2026-2 HIGHLIGHTS
FREEDOM OF SPEECH

- In *Chiles v. Salazar,* the Supreme Court held that a Colorado ban on "conversion therapy" violated the First Amendment. The Colorado law at issue banned licensed counselors from engaging in conversion therapy with minors. Conversion therapy was defined as including any practice or treatment that attempts to change an individual's sexual orientation or gender identity, as well as any effort to change behaviors or gender expressions or to eliminate or reduce sexual or romantic attraction toward individuals of the same sex. The Court held that as applied to a conversion therapist who engages in "talk therapy," the Colorado law was unconstitutional viewpoint discrimination.
- In *National Republican Senatorial Committee v. Federal Election Commission,* the Supreme Court reversed decades of precedent, holding that a provision of the Federal Election Campaign Act that prohibits coordinated campaign expenditures by a political party—expenditures in which the party coordinates its expenditures with a candidate—violates the First Amendment. In holding that the First Amendment gives political parties the right to coordinate expenditures with candidates, the Court overruled its decision from 2001 in *Federal Election Commission v. Colorado Republican Federal Campaign Committee,* a case known as *"Colorado II."*
- The Ninth Circuit in *Reges v. Cauce* held that the University of Washington violated the First Amendment rights of a professor for taking various disciplinary actions against the professor after the professor posted on his syllabus a parody land acknowledgment mocking a university position with which the professor disagreed. The court held that the controversy stirred at the University by those who disagreed with the professor's actions was not the sort of disruption that justified University action against the professor in light of traditions of vigorous debate and academic freedom on college campuses.
- In *Defense Distributed v. Attorney General of New Jersey,* the Third Circuit held that no heightened First Amendment protection attached to computer code used to instruct persons on how to manufacture a "ghost gun" through a 3D printer. The court concluded that the code was purely functional and not otherwise expressive and thus did not trigger First Amendment protection.
- In *Nathan v. Alamo Heights Independent School District,* the Fifth Circuit, sitting en banc, upheld a Texas law that requires public schools to display a copy of the Ten Commandments in classrooms. The Fifth Circuit held, by a narrow vote of the

judges, that it was free to ignore the Supreme Court's 1980 decision in *Stone v. Graham,* which struck down a similar law, because *Stone* was decided under the since-repudiated "Lemon test," which the Circuit court said has been replaced by a less separationist Establishment Clause methodology that looks primarily to the status quo at the time of the adoption of the First Amendment.