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Blockbuster term: Justices could determine limits of courts' ability to check Trump administration

Gerrymandering, First Amendment protections, and Trump's tweets on Supreme Court's docket

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The Supreme Court over the next month is poised to upend the way the country picks representatives to Congress, decide whether the First Amendment protects people who refuse to do business with same-sex couples and rule on whether President Trump's tweets can be used in court to derail his agenda.

After what analysts described as a lackluster term last year, this year is shaping up to deliver a series of blockbuster rulings that will signal to lower courts how they should treat the unorthodox Mr. Trump.

The biggest test comes on the president's travel ban. His opponents have begged the justices to hold Mr. Trump's campaign-era tweets against him, saying his comments about Muslims taint the travel policy he announced once he took office.

Led by Hawaii, the case is also the first big test of the blue state anti-Trump resistance to reach the high court, and analysts said it will test how far the court will go in acting as a brake on the administration.

"The travel ban case presents the court with the opportunity to look behind the texts of the travel ban itself and the rationale offered by the government to the anti-Muslim animus expressed by Donald Trump not just on the campaign trail but several times since he has been in office," said Robert Tuttle, a law professor at George Washington University.

Mr. Tuttle said he could see the court upholding the current version of the policy.

Lower appeals courts have taken a skeptical view of Mr. Trump's policy, which restricts admission of citizens from a number of countries that don't fully cooperate with U.S. travel policies, but the justices seemed more open to the policy during oral argument.

Curt Levey, president of the Committee for Justice, said a win for Mr. Trump will also send a message to the district courts against the issuance of nationwide injunctions against the president's policies.

"If the court rules for Trump, it will send a message to the lower courts that it is unacceptable for them to join the resistance no matter what they may think about the president's motives," Mr. Levey said. The travel case, known officially as *Trump v. Hawaii*, is one of 29 rulings the justices are expected to deliver by the end of June, when the 2017-2018 session concludes.

Josh Blackman, a professor at South Texas College of Law, said the most important takeaway from the term thus far is the court's slow pace in issuing its decisions. It is also the first full session for Justice Neil M. Gorsuch, a Trump appointee, who set court-watchers atwitter this year when he sided with the four Democrat-appointed justices in ruling against a law allowing legal immigrants to be deported if they commit a violent crime. He said the law was too vague in defining what constituted "crimes of violence."

Mr. Levey said Justice Gorsuch could be the deciding factor in many of the pending high-profile cases. The early signs are that the court has become more conservative since he filled the seat of the late Justice Antonin Scalia.

Two years ago, after Scalia's death but before Justice Gorsuch's appointment, the court deadlocked 4-4 on a case involving whether public-sector labor union members can be required to pay dues that the unions then spend on their political goals.

Now another such case is back before the court. Mark Janus, a government employee in Illinois, says he is forced to pay union dues that subsidize speech with which he disagrees.

Mr. Levey said this case could be a major setback to public unions and their ability to spend money advancing their agendas if the court, with Justice Gorsuch, sides with Mr. Janus.

In another major First Amendment case, religious conservatives are eagerly awaiting the justices' decision on whether Christian companies can refuse to do business for same-sex weddings.

The legal battle began when Jack Phillips, a Christian baker, turned a same-sex couple away from his bakery and refused to create a custom cake for their same-sex wedding because it violated his religious beliefs.

Colorado said he broke public accommodation laws that prohibit businesses from turning customers away based on race, sexual orientation, age and nationality.

Mr. Phillips countered that the law crimped his free speech rights by requiring him to bake and decorate a cake — his form of art — in support of something he finds objectionable. Mr. Trump’s Justice Department sided with the baker.

Mr. Tuttle said an exception to the public accommodation law could have ramifications for other minority groups across the board.

“There is nothing in principle that limits this to the exclusion of gays and lesbians or LGBT-plus folks. It can also include other forms of discriminatory conduct if someone believes that this violates their right to compelled speech, so I just worry about this across the whole range of exemptions,” Mr. Tuttle said.

The justices could also settle a landmark battle over how nakedly political states can be in drawing lines for their legislative districts, such as statehouses and members of Congress.

A host of liberal voter groups challenged Wisconsin’s maps, saying Republicans drew the lines to pack Democrats into a few districts while spreading out Republican voters to maximize the number of House seats.

A lower court ruled that the political move violated voters’ right to have a fair chance to pick a candidate of their choice. The court suggested that a mathematical formula should be used to calculate how partisan a district can lean before it is deemed illegal.

But analysts say it’s tricky, if not impossible, to settle on an acceptable formula.

The court will also address the increasing tension between technology and privacy in a case over cellphone tracking data and whether the government needs a warrant to track people’s whereabouts.

The Trump administration argued that the cellphone records belong to telecommunications companies, not customers, so there is no need for a warrant to obtain data location records. Skeptics, though, say it violates the consumers’ Fourth Amendment right.

Court watchers will also be looking for retirement announcements, which often coincide with the end of a session.

Ilya Shapiro, a senior fellow at the Cato Institute, advises court watchers not to get too comfortable with the current lineup.

“This composition of the court won’t last long, whether [Justice] Kennedy retires now or later,” he said. “But I really like Gorsuch. His approach is a breath of fresh air.”