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Appellate and Constitutional Law Update

April 22, 2026

Supreme Court Holds No Equitable Tolling For 30-Day Removal Deadline

Enbridge Energy, L.P. v. Nessel, No. 24-783 – Decided April 22, 2026

Today, the Supreme Court unanimously held that 28 U.S.C. § 1446(b)(1) does not allow equitable tolling of the 30-day deadline to remove a case to federal court.

“Because 1446(b)(1)’s text, structure, and context are inconsistent with equitable tolling, Enbridge’s removal was untimely and remand to the Michigan state court is required.”

JUSTICE SOTOMAYOR, WRITING FOR THE COURT

Background:

In June 2019, Michigan Attorney General Dana Nessel filed a lawsuit in Michigan state court seeking to force Enbridge Energy to shut down Line 5, a pipeline running beneath the Straits of Mackinac that supplies propane to Michigan and parts of Canada. Enbridge did not file a notice of removal within the 30-day deadline set by 28 U.S.C. § 1446(b)(1).

In November 2020, Michigan Governor Gretchen Whitmer filed a separate lawsuit against

Enbridge in Michigan state court, also seeking to shut down Line 5. Although the suits involved the same basic facts and parties, the Governor’s lawsuit sparked a response from Canada, which asserted rights under a 1977 treaty prohibiting public authorities from interfering with the cross-border transmission of oil and gas. Enbridge timely removed the Governor’s lawsuit to federal court, and the Governor voluntarily dismissed the action in favor of the Attorney General’s suit.

Thereafter, Enbridge removed the Attorney General’s suit to federal court. Although the 30-day deadline to remove under § 1446(b)(1) had long since passed, the district court ruled that this deadline was subject to equitable tolling and that equitable considerations favored excusing Enbridge’s late removal. The Sixth Circuit reversed, holding that the 30-day deadline for removal is mandatory when the plaintiff objects in a timely fashion.

Issue:

Whether 28 U.S.C. § 1446(b)(1) is subject to equitable tolling.

Court's Holding:

No. Section 1446(b)(1)’s 30-day deadline for removal is not subject to equitable tolling.

What It Means:

- Upon being served, defendants should promptly consider whether the initial complaint provides grounds for federal jurisdiction and act quickly to file a notice of removal.
- The Court found “decisive” § 1446(b)’s structure. By explicitly providing statutory exceptions to § 1446(b)(1)’s 30-day clock, Congress “strongly indicate[d]” it did not intend to allow for equitable tolling.
- Although § 1446(b)(1)’s 30-day deadline cannot be tolled, other equitable doctrines, such as waiver, forfeiture, and estoppel, may still apply.

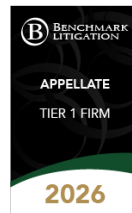
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The Court's opinion is available [here](#).

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Appellate and Constitutional Law

Thomas H. Dupree Jr.
+1 202.955.8547
tdupree@gibsondunn.com

Allyson N. Ho
+1 214.698.3233
aho@gibsondunn.com

Julian W. Poon
+1 213.229.7758
jpoon@gibsondunn.com

Lucas C. Townsend
+1 202.887.3731
ltownsend@gibsondunn.com

Bradley J. Hamburger
+1 213.229.7658
bhamburger@gibsondunn.com

Brad G. Hubbard
+1 214.698.3326
bhubbard@gibsondunn.com

This alert was prepared by Mckenzie Robinson and Samuel Eckman.

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