

Feds' Push May Bring High Court Action on Title VII

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Jason Cabrera spoke with *Law360* to discuss the U.S. Department of Justice and the U.S. Equal Employment Opportunity Commission asking the Supreme Court to review two workplace bias cases that address what employment-related decisions can support a workplace bias allegation. The federal agencies want the Supreme Court to do away with a variety of circuit court-created rules that often filter out Title VII claims over job actions not directly impacting a worker's pay. The Supreme Court receives thousands of petitions for certiorari each year, but it only requests the solicitor general's opinion in a small fraction of those cases. When the Court does ask for the solicitor general's input, it almost always agrees with the government's recommendation on whether to grant or deny certiorari. In the 2021 term, the Court requested the solicitor general's opinion in 19 cases. In all but one of those cases, the Court agreed with the government's recommendation. So far in the 2022 term, the Court has requested the solicitor general's opinion in eight cases. In the six cases where the Court has issued a decision, it has agreed with the government's recommendation in three cases and denied certiorari in three cases. "You typically see statistics saying the court grants less than 1% of cert petitions in a given term, but I think once the solicitor general gets involved, that number jumps up consistently. It has significant weight with the justices," said Jason.

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