

8th Circuit Term in Review

1. **Organization for Black Struggle v. Ashcroft, 978 F.3d 603 (8th Cir. 2020)**

Plaintiffs sought a TRO and preliminary injunction against enforcement of portions of a Missouri statute that provides for voting by mail-in ballot. Specifically, they challenged the provision that mail-in ballots must be returned by USPS mail, whereas absentee ballots can be returned by mail or in-person. The Eighth Circuit found that the Secretary of State has a strong likelihood of success on the merits because the statute imposes a de minimis burden on voters, it is a reasonable and rational exercise of the State's authority to regulate elections, and there is no evidence the State's decision to treat the two types of ballots differently was based on an impermissible discriminatory reason.

2. **B.W.C. v. Williams, 990 F.3d 614 (8th Cir. 2021)**

Plaintiffs challenged Missouri's form parents are required to fill out to claim a religious exemption from mandatory immunizations for school children under the First and Fourteenth Amendments. The Eighth Circuit rejected Plaintiffs' challenge finding the form does not compel speech, restrict speech, or incidentally burden speech. It also found the form does not abridge the free exercise of Plaintiffs' religion or the Equal Protection clause.

3. **Hawse v. Page, 7 F.4th 685 (8th Cir. 2021)**

Plaintiffs challenged a St. Louis County COVID-19 restriction from March 28, 2020, that restricted churches to gathering no more than 10 people in a single room. The order was amended on May 18, 2020, to allow capacity restrictions depending on the size of the building. All restrictions on religious gatherings were rescinded on May 14, 2021. The Eighth Circuit held Plaintiffs did not have standing because the complaint did not adequately allege an injunction would have redressed Plaintiffs' injuries because it did not allege that but for the order, the churches would have allowed more than ten people to gather. Alternatively, the Eighth Circuit held the matter is moot.

4. **Kaliannan v. Liang, 2 F.4th 727 (8th Cir. 2021)**

Plaintiffs, residents of Singapore, invested in a North Dakota company and brought an action in federal court in North Dakota seeking damages from Defendant, also a resident of Singapore, for his role in convincing Plaintiffs to buy fraudulent, unregistered securities. The Eighth Circuit found personal jurisdiction existed in North Dakota because Defendant's contacts with North Dakota were numerous, not random, fortuitous, or attenuated, and central to the alleged scheme.

5. **Morningside Church, Inc. v. Rutledge, 9 F.4th 615 (8th Cir. 2021)**

Plaintiffs sued several out-of-state defendants in Missouri federal court after Defendants, including the Los Angeles City Attorney, the Arkansas Attorney General, and the District Attorney's Office for Merced, California opened investigations into Plaintiffs' TV advertisements for a product they claimed could kill COVID-19. The district court dismissed on the basis of lack of personal jurisdiction. The Eighth Circuit affirmed finding the isolated letters and calls from Defendants were random, fortuitous, or attenuated contacts and did not establish personal jurisdiction.

6. Holbein v. TAW Enterprises, Inc., 983 F.3d 1049 (8th Cir. 2020)

Plaintiff, a citizen of Arizona, sued Defendant, a Nebraska corporation. Defendant removed the matter to federal court asserting federal-question jurisdiction. The first Eighth Circuit panel to hear the case remanded the matter back to state court finding there was no federal question jurisdiction, and the forum defendant rule of diversity jurisdiction applied. On rehearing en banc, the Eighth Circuit held the forum-defendant rule is nonjurisdictional and can be waived if it is not raised in a motion remand made within 30 days after the filing of the notice of removal.

7. American Modern Home Insurance Co. v. Thomas, 993 F.3d 1068 (8th Cir. 2021)

American Modern Home Insurance alleged insurance fraud and sued the homeowners after a fire destroyed their home. The district court excluded the homeowner's prior convictions for statutory rape and sodomy. The Eighth Circuit held the prior convictions should have been admissible because witness credibility was paramount, and the convictions were highly probative and not substantially outweighed by prejudice.

8. Spirit Lake Tribe v. Jaeger, 5 F.4th 849 (8th Cir. 2021)

After the parties entered a consent decree, Plaintiffs moved for attorneys' fees for the preliminary injunction the district court had previously entered. The Eighth Circuit held Plaintiffs should have filed their motion within 14 days of the entry of the preliminary injunction. Because a preliminary injunction is an order from which an appeal lies, it triggers the 14-day deadline.

9. Reygadas v. DNF Associates, LLC, 982 F.3d 1119 (8th Cir. 2020)

Defendant is a company that purchases defaulted consumer debt and hires a third-party company to collect the debt. The issue is whether Defendant qualifies as a debt collector under the principal purpose prong of the FDCPA definition for debt collectors. In a matter of first impression, the Eighth Circuit held the principal purpose of Defendant's business was to collect debt, therefore it was a debt collector whether or not it hired a third-party to actually collect the debt.

10. Penrod v. K&N Engineering, 14 F.4th 671 (8th Cir. 2021)

Plaintiffs filed suit in federal court pursuant to the Class Action Fairness Act. The district court found Plaintiffs failed to plausibly allege the amount in controversy exceeded \$5 million, therefore it lacked jurisdiction under CAFA. The Eighth Circuit held Plaintiffs have not plausibly alleged the amount in controversy exceeds \$5 million because Plaintiffs cannot include in the calculation of damages class members who own a product at risk of failing, that has not actually failed and is currently not defective.