transcript all along, and willingly provided it, believing it was a publicly available document.

**July 24:** A Texas appeals court rules that charges against former Gov. Rick Perry for coercing a public servant violate the First Amendment and must be dismissed, but that it is too early to determine the constitutionality of charges against him for abuse of official capacity.

**July 28:** The U.S. Court of Appeals for the D.C. Circuit invalidates portions of the EPA's 2011 Cross-State Air Pollution Rule, holding that the rule's cost thresholds for upwind states are unnecessarily stringent.

**July 29:** NFL Commissioner Roger Goodell upholds a four-game suspension of New England Patriots quarterback Tom Brady for allegedly conspiring to deflate footballs below league limits, and for destroying evidence relating to his role in the alleged conspiracy during the course of the investigation.

**July 31:** Harry Potter author J.K. Rowling turns 50. To commemorate the event, Foley Hoag publishes a piece on its intellectual property blog subtitled "Expecto Subpoenas!" that reports on the many lawsuits related to Rowling's works. Reports the blog: "[I]t appears that Ms. Rowling and her works pop up in court more than any author since Charles Dickens — and that's saying something considering that Dickens, unlike Rowling, wrote books about lawyers."

AUGUST 2015

**August 4:** Justice Kagan grants the state of Illinois an additional month to seek a writ of certiorari relating to the Illinois Supreme Court's unanimous decision invalidating 2013 state pension legislation on the ground that the 1970 state constitution does not allow pension benefits to be "diminished or impaired." Illinois Attorney General Lisa Madigan ultimately decides not to seek Supreme Court review. • The U.S. Court of Appeals for the Federal Circuit reduces to \$278 million Carnegie Mellon University's record \$1.54 billion patent infringement award against Marvell Technology Group for infringing a disk drive patent, with a new trial ordered to determine any additional amounts owed.

**August 10:** Twenty-year-old Nader Saadeh is charged in U.S. District Court in New Jersey with conspiring to provide material support to the Islamic State, principally by attempting to provide it with personnel and services. His brother, Alaa Saddeh, age 23, was taken into custody on similar charges in June. In the past year, federal authorities have charged 58 individuals, mostly males in their early 20s, with supporting ISIS.

**August 11:** Fannie Mae General Counsel Brian Brooks says in an interview with Bloomberg that the BigLaw profit model, which depends heavily on leverage, is broken, because while companies are willing to pay high rates for the best partners at big firms, "the rates of mid-level lawyers and associates have gone up and up and up, even faster than the rates of the senior partners, and their value add isn't the same. . . . [At those rates,] I'd rather have 100% of the partner's time, and none of the associate's time."

**August 13:** According to a study published by Lex Machina, "porn troller" Malibu Media, owner of the website X Art, has filed 4,332 copyright lawsuits since 2009, more than any other copyright plaintiff in that period.

**August 17:** The NLRB dismisses a petition by Northwestern University football players seeking to unionize, stating that "asserting jurisdiction in this case would not serve to promote stability in labor relations," but declining to say that student-athletes do not qualify as employees under the NLRA.

**August 19:** Subway spokesman Jared Fogel pleads guilty to charges of receiving child pornography and crossing state lines to pay for sex with

minors, with a recommended sentence between five and 13 years in prison. (He would later be sentenced to 15 years 8 months.) He also agrees to pay \$100,000 in restitution to each of the 14 victims who was secretly photographed in the images he possessed, or whom he paid for sex.

**August 20:** During a hearing on Judicial Watch's FOIA lawsuit seeking access to e-mails former Secretary of State Hillary Clinton kept on a private server, U.S. District Judge Emmet Sullivan notes that, "We wouldn't be here today if this employee had followed government policy." Sullivan had ordered in July that Clinton, together with aides Huma Abedin and Cheryl Mills, confirm under penalty of perjury that they have turned all responsive records over to the State Department.

**August 21:** U.S. District Judge Dolly Gee of the Southern District of California orders the Department of Homeland Security to release all children held at federal family detention facilities for having no discernible legal status within 72 hours of their apprehension, unless they are a significant flight risk or a danger to themselves or others.

**August 25:** A split panel of the U.S. Court of Appeals for the Third Circuit strikes down a New Jersey law permitting sports gambling at casinos and racetracks for violating the federal Professional and Amateur Sports Protection Act of 1992.

**August 26:** Former Akron Mayor Don Plusquellic, who resigned his office in May after serving for 28 years, receives a warning citation for urinating next to a tree in a parking lot at the University of Akron. He tells the officers he knows they really don't do much, so he figured he would give them something to do on a slow night.

**August 28:** Seventeen-year-old Ali Shukri Amin is sentenced to 136 months in prison for providing material support to the Islamic State, primarily through thousands of Twitter posts. • A split panel of the U.S. Court of Appeals for the D.C. Circuit overturns a lower court injunction prohibiting the NSA from engaging in bulk collection of phone metadata. The program would nonetheless cease to operate in November pursuant to the USA Freedom Act, which requires a targeted warrant or court order to engage in such collection.

**August 31:** The U.S. Court of Appeals for the Second Circuit reverses a lower court decision allowing holders of bonds issued by Argentina to

seek to collect amounts owed from the country's central bank, holding that the bondholders had not established that the bank acted as the country's alter ego.

## SEPTEMBER 2015

**September 1:** Illinois police Lieut. Joseph Gliniewicz, a "hero" cop nicknamed "G.I. Joe," is shot and killed, apparently in the line of duty. It later turns out that his death is a carefully staged suicide, executed by Gliniewicz because he is on the verge of being outed for years of criminal activity, including embezzling money from a youth program that he purportedly championed.

**September 3:** U.S. District Judge Richard Berman throws out the NFL's four-game suspension of Patriots quarterback Tom Brady for his alleged role in the "deflategate" conspiracy (see July 29 entry). • Rowan County, Kentucky Clerk Kim Davis is held in contempt of court and sent to jail for refusing to issue marriage licenses to same-sex couples in the wake of the Supreme Court's *Obergefell* decision (see June 26 entry). • U.S. District Judge Lucy Koh of the Northern District of California approves a \$415 million settlement by Apple, Google, Intel, and Adobe for conspiring not to hire one another's software engineering talent. However, Koh halves the attorneys' fee award from \$81.1 million to \$40 million.

**September 8:** The *New York Times* reports that a review by the CIA and National-Geospatial Intelligence Agency has endorsed an earlier finding by those agencies' Inspector General that former Secretary of State Hillary Clinton's private e-mail server contained emails with highly classified information (see August 20 entry).

**September 9:** A class-action lawsuit is filed against the Illinois lottery after it fails to pay out more than \$288 million in prizes because of the state's ongoing budget crisis.

**September 10:** The Senate fails to pass a resolution of disapproval of President Obama's Iran nuclear deal, mustering only 58 of the 60 votes needed to break a filibuster. The resolution's failure paves the way for implementation of the agreement. • Maryland's highest court hears oral argument in *McClanahan v. Dept. of Social Services*, a case in which the state found that a protective mother committed mental injury child abuse by taking her daughter for medical examinations on each of several occasions when her daughter disclosed sexual abuse and had accompanying medi-

cal symptoms, and accordingly added her to the state's register of child abusers. The court would overturn McClanahan's child abuser designation in December in a 5-2 ruling, holding that recklessness, not strict liability, is the appropriate standard for child abuse findings.

**September 17:** The U.S. Court of Appeals for the Ninth Circuit enters a stay prohibiting District Judge William Orrick from converting into a preliminary injunction a July 31 temporary restraining order prohibiting the Center for Medical Progress (CMP) from releasing further covert videos relating to Planned Parenthood's fetal tissue selling practices. The court rescinds the stay a week later, opining that the National Abortion Federation is entitled to discovery into CMP's video recording methods and organizational supporters.

**September 18:** U.S. District Judge Robert G. Doumar of the Eastern District of Virginia denies a preliminary injunction to a transgender 16-year-old student who was born female but is seeking access to the boys' restroom. Doumar explains that the school board was appropriately protecting other students' constitutional right to bodily privacy with its policy requiring that students use single-stall private restrooms or restrooms associated with their physical sex.

**September 21:** The Pennsylvania Supreme Court suspends the law license of Pennsylvania Attorney General Kathleen Kane, following charges that Kane leaked grand jury information and then lied about it.

**September 22:** U.S. District Judge Emmet Sullivan orders the State Department to speed up its review of former Secretary of State Hillary Clinton's private server e-mails for production in a Citizens United FOIA lawsuit, one of about 30 such pending lawsuits. "How long does it take to conduct a computer search?" queries Sullivan. "You push a button" (see August 20 entry).

**September 23:** The U.S. Court of Appeals for the Second Circuit rules that several banks must turn over Sudanese assets to satisfy a \$315 million default judgment in favor of victims of the 2000 bombing of the USS Cole. The court rules that Sudan was properly served at its D.C. embassy, and that process did not need to be mailed to Sudan at its capital of Khartoum.

**September 25:** Swiss Attorney General Michael Lauber charges FIFA President Sepp Blatter with criminal mismanagement and misappropriation (see May 27 entry).

**September 28:** Sgt. First Class Charles Martland, a Green Beret, speaks out after being involuntarily discharged from the U.S. Army for beating up a well-connected Afghan police commander in 2011 who was brutally raping a small boy. Martland claims he was ordered to look the other way, and writes: “While I understand that a military lawyer can say that I was legally wrong, we felt a moral obligation to act.”

**September 29:** The U.S. House Oversight Committee holds hearings at which Planned Parenthood President Cecile Richards is questioned about the circumstances under which her organization received reimbursement from researchers for fetal organs left over from abortions.

**September 30:** In *O’Bannon v. NCAA*, the U.S. Court of Appeals for the Ninth Circuit rules that the NCAA’s grant-in-aid cap for amateur athletes, which the NCAA set below the cost of school attendance, is not a reasonable restraint on trade because it does not serve any of the NCAA’s pro-competitive purposes to deny athletes full compensation for their educational expenses. But it invalidates a district court order requiring the NCAA to allow schools to pay student-athletes up to \$5,000 in cash without regard to their educational costs, saying that “the district court ignored that not paying student-athletes is precisely what makes them amateurs.”

## OCTOBER 2015

**October 2:** An Arkansas court enters a preliminary injunction preventing the state from implementing an order of Gov. Asa Hutchinson that would suspend the state’s Medicaid payments to Planned Parenthood.

**October 5:** The Supreme Court begins its 2015 Term by hearing oral argument in *Hawkins v. Community Bank of Raymore* (a case about the Equal Credit Opportunity Act) and *OBB Personenverkehr AG v. Sachs* (a case regarding the commercial activity exception to the Foreign Sovereign Immunities Act).

**October 7:** Los Angeles Superior Court Judge Craig D. Karlan denies Bill Cosby’s motion to dismiss a civil suit filed against him by Judith Huth, in which she alleges Cosby molested her more than 40 years ago at the Playboy Mansion, when she was 15.

**October 8:** Republican Majority Leader Kevin McCarthy abruptly withdraws from the race to replace John Boehner as Speaker of the House.

**October 9:** The U.S. Court of Appeals for the Ninth Circuit holds that Bikram yoga poses are not copyrightable. • A split panel of the U.S. Court of Appeals for the Sixth Circuit imposes a nationwide stay on a Clean Water Act rule purporting to extend federal jurisdiction beyond navigable waters to include tributaries, adjacent waters, and waters having a significant nexus to navigable waters.

**October 12:** Zimbabwe announces that it will not bring charges against dentist Walter Palmer, who shot Cecil the Lion on a safari hunting trip in July. Palmer's hunting papers were in order, and it appears his guides improperly lured Cecil off a preserve without Palmer's knowledge.

**October 13:** Chief Justice Patricia Breckenridge of the Missouri Supreme Court announces the establishment of a Commission on Racial and Ethnic Fairness to examine the U.S. Department of Justice's findings of regular civil rights violations in Missouri law enforcement (see March 4 entry). • After 20 minutes of deliberations, a Connecticut jury rules against Jennifer Connell in a lawsuit she brought against her 12-year-old nephew for injuring her with an overly enthusiastic hug at his 8-years-old birthday party in 2011. Roundly castigated in the media, Connell explains that she loves her nephew, but the lawsuit was the only way she could get a payout for her injury from homeowners insurance.

**October 19:** The fraud case against Dewey & LeBoeuf's former leaders ends in a mistrial after 22 days of jury deliberations. The jury acquits the leaders of 58 charges of falsifying books and records, and deadlocks on the 93 remaining charges.

**October 21:** Facing calls for her impeachment after having her license to practice suspended, Pennsylvania Attorney General Kathleen Kane claims she can continue to do her job just fine (despite the Pennsylvania Constitution's requirement that the Attorney General be licensed) because it is 98% administrative or ministerial.

**October 26:** Sixty-two House Republicans team up with 142 House Democrats to buck Republican leadership by supporting a discharge petition that sets up a vote to revive the Export-Import Bank charter, which expired in July (see July 1 entry).

**October 28:** Former Speaker of the House Dennis Hastert pleads guilty to one count of hiding money transactions, after paying \$3.5 million in hush money to a former student he allegedly sexually abused while he was a wrestling coach and teacher in Yorkville, Illinois.

**October 29:** Paul Ryan is elected Speaker of the House, succeeding John Boehner. Minority Leader Nancy Pelosi dubs Boehner “the personification of the American dream.”

## NOVEMBER 2015

**November 2:** The Supreme Court hears oral argument in *Spokeo v. Robins*, which presents the question whether Congress can confer Article III standing upon a plaintiff. The Supreme Court had granted review on a similar question during October Term 2011, but the case was dismissed as improvidently granted on the last day of the Term.

**November 3:** BNA reports that many BigLaw firms are considering following in the footsteps of Debevoise & Plimpton by cutting health-care benefits to avoid the Affordable Care Act’s 40% “Cadillac” tax.

**November 6:** The Supreme Court grants review in *Zubik v. Burwell* and five other cases involving challenges to the accommodation process designed to allow religious non-profit organizations to opt out of the ACA’s contraceptive mandate.

**November 9:** The U.S. Court of Appeals for the Fifth Circuit affirms a district court preliminary injunction preventing the Obama administration from implementing DAPA, holding that Texas and the 25 other states challenging the executive action have standing and are likely to succeed on the merits of their APA claim (see May 26 entry).

**November 13:** Coordinated terror attacks in Paris conducted by agents of the Islamic State kill 130 people and injure 368. • The Supreme Court grants review in *Whole Woman’s Health v. Cole*, a challenge to Texas laws requiring abortion providers to obtain admitting privileges at a local hospital and abortion facilities to be certified as ambulatory surgical centers.