



Dear {{FirstName or 'Friend'}},

All eyes are on the United States Supreme Court, which heard oral arguments on February 8 in [Trump v. Anderson](#), the case in which the Colorado Supreme Court [determined](#) former President Donald Trump is ineligible to appear on primary and general election ballots because he helped to foment an insurrection at the U.S. Capitol on January 6, 2021. The Court heard arguments from attorneys representing Trump's campaign and the group of voters seeking to have Trump barred from Colorado ballots. The justices [appeared skeptical](#) of the Colorado voters' argument that a state can determine a federal candidate's ballot eligibility, and seemed open to arguments from the Trump campaign that only Congress can execute Section 3 of the 14th amendment, which states that insurrectionists cannot hold federal office. High courts in several other states have paused efforts to remove Trump from those states' ballots in anticipation of a ruling from the U.S. Supreme Court. This includes the Maine Supreme Court, which [stayed](#) a request by the Secretary of State to reinstate her decision ordering Trump off the state's ballots; and the Massachusetts Supreme Judicial Court, which [issued](#) a stay on a request from voters to bar Trump from ballots. With conflicting opinions and orders now issued by the supreme courts of Massachusetts, Maine, [Oregon](#), [Michigan](#), Colorado, and [Minnesota](#), stay tuned to State of Justice to learn how the U.S. Supreme Court will ultimately resolve the question of Trump's ballot eligibility.



Ethics Update

Maine's judicial recusal requirements come into question in recently filed ethics complaint

The Maine Supreme Judicial Court just released two recent decisions reversing its 2017 precedent which held mortgage lenders to strict notice requirements. Before the court's January rulings, according to the 2017 decisions, if a lender wanted to foreclose on a borrower's property, they had to exactly meet all the state's notice requirements. If the lender failed to meet any of the requirements, the foreclosure notice would be deemed unenforceable, and the lender would lose the ability to file another notice on the property. Then in last month's decisions, the court reversed its previous decisions, giving lenders more flexibility if they make a mistake in filing the notice, despite the language and analysis being nearly identical to the 2017 case. The cases closed what is referred to as the state's "foreclosure loophole," but could potentially open the door for lenders to become more careless when providing mandatory information to homeowners at risk of foreclosure about how they can get out of default and keep their homes.

Following the most recent decisions, Maine attorney Todd Cox [recently filed](#) an ethics complaint against Maine Supreme Judicial Court Justice Catherine Connors for failing to recuse herself in the two most recent cases ([Finch v. U.S. Bank, N.A.](#) and [J.P. Morgan Chase Acquisition Corp v. Camille J. Moulton](#)). Justice Connors, who sat and heard oral arguments, represented the mortgage lenders in the 2017 cases.

This is not the first time Connors has been asked about recusals. During her confirmation hearing, she affirmed the Judiciary Committee of her

willingness to recuse herself as needed and even explicitly acknowledged she may need to recuse herself in foreclosure cases. Despite those affirmations and even being asked by one of the committee members to recuse herself from the oral arguments when the *Moulton* case was originally argued in 2022, Connors did not recuse herself.

Now, the committee will review the complaint and compare it to the state's Code of Judicial Conduct and determine if there was misconduct. After the initial assessment, the complaint may either be dismissed, or Connors may need to provide more information. Should the commission find any misconduct that warrants discipline, the complaint is sent to the Supreme Judicial Court, and the court will have the final determination of wrongdoing and subsequent punishment.



Vacancies



Massachusetts Supreme Judicial Court nominee named as a new justice is sworn in

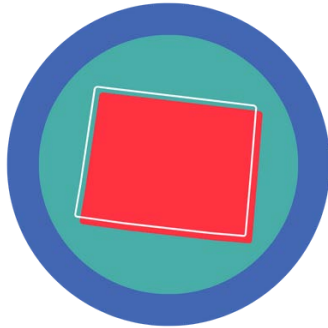
Last month, Governor Maura Healey [nominated](#) Massachusetts Appeals Court Associate Justice [Gabrielle Wolohojian](#) to serve on the state's highest court to fill the vacancy from the retirement of Justice David Lowy.

Upon completion of her clerkships on federal courts, Wolohojian began her career in private practice at Hale and Dorr (now WilmerHale), focusing on complex commercial litigation. She briefly left the practice to work as independent counsel on the Whitewater investigation and returned to practice shortly after a year. Wolohojian was appointed to the statewide appeals court in 2008.

Governor Healey was criticized by the state Republican Party because she and Wolohojian were previously in a romantic relationship. But Governor Healey said Wolohojian had the full support of the nominating commission. Wolohojian must be confirmed by the Governor's Council—which is an eight-member elected body that

advises the governor on a variety of issues including judicial nominations—to join the court. The council is expected to vote on February 21.

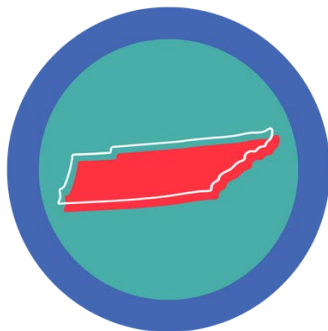
Shortly after Wolohojian's nomination, former State Solicitor Elizabeth Dewar [was sworn in](#) to office and officially joined the Supreme Judicial Court. Justice Dewar was nominated by Governor Healey in December 2023 to fill the vacancy due to the retirement of Associate Justice Elspeth Cypher.



Wyoming Governor names state supreme court nominee

Republican Governor Mark Gordon [appointed](#) Cheyenne attorney [Robert Jarosh](#) to fill retiring Justice Keith Kautz's seat on the Wyoming Supreme Court. Jarosh has spent his career in private practice in Wyoming working on a range of issues such as employment law, commercial litigation, liability, and civil litigation.

His practice is currently focused on employer side defense, shielding corporations, businesses, and other parties from liability, employee, and plaintiffs' lawsuits. In order to remain on the bench, Jarosh must stand for retention election in 2026.

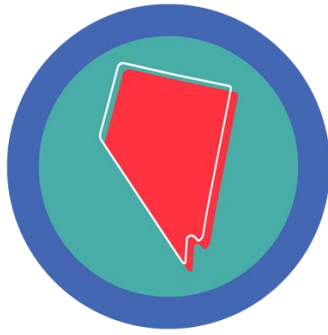


Governor Lee nominates Shelby County Circuit Court judge for Tennessee Supreme Court

To fill the vacancy due to Tennessee Supreme Court Justice Roger Page's retirement later this year, Republican Governor Bill Lee [nominated](#) Shelby County Circuit Court Judge [Mary Wagner](#). Judge Wagner was [one of three finalists](#) selected by the Governor's Council for Judicial Appointments and sent to the governor to choose from.

Wagner has served on the circuit court since 2016 following an appointment by Governor Haslam and was re-elected in 2018 and 2022. Before the bench, she worked in private practice focusing on civil litigation and insurance defense. Wagner, who is 39, is also a member of the Federalist Society. Wagner must be confirmed by the state legislature to join the bench. If confirmed, she will serve an eight-year term and subsequently face a retention election to remain on the bench.

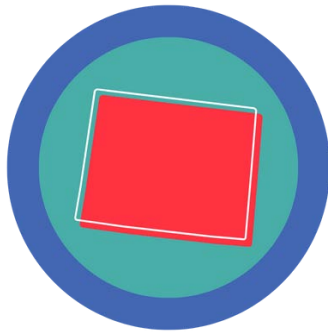
Elections



No candidates file to run against three incumbent Nevada Supreme Court justices

Three incumbent justices on the Nevada Supreme Court are up for nonpartisan re-election in 2024. Associate Justices Lidia Stiglich and Patricia Lee and Chief Justice Elissa Cadish will all run unopposed to retain their seats, as [no candidates filed](#) to run against them in the June primary election or the November general election.

First elected to the court in 2018, [Chief Justice Elissa Cadish](#) was previously a judge on the Eighth Judicial District Court. Before joining the bench, she practiced commercial litigation and employment law. [Justice Lidia Stiglich](#) was appointed to the court in 2016 by Governor Brian Sandoval and was elected to a full term in 2018. She previously served as a judge on the Second Judicial District Court, the Second Judicial Probate Court, and the Youth Offender Drug Court, and worked in private practice before joining the bench. [Justice Patricia Lee](#) was appointed to the court in 2022 by Governor Steve Sisolak and is running for a full term on the bench. She worked in private practice prior to joining the court and is the first Black woman and the first Asian American to sit on the Nevada Supreme Court.



Incumbent Justice and Senate Judiciary Chair unopposed for West Virginia Supreme Court of Appeals

The terms of two justices of the West Virginia Supreme Court of Appeals will expire in 2024. Incumbent [Justice Haley Bunn](#) was appointed to the state's highest court in 2022 and will run for a full 12-year term. She previously practiced civil defense litigation and was an Assistant U.S. Attorney for the Southern District of West Virginia from 2012 to 2019.

[Justice John Hutchison](#) announced in June 2023 that he would retire from the court when his term ends in 2024, and West Virginia [State Senator Charles Trump](#), the chair of the Senate Judiciary Committee, announced he will run for Hutchison's seat. Trump has served in the West Virginia Senate since 2014 and was a member of the House of Delegates from 1992 to 2006. He has also practiced civil litigation at his family's law firm, Trump and Trump, and served as the Morgan County prosecuting attorney from 1988 to 1992. Both Justice Bunn and Senator Trump [will run unopposed](#) in a nonpartisan election.



Four incumbent Mississippi Supreme Court justices to stand for retention

Four seats on the Mississippi Supreme Court are up in 2024, and all four incumbent justices [will seek re-election](#). Nine justices are elected to the court from three districts, with three justices representing each district. Justices run in retention elections every eight years to remain on the court. [Justice Jim Kitchens](#) (Central District, Place 3) was first elected to the Mississippi Supreme Court in 2008 and was re-elected in 2016.

Prior to joining the court, he was a district attorney and worked in private practice. [Justice Dawn Beam](#) (Southern District, Place 2) was first elected in 2016. She was a district attorney and a chancellor of the Tenth Chancery District before joining the court. [Justice Robert Chamberlin](#) (Northern District, Place 1) was elected to the court for the first time in 2016. He was previously a judge of the 17th Circuit District Court and the 17th Circuit Drug Court, and served as a state senator, a municipal court judge and prosecutor, and a chancery court special master while working in private practice. [Justice James Maxwell](#) (Northern District, place 2) was appointed to the court by Governor Phil Bryant in January 2016 and was elected to a full term in November of that year. Before joining the court, he worked in private practice and served as Assistant United States Attorney for the Northern District of Mississippi.



Access to Justice



Arizona

[*State v. Santillanes*](#)

Following the passage of a ballot proposal that legalized cannabis for adult use and provided for the expungement of certain cannabis-related convictions, the Arizona Supreme Court ruled that the expungements are subject to direct appellate review, allowing prosecutors to challenge expungements in court and weakening the ballot measure's effect in contravention of the will of Arizona voters.

Louisiana

[*State ex rel. Robinson v. Vannoy*](#)

The Louisiana Supreme Court vacated the conviction and sentence of a petitioner who was found guilty and sentenced to death for the quadruple homicide of a woman and her brother, daughter, and infant grandson in 2001. The court found that the state suppressed evidence and violated the petitioner's due process rights and ordered him to be retried.

Massachusetts

[Commonwealth v. Mattis](#)

The Massachusetts Supreme Judicial Court issued a historic opinion ruling that sentences of life without the possibility of parole are unconstitutional for people under the age of 21. Several states – including Massachusetts – had previously banned life sentences without the possibility of parole for juveniles, finding them to be cruel and unusual in violation of the Eighth Amendment of the U.S. Constitution, but Massachusetts is the first to extend that protection to young adults.

Agency Authority



Idaho

[Idaho State Athletic Commission v. Office of the Administrative Rules Coordinator](#)

In a unanimous opinion, the Idaho Supreme Court dismissed a challenge brought by the head of the Idaho Athletic Commission against the state's Administrative Rules Coordinator in an effort to overturn a recently passed law that requires the legislature to pre-approve rules created by state agencies. The court held that the legislature did not overreach by placing itself in charge of approving all administrative rulemaking in the state before new rules can take effect.

Education



Wyoming

[Carson, et al v. Albany County School District #1 Board of Trustees, et al](#)

The Wyoming Supreme Court upheld a lower court's ruling to deny a petition that had asked a school district to construct, maintain, and staff a one-room schoolhouse on the ranch of a family living 40 miles from the nearest paved road in an extremely remote area of the state. The lawsuit was brought after the district had agreed to build the school but was overruled by the Wyoming Department of Education, which determined that the benefit to the children was outweighed by the burden on taxpayers.

Election Administration



Wisconsin

[Phillips v. Wisconsin Elections Commission](#)

The Wisconsin Supreme Court issued a unanimous order directing the Wisconsin Elections Commission to place Dean Phillips—a Minnesota congressman challenging President Joe Biden for the Democratic nomination for President—on Democratic primary ballots, finding the commission failed to exercise its discretion as required by state election law when it excluded Phillips from the state's April 2 primary election ballots.

Environmental Protections



Nevada

[Sullivan v. Lincoln County Water District](#)

The Nevada Supreme Court ruled that the state's engineer did not abuse his authority in issuing decisions that brought a halt to the development of a master-planned community north of Las Vegas, finding the engineer was correct in his assessment that tapping nearby groundwater basins to supply the planned community with water would cause the water levels of nearby interconnected basins to plummet, threatening the habitat of several native species.

Firearm Restrictions



New Hampshire

[Hardy v. Chester Arms, LLC](#)

The New Hampshire Supreme Court ruled that a gun shop and the state's Department of Safety are not liable in a lawsuit brought against them by two police officers who were shot in the line of duty by a man who purchased the gun used in the shooting from the gun shop named in the complaint. The court found the gun shop and the department are shielded from liability by a state statute and found that nothing in the shooter's background check would have excluded him from purchasing a weapon at the time of the sale.

Government Accountability



Texas

[In re: Office of the Attorney General](#)

The Texas Supreme Court issued a ruling that temporarily halted depositions in a case brought against Texas Attorney General Ken Paxton by several whistleblower former employees of his office who claim Paxton improperly fired them after they reported his alleged abuse of his office to the FBI. Paxton had fought the depositions in lower courts, and the state's highest civil court did not provide a reason for its decision to issue the stay.

Judicial Representation



Florida

[In re: Judicial Circuit Assessment](#)

The Florida Supreme Court issued an opinion striking down proposed efforts by the legislature to consolidate the state's judicial circuits, which advocates said would bring more efficiency to the system but opponents said would allow the Republican-controlled legislature to gerrymander the judicial circuits with the intent of limiting the number of progressive prosecuting attorneys that are elected across the state.

Reproductive Rights



Pennsylvania

[Allegheny Reproductive Health Center, et. al v. Pennsylvania Department of Human Services, et. al](#)

The Pennsylvania Supreme Court issued an opinion that found a right to abortion in the commonwealth's constitution and ordered a lower court to reconsider whether a

law that prevents Medicaid from covering abortion care is unconstitutional.

Tribal Rights



New Mexico

[Sipp v. Buffalo Thunder Inc.](#)

The New Mexico Supreme Court ruled that state courts lack the authority to decide tort claims brought by visitors to casinos that are situated on tribal land and owned by tribes. The decision settles long-running disputes over jurisdiction of personal injury claims against tribal casinos by reaffirming the sovereign authority of tribes in New Mexico and requiring claims against tribal casinos to be adjudicated in tribal courts or through arbitration.

Workers' Rights



California

[Estrada, et al., v. Royalty Carpet Mills, Inc.](#)

The California Supreme Court eliminated a provision in the Private Attorneys General Act that was used by employers to defend against lawsuits brought by workers alleging violations of labor protections on behalf of their coworkers. Previously, the law included a provision that allowed employers to have some classes of workers dismissed from lawsuits on the grounds that highly varied classes of workers alleging many different labor violations resulted in cases that are so complex and wide-ranging as to be “unmanageable.” The court found the Act confers a right on all workers in the state that cannot be superseded by their employers’ desire to litigate the claims in a streamlined fashion.



[The Politics of Judicial Elections, 2021–2022](#)



[Arkansas Supreme Court will hear supporters' case for paper ballots](#)

amendments

The Brennan Center's newest report reviews outside spending, campaign contributions, and campaign expenditures throughout 2021-2022 in judicial elections.

The Arkansas Supreme Court agreed to expedite a hearing for a case brought by Trump-affiliated group Arkansas Voter Integrity Initiative (AVII). AVII is asking the court to certify two constitutional amendments, that were blocked by the secretary of state and Board of Election Commissioners. One amendment proposes the mandatory use of paper ballots in all state elections and the other would severely limit access to absentee ballot voting to people who can prove their inability to vote in-person. The group is asking for an expedited hearing to ensure they have enough time to collect signatures before the filing deadline.



[Rooftop Solar Champions Ask California Supreme Court to Reverse Corporate Giveaway](#)

Environmental groups appealed a lower court decision approving the California Public Utilities Commission's new rule slashing customer solar power incentives to the California Supreme Court. The groups argue the commission failed in its duty to holistically evaluate the impacts of the new policy and is asking the court to overturn the policy which has caused solar power demand and jobs in the solar industry to plummet in the state while utility companies financially benefit.



[Florida Supreme Court takes up DeSantis-drawn map eliminating Black congressional district](#)

The Florida Supreme Court has agreed to hear a challenge to the congressional maps drawn by Governor DeSantis that eliminated a majority Black district. In 2015, the state supreme court ruled the state's previous congressional maps as politically gerrymandered and ordered new districts to be drawn. However, since then, DeSantis has appointed five of the justices on the court. So far, Justice Canady has recused himself because his wife is the current representative of the district in question.



[Constitutional abortion backers file lawsuit to get on November's ballot](#)

Reproductive freedom groups are challenging the attorney general's dismissal of their proposed constitutional amendment attempting to enshrine the right to abortion before the state supreme court. The amendment would also prevent someone from being prosecuted for the outcome of their pregnancy or if someone assists another person obtain an abortion. The attorney general originally had until February 5 to respond, but the supreme court [granted](#) an extension until March 13.



[New Mexico justices hear challenge to public health ban on guns in public parks and playgrounds](#)

Gun rights advocates are challenging Democratic Governor Michelle Grisham's order preventing individuals from carrying guns in public parks and playgrounds before the state supreme court. Grisham originally passed the order as a public health ban in response to a series of shootings, one of which killed an 11-year-old boy. The order also calls for increased gun buyback programs, increased inspection of gun dealers, reports of gunshot victims at hospitals, and testing for illicit drugs at schools.



[Ohio Attorney General given until Monday to explain rejection of voting](#)

[Regulation of midwives considered by Nebraska Supreme Court](#)

The Nebraska Supreme Court heard oral arguments appealing the dismissal of charges against Judy Jones, a lay midwife, for her involvement as a midwife in a home birth. The state is arguing Jones illegally assisted in a birth because she was not certified under the Uniform Credentialing Act while Jones maintains she was exempt because the law does not regulate lay midwifery. Should the court side with Jones, the legislature must revisit the law and more concretely define their midwifery credentials.



[The Majority v. Anita Earls](#)

As AFJ Action has covered over the past six months, Democratic North Carolina Supreme Court Justice Anita Earls was subject to an intrusive ethics investigation from the state's Judicial Standards Commission. Last month, Earls was cleared of the investigation and the complaint against her. This article in the Assembly tells Justice Earls' side of the story and the partisan political games that conservative judges and legislators played that led up to the complaint.



[Oklahoma Supreme Court hears arguments in Muscogee Nation citizen's](#)

rights amendment to court

Voting rights groups are challenging Attorney General Yost's rejection of their "Voters Bill of Rights" constitutional amendment from appearing on the 2024 ballot despite approval of amendments with similar titles in previous years. Groups are asking the state supreme court to certify their petition and send the initiative to the Ballot Board. The proposed amendment would expand access to the ballot by requiring automatic voter registration, extending early voting, and allowing same-day registration. Yost has until February 8 to file his response.



Texas Supreme Court hears legal challenge to ban on gender-transition care for kids

The Texas Supreme Court heard oral arguments challenging the state's ban on providing gender transitioning care to youth in the state. The law prevents the prescription of puberty blockers and hormone therapy for gender dysphoria, despite studies proving access to gender affirming care is essential, lifesaving healthcare. LGBTQ+ advocates and families argue the ban infringes upon parental rights and autonomy and are asking the court to remand the case back to the district court for a full trial.



tax case

The Oklahoma Supreme Court heard oral arguments in a case attempting to expand some tribal members' exemption from the state's income tax. Traditionally, individuals who live and work on a tribal reservation are exempt from the state's income tax. Now, following the U.S. Supreme Court's McGirt decision stating the tribal reservation territory in Oklahoma was never de-established, a member of the Muscogee Nation is asking the state supreme court to grant her exemption from the state's income tax under the newly recognized border. The state, however, rejected that argument claiming the McGirt ruling only applies to criminal cases.



Democrats ask Wisconsin Supreme Court to order new congressional maps for fall election

Another lawsuit challenging Wisconsin's political maps has been filed before the state supreme court. Following last year's decision throwing out the state legislative maps, a new case has been filed challenging the state's federal congressional maps arguing these districts are similarly gerrymandered. While it would be a tight deadline, the Democratically affiliated law firm is asking the court to overturn the maps and accept additional map proposals before the March 15 deadline.

[Wisconsin Supreme Court hears case that could change how gig workers are defined](#)

The Wisconsin Supreme Court heard oral arguments in a case challenging how Amazon defines and classifies their workers. This lawsuit came from a 2018 audit of Amazon Logistics that found the company owed the state over \$200,000 in taxes to the state's unemployment fund. Amazon had been circumventing their duty to pay into the system by classifying many of their employees as independent contractors when the state found they satisfy the requirements to be full employees.

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