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Case of the Month

The tax sale of a homeowner's property at auction was not a violation of the Fifth Amendment Takings Clause or the Eighth Amendment Excessive Fines Clause.

The Pung family disputed the amount of taxes owed on their property in Isabella County, Michigan, and refused to pay. Eventually the county initiated foreclosure proceedings under state law. At a public auction, the home sold well below its tax-assessed value, and the county initially retained the sales proceeds. Michael Pung sued the county under the U.S. Constitution [Fifth Amendment](#), claiming that the foreclosure sale constituted a government taking in violation of the Takings Clause because the sale price was far below the fair market value, and the U.S. Constitution [Eighth Amendment](#), claiming that the foreclosure process resulted in an excessive fine in violation of the Excessive Fines Clause. The county filed a motion for summary judgment, arguing that the Pungs were entitled to receive only the difference between the foreclosure sale price and the taxes owed. The federal district court granted the motion and ordered the county to remit the funds. Pung appealed.

The Sixth Circuit Court of Appeals concluded that the district court's ruling was consistent with court precedent and further held that the county's tax foreclosure procedure was not punitive and therefore not within the purview of the Eighth Amendment. The Sixth Circuit affirmed, and Pung appealed.

The U.S. Supreme Court considered history and court precedent to address both of Pung's claims. First, in holding that the sale did not constitute a taking in violation of the Fifth Amendment, the Court emphasized that even prior to the country's founding and continuing through the present, forced tax sales have been an accepted means for governments to collect debts without delay and with little administrative expense, provided that the debtor receives any surplus proceeds. Precedent has also reflected this approach; specifically, courts have found that a debtor-taxpayer receives just compensation when they receive the difference between the auction sales price and the unpaid taxes. Further, the Court acknowledged that forfeiture of property can constitute a fine for purposes of the Eighth Amendment if the forfeiture is punitive. However, the Court noted that Pung failed to support his proposition that either a tax sale, fairly conducted in light of the country's history, or the government's return of only the difference between the tax sale proceeds and the taxes owed, rather than the difference between a hypothetical fair market value and the taxes owed, would constitute a violation of the Eighth Amendment. The Court vacated the judgment of the lower court and remanded the case for further proceedings. [Pung v. Isabella Cnty.](#), No. 25-95, 2026 WL 1791309 (U.S. June 23, 2026).

Why is This Case Significant?

The U.S. Supreme Court clarified that just compensation resulting from a tax foreclosure sale is the difference between the taxes owed and the auction sale price, not the property's hypothetical fair market value. Pung's fair market value approach, which the Court rejected, would have likely rendered forced tax sales an impractical means to collect delinquent taxes by increasing the administrative burdens associated with selling property and collecting the funds.



From the Courts and the Attorney General

Governance

In the first application of [Louisiana v. Callais](#), 146 S.Ct. 1131 (Apr. 29, 2026), the State of Alabama's request to stay an injunction enjoining the state from using a 2023 congressional map that was previously found to be intentionally discriminatory against Black voters was granted. [Allen v. Milligan](#), 146 S.Ct. 1377 (June 2, 2026).

The Rooker-Feldman doctrine, as discussed in [Exxon Mobil Corp. v. Saudi Basic Industries Corp.](#), 544 U.S. 280 (2005), which provides that lower federal courts can generally not review state court decisions, also limits the ability of federal district courts to review state court decisions that remain subject to further review in state appellate proceedings. [T.M. v. Univ. of Maryland Med. Sys. Corp.](#), No. 25-197, 2026 WL 1751823 (U.S. June 18, 2026).

Political candidates and political committees may advertise on social media platforms, and [Texas Election Code chapter 255](#) requires specific disclaimers and disclosures on those advertisements. [Op. Tex. Ethics Comm'n No. 645](#) (2026).

Images related to a school district that appeared in a school board candidate's campaign video were obtained through publicly accessible means and therefore did not constitute political advertising in violation of [Texas Election Code section 255.003\(a\)](#) or misuse of government resources in violation of [Texas Penal Code section 39.02\(a\)\(2\)](#). [Op. Tex. Ethics Comm'n No. 646](#) (2026).

Business and Finance

A Texas man who possessed a firearm in his home and admitted to law enforcement that he used marijuana a few times per week was not an unlawful user of a controlled substance within the meaning of [18 U.S.C. § 922\(g\)\(3\)](#), such that his prosecution under that statute was

inconsistent with the U.S. Constitution Second Amendment. [U.S. v. Hemani](#), No. 24-1234, 2026 WL 1741710 (U.S. June 18, 2026).

University was obligated to pay a contractor on a cost-plus basis with no guaranteed maximum price, in part because the contract required only notification, rather than modification, to exceed the estimated budget contained in the scope of work. [Blackmon Mooring of Austin, LLC v. St. Edwards Univ., Inc.](#), No. 03-24-00334-CV, 2025 WL 1500836 (Tex. App.—Austin, May 29, 2026, no. pet. h.).

Personnel

Former professor, whose term employment contract was not renewed following several years of disputes with college administration, failed to provide sufficient evidence to overcome summary judgment on his claims the college deprived him of a property interest without procedural due process in violation of the U.S. Constitution [Fourteenth Amendment](#), the college retaliated against him in violation of the U.S. Constitution [First Amendment](#), and the college restrained his individual freedom of movement in violation of the U.S. Constitution [Fourth Amendment](#) and the U.S. Constitution [Fourteenth Amendment](#), and a breach of contract claim brought under state law. [Harman v. Trinity Valley Cmty. Coll.](#), No. 6:24-CV-401-JDK, 2026 WL 1507695 (E.D. Tex. May 29, 2026).

Black former nurse, who alleged that a university medical center constructively discharged her from her job, provided sufficient evidence to overcome dismissal of her claims the medical center discriminated against her based on her race, color, and national origin, retaliated against her, and subjected her to a hostile work environment in violation of [Title VII of the Civil Rights Act of 1964](#) and the [Texas Commission on Human Rights Act](#) (TCHRA), including by allegedly excluding Willie from trainings, meetings, and equal pay while providing the same to Willie's white colleagues.

[*Willie v. The Univ. of Tex. Southwestern Med. Center*](#), No 3:25-CV-3235-B, 2026 WL 1601573 (N.D. Tex. June 3, 2026).

Former professor, who was terminated after a university investigation concluded that the professor engaged in inappropriate sexual conduct and created a hostile environment in violation of the university's handbook, failed to provide sufficient evidence to overcome summary judgment on his claims that the university discriminated against him on the basis of race and sex in violation of [*Title VII. Brauckmiller v. The Univ. of Tex. San Antonio*](#), No. SA-23-CA-01182-XR, 2026 WL 1649804 (W.D. Tex. June 5, 2026).

White former executive assistant, who was fired by a university for performance issues, failed to provide sufficient evidence to overcome dismissal of her claims that the university discriminated against her on the basis of race in violation of the [*TCHRA. Univ. of Tex. At Arlington v. Shaw*](#), No. 02-25-00587-CV, 2026 WL 1441783 (Tex. App.—Fort Worth May 21, 2026, no pet. h.).

Community and Governmental Relations

A governmental entity's initiation of a condemnation suit constitutes a taking for purposes of eminent domain, and a later settlement to fix the value does not waive the landowner's right to repurchase. [*Tex. v. J.R.J. Pusok Holdings, LLC*](#), No. 24-0447, 2026 WL 1699922 (Tex. June 12, 2026).

Open Records Letter Rulings

This month, the attorney general issued Open Records Letter Rulings¹ based on requests from Texas community colleges related to:

- Certain contracts, service agreements, and purchase orders with a third party. Tex. Att'y Gen. Op. [OR2026-20751](#) (May 19, 2026);

- Information related to a contract. Tex. Att'y Gen. Op. [OR2026-21352](#) (May 21, 2026);
- Records pertaining to certain contracts. Tex. Att'y Gen. Op. [OR2026-21526](#) (May 22, 2026);
- Information regarding an audit. Tex. Att'y Gen. Op. [OR-2026-22614](#) (June 1, 2026);
- Information pertaining to competition or bidding. Tex. Att'y Gen. Op. [OR2026-22662](#) (June 1, 2026), [OR2026-22841](#) (June 2, 2026);
- Communications involving named individuals and complaints against named individuals. Tex. Att'y Gen. Op. [OR2026-22814](#) (June 2, 2026);
- Information pertaining to a named individual. Tex. Att'y Gen. Op. [OR2026-22927](#) (June 2, 2026);
- Specified grievance documents. Tex. Att'y Gen. Op. [OR2026-22970](#) (June 2, 2026);
- A police report pertaining to an event involving the requestor. Tex. Att'y Gen. Op. [OR2026-23016](#) (June 3, 2026);
- Information pertaining to a solicitation. Tex. Att'y Gen. Op. [OR2026-23674](#) (June 5, 2026), [OR2026-23824](#) (June 8, 2026);
- Certain communications containing specified search terms. Tex. Att'y Gen. Op. [OR2026-23856](#) (June 8, 2026);
- Certain information regarding a community college's departments. Tex. Att'y Gen. Op. [OR2026-24184](#) (June 9, 2026);
- Certain surveillance camera footage pertaining to an incident. Tex. Att'y Gen. Op. [OR2026-24751](#) (June 12, 2026); and
- Certain information pertaining to employees. Tex. Att'y Gen. Op. [OR2026-24952](#) (June 12, 2026).

¹ Open record letter rulings are limited to the particular records at issue and the facts as presented to the attorney general. These rulings must not be relied upon as a previous determination regarding any other records or any other circumstances.



Recent Regulations and Guidance

The Texas Commission on Law Enforcement adopted a [regulation](#) addressing a new mental health proficiency certificate for telecommunicators.

The Texas Ethics Commission (TEC) amended a [regulation](#) addressing political advertising as contained in a newsletter by a public officer of a political subdivision.

TEC amended [regulations](#) addressing the expenditure and compensation and reimbursement thresholds for lobbyists.

TEC amended a [regulation](#) addressing disclosure statements in political advertising.

The Texas State Board of Public Accountancy adopted and amended [regulations](#) addressing standards for recognized community colleges and the provision of courses by those colleges for students seeking licensure as a Certified Public Accountant.

The Employees Retirement System of Texas amended a [regulation](#) addressing the maximum contribution for dependent care flexible spending accounts.

The Texas Health and Human Services Commission adopted the review of [regulations](#) addressing communicable diseases, including immunization requirements for community college students.

The Texas Department of Public Safety (DPS) adopted the review of regulations addressing the [Texas Highway Patrol's provision of assistance to local agencies, commercial vehicle inspections, and private security](#).

The Texas Real Estate Commission amended [regulations](#) addressing updates to standard forms, including the [Amendment to Contract](#) and the [Addendum for Seller's Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards as Required by Federal Law](#).

The U.S. Department of Education amended [regulations](#) addressing the Federal Pell Grant Program to implement the Working Families Tax Cuts Act, including changes to student eligibility and the establishment of Workforce Pell Grants.

The U.S. Department of Labor amended [regulations](#) addressing exemptions from minimum wage and overtime pay for certain employees, reinstating the regulatory text as it existed prior to the 2024 rule, which took effect on July 1, 2024, in response to judicial decisions.

The U.S. Centers for Medicare and Medicaid Services amended [regulations](#) addressing Medicaid's community engagement requirement for certain adults, which can be satisfied with at least half-time enrollment in an educational program.



In the News

The governor appointed [Eli Heath](#) as the student representative and [Brian Haley](#) to the Texas Higher Education Coordinating Board (THECB).

The governor and THECB announced that applications will open in July for the [Texas Reskilling and Upskilling Through Education \(TRUE\) Grant 2026-2028 Program](#).

The governor [appointed](#) Jesus “Roberto” Rodriguez and reappointed Bill Avera, Edwin Flores, and Rania Mankarious to the Texas School Safety Center Board.

The governor and the Texas Workforce Commission (TWC) announced the recipients of six [Jobs and Education for Texans](#) grants, including Del Mar College and Victoria College.

The governor and TWC announced the award of two [Skills Development Fund](#) grants to Tarrant County College District.

The governor [directed](#) the Public Utility Commission of Texas to take certain steps to require data centers to pay all costs associated with their infrastructure, among others.

The U.S. Department of Education (ED) announced that many [duties](#) of ED’s Office for

Civil Rights will be shifted to the U.S. Department of Justice (DOJ) and ED’s Office of Special Education and Rehabilitative Services will move to the U.S. Department of Health and Human Services.

ED recognized June as [Title IX month](#).

ED published a [fact sheet](#) regarding changes to student loan repayment that will take effect July 1.

The DOJ issued an [opinion](#) to the U.S. Equal Employment Opportunity Commission that its interpretation and application of [Title VII of the Civil Rights Act of 1964](#) are unconstitutional because intent, rather than disparate impact alone, is required to support a Title VII complaint.