

US Law Week

Advocate Taps Underdog Nostalgia Ahead of Supreme Court Debut

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Joshua Hammack hasn't shied away from his small town roots as he prepares to make his argument debut before the US Supreme Court.

The Bailey Glasser partner dipped into "Hoosiers," the Indiana sports classic about a small town basketball team's run to the state championships, in a petition on behalf of a sports newsletter subscriber.

They're urging the justices to reconcile a circuit split over how the 1988 Video Privacy Protection Act should apply in the digital age in a case against Paramount Global, now Skydance Corp., to be heard Wednesday.

In the movie, Coach Normal Dale — played by Gene Hackman — worried that his players will be intimidated by the big city championship fieldhouse, has them measure the distance from the floor to the backboard, and the floor to the rim.

"The point is simple: The venue is different, the rules are not," Hammack wrote in his client's appeal of a lower court decision rejecting a proposed class action against the media giant.

The Huntington, West Virginia, native's affinity for sports—particularly those of his own Indiana alma mater, the University of Notre Dame, and its legendary football program—is obvious. He spoke to Bloomberg Law via Zoom in front of a wall full of Notre Dame football memorabilia.

"I think it's just kind of that nostalgic love of where I went when I was a kid and grew up into a man," Hammack said.

Notre Dame is also where Hammack met his wife, Heather. They now live in Alexandria with two girls who keep them busy, he said, with horseback riding and soccer.

Hammack's attention lately has been focused on preparing "aggressively" for the justices. He'll ask them to allow Michael Salazar's suit move forward over allegations Paramount allegedly violated the privacy law by sharing his video viewing history on 247Sports.com as well as personally identifiable information to Meta Platforms without his consent.

Hammack will argue opposite veteran Supreme Court litigator Paul Clement, who is representing Skydance.

Storied History

The 1988 law bans businesses from sharing an individual's video rental, purchase or viewing history alongside personally identifiable information without their consent. Salazar alleges Paramount violated the law when it shared history of videos he'd viewed on 247Sports.com with Facebook, now Meta, via the company's commonly used tracking Pixel designed to collect advertising data.

The case bubbling up from the US Court of Appeals for the Sixth Circuit is one of several around the country that Bailey Glasser and Hammack are involved with challenging common digital advertising practices under the VPPA.

It's a law the Supreme Court should be familiar with. Congress enacted the VPPA after a journalist obtained and published Judge Robert Bork's video rental history during his confirmation hearings for an appointment to the Supreme Court.

Litigants like Salazar have increasingly argued the pre-Internet law, enacted when video cassette rental was the norm, applies to consumers who use websites or online services that don't require payment and even where the videos being watched are advertising.

"The critical point is, courts are supposed to presume Congress meant what it said and said what it meant," Hammack said.

The question for the court is whether someone like Salazar, who obtained a free subscription to Paramount's services by subscribing to a newsletter, is a protected consumer under the VPPA. Circuit courts have divided over that question.

Serving Justice

Hammack said he always wanted to make a difference in some capacity, but ultimately wound up practicing law because he was “too tall to be an astronaut.”

He attended Notre Dame for undergrad and law school, with a stint in between as a college access counselor with AmeriCorps in Baltimore. He said that experience challenged him to really consider what he wanted out of a career.

After Notre Dame, Hammack clerked for Judge Carlos T. Bea on the Ninth Circuit and then spent six years at Jones Day before moving to Bailey Glasser in 2020.

Hammack credited his clerkship to helping him hone in how to prep for an appellate case. He prepared for his first turn before the justices “pretty aggressively,” he said—participating in more than a half dozen moots both internally and hosted by law schools.

While Bailey Glasser received outreach about letting a more experienced Supreme Court litigator handle the case, Hammack said the firm “didn’t bite.”

“I was always given the message that this is your case and we’re not going to take it away just because someone else has more experience,” Hammack said.

The case is *Salazar v. Paramount Global, U.S.*, No. 25-459, argument scheduled for 10/14/26.

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