

little question that similar standards will be applied in most cases.<sup>1596</sup> For instance, as discussed earlier, where a public employee sues a government employer under the First Amendment's Speech Clause, the employee must show that he or she spoke as a citizen on a matter of public concern.<sup>1597</sup> In *Borough of Duryea, Pennsylvania v. Guarnieri*,<sup>1598</sup> the Court similarly held that a police chief who alleged retaliation for having filed a union grievance challenging his termination was not protected by the right to petition, because his complaints did not go to matters of public concern.<sup>1599</sup>

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<sup>1596</sup> See, e.g., *Borough of Duryea, Pennsylvania v. Guarnieri*, 564 U.S. \_\_\_, No. 09–1476, slip op. at 7 (2011) (“It is not necessary to say that the [Speech and Petition] Clauses are identical in their mandate or their purpose and effect to acknowledge that the rights of speech and petition share substantial common ground”); *But see id.* (“Courts should not presume there is always an essential equivalence in the [Speech and Petition] Clauses or that Speech Clause precedents necessarily and in every case resolve Petition Clause claims”).

<sup>1597</sup> *Connick v. Myers*, 461 U.S. 138 (1983).

<sup>1598</sup> 564 U.S. \_\_\_, No. 09–1476, slip op. (2011).

<sup>1599</sup> Justice Scalia, in dissent, disputed the majority's suggestion that a petition need be of “public concern” to be protected, noting that the Petition Clause had historically been a route for seeking relief of private concerns. Slip op. at 5–7 (2011) (Scalia, J., dissenting). Justice Scalia also suggested that the Clause should be limited to petitions directed to an executive branch or legislature, and that grievances submitted to an adjudicatory body are not so protected. *Id.* at 1–3.