

Stat Pack for October Term 2012

Unless otherwise noted, the following charts cover October Term 2012, which began on Monday, October 1, 2012, and ends on Sunday, October 6, 2013.

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Summary of the Term

Total Merits Opinions Released	54
.....Signed opinions after oral argument	50
.....Summary reversals	4
Total Merits Opinions Expected	77
.....Petitions granted and set for argument	75
.....Summary reversals	4
.....(Cases consolidated for decision)*	(0)
.....(Cases dismissed)**	(2)
Petitions Granted for OT13	27

* *Tibbals v. Carter* was argued separately from *Ryan v. Gonzales*, but the two cases were decided with only one opinion, which was captioned with *Gonzales*. Therefore, throughout this Stat Pack the two cases are generally treated as consolidated. The Pace of Grants chart, however, treats them as separate grants.

** *Boyer v. Louisiana* was dismissed as improvidently granted on April 29, 2013.

*** You can find past Stat Packs here: <http://www.scotusblog.com/reference/stat-pack/>. A few matters regarding our methodology are worth mentioning at the outset.

First, SCOTUSblog treats consolidated cases as a single case, as determined by the case with the lowest docket number (prior to the release of an opinion) or the case that is captioned with an opinion. To the extent that two cases are argued separately but later decided with only one opinion, we will remove one of the cases from this Stat Pack, except to include it in the Pace of Grants chart to maintain cross-conference comparisons. The most unusual way we manage these later-consolidated cases is to merge the oral argument data for the two cases. We sum the questions asked by each Justice in the separate oral argument proceedings into one "consolidated" session.

Second, this Stat Pack frequently uses the term "merits opinions," "merits docket," or "merits cases." Those three terms are used interchangeably, and signify the set of cases decided "on the merits." Those cases include signed opinions after oral argument (the bulk of all merits cases), most per curiam opinions released after oral arguments, summary reversals (cases decided with per curiam opinions after the certiorari stage), and cases decided by an equally divided (4-4) Court. Cases that are dismissed as improvidently granted are not included in our tally of merits cases.

Opinions by Sitting

	October	November	December	January	February	March	April	Total	Args				
Roberts	1	1	1	2	-	-	-	JGR	5				
Scalia	1	3	-	1	-	-	-	AS	5				
Kennedy	-	1	1	1	1	-	-	AMK	4				
Thomas	1	1	1	-	2	1	-	CT	6				
Ginsburg	1	1	2	1	1	1	1	RBG	8				
Breyer	1	1	1	1	1	1	-	SGB	6				
Alito	1	1	-	-	1	-	-	SAA	3				
Sotomayor	1	1	1	1	1	1	1	SMS	7				
Kagan	1	2	1	-	1	1	-	EK	6				
	Decided: 9 Remain: 1	Decided: 12 Remain: 0	Decided: 8 Remain: 1	Decided: 8 Remain: 4	Decided: 8 Remain: 2	Decided: 5 Remain: 5	Decided: 2 Remain: 10	Total	50				
<i>Lozman</i>	<i>SGB</i>	<i>Kirtsaeng</i>	<i>SGB</i>	<i>Phoebe Putney</i>	<i>SMS</i>	<i>Standard Fire</i>	<i>SGB</i>	<i>Millbrook</i>	<i>CT</i>	<i>Inter Tribal</i>		<i>Myriad</i>	
<i>Kiobel</i>	<i>JGR</i>	<i>Clapper</i>	<i>SAA</i>	<i>Vance</i>		<i>Descamps</i>		<i>Bowman</i>	<i>EK</i>	<i>Bullock</i>	<i>SGB</i>	<i>Davila</i>	
<i>Kloeckner</i>	<i>EK</i>	<i>Jardines</i>	<i>AS</i>	<i>US Airways</i>	<i>EK</i>	<i>Gabelli</i>	<i>JGR</i>	<i>McBurney</i>	<i>SAA</i>	<i>Cloer</i>	<i>SMS</i>	<i>Baby Girl</i>	
<i>Bormes</i>	<i>AS</i>	<i>Harris</i>	<i>EK</i>	<i>Henderson</i>	<i>SGB</i>	<i>Wos</i>	<i>AMK</i>	<i>PPL Corp.</i>	<i>CT</i>	<i>Mutual Pharm.</i>		<i>Am. Trucking</i>	
<i>Johnson</i>	<i>SAA</i>	<i>Chaidez</i>	<i>EK</i>	<i>Decker</i>	<i>AMK</i>	<i>McNeely</i>	<i>SMS</i>	<i>Trevino</i>	<i>SGB</i>	<i>Horne</i>	<i>CT</i>	<i>Salinas</i>	
<i>Ark. Game</i>	<i>RBG</i>	<i>Bailey</i>	<i>AMK</i>	<i>Genesis</i>	<i>CT</i>	<i>Maracich</i>		<i>McQuiggin</i>	<i>RBG</i>	<i>Dan's City</i>	<i>RBG</i>	<i>Kebodeaux</i>	
<i>Ryan</i>	<i>CT</i>	<i>Amgen</i>	<i>RBG</i>	<i>LA County Flood</i>	<i>RBG</i>	<i>Alleyne</i>		<i>Peugh</i>	<i>SMS</i>	<i>Oxford</i>	<i>EK</i>	<i>Hillman</i>	<i>SMS</i>
<i>Tibbals</i>		<i>Comcast</i>	<i>AS</i>	<i>Auburn Regional</i>	<i>RBG</i>	<i>Boyer</i>		<i>King</i>	<i>AMK</i>	<i>Actavis</i>		<i>AID</i>	
<i>Fisher</i>		<i>Evans</i>	<i>SMS</i>	<i>Chafin</i>	<i>JGR</i>	<i>Levin</i>	<i>RBG</i>	<i>Shelby County</i>		<i>Hollingsworth</i>		<i>Tarrant</i>	
<i>Moncrieffe</i>	<i>SMS</i>	<i>Smith</i>	<i>AS</i>			<i>Koontz</i>		<i>Am. Express</i>		<i>Windsor</i>		<i>Sekhar</i>	
		<i>Marx</i>	<i>CT</i>			<i>Gunn</i>	<i>JGR</i>					<i>Metrish</i>	<i>RBG</i>
		<i>Already</i>	<i>JGR</i>			<i>Arlington</i>	<i>AS</i>					<i>UT Southwestern</i>	

Circuit Scorecard

October Term 2012

	Number	Percent	Decided	Aff'd	Rev'd	Aff'd %	Rev'd %
CA1	1	1%					
CA2	10	13%	6	2	4	33%	67%
CA3	6	8%	6	1	5	17%	83%
CA4	5	6%	3	2	1	67%	33%
CA5	7	9%	4	1	3	25%	75%
CA6	2	3%	2	0	2	0%	100%
CA7	3	4%	2	1	1	50%	50%
CA8	2	3%	2	0	2	0%	100%
CA9	13	17%	9	1	8	11%	89%
CA10	2	3%	1	1	0	100%	0%
CA11	6	8%	4	0	4	0%	100%
CA DC	3	4%	2	1	1	50%	50%
CA Fed	5	6%	4	2	2	50%	50%
State	12	16%	9	4	5	44%	56%
Dist. Court	-	-					
Original	-	-		N/A	N/A	N/A	N/A
	77	100%	54	16	38	30%	70%

October Term 2013

	Number	Percent
CA1	1	4%
CA2	2	7%
CA3	1	4%
CA4	-	-
CA5	4	15%
CA6	3	11%
CA7	2	7%
CA8	2	7%
CA9	5	19%
CA10	1	4%
CA11	1	4%
CA DC	1	4%
CA Fed	1	4%
State	2	7%
Dist. Court	1	4%
Original	-	-
	27	100%

Merits Cases by Vote Split

9-0 32 (59%)	8-1 2 (4%)	7-2 4 (7%)	6-3 6 (11%)	5-4 10 (19%)**
Lefemine v. Wideman (PC)	Evans v. Michigan	Lozman v. Riviera Beach	Bailey v. U.S.	Clapper v. Amnesty Int'l
U.S. v. Bormes	Decker v. NW Env't'l Def. Center (7-1)	U.S. v. Chaidez	Henderson v. U.S.	Florida v. Jardines
Nitro-Lift v. Howard (PC)		Marx v. General Revenue	Amgen v. Conn. Retirement Plans	Comcast v. Behrend
Ark. Game & Fish Comm'n v. U.S. (8-0)		Moncrieffe v. Holder	Kirtsaeng v. Wiley & Sons	Genesis v. Symczyk
Kloeckner v. Solis			Wos v. E.M.A.	US Airways v. McCutchen
Ryan v. Gonzales			Arlington v. FCC	Missouri v. McNeely
L.A. County Flood Dist. v. NRDC				McQuiggin v. Perkins
Already v. Nike				Trevino v. Thaler
Smith v. U.S.				Maryland v. King
Sebelius v. Auburn Regional				Peugh v. U.S.
Chafin v. Chafin				
FTC v. Phoebe Putney				
Florida v. Harris				
Gunn v. Minton				
Johnson v. Williams				
Gabelli v. SEC				
Levin v. U.S.				
Std. Fire Ins. v. Knowles				
Millbrook v. U.S.				
Marshall v. Rodgers (PC)				
Kiobel v. Royal Dutch				
McBurney v. Young				
Dan's City Used Cars v. Pelkey				
Bullock v. BankChampaign				
Bowman v. Monsanto				
PPL Corp. v. CIR				
Metrish v. Lancaster				
Sebelius v. Cloer				
Hillman v. Maretta				
Nevada v. Jackson (PC)				
Horne v. Dept. of Agriculture				
Oxford Health Plans v. Sutter				

Not Included Above	
<i>Tibbals v. Carter</i>	Decided with <i>Ryan v. Gonzales</i>
<i>Boyer v. Louisiana</i>	Dismissed as Improvidently Granted

Past Terms					
	9-0	8-1	7-2	6-3	5-4
OT06	39%	13%	11%	4%	33%
OT07	30%	9%	29%	14%	17%
OT08	33%	5%	16%	16%	29%
OT09	46%	10%	15%	11%	18%
OT10	48%	13%	15%	5%	20%
OT11	44%	11%	8%	17%	20%
Avg.	40%	10%	16%	11%	23%

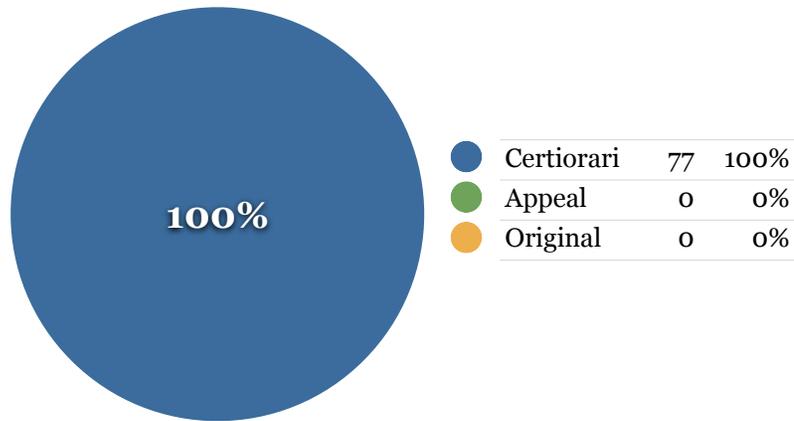
* We treat cases with eight or fewer votes as if they were decided by the full Court. For example, we treated *Arkansas Game & Fish Commission v. United States*, which had only eight Justices voting, as a 9-0 case throughout much of this Stat Pack. For 8-0, 7-1, and 6-3 decisions, we categorically assume that the recused Justice would have joined the majority. In cases that were decided 5-3, we looked at each case individually to decide whether it was more likely that the recused Justice would join the majority or the dissent. Our assumption that nine Justices voted in each case applies only to figures that treat each case as a whole, like the chart above, and not to figures that focus on the behavior of individual Justices, like our Justice Agreement charts, *infra*. We have done our best to note where we assume a full Court and where we count only actual votes.

** For cases that are decided by a 5-4 vote, we provide information about whether the majority was comprised of the most common conservative block (Roberts, Scalia, Kennedy, Thomas, and Alito), the most common liberal block (Kennedy, Ginsburg, Breyer, Sotomayor, and Kagan), or a more uncommon alignment. A conservative lineup is marked with a red square, a liberal lineup is marked with a blue square, and all others are marked with a yellow square.

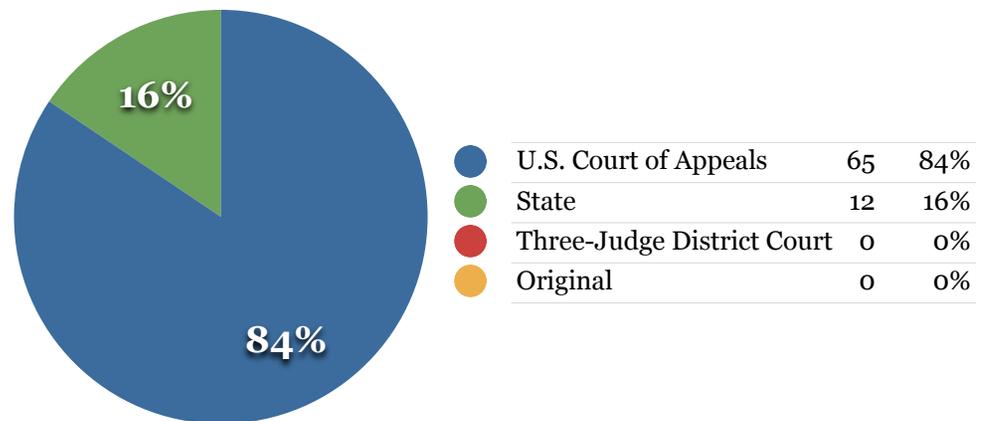
Make-Up of the Merits Docket

The following charts depict different characteristics of the cases that were released with merits opinions or are expected to be disposed of with a merits opinion. These charts include information about cases disposed of with signed opinions, summary reversals, or those that were affirmed by an equally divided Court.

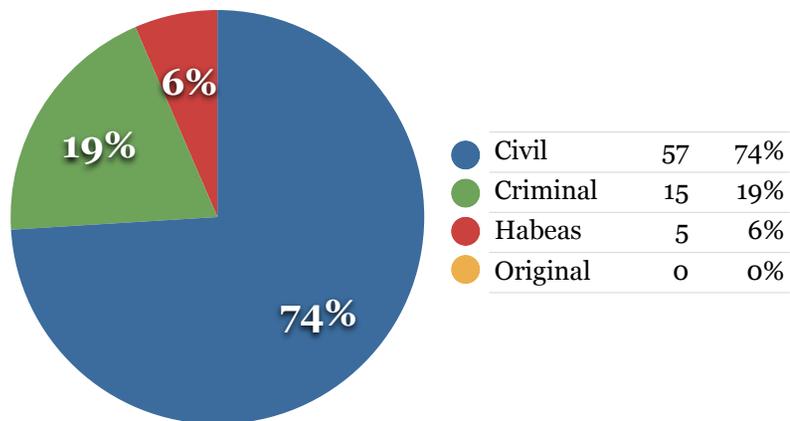
Source of Jurisdiction



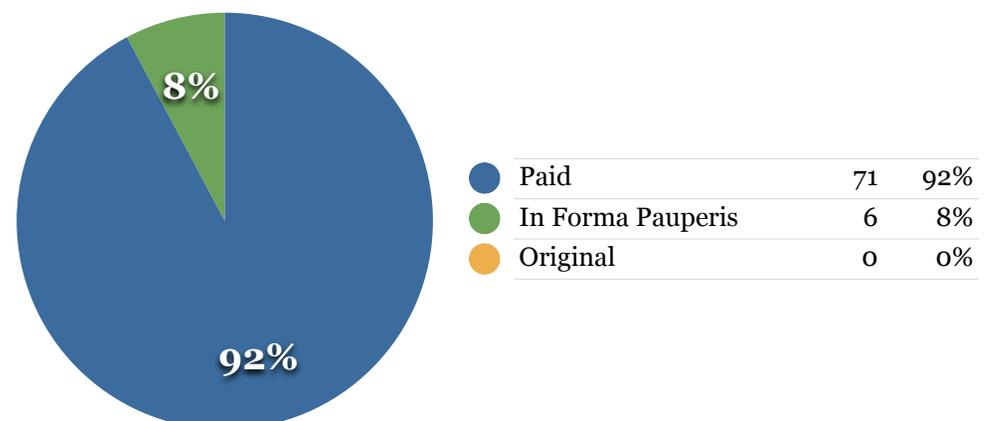
Court Below



Nature



Docket*



* Technically, all paid and *in forma pauperis* cases have been on the same docket since 1971, with paid cases beginning each year with case number 1, and IFP cases beginning at number 5001. Accordingly, the first paid case of this Term was numbered 12-1 and the first IFP case was numbered 12-5001. Original cases remain on a separate docket and follow a separate numbering convention. For more information on the dockets, see EUGENE GRESSMAN ET AL., SUPREME COURT PRACTICE 55-56 (9th ed. 2007).

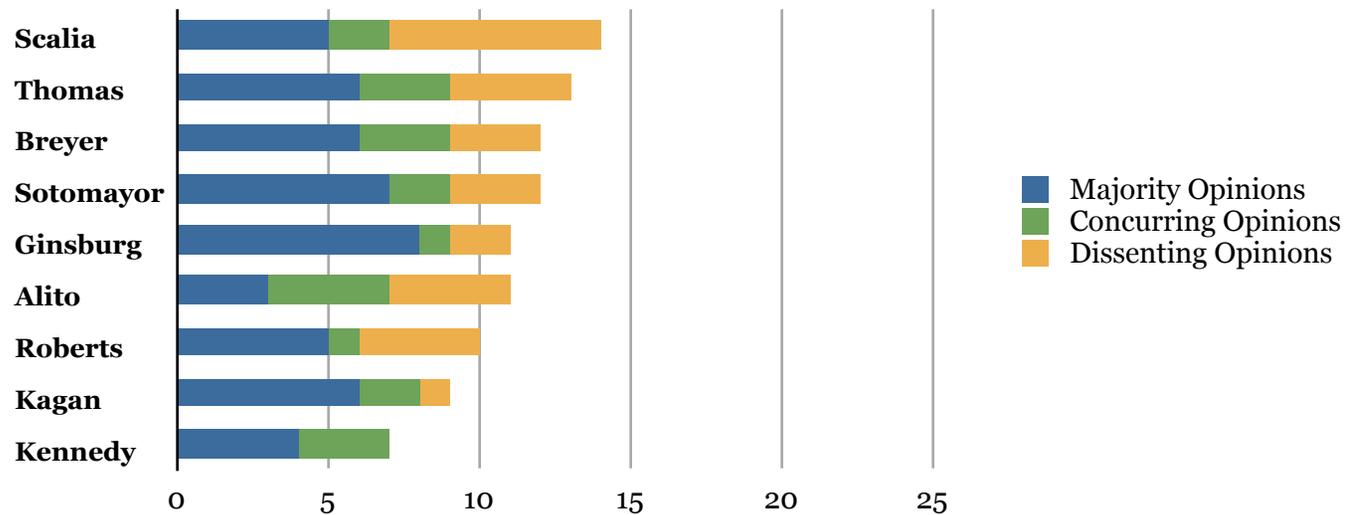
Term Index

This chart includes a summary of the cases for the Term including (1) majority opinion author, (2) vote, (3) days between argument and opinion, (4) judgment, and (5) court below.

October												November												December											
1	Lozman	SGB	7-2	106d	R	CA11	JGR	1	198d	Kirtsaeng	SGB	6-3	141d	R	CA2	JGR	1	63d	Phoebe Putney	SMS	9-0	85d	R	CA11	JGR	1	76d								
2	Kiobel	JGR	9-0	198d	A	CA2	AS	1	42d	Clapper	SAA	5-4	120d	R	CA2	AS	3	117d	Vance					CA7	AS	0									
3	Kloeckner	EK	9-0	69d	R	CA8	AMK	0		Jardines	AS	5-4	146d	A	ST	AMK	1	110d	US Airways	EK	5-4	140d	R	CA3	AMK	1	107d								
4	Bormes	AS	9-0	42d	R	CAFC	CT	1	91d	Harris	EK	9-0	111d	R	ST	CT	1	111d	Henderson	SGB	6-3	84d	R	CA5	CT	1	134d								
5	Johnson	SAA	9-0	140d	R	CA9	RBG	1	62d	Chaidez	EK	7-2	111d	A	CA7	RBG	1	114d	Decker	AMK	7-1	107d	R	CA9	RBG	2	42d								
6	Ark. Game	RBG	8-0	62d	R	CAFC	SGB	1	106d	Bailey	AMK	6-3	110d	R	CA2	SGB	1	141d	Genesis	CT	5-4	134d	R	CA3	SGB	1	84d								
7	Ryan	CT	9-0	91d	R	CA9	SAA	1	140d	Amgen	RBG	6-3	114d	A	CA9	SAA	1	120d	LA County Flood	RBG	9-0	35d	R	CA9	SAA	0									
8	Tibbals	-	-	-	-	CA6	SMS	1	195d	Comcast	AS	5-4	142d	R	CA3	SMS	1	106d	Auburn Regional	RBG	9-0	49d	R	CADC	SMS	1	85d								
9	Fisher					CA5	EK	1	69d	Evans	SMS	8-1	106d	R	ST	EK	2	111d	Chafin	JGR	9-0	76d	R	CA11	EK	1	140d								
10	Moncrieffe	SMS	7-2	195d	R	CA5	Total	8		Smith	AS	9-0	64d	A	CADC	Total	12							Total	8										
11							Expect.	9		Marx	CT	7-2	111d	A	CA10	Expect.	12							Expect.	9										
12							Avg.	113d		Already	JGR	9-0	63d	A	CA2	Avg.	112d							Avg.	89d										
January												February												March											
1	Standard Fire	SGB	9-0	71d	R	CA8	JGR	2	43d	Millbrook	CT	9-0	36d	R	CA3	JGR	0		Inter Tribal					CA9	JGR	0									
2	Descamps					CA9	AS	1	124d	Bowman	EK	9-0	83d	A	CAFC	AS	0		Bullock	SGB	9-0	56d	R	CA11	AS	0									
3	Gabelli	JGR	9-0	50d	R	CA2	AMK	1	71d	McBurney	SAA	9-0	68d	A	CA4	AMK	1	97d	Cloer	SMS	9-0	62d	A	CAFC	AMK	0									
4	Wos	AMK	6-3	71d	A	CA4	CT	0		PPL Corp.	CT	9-0	89d	R	CA3	CT	2	63d	Mutual Pharm.					CA1	CT	1	82d								
5	McNeely	SMS	5-4	98d	A	ST	RBG	1	48d	Trevino	SGB	5-4	92d	R	CA5	RBG	1	92d	Horne	CT	9-0	82d	R	CA9	RBG	1	54d								
6	Maracich					CA4	SGB	1	71d	McQuiggin	RBG	5-4	92d	R	CA6	SGB	1	92d	Dan's City	RBG	9-0	54d	A	ST	SGB	1	56d								
7	Alleyne					CA4	SAA	0		Peugh	SMS	5-4	104d	R	CA7	SAA	1	68d	Oxford	EK	9-0	77d	A	CA3	SAA	0									
8	Boyer	DIG	-	-	-	ST	SMS	1	98d	King	AMK	5-4	97d	R	ST	SMS	1	104d	Actavis					CA11	SMS	1	62d								
9	Levin	RBG	9-0	48d	R	CA9	EK	0		Shelby County					CADC	EK	1	83d	Hollingsworth					CA9	EK	1	77d								
10	Koontz					ST	Total	7		Am. Express					CA2	Total	8		Windsor					CA2	Total	5									
11	Gunn	JGR	9-0	35d	R	ST	Expect.	11								Expect.	10								Expect.	10									
12	Arlington	AS	6-3	124d	A	CA5	Avg.	71d								Avg.	83d							Avg.	66d										
April												Summary Reversal												Total											
1	Myriad					CAFC	JGR	0		Lefemine	PC	9-0	-	R	CA4				Roberts		5	84d													
2	Davila					CA11	AS	0		Nitro-Lift	PC	9-0	-	R	ST				Scalia		5	104d													
3	Baby Girl					ST	AMK	0		Marshall	PC	9-0	-	R	CA9				Kennedy		4	96d													
4	Am. Trucking					CA9	CT	0		Jackson	PC	9-0	-	R	CA9				Thomas		6	91d													
5	Salinas					ST	RBG	1	26d										Ginsburg		8	60d													
6	Keboeaux					CA5	SGB	0											Breyer		6	92d													
7	Hillman	SMS	9-0	42d	A	ST	SAA	0											Alito		3	109d													
8	AID					CA2	SMS	1	42d										Sotomayor		7	99d													
9	Tarrant					CA10	EK	0											Kagan		6	99d													
10	Sekhar					CA2	Total	2											Summary Rev.		4														
11	Metrish	RBG	9-0	26d	R	CA6	Expect.	12											Merits Opinions		54														
12	UT Southwestern					CA5	Avg.	34d											Expected		77														
13																			Percent Decided		70%														
14																			Average Time		90d														

Total Opinion Authorship

	Total Opinions	Majority Opinions	Concurring Opinions	Dissenting Opinions
Roberts	10	5	1	4
Scalia	14	5	2	7
Kennedy	7	4	3	-
Thomas	13	6	3	4
Ginsburg	11	8	1	2
Breyer	12	6	3	3
Alito	11	3	4	4
Sotomayor	12	7	2	3
Kagan	9	6	2	1
Per Curiam	4	4	-	-
	102	54	21	27*



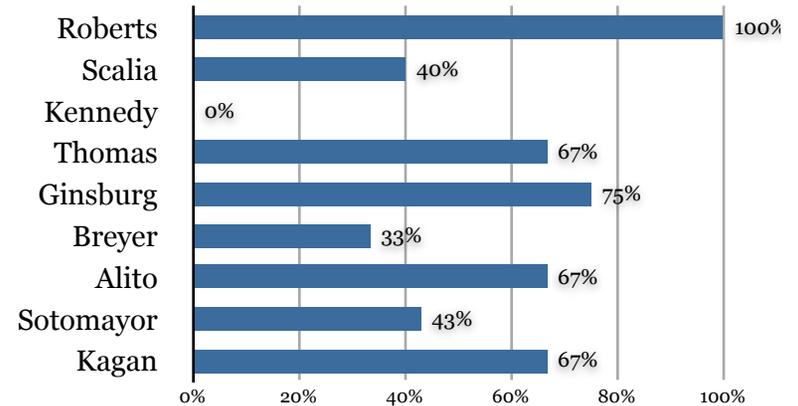
* In *Comcast Corp. v. Behrend*, in which both Justices Ginsburg and Breyer signed a single dissenting opinion, both authors have been credited with releasing one dissenting opinion. However, to acknowledge that only one dissenting opinion was produced in the case, the total number of dissenting opinions and the total number of opinions for the Term have been manually adjusted to count only one dissenting opinions from that case. During October Term 2011, a similar treatment was given to the dissenting opinion authored by four Justices in *National Federation of Independent Business v. Sebelius*.

Majority Opinion Authorship

Majority Opinions Authored

	Total	9-0	8-1	7-2	6-3	5-4	Average Strength of the Majority*
Roberts	5	5	-	-	-	-	9.0
Scalia	5	2	-	-	1	2	6.8
Kennedy	4	-	1	-	2	1	6.3
Thomas	6	4	-	1	-	1	8.0
Ginsburg	8	6	-	-	1	1	8.1
Breyer	6	2	-	1	2	1	7.0
Alito	3	2	-	-	-	1	7.7
Sotomayor	7	3	1	1	-	2	7.4
Kagan	6	4	-	1	-	1	8.0
	50	28	2	4	6	10	7.7

Percentage of Majority Opinions Decided with Unanimous Judgment



Authorship as a Percentage of Similar Opinions

	9-0	8-1	7-2	6-3	5-4
Roberts	18%	-	-	-	-
Scalia	7%	-	-	17%	20%
Kennedy	-	50%	-	33%	10%
Thomas	14%	-	25%	-	10%
Ginsburg	21%	-	-	17%	10%
Breyer	7%	-	25%	33%	10%
Alito	7%	-	-	-	10%
Sotomayor	11%	50%	25%	-	20%
Kagan	14%	-	25%	-	10%
	100% (28)	100% (2)	100% (4)	100% (6)	100% (10)

Days Between Argument and Opinion

Majority Opinion Author	Days
Ginsburg	60d
Roberts	84d
Thomas	91d
Breyer	92d
Kennedy	96d
Kagan	99d
Sotomayor	99d
Scalia	104d
Alito	109d
	106d

* "Average Strength of the Majority" is simply the average number of Justices in the majority. The average assumes that nine Justices vote in each case.

Frequency in the Majority

The following charts measure how frequently each Justice has voted with the majority during October Term 2012. The charts include summary reversals but do not include cases that were dismissed.

All Cases

Justice	Votes	Frequency in Majority	OT11	OT10	OT09	OT08	OT07	
Kennedy	54	49	91%	93%	94%	91%	92%	86%
Kagan	53	48	91%	82%	81%	-	-	-
Ginsburg	54	48	89%	70%	74%	80%	70%	75%
Breyer	53	47	89%	76%	79%	78%	75%	79%
Sotomayor	54	47	87%	80%	81%	84%	-	-
Roberts	54	46	85%	92%	91%	91%	81%	90%
Scalia	54	44	81%	82%	86%	87%	84%	81%
Thomas	54	44	81%	86%	88%	83%	81%	75%
Alito	54	43	80%	83%	86%	87%	81%	82%

Divided Cases

Justice	Votes	Frequency in Majority	OT11	OT10	OT09	OT08	OT07	
Kennedy	22	17	77%	88%	88%	83%	89%	79%
Kagan	22	17	77%	67%	67%	-	-	-
Ginsburg	22	16	73%	45%	50%	63%	55%	65%
Breyer	21	15	71%	57%	60%	58%	62%	68%
Sotomayor	22	15	68%	64%	64%	69%	-	-
Roberts	22	14	64%	86%	83%	83%	72%	73%
Scalia	22	12	55%	67%	74%	76%	76%	65%
Thomas	22	12	55%	74%	76%	67%	72%	85%
Alito	22	11	50%	69%	74%	76%	72%	75%

5-4 Decisions

Alignment of the Majority

Majority*	Total (10)	Cases
Kennedy, Ginsburg, Breyer, Sotomayor, Kagan	4	<i>US Airways, McQuiggin, Trevino, Peugh</i>
Roberts, Scalia, Kennedy, Thomas, Alito	3	<i>Clapper, Comcast, Genesis</i>
Roberts, Kennedy, Thomas, Breyer, Alito	1	<i>King</i>
Scalia, Thomas, Ginsburg, Sotomayor, Kagan	1	<i>Jardines</i>
Scalia, Kennedy, Ginsburg, Sotomayor, Kagan	1	<i>McNeely</i>

Term	Number of 5-4 Opinions**	Percentage of Total Opinions	Percentage of 5-4 Split Ideological	Conservative Victory (Percentage of Ideological)	Conservative Victory (Percentage of All 5-4)	Number of Different Alignments	Alignments Divided by 5-4 Opinions
OT05	11	12%	73%	63%	45%	7	0.64
OT06	24	33%	79%	68%	54%	6	0.25
OT07	12	17%	67%	50%	33%	6	0.50
OT08	23	29%	70%	69%	48%	7	0.30
OT09	16	19%	69%	73%	50%	7	0.44
OT10	16	20%	88%	71%	63%	4	0.25
OT11	15	20%	90%	56%	50%	7	0.47
OT12	10	19%	70%	43%	30%	5	0.50
Average	16	21%	76%	62%	47%	6	0.42

* This table features cases that were decided by a 5-3 margin, but were reclassified for our purposes as 5-4 decisions.

** For the purposes of this chart, the total number of 5-4 opinions is the number of cases that split 5-4 on a major issue. It may differ from the number of cases that split 5-4 elsewhere in this Stat Pack.

*** For the purposes of this chart, a "Conservative Win" occurs whenever the majority consists of Chief Justice Roberts and Justices Scalia, Kennedy, Thomas, and O'Connor or Alito.

5-4 Decisions

(continued)

Membership in a Five-to-Four Majority

Justice	Cases Decided	Frequency in Majority		OT11	OT10	OT09	OT08	OT07
Kennedy	10	9	90%	80%	88%	69%	78%	67%
Ginsburg	10	6	60%	33%	38%	25%	52%	50%
Sotomayor	10	6	60%	47%	38%	43%	-	-
Kagan	10	6	60%	40%	38%	-	-	-
Scalia	10	5	50%	60%	69%	69%	70%	58%
Thomas	10	5	50%	67%	75%	69%	65%	67%
Breyer	10	5	50%	47%	31%	38%	39%	45%
Roberts	10	4	40%	67%	63%	56%	48%	58%
Alito	10	4	40%	60%	63%	63%	52%	50%

Five-to-Four Majority Opinion Authorship

These percentages consider how often a Justice authors the majority opinion *when that Justice is in the majority*.*

Justice	Cases Decided	Frequency in the Majority	Opinions Authored	Frequency as Author	OT11	OT10	OT09	OT08	OT07
Scalia	10	5	2	40%	0%	9%	18%	33%	29%
Sotomayor	10	6	2	33%	29%	17%	0%	-	-
Alito	10	4	1	25%	33%	0%	40%	8%	17%
Thomas	10	5	1	20%	0%	33%	9%	13%	13%
Breyer	10	5	1	20%	43%	20%	25%	0%	40%
Ginsburg	10	6	1	17%	0%	33%	50%	27%	0%
Kagan	10	6	1	17%	17%	0%	-	-	-
Kennedy	10	9	1	11%	33%	21%	22%	28%	50%
Roberts	10	4	0	0%	10%	30%	22%	18%	14%

* Percentages represent the number of majority opinions authored divided by the number of times a Justice was in the majority for a *signed* opinion. As such, 5-4 *per curiam* opinions are omitted entirely.

Justice Agreement - All Cases

	Scalia		Kennedy		Thomas		Ginsburg		Breyer		Alito		Sotomayor		Kagan		Total
Roberts	38	70%	42	78%	37	69%	36	67%	41	77%	40	74%	34	63%	36	68%	54
	45	83%	45	83%	44	81%	39	72%	42	79%	47	87%	38	70%	39	74%	
	46	85%	45	83%	48	89%	40	74%	43	81%	49	91%	39	72%	40	75%	
	8	15%	9	17%	6	11%	14	26%	10	19%	5	9%	15	28%	13	25%	
Scalia	32	59%	37	69%	35	65%	32	60%	32	59%	32	59%	28	52%	33	62%	54
	43	80%	46	85%	41	76%	36	68%	40	74%	40	74%	38	70%	39	74%	
	43	80%	48	89%	42	78%	38	72%	43	80%	43	80%	39	72%	40	75%	
	11	20%	6	11%	12	22%	15	28%	11	20%	15	28%	15	28%	13	25%	
Kennedy	35	65%	39	72%	39	74%	39	74%	37	69%	39	72%	39	72%	38	72%	54
	39	72%	44	81%	43	81%	43	81%	40	74%	43	80%	43	80%	42	79%	
	41	76%	45	83%	44	83%	44	83%	42	78%	44	81%	44	81%	43	81%	
	13	24%	9	17%	9	17%	9	17%	12	22%	10	19%	10	19%	10	19%	
Thomas	30	56%	31	58%	38	70%	29	54%	29	54%	29	54%	29	54%	29	55%	54
	36	67%	37	70%	44	81%	35	65%	35	65%	35	65%	35	66%	35	66%	
	38	70%	41	77%	49	91%	37	69%	37	69%	37	69%	38	72%	38	72%	
	16	30%	12	23%	5	9%	17	31%	15	28%	17	31%	15	28%	15	28%	
Ginsburg	45	85%	29	54%	46	85%	49	92%	49	92%	49	92%	49	92%	49	92%	54
	47	89%	34	63%	51	94%	50	94%	50	94%	50	94%	50	94%	50	94%	
	47	89%	37	69%	51	94%	50	94%	50	94%	50	94%	50	94%	50	94%	
	6	11%	17	31%	3	6%	3	6%	3	6%	3	6%	3	6%	3	6%	
Breyer	33	62%	40	75%	43	83%	43	83%	43	83%	43	83%	43	83%	43	83%	53
	39	74%	46	87%	47	90%	47	90%	47	90%	47	90%	47	90%	47	90%	
	42	79%	46	87%	47	90%	47	90%	47	90%	47	90%	47	90%	47	90%	
	11	21%	7	13%	5	10%	5	10%	5	10%	5	10%	5	10%	5	10%	
Alito	28	52%	31	58%	31	58%	31	58%	31	58%	31	58%	31	58%	31	58%	54
	33	61%	34	64%	34	64%	34	64%	34	64%	34	64%	34	64%	34	64%	
	36	67%	37	70%	37	70%	37	70%	37	70%	37	70%	37	70%	37	70%	
	18	33%	16	30%	16	30%	16	30%	16	30%	16	30%	16	30%	16	30%	
Sotomayor	46	87%	46	87%	46	87%	46	87%	46	87%	46	87%	46	87%	46	87%	54
	51	96%	51	96%	51	96%	51	96%	51	96%	51	96%	51	96%	51	96%	
	51	96%	51	96%	51	96%	51	96%	51	96%	51	96%	51	96%	51	96%	
	2	4%	2	4%	2	4%	2	4%	2	4%	2	4%	2	4%	2	4%	
Kagan																53	

Key
Fully Agree
Agree in Full or Part
Agree in Full, Part, or Judgment Only
Disagree in Judgment

Justice Agreement - Non-Unanimous Cases

	Scalia	Kennedy	Thomas	Ginsburg	Breyer	Alito	Sotomayor	Kagan	Total
Roberts	11 50%	12 55%	11 50%	6 27%	11 52%	13 59%	6 27%	6 27%	22
	14 64%	13 59%	13 59%	8 36%	11 52%	17 77%	7 32%	9 41%	
	14 64%	13 59%	16 73%	8 36%	11 52%	17 77%	7 32%	9 41%	
	8 36%	9 41%	6 27%	14 64%	10 48%	5 23%	15 68%	13 59%	
Scalia	7 32%	13 59%	8 36%	5 24%	9 41%	5 23%	8 36%	22	
	12 55%	16 73%	11 50%	6 29%	11 50%	8 36%	10 45%		
	11 50%	16 73%	10 45%	6 29%	11 50%	7 32%	9 41%		
	11 50%	6 27%	12 55%	15 71%	11 50%	15 68%	13 59%		
Kennedy	8 36%	10 45%	10 48%	9 41%	10 45%	9 41%	22		
	8 36%	13 59%	12 57%	10 45%	12 55%	12 55%			
	9 41%	13 59%	12 57%	10 45%	12 55%	12 55%			
	13 59%	9 41%	9 43%	12 55%	10 45%	10 45%			
Thomas	5 23%	6 29%	10 45%	4 18%	4 18%	22			
	6 27%	7 33%	14 64%	5 23%	6 27%				
	6 27%	9 43%	17 77%	5 23%	7 32%				
	16 73%	12 57%	5 23%	17 77%	15 68%				
Ginsburg	13 62%	3 14%	18 82%	19 86%	22				
	15 71%	5 23%	19 86%	19 86%					
	15 71%	5 23%	19 86%	19 86%					
	6 29%	17 77%	3 14%	3 14%					
Breyer	7 33%	12 57%	13 62%	21					
	10 48%	14 67%	16 76%						
	10 48%	14 67%	16 76%						
	11 52%	7 33%	5 24%						
Alito	1 5%	4 18%	22						
	4 18%	6 27%							
	4 18%	6 27%							
	18 82%	16 73%							
Sotomayor	18 82%	22							
	20 91%								
	20 91%								
	2 9%								
Kagan		22							

Key	
Fully Agree	
Agree in Full or Part	
Agree in Full, Part, or Judgment Only	
Disagree in Judgment	

Time Between Cert. Grant And Oral Argument

The following charts address the number of days between when the Court grants certiorari (or otherwise decides that a case should be argued), and when it hears oral argument in a given case. The typical briefing schedule outlined in the Court’s rules allows for 112 days between argument and opinion. The Court typically seeks to avoid compressing the briefing schedule and, as the charts below show, it was fairly successful during OT11.

Argued	Avg. Days
October	225d
November	173d
December	153d
January	109d
February	121d
March	118d
April	103d
Overall	141d

Average	141d
Median	125d
St. Dev.	47d

Longest	<i>Jardines</i>	299d
Shortest	<i>Am. Trucking</i>	95d

OT03	172d
OT04	167d
OT05	165d
OT06	131d
OT07	134d
OT08	167d
OT09	168d
OT10	153d
OT11	160d
OT12	141d

	Rank		Days	Granted	Argued
Longest	1	<i>Florida v. Jardines</i>	299d	Jan 6, 2012	Oct 31, 2012
	2	<i>Johnson v. Williams</i>	264d	Jan 13, 2012	Oct 3, 2012
	3	<i>Kloeckner v. Solis</i>	263d	Jan 13, 2012	Oct 2, 2012
	3	<i>U.S. v. Bormes</i>	263d	Jan 13, 2012	Oct 2, 2012
	5	<i>Fisher v. Univ. of Texas</i>	232d	Feb 21, 2012	Oct 10, 2012
	6	<i>Lozman v. Riviera Beach</i>	223d	Feb 21, 2012	Oct 1, 2012
	7	<i>Florida v. Harris</i>	219d	Mar 26, 2012	Oct 31, 2012
	8	<i>Ryan v. Gonzales</i>	204d	Mar 19, 2012	Oct 9, 2012
	8	<i>Tibbals v. Carter</i>	204d	Mar 19, 2012	Oct 9, 2012
	10	<i>Kirtsaeng v. Wiley & Sons</i>	196d	Apr 16, 2012	Oct 29, 2012

	Rank		Days	Granted	Argued
Shortest	1	<i>Am. Trucking Ass’n v. Los Angeles</i>	95d	Jan 11, 2013	Apr 16, 2013
	2	<i>UT Southwestern v. Nassar</i>	96d	Jan 18, 2013	Apr 24, 2013
	2	<i>Metrish v. Lancaster</i>	96d	Jan 18, 2013	Apr 24, 2013
	2	<i>U.S. v. Kebodeaux</i>	96d	Jan 11, 2013	Apr 17, 2013
	2	<i>Salinas v. Texas</i>	96d	Jan 11, 2013	Apr 17, 2013
	6	<i>AID v. Alliance for Open Soc.</i>	101d	Jan 11, 2013	Apr 22, 2013
	6	<i>Hillman v. Maretta</i>	101d	Jan 11, 2013	Apr 22, 2013
	6	<i>U.S. v. Davila</i>	101d	Jan 4, 2013	Apr 15, 2013
	6	<i>Boyer v. Louisiana</i>	101d	Oct 5, 2012	Jan 14, 2013
	6	<i>Alleyne v. U.S.</i>	101d	Oct 5, 2012	Jan 14, 2013

	Less than 100 days	100-124	125-149	150-174	175-199	200-224	225-249	More than 250
OT10	1	20	19	20	6	8	3	1
OT11	1	11	20	18	11	1	2	5
OT12	5	32	12	12	4	4	1	4

* In cases that are on appeal to the Supreme Court, rather than on Petition for Writ of Certiorari, the Court will rule on a statement of jurisdiction rather than on a cert. petition. Our charts treat those cases identically to cert. petitions and the “Grant Date” indicates when the Court noted probable jurisdiction or postponed the determination of jurisdiction.

Time Between Oral Argument and Opinion

The following charts address the time it takes for the Court to release opinions following oral argument. The Court has thus far released fifty signed opinions after argument during October Term 2012.

Argued	Avg.	Total	Remain
October	113d	10	1
November	112d	12	-
December	89d	9	1
January	71d	12	4
February	83d	10	2
March	66d	10	5
April	34d	12	10
Overall	90d	75	23

Average	90d
Median	87d
St. Dev.	39d

Longest	<i>Kiobel</i>	198d
Shortest	<i>Metrish</i>	26d

Averages

OT03	82d
OT04	91d
OT05	79d
OT06	96d
OT07	94d
OT08	94d
OT09	109d
OT10	106d
OT11	97d
OT12	90d

	Rank		Author	Vote	Argued	Decided	
Longest	1	<i>Kiobel v. Royal Dutch</i>	198d	Roberts	9-0	Oct 1, 2012	Apr 17, 2013
	2	<i>Moncrieffe v. Holder</i>	195d	Sotomayor	7-2	Oct 10, 2012	Apr 23, 2013
	3	<i>Florida v. Jardines</i>	146d	Scalia	5-4	Oct 31, 2012	Mar 26, 2013
	4	<i>Comcast v. Behrend</i>	142d	Scalia	5-4	Nov 5, 2012	Mar 27, 2013
	5	<i>Kirtsaeng v. Wiley & Sons</i>	141d	Breyer	6-3	Oct 29, 2012	Mar 19, 2013
	6	<i>Johnson v. Williams</i>	140d	Alito	9-0	Oct 3, 2012	Feb 20, 2013
	6	<i>US Airways v. McCutchen</i>	140d	Kagan	5-4	Nov 27, 2012	Apr 16, 2013
	8	<i>Genesis v. Symczyk</i>	134d	Thomas	5-4	Dec 3, 2012	Apr 16, 2013
	9	<i>Arlington v. FCC</i>	124d	Scalia	6-3	Jan 16, 2013	May 20, 2013
	10	<i>Clapper v. Amnesty Int'l</i>	120d	Alito	5-4	Oct 29, 2012	Feb 26, 2013

	Rank		Author	Vote	Argued	Decided	
Shortest	1	<i>Metrish v. Lancaster</i>	26d	Ginsburg	9-0	Apr 24, 2013	May 20, 2013
	2	<i>Gunn v. Minton</i>	35d	Roberts	9-0	Jan 16, 2013	Feb 20, 2013
	2	<i>L.A. County Flood Dist. v. NRDC</i>	35d	Ginsburg	9-0	Dec 4, 2012	Jan 8, 2013
	4	<i>Millbrook v. U.S.</i>	36d	Thomas	9-0	Feb 19, 2013	Mar 27, 2013
	5	<i>Hillman v. Maretta</i>	42d	Sotomayor	9-0	Apr 22, 2013	Jun 3, 2013
	5	<i>U.S. v. Bormes</i>	42d	Scalia	9-0	Oct 2, 2012	Nov 13, 2012
	7	<i>Levin v. U.S.</i>	48d	Ginsburg	9-0	Jan 15, 2013	Mar 4, 2013
	8	<i>Sebelius v. Auburn Regional</i>	49d	Ginsburg	9-0	Dec 4, 2012	Jan 22, 2013
	9	<i>Gabelli v. SEC</i>	50d	Roberts	9-0	Jan 8, 2013	Feb 27, 2013
	10	<i>Dan's City Used Cars v. Pelkey</i>	54d	Ginsburg	9-0	Mar 20, 2013	May 13, 2013

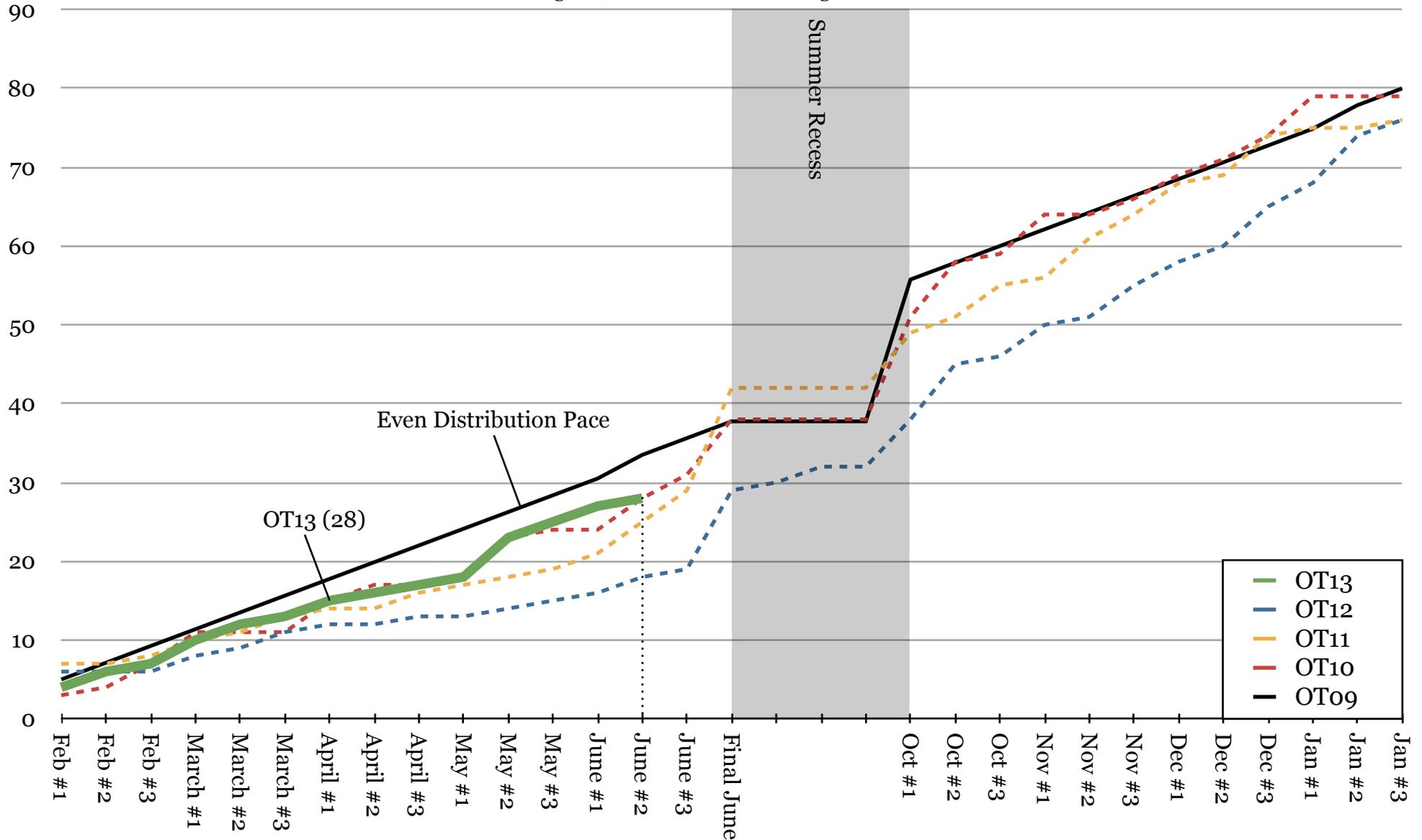
	Less than 30 days	30-59	60-89	90-119	120-149	150-179	180-209	210-239	More than 240
OT10	0	13	18	19	11	12	1	1	0
OT11	2	5	19	24	8	6	1	0	0
OT12	1	10	15	14	8	0	2	0	0

	9-0	8-1	7-2	6-3	5-4
OT12	70d	107d	131d	107d	117d

* These charts consider only signed opinions released following oral arguments.

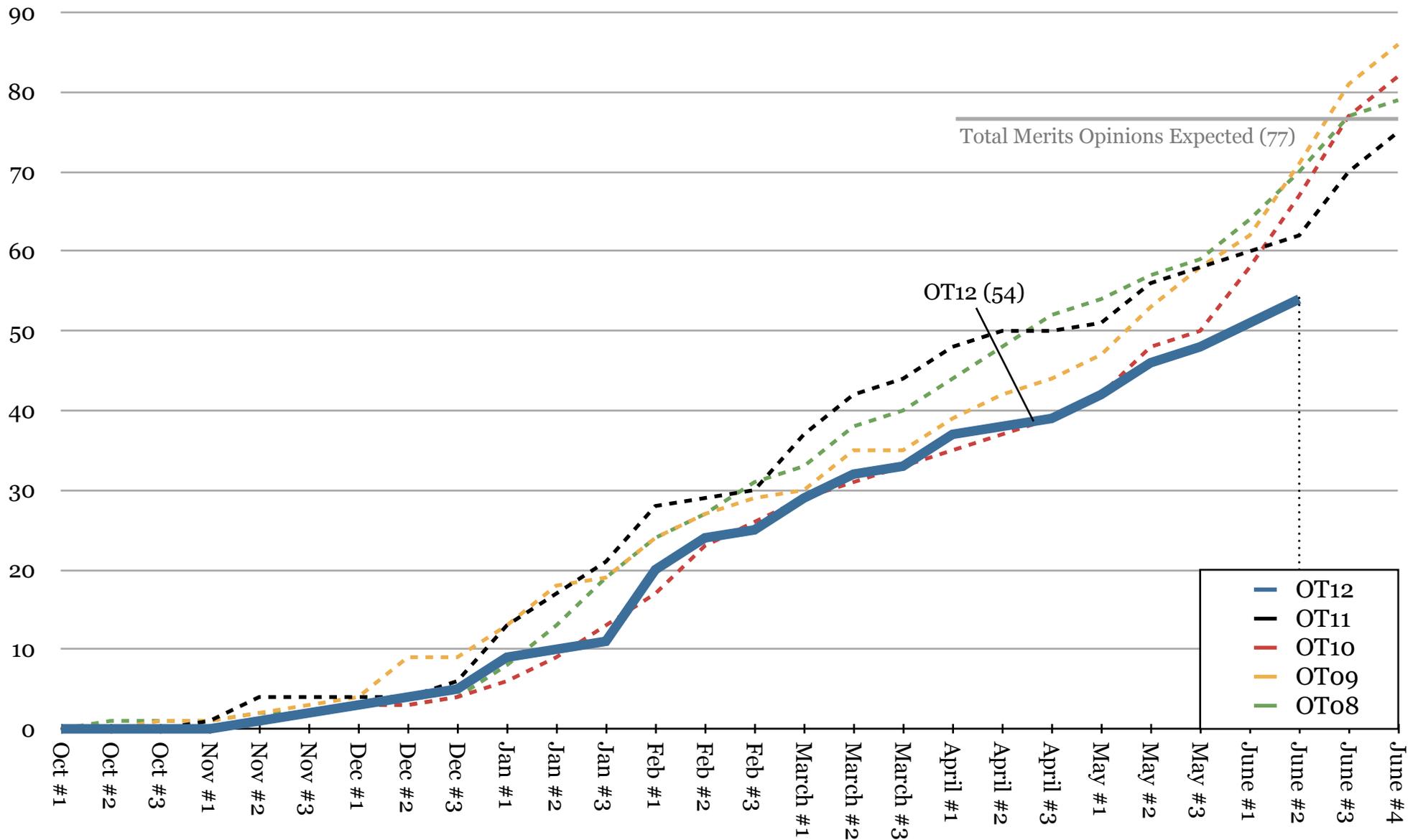
Pace of Grants

The following chart plots the pace at which the Court fills its merits docket for a given Term. Each date marker represents the conference within a given sitting. For instance, Feb #3 is the third February conference, which, for OT12, took place on March 1, 2013. Categorizing grants by their conference within a given sitting ensures more accurate cross-Term comparisons. Towards the same end, the chart below counts *Kiobel* as a OT11 grant, rather than as a OT12 grant.



Pace of Opinions

The following chart plots the pace at which the Court releases merits opinions throughout the Term, beginning in October and ending in June. This chart includes both opinions released after full briefing and summary reversals. Here, as in the Pace of Grants chart, cases are categorized by their release within a given sitting, rather than by calendar month. For example, the opinion for Feb #3 of OT12 was actually released on March 4, 2013.



Oral Argument - Advocates

Overview

	OT12	OT11	OT10
Number of different advocates	120	118	143
Number of total appearances	193	182	196
Appearances by the Office of the Solicitor General	64 (33%)	58 (32%)	57 (29%)
Appearances by advocates who argued more than once	104 (54%)	98 (54%)	81 (41%)
Appearances by advocates from Washington, D.C.	125 (65%)	122 (67%)	106 (54%)
Appearances by expert advocates*	137 (71%)	<i>Not Available</i>	<i>Not Available</i>

Most Popular Advocate Origins**

State	Total
Washington, D.C.	125
New York	12
California	11
Texas	8
Michigan	5
Virginia	4
Arizona	3
Louisiana	3
Washington	3
Georgia	2
Illinois	2

Advocates Who Have Appeared More than Once During OT12

Rank	Name	Appearances	Position	All-Time
1	Donald B. Verrilli, Jr.	8	Solicitor General	29
2	Paul D. Clement	7	Bancroft PLLC	69
3	Sri Srinivasan	5	Principal Deputy Solicitor General	25
4	Michael R. Dreeben	4	Deputy Solicitor General	88
	Jeffrey L. Fisher	4	Stanford Supreme Court Clinic	21
	David C. Frederick	4	Kellogg Huber PLLC	41
	Gregory G. Garre	4	Latham & Watkins LLP	39
	Edwin S. Kneedler	4	Deputy Solicitor General	121
	Malcolm L. Stewart	4	Deputy Solicitor General	63
	Seth P. Waxman	4	WilmerHale LLP	65
11	Ginger D. Anders	3	Assistant to the Solicitor General	9
	Lisa S. Blatt	3	Arnold & Porter LLP	33
	Eric J. Feigin	3	Assistant to the Solicitor General	6
	Curtis E. Gannon	3	Assistant to the Solicitor General	14
	Thomas C. Goldstein	3	Goldstein & Russell PC	28
	Sarah E. Harrington	3	Assistant to the Solicitor General	8
	Benjamin J. Horwich	3	Assistant to the Solicitor General	8
	Ann O'Connell	3	Assistant to the Solicitor General	6
	Joseph R. Palmore	3	Assistant to the Solicitor General	7
	Nicole A. Saharsky	3	Assistant to the Solicitor General	17
	Pratik A. Shah	3	Assistant to the Solicitor General	13
25	Melissa A. Sherry	3	Assistant to the Solicitor General	8
	Jeffrey B. Wall	3	Assistant to the Solicitor General	10
	Anthony A. Yang	3	Assistant to the Solicitor General	14
	John J. Bursch	2	Solicitor General of Michigan	5
	Thomas C. Horne	2	Attorney General of Arizona	2
	Neal K. Katyal	2	Hogan Lovells LLP	17
	Theodore B. Olson	2	Gibson, Dunn & Crutcher LLP	60
	Bert W. Rein	2	Wiley Rein LLP	2
	Charles A. Rothfeld	2	Mayer Brown LLP	30
	Kannon K. Shanmugam	2	Williams & Connolly LLP	13
		Total: 31	104	

* We adopt Richard Lazarus's definition of an "expert" Supreme Court litigator: one who has argued five or more times before the Supreme Court or works in an office where lawyers have collectively argued more than ten times. See Richard J. Lazarus, *Advocacy Matters Before and Within the Supreme Court: Transforming the Court by Transforming the Bar*, 97 GEO. L.J. 1487, 1490 n.17 (2008). Sixty-six different expert advocates presented oral arguments during OT12, representing fifty-five percent of all advocates appearing before the Court. The fifty-five percent of advocates classified as experts made seventy-one percent of all appearances.

** An advocate's "origin" is simply the state of origin listed for an advocate on the Court's monthly hearing lists. If attorneys from the Office of the Solicitor General are omitted, lawyers based in Washington, D.C. have appeared sixty-one times during OT12.

OT12 Case List

Cases are sorted by sitting. 5-4 decisions are highlighted in red.

Docket	Case Name	Court	Argued	Decided	Vote	Author	Holding
<i>I. October (10)</i>							
11-626	Lozman v. Riviera Beach	CA11	Oct 1, 2012	Jan 15, 2013	7-2	Breyer	Reversed; Lozman’s floating home is not a “vessel” for purposes of 1 U.S.C. § 3, and therefore federal maritime jurisdiction is not triggered, because -- except for the fact that it floats -- nothing about it suggests that it was intended to transport people or things over water.
10-1491	Kiobel v. Royal Dutch Petroleum Corp.	CA2	Oct 1, 2012	Apr 17, 2013	9-0	Roberts	Affirmed; The presumption against the extraterritorial application of U.S. law applies to claims under the Alien Tort Statute, and nothing in the text, history, or purposes of the statute rebuts that presumption.
11-184	Kloeckner v. Solis	CA8	Oct 2, 2012	Dec 10, 2012	9-0	Kagan	Reversed and Remanded; A federal employee who claims that an agency action appealable to the Merit Systems Protection Board violates an antidiscrimination statute listed in 5 U.S.C. § 7702(a)(1) should seek judicial review in district court, not the Federal Circuit, regardless whether the Board decided her case on procedural grounds or on the merits.
11-192	United States v. Bormes	CAFC	Oct 2, 2012	Nov 13, 2012	9-0	Scalia	Vacated and Remanded; The Little Tucker Act does not waive the government’s sovereign immunity with respect to Fair Credit Reporting Act damages actions.
11-465	Johnson v. Williams	CA9	Oct 3, 2012	Feb 20, 2013	9-0	Alito	Reversed and Remanded; For purposes of 28 U.S.C. § 2254(d), when a state court rules against a defendant in an opinion that rejects some of the defendant’s claims but does not expressly address a federal claim, a federal habeas court must presume, subject to rebuttal, that the federal claim was adjudicated on the merits.
11-597	Arkansas Game & Fish Comm’n v. United States	CAFC	Oct 3, 2012	Dec 4, 2012	8-0	Ginsburg	Reversed and Remanded; Recurrent flooding that is induced by the government and temporary in duration is not automatically exempt from liability under the Takings Clause. (Kagan, J., recused.)

OT12 Case List

(continued)

Docket	Case Name	Court	Argued	Decided	Vote	Author	Holding
10-930	Ryan v. Gonzales	CA9	Oct 9, 2012	Jan 8, 2013	9-0	Thomas	Reversed; 18 U.S.C. § 3599 does not provide a state prisoner with the right to suspend his federal habeas proceedings when he is adjudged incompetent.
11-218	Tibbals v. Carter	CA6	Oct 9, 2012	Jan 8, 2013			Reversed and Remanded; Consolidated opinion with Ryan v. Gonzales.
11-345	Fisher v. University of Texas	CA5	Oct 10, 2012				<i>Pending</i>
11-702	Moncrieffe v. Holder	CA5	Oct 10, 2012	Apr 23, 2013	7-2	Sotomayor	Reversed and Remanded; If a noncitizen's conviction for a marijuana distribution offense fails to establish that the offense involved either remuneration or more than a small amount of marijuana, it is not an aggravated felony under the Immigration and Nationality Act.

II. November (12)

11-697	Kirtsaeng v. John Wiley & Sons, Inc.	CA2	Oct 29, 2012	Mar 19, 2013	6-3	Breyer	Reversed and Remanded; The "first sale" doctrine, which allows the owner of a copyrighted work to sell or otherwise dispose of that copy as he wishes, applies to copies of a copyrighted work lawfully made abroad.
11-1025	Clapper v. Amnesty International USA	CA2	Oct 29, 2012	Feb 26, 2013	5-4	Alito	Reversed and Remanded; Respondents lack Article III standing to challenge FISA Amendments Act of 2008, 50 U. S. C. § 1881a.

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(continued)

Docket	Case Name	Court	Argued	Decided	Vote	Author	Holding
11-564	Florida v. Jardines	State	Oct 31, 2012	Mar 26, 2013	5-4	Scalia	Affirmed; A dog sniff at the front door of a house where the police suspected drugs were being grown constitutes a search for purposes of the Fourth Amendment.
11-817	Florida v. Harris	State	Oct 31, 2012	Feb 19, 2013	9-0	Kagan	Reversed; When, subject to challenge by the defendant, the police provide evidence of a drug-sniffing dog's satisfactory performance in a certification or training program, the dog's alert can provide probable cause to search a vehicle.
11-820	Chaidez v. United States	CA7	Nov 1, 2012	Feb 20, 2013	7-2	Kagan	Affirmed; The Court's decision in Padilla v. Kentucky, holding that the Sixth Amendment requires defense attorneys to inform criminal defendants of the deportation risks of guilty pleas, does not apply retroactively to cases already final on direct review.
11-770	Bailey v. United States	CA2	Nov 1, 2012	Feb 19, 2013	6-3	Kennedy	Reversed and Remanded; The rule in Michigan v. Summers that officers executing a search warrant are permitted "to detain the occupants of the premises while a proper search is conducted" is limited to the immediate vicinity of the premises to be searched and does not apply when a recent occupant of the premises was detained at a point beyond any reasonable understanding of the immediate vicinity of the premises in question.
11-1085	Amgen Inc. v. Connecticut Retirement Plans and Trust Funds	CA9	Nov 5, 2012	Feb 27, 2013	6-3	Ginsburg	Affirmed; Proof of materiality is not a prerequisite to certification of a securities-fraud class action seeking money damages for alleged violations of Securities and Exchange Commission Rule § 10(b) and Rule 1.
11-864	Comcast Corp. v. Behrend	CA3	Nov 5, 2012	Mar 27, 2013	5-4	Scalia	Reversed; The class action brought by respondents, subscribers to the cable television services provided by petitioner, was improperly certified under Federal Rule of Civil Procedure 23(b)(3), which requires a court to find that the "questions of law or fact common to class members predominate over any questions affecting only individual members," because the Third Circuit erred in refusing to decide whether the class's proposed damages model could show damages on a classwide basis. Under proper standards, the model was inadequate, and the class should not have been certified.

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Docket	Case Name	Court	Argued	Decided	Vote	Author	Holding
11-1327	Evans v. Michigan	State	Nov 6, 2012	Feb 20, 2013	8-1	Sotomayor	Reversed; The Double Jeopardy Clause bars retrial following a court-directed acquittal, even if the acquittal was erroneous.
11-8976	Smith v. United States	CADC	Nov 6, 2012	Jan 9, 2013	9-0	Scalia	Affirmed; A defendant bears the burden of proving a defense of withdrawal from conspiracy.
11-1175	Marx v. General Revenue Corp.	CA10	Nov 7, 2012	Feb 26, 2013	7-2	Thomas	Affirmed; Under Federal Rule of Civil Procedure 54(d)(1), a prevailing defendant in a Fair Debt Collection Practices Act suit may be awarded costs when the lawsuit was not brought in bad faith and for the purpose of harassment.
11-982	Already, LLC v. Nike	CA2	Nov 7, 2012	Jan 9, 2013	9-0	Roberts	Affirmed; Nike's unconditional and irrevocable covenant not to enforce a trademark against a competitor's existing products and any future "colorable imitations" moots the competitor's action to have the trademark declared invalid.

III. December (9)

11-1160	Federal Trade Commission v. Phoebe Putney Health	CA11	Nov 26, 2012	Feb 19, 2013	9-0	Sotomayor	Reversed and Remanded; Because Georgia has not clearly articulated and affirmatively expressed a policy allowing hospital authorities to make acquisitions that substantially reduce competition, state-action immunity does not apply
11-556	Vance v. Ball State University	CA7	Nov 26, 2012				<i>Pending</i>

OT12 Case List

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Docket	Case Name	Court	Argued	Decided	Vote	Author	Holding
11-1285	US Airways v. McCutchen	CA3	Nov 27, 2012	Apr 16, 2013	5-4	Kagan	Vacated and Remanded; In an action brought under Section 502(a)(3) of the Employee Retirement Income Security Act, which authorizes a civil action “to obtain . . . appropriate equitable relief . . . to enforce . . . the terms of the” ERISA plan, based on an equitable lien by agreement, the terms of the ERISA plan govern. However, when there are gaps in the plan, equitable doctrines may be used to properly construe it.
11-9307	Henderson v. United States	CA5	Nov 28, 2012	Feb 20, 2013	6-3	Breyer	Reversed and Remanded; Regardless whether a legal question was settled or unsettled at the time of trial, an error is “plain” within the meaning of Federal Rule of Criminal Procedure 52(b) so long as the error was plain at the time of appellate review.
11-338	Decker v. Northwest Environmental Defense Center	CA9	Dec 3, 2012	Mar 20, 2013	7-1	Kennedy	Reversed and Remanded; A provision of the Clean Water Act governing challenges to Environmental Protection Agency actions, 33 U.S.C. § 1369(b), is not a jurisdictional bar to this suit, which alleges that the defendants had not obtained National Pollutant Discharge Elimination System permits before discharging stormwater runoff into two Oregon rivers. That provision is the exclusive vehicle for suits seeking to invalidate certain agency decisions, such as the establishment of effluent standards and the issuance of permits. It does not bar a district court from entertaining a citizen suit, like this one, under Section 1365 when the suit is against an alleged violator and seeks to enforce an obligation imposed by the Act or its regulations. Moreover, the EPA’s recent amendment to the Industrial Stormwater Rule does not make the cases moot.
11-1059	Genesis Healthcare Corp. v. Symczyk	CA3	Dec 3, 2012	Apr 16, 2013	5-4	Thomas	Reversed; Because respondent had no personal interest in representing putative, unnamed claimants, nor any other continuing interest that would preserve her suit from mootness, her suit was appropriately dismissed for lack of subject-matter jurisdiction.
11-460	Los Angeles County Flood Control v. Natural Resources Defense Council	CA9	Dec 4, 2012	Jan 8, 2013	9-0	Ginsburg	Reversed and Remanded; The flow of water from an improved portion of a navigable waterway into an unimproved portion of the same waterway does not qualify as a “discharge of a pollutant” under the Clean Water Act.
11-1231	Sebelius v. Auburn Regional Medical	CADC	Dec 4, 2012	Jan 22, 2013	9-0	Ginsburg	Reversed and Remanded; The 180-day statutory time limit for a hospital to appeal a final Medicare reimbursement is not “jurisdictional,” but it is also not subject to equitable tolling.

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Docket	Case Name	Court	Argued	Decided	Vote	Author	Holding
11-1347	Chafin v. Chafin	CA11	Dec 5, 2012	Feb 19, 2013	9-0	Roberts	Vacated and Remanded; The return of a child to a foreign country pursuant to an order under the Hague Convention on the Civil Aspects of International Child Abduction does not render an appeal of that order moot.
IV. January (12)							
11-1450	Standard Fire Insurance Company v. Knowles	CA8	Jan 7, 2013	Mar 19, 2013	9-0	Breyer	Vacated and Remanded; A stipulation by a class-action plaintiff that he and the class that he purports to represent will seek damages that are less than the threshold for jurisdiction under the Class Action Fairness Act of 2005 does not defeat federal jurisdiction under the Act.
11-9540	Descamps v. United States	CA9	Jan 7, 2013				<i>Pending</i>
11-1274	Gabelli v. Securities and Exchange Commission	CA2	Jan 8, 2013	Feb 27, 2013	9-0	Roberts	Reversed and Remanded; The five-year statute of limitations for the SEC to bring a civil suit seeking penalties for securities fraud against investment advisers begins to tick when the fraud occurs, not when it is discovered.
12-98	Wos v. E.M.A.	CA4	Jan 8, 2013	Mar 20, 2013	6-3	Kennedy	Affirmed; The anti-lien provision of the federal Medicaid statute pre-empts North Carolina's irrebuttable statutory presumption that one-third of any tort recovery by a Medicaid beneficiary is attributable to medical expenses.
11-1425	Missouri v. McNeely	State	Jan 9, 2013	Apr 17, 2013	5-4	Sotomayor	Affirmed; In drunk-driving investigations, the natural dissipation of alcohol in the bloodstream does not constitute an exigency in every case sufficient to justify conducting a blood test without a warrant.

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Docket	Case Name	Court	Argued	Decided	Vote	Author	Holding
12-25	Maracich v. Spears	CA4	Jan 9, 2013				<i>Pending</i>
11-9335	Alleyne v. United States	CA4	Jan 14, 2013				<i>Pending</i>
11-9953	Boyer v. Louisiana	State	Jan 14, 2013	Apr 29, 2013			Dismissed; The Court dismissed the writ of certiorari as improvidently granted.
11-1351	Levin v. United States	CA9	Jan 15, 2013	Mar 4, 2013	9-0	Ginsburg	Reversed and Remanded; The Gonzalez Act, 10 U.S.C. § 1089(e), which provides that the intentional tort exception to the Federal Tort Claims Act does not apply to “any cause of action arising out of a negligent or wrongful act or omission in the performance of medical . . . functions,” permits a suit against the United States alleging medical battery by a Navy doctor acting within the scope of his employment.
11-1447	Koontz v. St. Johns River Water Management	State	Jan 15, 2013				<i>Pending</i>
11-1118	Gunn v. Minton	State	Jan 16, 2013	Feb 20, 2013	9-0	Roberts	Reversed and Remanded; 28 U.S.C. § 1338(a), which provides for exclusive federal jurisdiction over an case “arising under any Act of Congress relating to patents,” does not deprive the state courts of subject matter jurisdiction over a state law claim alleging legal malpractice in a patent case.

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Docket	Case Name	Court	Argued	Decided	Vote	Author	Holding
11-1545	Arlington v. Federal Communications Commission	CA5	Jan 16, 2013	May 20, 2013	6-3	Scalia	Affirmed; Courts must apply the Chevron framework to an agency's interpretation of a statutory ambiguity that concerns the scope of the agency's statutory authority (i.e., its jurisdiction).
V. February (10)							
11-10362	Millbrook v. United States	CA3	Feb 19, 2013	Mar 27, 2013	9-0	Thomas	Reversed and Remanded; The law enforcement proviso to the Federal Tort Claims Act applies to all the activities of law enforcement officers within the scope of their employment, not just to their investigative or law enforcement activities.
11-796	Bowman v. Monsanto	CAFC	Feb 19, 2013	May 13, 2013	9-0	Kagan	Affirmed; Patent exhaustion does not permit a farmer to reproduce patented seeds through planting and harvesting without the patent holder's permission.
12-17	McBurney v. Young	CA4	Feb 20, 2013	Apr 29, 2013	9-0	Alito	Affirmed; Virginia's Freedom of Information Act, which grants Virginia citizens access to all public records, but grants no such right to non-Virginians, does not violate the Privileges and Immunities Clause, which protects only those privileges and immunities that are "fundamental." The Act also does not violate the dormant Commerce Clause: it neither prohibits access to an interstate market nor imposes burdensome regulation on that market; and in any event, a state does not violate the Clause when, having created a market through a state program, it "limits benefits generated by [that] state program to those who fund the state treasury and whom the State was created to serve."
12-43	PPL Corporation v. Commissioner of Internal Revenue	CA3	Feb 20, 2013	May 20, 2013	9-0	Thomas	Reversed; The one-time "windfall tax" imposed in 1997 by the United Kingdom on a group of companies privatized between 1984 and 1996 is creditable under Section 901 of the Internal Revenue Code, which (as relevant here) provides that any "income, war profits, and excess profits taxes" paid overseas are creditable against U.S. income taxes.

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Docket	Case Name	Court	Argued	Decided	Vote	Author	Holding
11-10189	Trevino v. Thaler	CA5	Feb 25, 2013	May 28, 2013	5-4	Breyer	Vacated and Remanded; When, as here, a state's procedural framework, by reason of its design and operation, makes it highly unlikely in a typical case that a defendant will have a meaningful opportunity to raise on direct appeal a claim that his trial counsel provided ineffective assistance, the good cause exception recognized in <i>Martinez v. Ryan</i> applies.
12-126	McQuiggin v. Perkins	CA6	Feb 25, 2013	May 28, 2013	5-4	Ginsburg	Vacated and Remanded; Actual innocence, if proved, serves as a gateway through which a petitioner may pass whether the impediment to consideration of the merits of a constitutional claim is a procedural bar, as it was in <i>Schlup v. Delo</i> and <i>House v. Bell</i> , or expiration of the Antiterrorism and Effective Death Penalty Act statute of limitations, as in this case.
12-62	Peugh v. United States	CA7	Feb 26, 2013	Jun 10, 2013	5-4	Sotomayor	Reversed and Remanded; The Constitution's Ex Post Facto Clause prohibits federal courts from sentencing a defendant based on guidelines that were promulgated after he committed his crimes, when the new version of guidelines provides a higher sentencing range than the version in place at the time of the offense.
12-207	Maryland v. King	State	Feb 26, 2013	Jun 3, 2013	5-4	Kennedy	Reversed; When officers make an arrest supported by probable cause to hold a suspect for a serious offense and bring him to the station to be detained in custody, taking and analyzing a cheek swab of the arrestee's DNA is, like fingerprinting and photographing, a legitimate police booking procedure that is reasonable under the Fourth Amendment.
12-96	Shelby County v. Holder	CADC	Feb 27, 2013				<i>Pending</i>
12-133	American Express Co. v. Italian Colors Restaurant	CA2	Feb 27, 2013				<i>Pending</i>

VI. March (10)

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Docket	Case Name	Court	Argued	Decided	Vote	Author	Holding
12-71	Arizona v. Inter Tribal Council	CA9	Mar 18, 2013				<i>Pending</i>
11-1518	Bullock v. BankChampaign, N.A.	CA11	Mar 18, 2013	May 13, 2013	9-0	Breyer	Vacated and Remanded; The term “defalcation” in the Bankruptcy Code includes a culpable state of mind requirement involving knowledge of, or gross recklessness in respect to, the improper nature of the fiduciary behavior.
12-236	Sebelius v. Cloer	CAFC	Mar 19, 2013	May 20, 2013	9-0	Sotomayor	Affirmed; An untimely National Childhood Vaccine Injury Act petition may qualify for an award of attorney’s fees if it is filed in good faith and there is a reasonable basis for its claim.
12-142	Mutual Pharmaceutical v. Bartlett	CA1	Mar 19, 2013				<i>Pending</i>
12-123	Horne v. Department of Agriculture	CA9	Mar 20, 2013	Jun 10, 2013	9-0	Thomas	Reversed and Remanded; A farmer who is deemed to have violated an agricultural marketing order, is fined, has a fine assessed against him, and seeks to argue that the fine is an unconstitutional “taking” can bring his “takings” claim in a regular federal district court without first paying the fine; he is not required to bring that claim in the Court of Federal Claims.
12-52	Dan’s City Used Cars v. Pelkey	State	Mar 20, 2013	May 13, 2013	9-0	Ginsburg	Affirmed; Section 14501(c)(1) of the Federal Aviation Administration Authorization Act of 1994 does not preempt state-law claims stemming from the storage and disposal of a towed vehicle.

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Docket	Case Name	Court	Argued	Decided	Vote	Author	Holding
12-135	Oxford Health Plans v. Sutter	CA3	Mar 25, 2013	Jun 10, 2013	9-0	Kagan	Affirmed; When an arbitrator determines that the parties to an arbitration intended to authorize class-wide arbitration, that determination survives judicial review under § 10(a)(4) of the Federal Arbitration Act as long as the arbitrator was arguably construing the contract.
12-416	Federal Trade Commission v. Actavis	CA11	Mar 25, 2013				<i>Pending</i>
12-144	Hollingsworth v. Perry	CA9	Mar 26, 2013				<i>Pending</i>
12-307	United States v. Windsor	CA2	Mar 27, 2013				<i>Pending</i>

VII. April (12)

12-398	Association for Molecular Pathology v. Myriad Genetics	CAFC	Apr 15, 2013				<i>Pending</i>
12-167	United States v. Davila	CA11	Apr 15, 2013				<i>Pending</i>

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Docket	Case Name	Court	Argued	Decided	Vote	Author	Holding
12-399	Adoptive Couple v. Baby Girl	State	Apr 16, 2013				<i>Pending</i>
11-798	American Trucking Association v. Los Angeles, California	CA9	Apr 16, 2013				<i>Pending</i>
12-246	Salinas v. Texas	State	Apr 17, 2013				<i>Pending</i>
12-418	United States v. Kobedeaux	CA5	Apr 17, 2013				<i>Pending</i>
11-1221	Hillman v. Maretta	State	Apr 22, 2013	Jun 3, 2013	9-0	Sotomayor	Affirmed; The Federal Employees' Group Life Insurance Act (FEGLIA), which establishes a life insurance program for federal employees, allows an employee to designate a beneficiary to receive the proceeds of the policy when the employee dies. That law preempts a Virginia law that allows the family of a deceased employee to sue the designated beneficiary for the proceeds if the beneficiary happens to be the employee's former spouse.
12-10	Agency for International Development v. Alliance for Open Society International	CA2	Apr 22, 2013				<i>Pending</i>

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Docket	Case Name	Court	Argued	Decided	Vote	Author	Holding
11-889	Tarrant Regional Water District v. Herrmann	CA10	Apr 23, 2013				<i>Pending</i>
12-357	Sekhar v. United States	CA2	Apr 23, 2013				<i>Pending</i>
12-547	Metrish v. Lancaster	CA6	Apr 24, 2013	May 20, 2013	9-0	Ginsburg	Reversed; Because the Michigan Court of Appeals did not unreasonably apply clearly established federal law when it retroactively applied a decision of the Michigan Supreme Court rejecting the diminished-capacity defense to petitioner, who was charged with a murder that occurred several years before the Michigan Supreme Court's decision, petitioner was not entitled to habeas relief.
12-484	University of Texas Southwestern Medical Center v. Nassar	CA5	Apr 24, 2013				<i>Pending</i>

VIII. Summary Reversals

12-168	Lefemine v. Wideman	CA4	-	Nov 5, 2012	9-0	<i>Per Curiam</i>	Vacated and Remanded; In a lawsuit alleging that the conduct of government officials violates the Constitution, a plaintiff who obtains a permanent injunction but no money damages is a "prevailing party" because the injunction ordered the officials to change their behavior in a way that directly benefitted the plaintiff. The plaintiff is therefore entitled to receive his attorney's fees unless special circumstances would render such an award unjust.
11-1377	Nitro-Lift Technologies v. Howard	State	-	Nov 26, 2012	9-0	<i>Per Curiam</i>	Vacated and Remanded; The Oklahoma Supreme Court was wrong in preventing arbitration of a dispute over the scope of non-competition agreements in employment contracts.

OT12 Case List

(continued)

Docket	Case Name	Court	Argued	Decided	Vote	Author	Holding
12-382	Marshall v. Rodgers	CA9	-	Apr 1, 2013	9-0	<i>Per Curiam</i>	Reversed and Remanded; Petitioner's claim that the state courts violated his Sixth Amendment right to effective assistance of counsel by declining to appoint an attorney to assist in filing a motion for a new trial notwithstanding his three prior waivers of the right to counseled representation was not "clearly established in federal law."
12-694	Nevada v. Jackson	CA9	-	Jun 3, 2013	9-0	<i>Per Curiam</i>	Reversed and Remanded; No prior decisions of the Supreme Court clearly establish the right of a criminal defendant to introduce evidence for the purpose of showing that a rape victim previously reported that the defendant had assaulted her despite the fact that those claims were unsubstantiated.