

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	78
.....Signed opinions after oral argument	73
.....Summary reversals	5
Total Merits Opinions Expected	78
.....Petitions granted and set for argument	75
.....Summary reversals	5
.....(Cases consolidated for decision)*	(1)
.....(Cases dismissed)**	(1)
Cases Set for Argument During OT13	40

* *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.

Suggested Citation: Kedar S. Bhatia, *Stat Pack for October Term 2012*, SCOTUSBLOG (June 27, 2013), http://www.scotusblog.com/wp-content/uploads/2013/07/SCOTUSblog_StatPack_OT12.pdf.

Opinions by Sitting

Roberts	1	1	1	2	1	1	1	JGR	8					
Scalia	1	3	-	1	1	1	1	AS	8					
Kennedy	1	1	1	2	1	1	1	AMK	8					
Thomas	1	1	1	1	2	1	1	CT	8					
Ginsburg	1	1	2	1	1	1	2	RBG	9					
Breyer	1	1	1	1	1	2	1	SGB	8					
Alito	1	1	1	1	1	1	2	SAA	8					
Sotomayor	1	1	1	1	1	1	2	SMS	8					
Kagan	1	2	1	1	1	1	1	EK	8					
	October	November	December	January	February	March	April	Total	73					
	Decided: 10 Remain: 0	Decided: 12 Remain: 0	Decided: 9 Remain: 0	Decided: 12 Remain: 0	Decided: 10 Remain: 0	Decided: 10 Remain: 0	Decided: 12 Remain: 0	Args	75					
Lozman	SGB	Kirtsaeng	SGB	Phoebe Putney	SMS	Standard Fire	SGB	Millbrook	CT	Inter Tribal	AS	Myriad	CT	
Kiobel	JGR	Clapper	SAA	Vance	SAA	Descamps	EK	Bowman	EK	Bullock	SGB	Davila	RBG	
Kloeckner	EK	Jardines	AS	US Airways	EK	Gabelli	JGR	McBurney	SAA	Cloer	SMS	Baby Girl	SAA	
Bormes	AS	Harris	EK	Henderson	SGB	Wos	AMK	PPL Corp.	CT	Mutual Pharm.	SAA	Am. Trucking	EK	
Johnson	SAA	Chaidez	EK	Decker	AMK	McNeely	SMS	Trevino	SGB	Horne	CT	Salinas	SAA	
Ark. Game	RBG	Bailey	AMK	Genesis	CT	Maracich	AMK	McQuiggin	RBG	Dan's City	RBG	Kebodeaux	SGB	
Ryan	CT	Amgen	RBG	LA County Flood	RBG	Alleyne	CT	Peugh	SMS	Oxford	EK	Hillman	SMS	
Tibbals		Comcast	AS	Auburn Regional	RBG	Boyer		King	AMK	Actavis	SGB	AID	JGR	
Fisher	AMK	Evans	SMS	Chafin	JGR	Levin	RBG	Shelby County	JGR	Hollingsworth	JGR	Tarrant	SMS	
Moncrieffe	SMS	Smith	AS			Koontz	SAA	Am. Express	AS	Windsor	AMK	Sekhar	AS	
		Marx	CT			Gunn	JGR					Metrish	RBG	
		Already	JGR			Arlington	AS					UT Southwestern	AMK	

Circuit Scorecard

October Term 2012

	Number	Percent	Decided	Aff'd	Rev'd	Aff'd %	Rev'd %
CA1	1	1%	1	0	1	0%	100%
CA2	10	13%	10	4	6	40%	60%
CA3	6	8%	6	1	5	17%	83%
CA4	5	6%	5	2	3	40%	60%
CA5	7	9%	7	1	6	14%	86%
CA6	2	3%	2	0	2	0%	100%
CA7	3	4%	3	2	1	67%	33%
CA8	2	3%	2	0	2	0%	100%
CA9	14	18%	14	2	12	14%	86%
CA10	2	3%	2	2	0	100%	0%
CA11	6	8%	6	0	6	0%	100%
CA DC	3	4%	3	1	2	33%	67%
CA Fed	5	6%	5	2	3	40%	60%
State	12	15%	12	5	7	42%	58%
Dist. Court	-	-					
Original	-	-		N/A	N/A	N/A	N/A
	78	100%	78	22	56	28%	72%

October Term 2013

	Number	Percent
CA1	3	8%
CA2	3	8%
CA3	2	5%
CA4	-	-
CA5	5	13%
CA6	5	13%
CA7	2	5%
CA8	2	5%
CA9	7	18%
CA10	1	3%
CA11	2	5%
CA DC	3	8%
CA Fed	1	3%
State	3	8%
Dist. Court	1	3%
Original	-	-
	40	100%

Circuit Scorecard

This chart features affirmance and reversal rates for each circuit and each Justice. The first number is the number of times a particular Justice voted to affirm a decision of the court below and the second number is the number of times that Justice voted to vacate or reverse the decision below.

	Roberts	Scalia	Kennedy	Thomas	Ginsburg	Breyer	Alito	Sotomayor	Kagan	Total Votes	Overall Decisions
CA1	0 - 1	0 - 1	0 - 1	0 - 1	1 - 0	1 - 0	0 - 1	1 - 0	1 - 0	4 - 5	0 - 1
CA2	3 - 7	3 - 7	5 - 5	3 - 7	7 - 3	7 - 3	4 - 6	5 - 4	5 - 4	42 - 46	4 - 6
CA3	2 - 4	2 - 4	1 - 5	2 - 4	3 - 3	3 - 3	2 - 4	3 - 3	3 - 3	21 - 33	1 - 5
CA4	2 - 3	3 - 2	3 - 2	1 - 4	3 - 2	2 - 3	3 - 2	3 - 2	3 - 2	23 - 22	2 - 3
CA5	1 - 6	4 - 3	0 - 7	5 - 2	3 - 4	2 - 5	3 - 4	2 - 5	2 - 4	22 - 40	1 - 6
CA6	1 - 1	1 - 1	0 - 2	1 - 1	0 - 2	0 - 2	1 - 1	0 - 2	0 - 2	4 - 14	0 - 2
CA7	3 - 0	3 - 0	2 - 1	3 - 0	0 - 3	1 - 2	3 - 0	0 - 3	1 - 2	16 - 11	2 - 1
CA8	0 - 2	0 - 2	0 - 2	0 - 2	0 - 2	0 - 2	0 - 2	0 - 2	0 - 2	0 - 18	0 - 2
CA9	2 - 12	2 - 12	2 - 12	1 - 13	2 - 12	2 - 11	3 - 11	3 - 11	2 - 12	19 - 106	2 - 12
CA10	2 - 0	2 - 0	2 - 0	2 - 0	2 - 0	2 - 0	2 - 0	1 - 1	1 - 1	16 - 2	2 - 0
CA11	1 - 5	1 - 5	1 - 5	1 - 5	0 - 6	0 - 6	0 - 5	1 - 5	0 - 6	5 - 48	0 - 6
CA DC	1 - 2	1 - 2	1 - 2	1 - 2	2 - 1	2 - 1	1 - 2	2 - 1	2 - 1	13 - 14	1 - 2
CA Fed.	2 - 3	2 - 3	2 - 3	2 - 3	2 - 3	2 - 3	2 - 3	2 - 3	2 - 2	18 - 26	2 - 3
State Ct.	3 - 9	7 - 5	4 - 8	4 - 8	7 - 5	3 - 9	4 - 8	7 - 5	7 - 5	46 - 62	5 - 7
Dist. Court	0 - 0	0 - 0	0 - 0	0 - 0	0 - 0	0 - 0	0 - 0	0 - 0	0 - 0	0 - 0	0 - 0
Original	0 - 0	0 - 0	0 - 0	0 - 0	0 - 0	0 - 0	0 - 0	0 - 0	0 - 0	0 - 0	0 - 0
	23 - 55	31 - 47	23 - 55	26 - 52	32 - 46	27 - 50	28 - 49	30 - 47	29 - 46	249 - 447	22 - 56

Merits Cases by Vote Split

9-0 38 (49%)	8-1 4 (5%)	7-2 7 (9%)	6-3 6 (8%)	5-4 23 (29%)**	
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 Envt'l Def. Center (7-1)	U.S. v. Chaidez	Henderson v. U.S.	Florida v. Jardines	
Nitro-Lift v. Howard (PC)	Descamps v. U.S.	Marx v. General Revenue	Amgen v. Conn. Retirement Plans	Comcast v. Behrend	
Ark. Game & Fish Comm'n v. U.S. (8-0)	Fisher v. Univ. of Texas (7-1)	Moncrieffe v. Holder	Kirtsaeng v. Wiley & Sons	Genesis v. Symczyk	
Kloeckner v. Solis		Arizona v. Inter Tribal Council	Wos v. E.M.A.	US Airways v. McCutchen	
Ryan v. Gonzales		AID v. Alliance for Open Soc. (6-2)	Arlington v. FCC	Missouri v. McNeely	
L.A. County Flood Dist. v. NRDC		U.S. v. Kebodeaux		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				Maracich v. Spears	
FTC v. Phoebe Putney				Alleyne v. U.S.	
Florida v. Harris				FTC v. Actavis (5-3)	
Gunn v. Minton				Salinas v. Texas	
Johnson v. Williams				Am. Express v. Italian Colors (5-3)	
Gabelli v. SEC				UT Southwestern v. Nassar	
Levin v. U.S.				Vance v. Ball State Univ.	
Std. Fire Ins. v. Knowles				Mutual Pharm. v. Bartlett	
Millbrook v. U.S.				Shelby County v. Holder	
Marshall v. Rodgers (PC)				Koontz v. St. Johns Water Mgmt.	
Kiobel v. Royal Dutch				Adoptive Couple v. Baby Girl	
McBurney v. Young				Hollingsworth v. Perry	
Dan's City Used Cars v. Pelkey				United States v. Windsor	
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					
Ass'n for Molec. Pathology v. Myriad					
U.S. v. Davila					
Tarrant v. Herrmann					
Am. Trucking Ass'n v. Los Angeles					
Ryan v. Schad (PC)					
Sekhar v. U.S.					

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
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.	43%	10%	14%	12%	22%

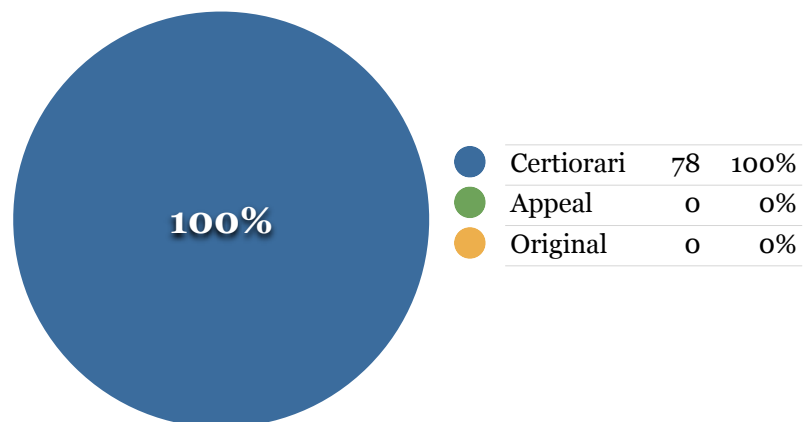
* We treat cases with eight or fewer votes as if they were decided by the full Court. For example, we treated *Arkansas Game & Fish Commission v. United States*, which had only eight Justices voting, as a 9-0 case throughout much of this Stat Pack. For 8-0, 7-1, and 6-2 decisions, we categorically assume 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.

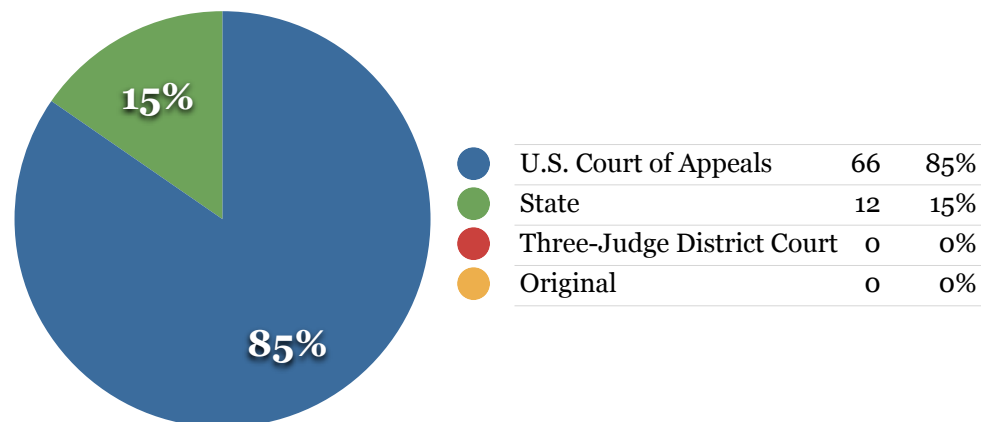
Make-Up of the Merits Docket

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.

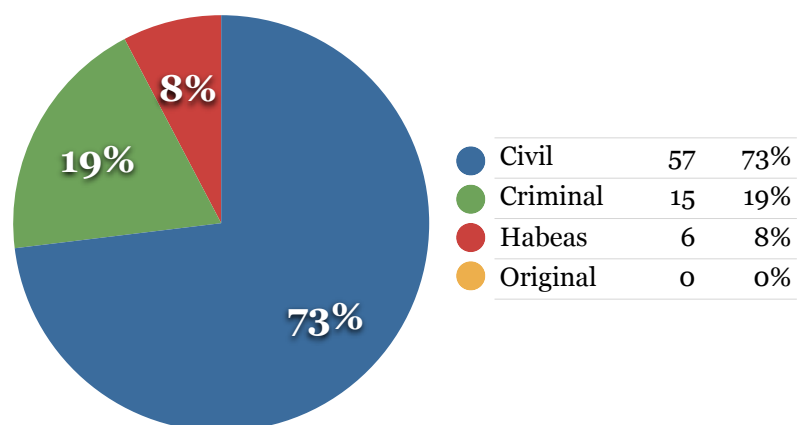
Source of Jurisdiction



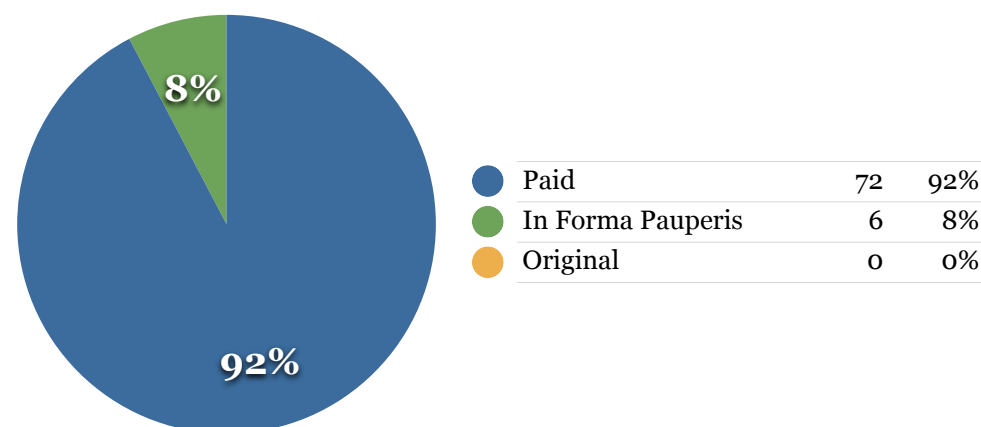
Court Below



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).

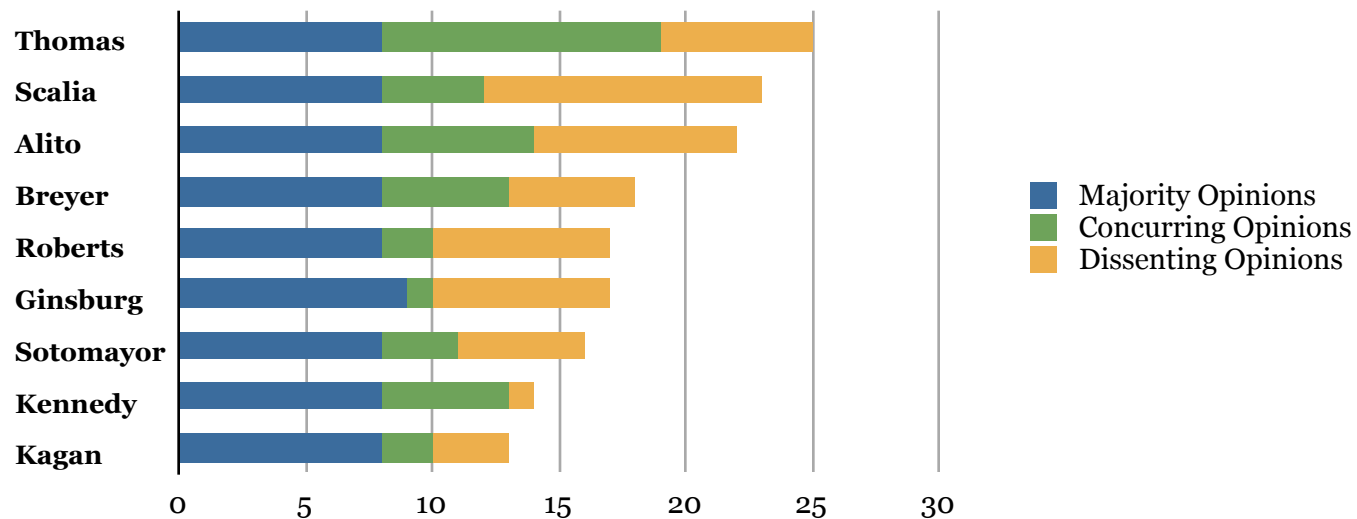
Term Index

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	SAA	5-4	210d	A	CA7	AS	0			
3	Kloeckner	EK	9-0	69d	R	CA8	AMK	1	257d	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	1	210d		
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	AMK	7-1	257d	R	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	9		Smith	AS	9-0	64d	A	CADC	Total	12							Total	9				
11							Expect.	9		Marx	CT	7-2	111d	A	CA10	Expect.	12							Expect.	9				
12							Avg.	129d		Already	JGR	9-0	63d	A	CA2	Avg.	112d							Avg.	102d				
January										February										March									
1	Standard Fire	SGB	9-0	71d	R	CA8	JGR	2	43d	Millbrook	CT	9-0	36d	R	CA3	JGR	1	118d	Inter Tribal	AS	7-2	91d	A	CA9	JGR	1	92d		
2	Descamps	EK	8-1	164d	R	CA9	AS	1	124d	Bowman	EK	9-0	83d	A	CAFC	AS	1	113d	Bullock	SGB	9-0	56d	R	CA11	AS	1	91d		
3	Gabelli	JGR	9-0	50d	R	CA2	AMK	2	115d	McBurney	SAA	9-0	68d	A	CA4	AMK	1	97d	Cloer	SMS	9-0	62d	A	CAFC	AMK	1	91d		
4	Wos	AMK	6-3	71d	A	CA4	CT	1	154d	PPL Corp.	CT	9-0	89d	R	CA3	CT	2	63d	Mutual Pharm.	SAA	5-4	97d	R	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	AMK	5-4	159d	R	CA4	SGB	1	71d	McQuiggin	RBG	5-4	92d	R	CA6	SGB	1	92d	Dan's City	RBG	9-0	54d	A	ST	SGB	2	70d		
7	Alleyne	CT	5-4	154d	R	CA4	SAA	1	161d	Peugh	SMS	5-4	104d	R	CA7	SAA	1	68d	Oxford	EK	9-0	77d	A	CA3	SAA	1	97d		
8	Boyer	DIG	-	-	-	ST	SMS	1	98d	King	AMK	5-4	97d	R	ST	SMS	1	104d	Actavis	SGB	5-3	84d	R	CA11	SMS	1	62d		
9	Levin	RBG	9-0	48d	R	CA9	EK	1	164d	Shelby County	JGR	5-4	118d	R	CADC	EK	1	83d	Hollingsworth	JGR	5-4	92d	R	CA9	EK	1	77d		
10	Koontz	SAA	5-4	161d	R	ST	Total	11		Am. Express	AS	5-3	113d	R	CA2	Total	10		Windsor	AMK	5-4	91d	A	CA2	Total	10			
11	Gunn	JGR	9-0	35d	R	ST	Expect.	11								Expect.	10							Expect.	10				
12	Arlington	AS	6-3	124d	A	CA5	Avg.	103d								Avg.	89d							Avg.	79d				
April										Summary Reversal										Total									
1	Myriad	CT	9-0	59d	R	CAFC	JGR	1	59d	Lefemine	PC	9-0	-	R	CA4				Roberts	8	86d								
2	Davila	RBG	9-0	59d	R	CA11	AS	1	64d	Nitro-Lift	PC	9-0	-	R	ST				Scalia	8	98d								
3	Baby Girl	SAA	5-4	70d	R	ST	AMK	1	61d	Marshall	PC	9-0	-	R	CA9				Kennedy	8	119d								
4	Am. Trucking	EK	9-0	58d	R	CA9	CT	1	59d	Jackson	PC	9-0	-	R	CA9				Thomas	8	95d								
5	Salinas	SAA	5-4	61d	A	ST	RBG	2	43d	Schad	PC	9-0	-	R	CA9				Ginsburg	9	60d								
6	Kebodeaux	SGB	7-2	68d	R	CA5	SGB	1	68d										Breyer	8	88d								
7	Hillman	SMS	9-0	42d	A	ST	SAA	2	66d										Alito	8	116d								
8	AID	JGR	6-2	59d	A	CA2	SMS	2	47d										Sotomayor	8	93d								
9	Tarrant	SMS	9-0	51d	A	CA10	EK	1	58d										Kagan	8	102d								
10	Sekhar	AS	9-0	64d	R	CA2	Total	12											Summary Rev.	5									
11	Metrish	RBG	9-0	26d	R	CA6	Expect.	12											Merits Opinions	78									
12	UT Southwestern	AMK	5-4	61d	R	CA5	Avg.	57d											Expected	78									
13																			Percent Decided	100%									
14																			Average Time	95d									

Total Opinion Authorship

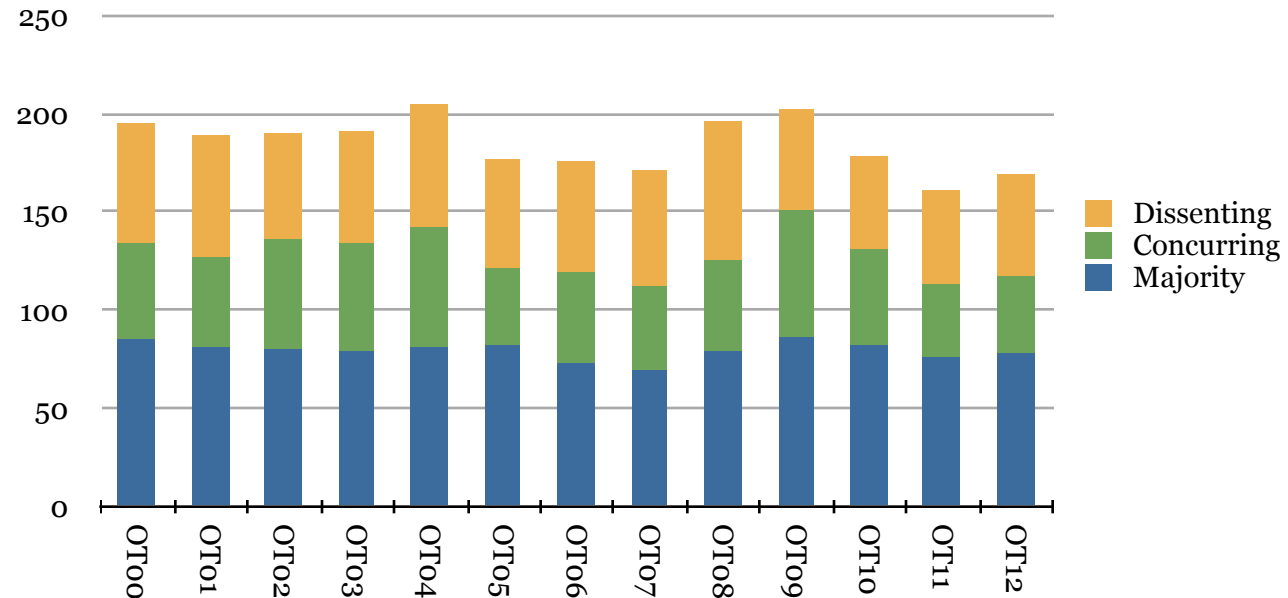
	Total Opinions	Majority Opinions	Concurring Opinions	Dissenting Opinions
Roberts	17	8	2	7
Scalia	23	8	4	11
Kennedy	14	8	5	1
Thomas	25	8	11	6
Ginsburg	17	9	1	7
Breyer	18	8	5	5
Alito	22	8	6	8
Sotomayor	16	8	3	5
Kagan	13	8	2	3
Per Curiam	5	5	-	-
	169	78	39	52*



* 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*.

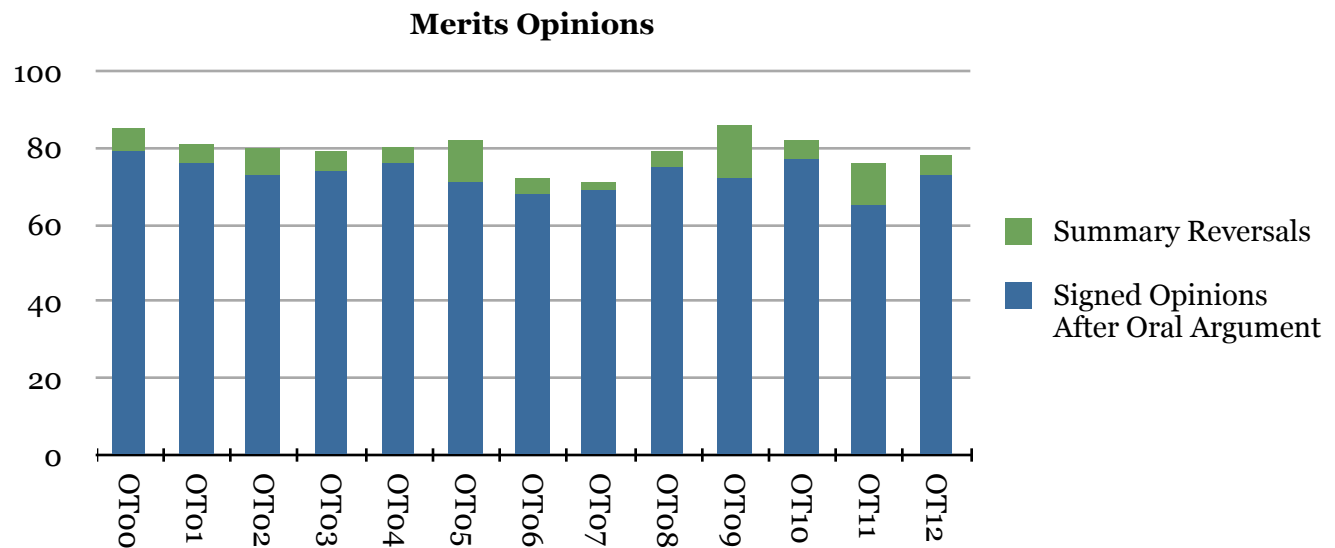
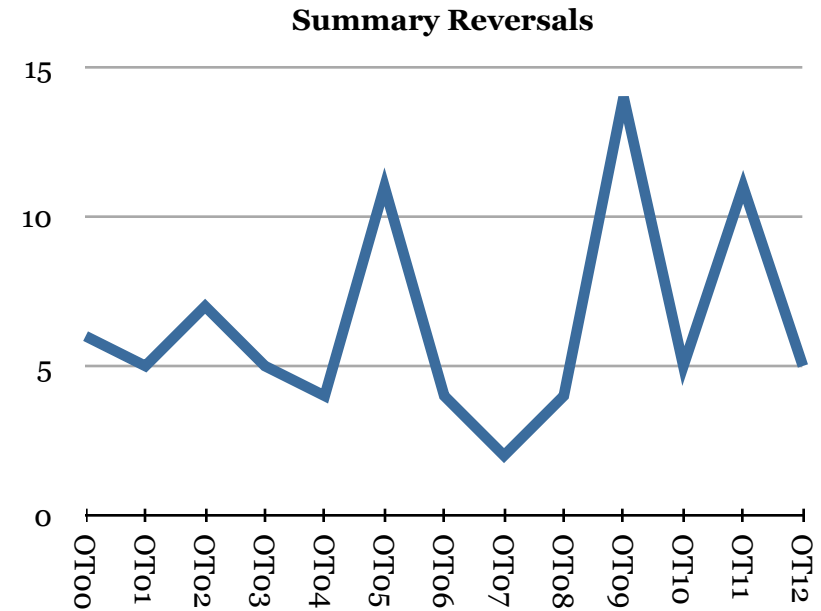
Total Opinion Authorship

Term	Majority Opinions	Concurring Opinions	Dissenting Opinions	Total Opinions
OT00	85	49	61	195
OT01	81	46	62	189
OT02	80	56	54	190
OT03	79	55	57	191
OT04	81	61	63	205
OT05	82	39	56	177
OT06	73	46	57	176
OT07	69	43	59	171
OT08	79	46	71	196
OT09	86	65	51	202
OT10	82	49	47	178
OT11	76	37	48	161
OT12	78	39	52	169
Average	79	49	57	185



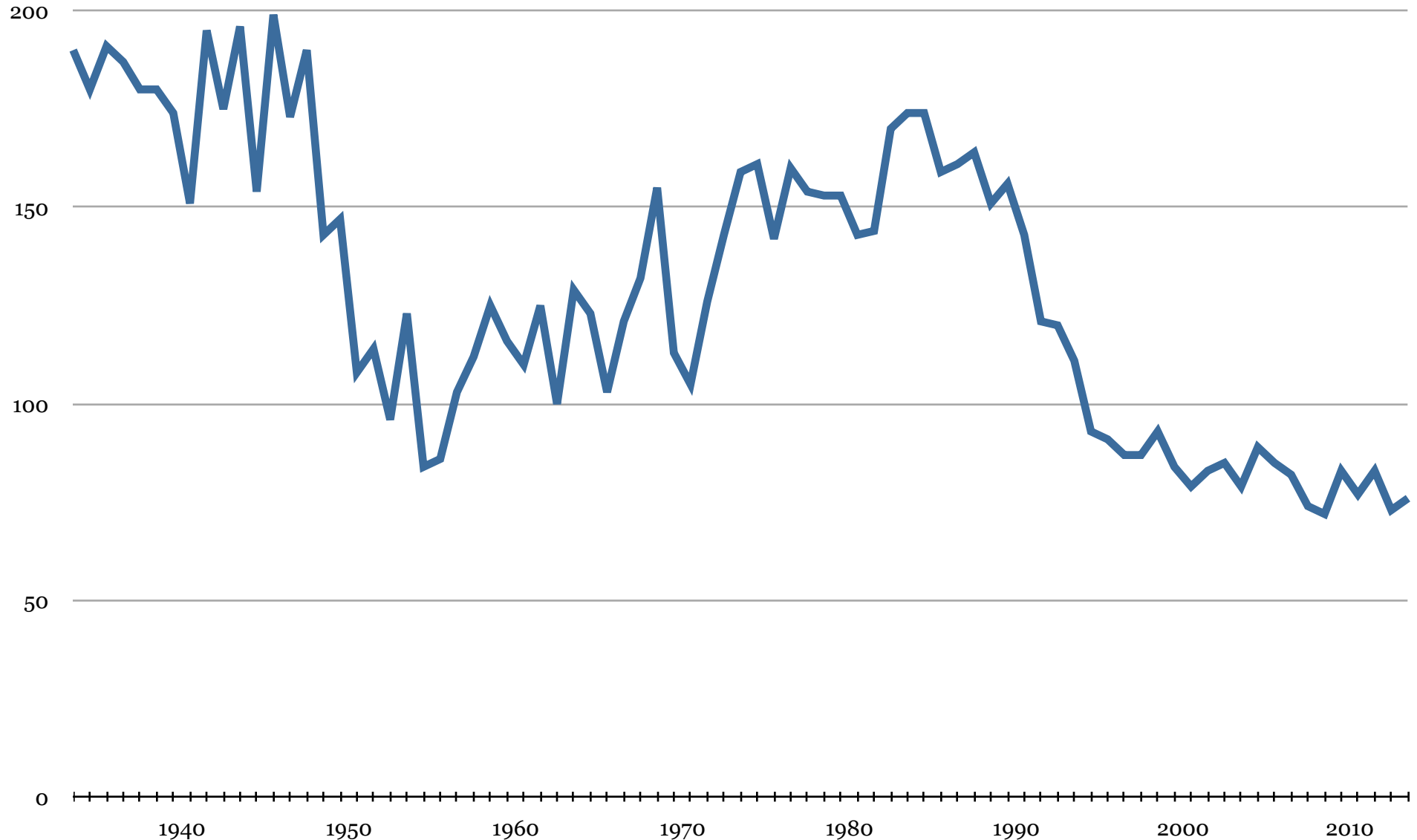
Merits Opinions

Term	Signed Opinions after Oral Argument	Summary Reversals	Total
OT00	79	6	85
OT01	76	5	81
OT02	73	7	80
OT03	74	5	79
OT04	76	4	80
OT05	71	11	82
OT06	68	4	72
OT07	69	2	71
OT08	75	4	79
OT09	72	14	86
OT10	77	5	82
OT11	65	11	76
OT12	73	5	78
Average	73	6	79



Merits Opinions

This chart places the number of merits opinions from OT12 into historical perspective. The Court released seventy-eight merits opinions, including seventy-three signed opinions, which is a dramatic decline from only a few decades ago. Except for the data from OT12, the data in this chart is drawn from the Supreme Court's annual Journals, which have included useful statistics since the 1930s. This chart displays the number of cases disposed of by *signed* opinion and, unlike most of the tables and graphs in our Stat Pack, counts cases consolidated as separate decisions. The chart runs from October Term 1932 to October Term 2012.

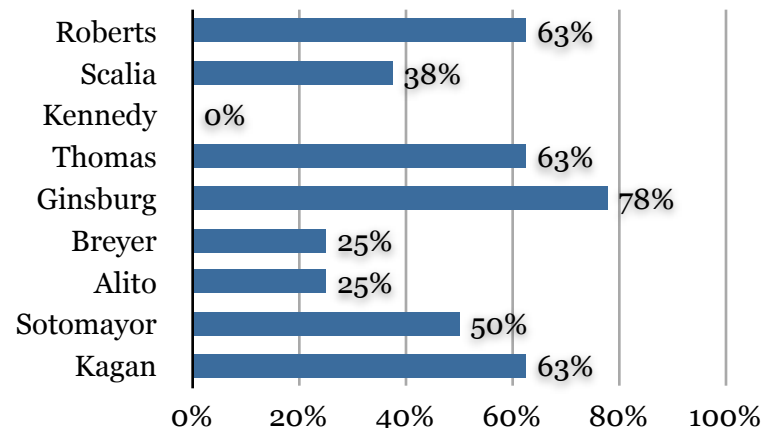


Majority Opinion Authorship

Majority Opinions Authored

	Total	9-0	8-1	7-2	6-3	5-4	Average Strength of the Majority*
Roberts	8	5	-	1	-	2	7.8
Scalia	8	3	-	1	1	3	7.0
Kennedy	8	-	2	-	2	4	6.0
Thomas	8	5	-	1	-	2	7.8
Ginsburg	9	7	-	-	1	1	8.2
Breyer	8	2	-	2	2	2	6.9
Alito	8	2	-	-	-	6	6.0
Sotomayor	8	4	1	1	-	2	7.6
Kagan	8	5	1	1	-	1	8.1
	73	33	4	7	6	23	7.4

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	15%	-	14%	-	9%
Scalia	9%	-	14%	17%	13%
Kennedy	-	50%	-	33%	17%
Thomas	15%	-	14%	-	9%
Ginsburg	21%	-	-	17%	4%
Breyer	6%	-	29%	33%	9%
Alito	6%	-	-	-	26%
Sotomayor	12%	25%	14%	-	9%
Kagan	15%	25%	14%	-	4%
	100% (33)	100% (4)	100% (7)	100% (6)	100% (23)

Days Between Argument and Opinion

Majority Opinion Author	Days
Ginsburg	60d
Roberts	86d
Breyer	88d
Sotomayor	93d
Thomas	95d
Scalia	98d
Kagan	102d
Alito	116d
Kennedy	119d
	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	78	71	91%	93%	94%	91%	92%	86%
Roberts	78	67	86%	92%	91%	91%	81%	90%
Breyer	77	64	83%	76%	79%	78%	75%	79%
Kagan	75	61	81%	82%	81%	-	-	-
Thomas	78	62	79%	86%	88%	83%	81%	75%
Ginsburg	78	62	79%	70%	74%	80%	70%	75%
Alito	77	61	79%	83%	86%	87%	81%	82%
Sotomayor	77	61	79%	80%	81%	84%	-	-
Scalia	78	61	78%	82%	86%	87%	84%	81%

Divided Cases

Justice	Votes	Frequency in Majority		OT11	OT10	OT09	OT08	OT07
Kennedy	40	33	83%	88%	88%	83%	89%	79%
Roberts	40	29	73%	86%	83%	83%	72%	73%
Breyer	39	26	67%	57%	60%	58%	62%	68%
Kagan	38	24	63%	67%	67%	-	-	-
Thomas	40	24	60%	74%	76%	67%	72%	85%
Ginsburg	40	24	60%	45%	50%	63%	55%	65%
Alito	39	23	59%	69%	74%	76%	72%	75%
Sotomayor	39	23	59%	64%	64%	69%	-	-
Scalia	40	23	58%	67%	74%	76%	76%	65%

Strength of the Majority

Argument Sitting	Decided	9-0	8-1	7-2	6-3	5-4	Average Strength of the Majority	Number of Opinions Per Case
October	9	6	1	2	-	-	8.4	2.0
November	12	3	1	2	3	3	6.8	2.4
December	9	4	1	-	1	3	7.2	2.0
January	11	4	1	-	2	4	6.9	2.5
February	10	4	-	-	-	6	6.7	2.2
March	10	5	-	1	-	4	7.3	2.1
April	12	7	-	2	-	3	7.7	2.5
Summary Reversal	5	5	-	-	-	-	9.0	1.0
	78	38	4	7	6	23	7.4	2.2

Cases Affirmed by an Equally Divided Court

Term	Total
OT00	-
OT01	-
OT02	2
OT03	-
OT04	-
OT05	-
OT06	-
OT07	2
OT08	-
OT09	-
OT10	2
OT11	-
OT12	-
Average	0.50

Recusals

	Total
Kagan	3
Breyer	1
Alito	1
Sotomayor	1
Roberts	-
Scalia	-
Kennedy	-
Thomas	-
Ginsburg	-
	4

Solo Dissents

	Total (OT12)	Average* (OT06-OT11)
Alito	2	0.3
Scalia	1	1.0
Ginsburg	1	1.2
Roberts	-	0.0
Kennedy	-	0.2
Thomas	-	2.3
Breyer	-	0.5
Sotomayor	-	1.0
Kagan	-	0.0
	4	6.4

* Averages consider only the Terms during which a Justice served on the Court.

5-4 Cases

Alignment of the Majority

Majority*	Total (23)	Cases
Roberts, Scalia, Kennedy, Thomas, Alito	10	<i>Clapper, Comcast, Genesis, Salinas, American Express, UT Southwestern, Vance, Mutual Pharmaceutical Co., Shelby County, Koontz</i>
Kennedy, Ginsburg, Breyer, Sotomayor, Kagan	6	<i>US Airways, McQuiggin, Trevino, Peugh, Actavis, Windsor</i>
Roberts, Kennedy, Thomas, Breyer, Alito	3	<i>King, Maracich, Adoptive Couple</i>
Roberts, Scalia, Ginsburg, Breyer, Kagan	1	<i>Hollingsworth</i>
Scalia, Kennedy, Ginsburg, Sotomayor, Kagan	1	<i>McNeely</i>
Scalia, Thomas, Ginsburg, Sotomayor, Kagan	1	<i>Jardines</i>
Thomas, Ginsburg, Breyer, Sotomayor, Kagan	1	<i>Alleyne</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%	67%	50%	33%	7	0.47
OT12	23	29%	70%	63%	43%	7	0.30
Average	18	22%	73%	63%	46%	6	0.39

* 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 Cases

Membership in a Five-to-Four Majority

Justice	Cases Decided	Frequency in Majority		OT11	OT10	OT09	OT08	OT07
Kennedy	23	20	87%	80%	88%	69%	78%	67%
Thomas	23	15	65%	67%	75%	69%	65%	67%
Roberts	23	14	61%	67%	63%	56%	48%	58%
Scalia	23	13	57%	60%	69%	69%	70%	58%
Alito	22	13	57%	60%	63%	63%	52%	50%
Breyer	23	11	48%	47%	31%	38%	39%	45%
Ginsburg	23	10	43%	33%	38%	25%	52%	50%
Kagan	23	10	43%	40%	38%	-	-	-
Sotomayor	22	9	39%	47%	38%	43%	-	-

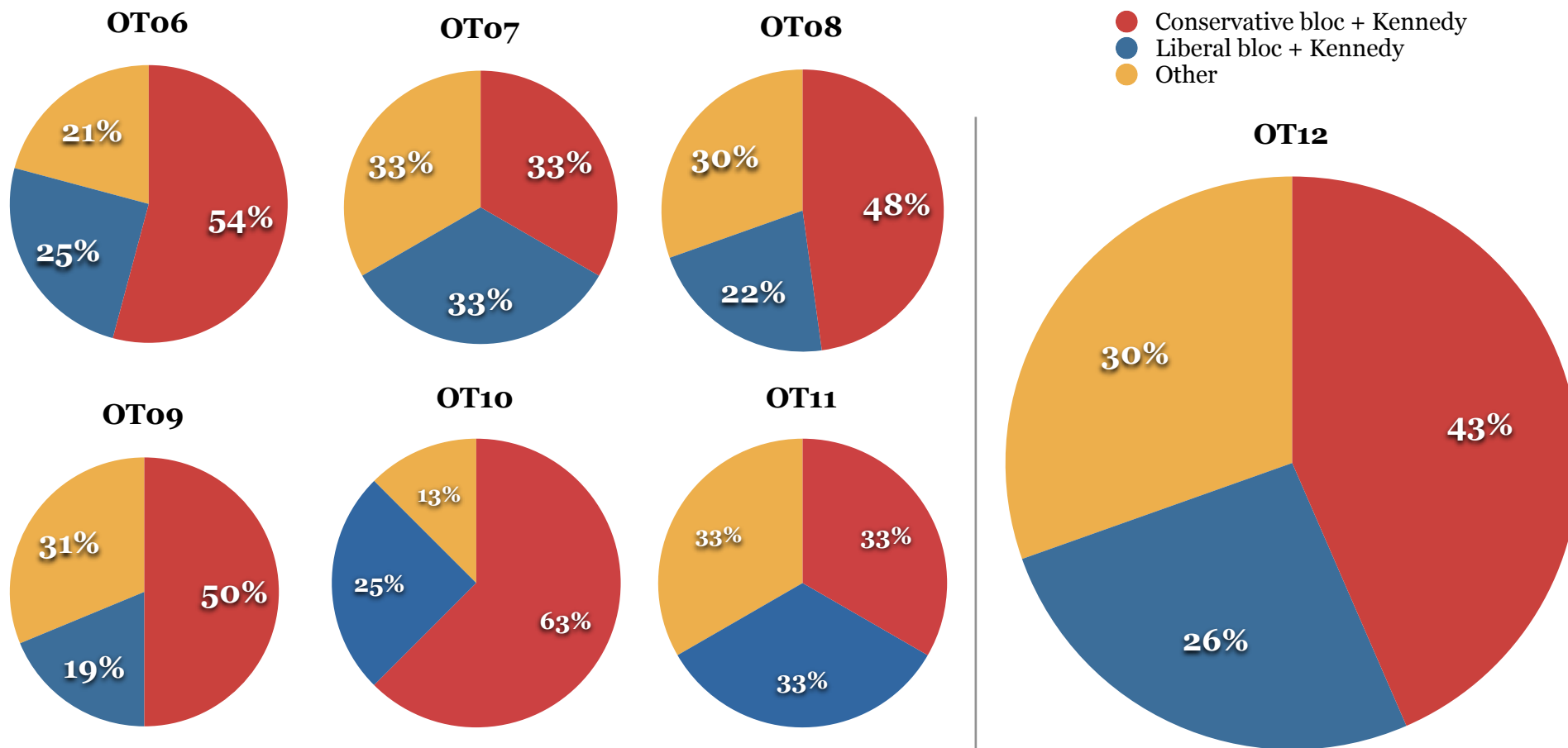
Five-to-Four Majority Opinion Authorship

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
Alito	22	13	6	46%	33%	0%	40%	8%	17%
Scalia	23	13	3	23%	0%	9%	18%	33%	29%
Sotomayor	22	9	2	22%	29%	17%	0%	-	-
Kennedy	23	20	4	20%	33%	21%	22%	28%	50%
Breyer	23	11	2	18%	43%	20%	25%	0%	40%
Roberts	23	14	2	14%	10%	30%	22%	18%	14%
Thomas	23	15	2	13%	0%	33%	9%	13%	13%
Ginsburg	23	10	1	10%	0%	33%	50%	27%	0%
Kagan	23	10	1	10%	17%	0%	-	-	-

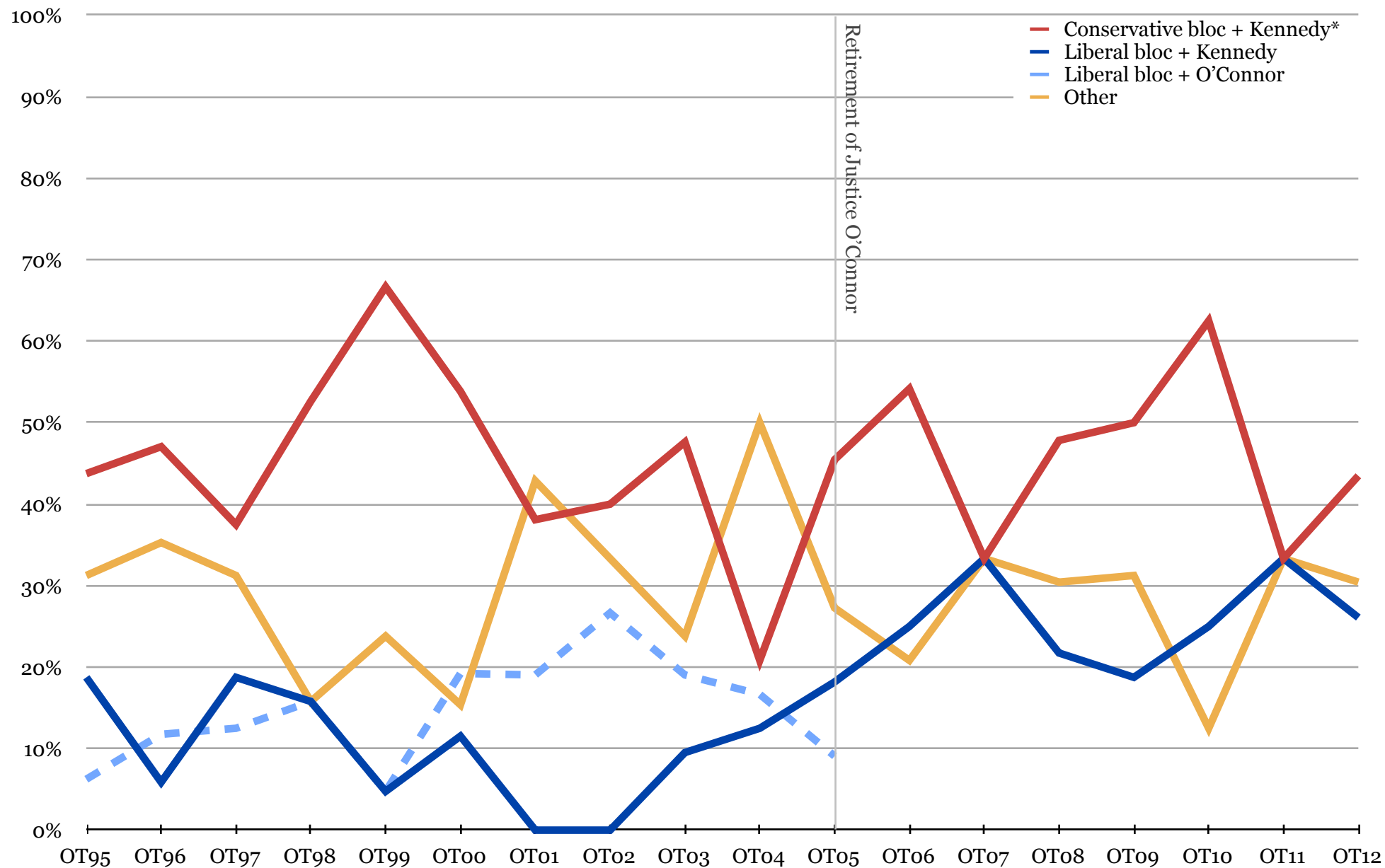
* Percentages represent the number of majority opinions authored divided by the number of times a Justice was in the majority for a *signed* opinion.

5-4 Case Majorities



*Conservative bloc = Roberts, O'Connor/Alito, Scalia and Thomas;
 Liberal bloc = Stevens/Kagan, Souter/Sotomayor, Ginsburg, Breyer.

5-4 Case Majorities



*The conservative bloc is the combination of Rehnquist/Roberts, O'Connor/Alito, Scalia and Thomas; the liberal bloc is the combination of Stevens/Kagan, Souter/Sotomayor, Ginsburg, Breyer. All other alignments of five-Justice majorities are grouped into the "other" category.

Justice Agreement - All Cases

	Scalia	Kennedy	Thomas	Ginsburg	Breyer	Alito	Sotomayor	Kagan	Total
Roberts	55 71%	59 76%	47 60%	46 59%	53 69%	56 73%	43 56%	45 60%	78
	64 82%	64 82%	61 78%	49 63%	55 71%	63 82%	47 61%	48 64%	
	66 85%	66 85%	67 86%	51 65%	57 74%	69 90%	50 65%	50 67%	
	12 15%	12 15%	11 14%	27 35%	20 26%	8 10%	27 35%	25 33%	
Scalia		44 56%	47 60%	43 55%	40 52%	43 56%	35 45%	41 55%	78
		58 74%	64 82%	51 65%	45 58%	52 68%	47 61%	49 65%	
		60 77%	67 86%	53 68%	48 62%	59 77%	50 65%	51 68%	
		18 23%	11 14%	25 32%	29 38%	18 23%	27 35%	24 32%	
Kennedy			44 56%	47 60%	49 64%	54 70%	50 65%	45 60%	78
			54 69%	54 69%	56 73%	57 74%	56 73%	51 68%	
			59 76%	57 73%	59 77%	62 81%	58 75%	54 72%	
			19 24%	21 27%	18 23%	15 19%	19 25%	21 28%	
Thomas				33 42%	35 45%	49 64%	34 44%	32 43%	78
				41 53%	45 58%	62 81%	43 56%	40 53%	
				46 59%	52 68%	68 88%	47 61%	46 61%	
				32 41%	25 32%	9 12%	30 39%	29 39%	
Ginsburg					63 82%	36 47%	67 87%	69 92%	78
					66 86%	41 53%	72 94%	70 93%	
					68 88%	45 58%	72 94%	72 96%	
					9 12%	32 42%	5 6%	3 4%	
Breyer						42 55%	58 76%	61 82%	77
						49 64%	65 86%	66 89%	
						53 70%	66 87%	67 91%	
						23 30%	10 13%	7 9%	
Alito							37 49%	36 49%	77
							42 55%	39 53%	
							46 61%	44 59%	
							30 39%	30 41%	
Sotomayor								64 86%	77
								69 93%	
								71 96%	
								3 4%	
Kagan									75

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	24 60%	24 60%	17 43%	10 25%	17 44%	24 62%	10 26%	9 24%	40
	28 70%	27 68%	25 63%	12 30%	18 46%	28 72%	11 28%	12 32%	
	28 70%	28 70%	29 73%	13 33%	19 49%	31 79%	12 31%	13 34%	
	12 30%	12 30%	11 28%	27 68%	20 51%	8 21%	27 69%	25 66%	
Scalia		16 40%	19 48%	12 30%	9 23%	17 44%	9 23%	12 32%	40
		23 58%	28 70%	16 40%	10 26%	19 49%	13 33%	15 39%	
		22 55%	29 73%	15 38%	10 26%	21 54%	12 31%	14 37%	
		18 45%	11 28%	25 63%	29 74%	18 46%	27 69%	24 63%	
Kennedy			14 35%	14 35%	16 41%	21 54%	16 41%	12 32%	40
			19 48%	19 48%	21 54%	22 56%	20 51%	17 45%	
			21 53%	19 48%	21 54%	24 62%	20 51%	17 45%	
			19 48%	21 53%	18 46%	15 38%	19 49%	21 55%	
Thomas				5 13%	7 18%	17 44%	5 13%	4 11%	40
				7 18%	11 28%	27 69%	8 21%	7 18%	
				8 20%	14 36%	30 77%	9 23%	9 24%	
				32 80%	25 64%	9 23%	30 77%	29 76%	
Ginsburg					26 67%	4 10%	33 85%	34 89%	40
					29 74%	6 15%	34 87%	34 89%	
					30 77%	7 18%	34 87%	35 92%	
					9 23%	32 82%	5 13%	3 8%	
Breyer						10 26%	24 63%	26 70%	39
						14 37%	27 71%	30 81%	
						15 39%	28 74%	30 81%	
						23 61%	10 26%	7 19%	
Alito							4 11%	4 11%	39
							7 18%	6 16%	
							8 21%	7 19%	
							30 79%	30 81%	
Sotomayor								31 84%	39
								33 89%	
								34 92%	
								3 8%	
Kagan									38

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

Justice Agreement - 5-4 Cases

	Scalia	Kennedy	Thomas	Ginsburg	Breyer	Alito	Sotomayor	Kagan	Total
Roberts	15 65%	15 65%	12 52%	1 4%	5 22%	17 77%	0 0%	1 4%	23
	17 74%	15 65%	18 78%	1 4%	6 26%	19 86%	0 0%	1 4%	
	18 78%	15 65%	20 87%	1 4%	6 26%	21 95%	0 0%	1 4%	
	5 22%	8 35%	3 13%	22 96%	17 74%	1 5%	22 100%	22 96%	
Scalia		11 48%	12 52%	4 17%	1 4%	12 55%	3 14%	4 17%	23
		12 52%	17 74%	6 26%	1 4%	13 59%	5 23%	6 26%	
		12 52%	17 74%	6 26%	1 4%	16 73%	5 23%	6 26%	
		11 48%	6 26%	17 74%	22 96%	6 27%	17 77%	17 74%	
Kennedy			10 43%	5 22%	8 35%	15 68%	6 27%	5 22%	23
			14 61%	7 30%	10 43%	15 68%	8 36%	7 30%	
			14 61%	7 30%	10 43%	16 73%	8 36%	7 30%	
			9 39%	16 70%	13 57%	6 27%	14 64%	16 70%	
Thomas				0 0%	2 9%	11 50%	1 5%	0 0%	23
				2 9%	4 17%	18 82%	3 14%	2 9%	
				2 9%	5 22%	20 91%	3 14%	2 9%	
				21 91%	18 78%	2 9%	19 86%	21 91%	
Ginsburg					16 70%	0 0%	21 95%	22 96%	23
					17 74%	0 0%	21 95%	22 96%	
					18 78%	0 0%	21 95%	23 100%	
					5 22%	22 100%	1 5%	0 0%	
Breyer						4 18%	14 64%	17 74%	23
						5 23%	15 68%	18 78%	
						5 23%	16 73%	18 78%	
						17 77%	6 27%	5 22%	
Alito							1 5%	0 0%	22
							1 5%	0 0%	
							1 5%	0 0%	
							20 95%	22 100%	
Sotomayor								20 91%	22
								20 91%	
								21 95%	
								1 5%	
Kagan									23

Key

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

Justice Agreement - Highs and Lows

The following tables list the Justice pairs with the highest and lowest agreement rates based on our three metrics for justice agreement—all cases, non-unanimous cases, and 5-4 cases only—when Justices agree in full, part, or judgment only. Non-unanimous cases are those where at least one Justice dissented; cases that produced only a majority opinion and one or more concurring opinions are not included in that measure.

	Highest Agreement			Lowest Agreement		
All Cases	1	Ginsburg - Kagan	96.0%	1	Ginsburg - Alito	58.4%
	2	Sotomayor - Kagan	95.9%	2	Thomas - Ginsburg	59.0%
	3	Ginsburg - Sotomayor	93.5%	3	Alito - Kagan	59.5%
	4	Breyer - Kagan	90.5%	4	Alito - Sotomayor	60.5%
	5	Roberts - Alito	89.6%	5	Thomas - Sotomayor	61.0%
	6	Thomas - Alito	88.3%	6	Thomas - Kagan	61.3%
	7	Ginsburg - Breyer	88.3%	7	Scalia - Breyer	62.3%
	8	Breyer - Sotomayor	86.8%	8	Roberts - Sotomayor	64.9%
	9	Roberts - Thomas	85.9%	9	Scalia - Sotomayor	64.9%
	10	Scalia - Thomas	85.9%	10	Roberts - Ginsburg	65.4%

Divided Cases	1	Ginsburg - Kagan	92.1%	1	Ginsburg - Alito	17.9%
	2	Sotomayor - Kagan	91.9%	2	Alito - Kagan	18.9%
	3	Ginsburg - Sotomayor	87.2%	3	Thomas - Ginsburg	20.0%
	4	Breyer - Kagan	81.1%	4	Alito - Sotomayor	21.1%
	5	Roberts - Alito	79.5%	5	Thomas - Sotomayor	23.1%
	6	Thomas - Alito	76.9%	6	Thomas - Kagan	23.7%
	7	Ginsburg - Breyer	76.9%	7	Scalia - Breyer	25.6%
	8	Breyer - Sotomayor	73.7%	8	Roberts - Sotomayor	30.8%
	9	Roberts - Thomas	72.5%	9	Scalia - Sotomayor	30.8%
	10	Scalia - Thomas	72.5%	10	Roberts - Ginsburg	32.5%

5-4 Cases	1	Ginsburg - Kagan	100.0%	1	Roberts - Sotomayor	0.0%
	2	Roberts - Alito	95.5%	2	Ginsburg - Alito	0.0%
	3	Ginsburg - Sotomayor	95.5%	3	Alito - Kagan	0.0%
	4	Sotomayor - Kagan	95.5%	4	Roberts - Ginsburg	4.3%
	5	Thomas - Alito	90.9%	5	Roberts - Kagan	4.3%
	6	Roberts - Thomas	87.0%	6	Scalia - Breyer	4.3%
	7	Roberts - Scalia	78.3%	7	Alito - Sotomayor	4.8%
	8	Ginsburg - Breyer	78.3%	8	Thomas - Ginsburg	8.7%
	9	Breyer - Kagan	78.3%	9	Thomas - Kagan	8.7%
	10	Scalia - Thomas	73.9%	10	Thomas - Sotomayor	13.6%

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 had mixed success during OT12.

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 seventy-three signed opinions after argument during October Term 2012.

Argued	Avg.	Total	Remain
October	129d	10	-
November	112d	12	-
December	102d	9	-
January	103d	12	-
February	89d	10	-
March	79d	10	-
April	57d	12	-
Overall	95d	75	0

Average	95d
Median	89d
St. Dev.	45d

Longest	<i>Fisher</i>	257d
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	95d

	Rank			Author	Vote	Argued	Decided
Longest	1	<i>Fisher v. Univ. of Texas</i>	257d	Kennedy	7-1	Oct 10, 2012	Jun 24, 2013
	2	<i>Vance v. Ball State Univ.</i>	210d	Alito	5-4	Nov 26, 2012	Jun 24, 2013
	3	<i>Kiobel v. Royal Dutch</i>	198d	Roberts	9-0	Oct 1, 2012	Apr 17, 2013
	4	<i>Moncrieffe v. Holder</i>	195d	Sotomayor	7-2	Oct 10, 2012	Apr 23, 2013
	5	<i>Descamps v. U.S.</i>	164d	Kagan	8-1	Jan 7, 2013	Jun 20, 2013
	6	<i>Koontz v. St. Johns Water Mgmt.</i>	161d	Alito	5-4	Jan 15, 2013	Jun 25, 2013
	7	<i>Maracich v. Spears</i>	159d	Kennedy	5-4	Jan 9, 2013	Jun 17, 2013
	8	<i>Alleyne v. U.S.</i>	154d	Thomas	5-4	Jan 14, 2013	Jun 17, 2013
	9	<i>Florida v. Jardines</i>	146d	Scalia	5-4	Oct 31, 2012	Mar 26, 2013
	10	<i>Comcast v. Behrend</i>	142d	Scalia	5-4	Nov 5, 2012	Mar 27, 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>Tarrant v. Herrmann</i>	51d	Sotomayor	9-0	Apr 23, 2013	Jun 13, 2013

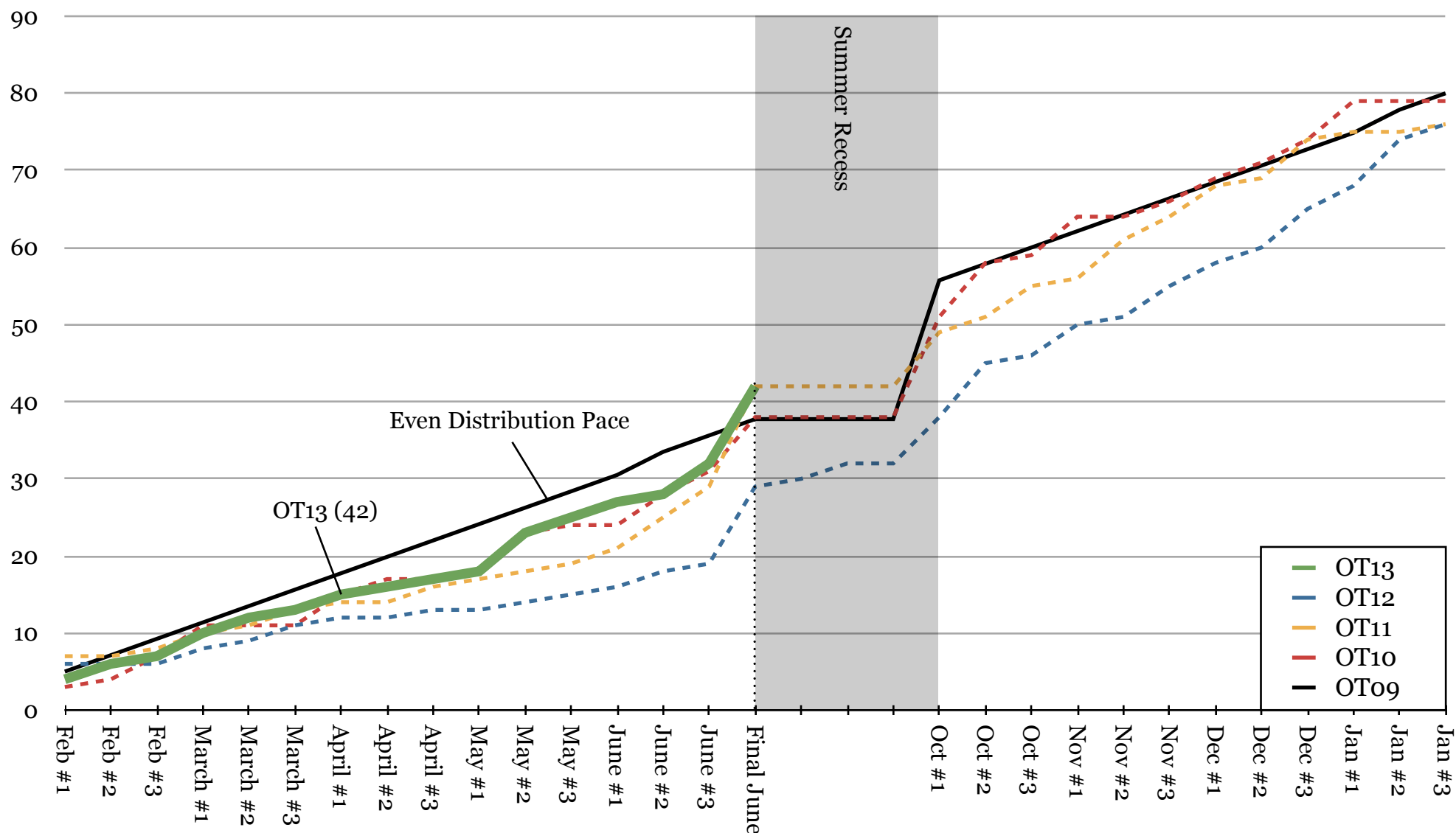
	Less than 30 days	30-59	60-89	90-119	120-149	150-179	180-209	210-239	More than 240
OT10	0	13	18	19	11	12	1	1	0
OT11	2	5	19	24	8	6	1	0	0
OT12	1	15	21	20	8	4	2	1	1

	9-0	8-1	7-2	6-3	5-4
OT12	68d	159d	106d	107d	115d

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

Pace of Grants

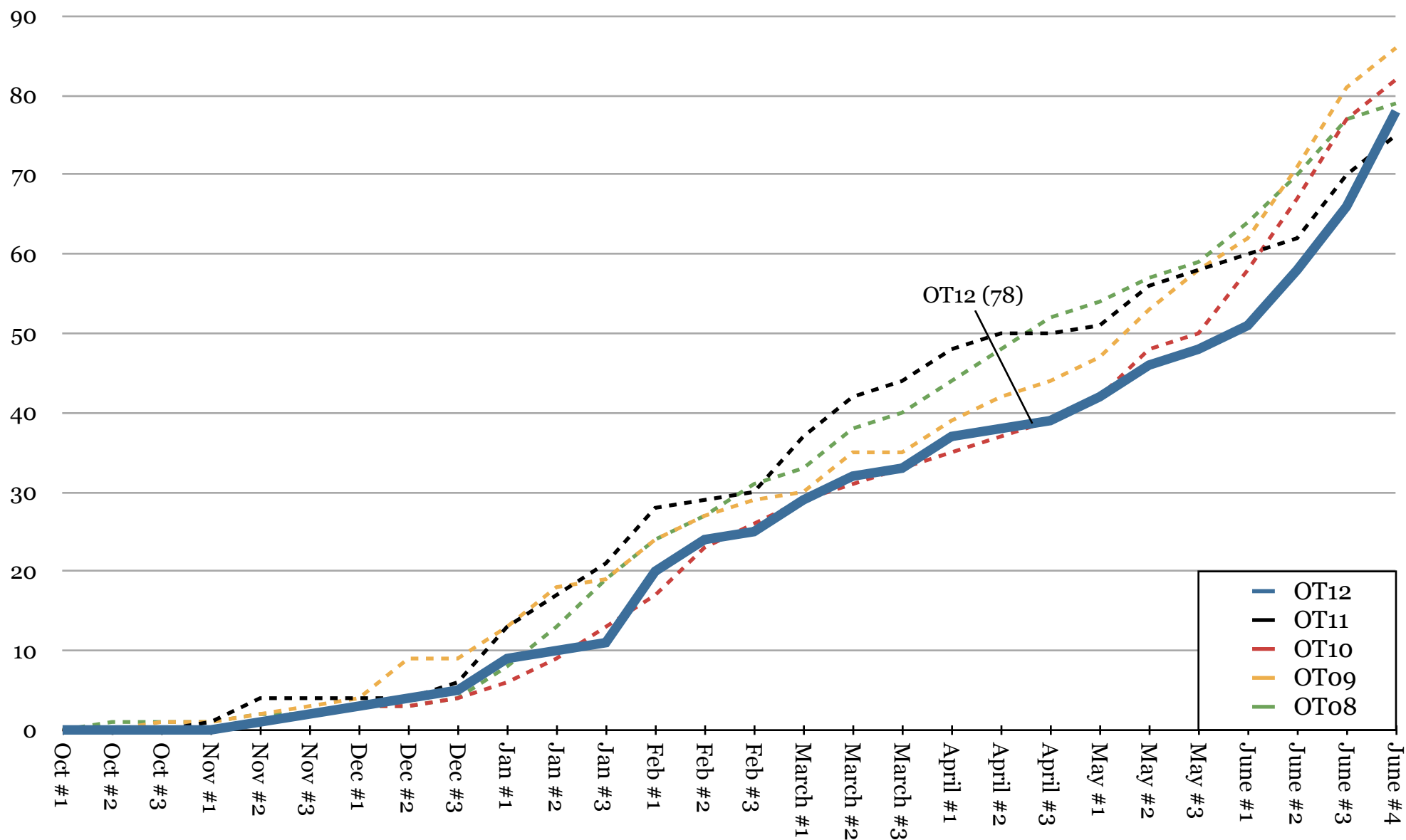
The following chart plots the pace at which the Court fills its merits docket for a given Term. Each date marker represents the conference within a given sitting. For instance, Feb #3 is the third February conference, which, for OT12, took place on March 1, 2013. Categorizing grants by their conference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



* *Burnside v. Walters* and *U.S. Forest Service v. Pacific Rivers Council*, which are included in the above chart as OT13 grants, have been dismissed, bringing the total number of cases expected for oral argument during OT13 to forty.

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 - Justices

For our purposes, the number of “questions” per argument is simply the number of times a given Justice’s name appears in the argument transcript in capital letters. In order to account for the Chief Justice’s administrative comments – such as his call for an advocate to begin – his tally for each case has been uniformly reduced by three “questions.”

Average Number of Questions Per Argument

	Average
Sotomayor	21.6
Scalia	20.5
Roberts	17.9
Breyer	17.5
Kagan	11.2
Ginsburg	10.5
Kennedy	10.2
Alito	7.7
Thomas	0.0

Frequency as the Top Questioner or as a Top 3 Questioner

	Freq. Top 1	Freq. Top 3
Sotomayor	35%	80%
Scalia	33%	68%
Roberts	16%	53%
Breyer	14%	57%
Kagan	4%	19%
Kennedy	3%	16%
Alito	1%	9%
Ginsburg	1%	15%
Thomas	0%	0%

Average Number of Questions Arranged by Vote Split

	9-0	8-1	7-2	6-3	5-4
Roberts	16	25	19	17	19
Scalia	21	21	19	24	19
Kennedy	9	11	9	9	12
Thomas	0	0	0	0	0
Ginsburg	11	10	8	9	11
Breyer	18	19	17	18	17
Alito	6	13	7	5	11
Sotomayor	21	26	21	21	22
Kagan	9	13	15	11	13
Overall	112	131	112	113	122

Frequency as the First Questioner

	Frequency	
Ginsburg	28 /75	37%
Sotomayor	20 /74	27%
Scalia	12 /75	16%
Roberts	9 /75	12%
Kennedy	3 /75	4%
Kagan	2 /72	3%
Alito	1 /74	1%
Thomas	0 /75	0%
Breyer	0 /74	0%

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
	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
25	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	Jun 24, 2013	7-1	Kennedy	Vacated and Remanded; Because the lower court did not hold the university to the demanding burden of strict scrutiny articulated in Grutter v. Bollinger, and Regents of the University of California v. Bakke, its decision affirming the district court's grant of summary judgment was incorrect. (Kagan, J., recused.)
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.

OT12 Case List

(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.

OT12 Case List

(continued)

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	Jun 24, 2013	5-4	Alito	Affirmed; An employee is a "supervisor" for purposes of vicarious liability under Title VII of the Civil Rights Act only if he is empowered by the employer to take tangible employment actions against the victim.

OT12 Case List

(continued)

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. (Breyer, J., recused.)
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.

OT12 Case List

(continued)

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	Jun 20, 2013	8-1	Kagan	Reversed; Sentencing courts may not apply the modified categorical approach to a federal defendant when the crime of which the defendant was previously convicted has a single, indivisible set of elements.
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.

OT12 Case List

(continued)

Docket	Case Name	Court	Argued	Decided	Vote	Author	Holding
12-25	Maracich v. Spears	CA4	Jan 9, 2013	Jun 17, 2013	5-4	Kennedy	Vacated and Remanded; An attorney's solicitation of clients is not a permissible purpose covered by the "litigation exception" to the federal Driver's Privacy Protection Act.
11-9335	Alleyne v. United States	CA4	Jan 14, 2013	Jun 17, 2013	5-4	Thomas	Vacated and Remanded; Because mandatory minimum sentences increase the penalty for a crime, any fact that increases the mandatory minimum is an "element" of the crime that must be submitted to the jury.
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	Jun 25, 2013	5-4	Alito	Reversed and Remanded; The government's demand for property from a land-use permit applicant must satisfy the Nollan/Dolan requirements even when it denies the permit.
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.

OT12 Case List

(continued)

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, including its jurisdiction.
<i>V. February (10)</i>							
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.

OT12 Case List

(continued)

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. (Sotomayor, J., recused.)
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	Jun 25, 2013	5-4	Roberts	Reversed; Section 4 of the Voting Rights Act is unconstitutional; its formula can no longer be used as a basis for subjecting jurisdictions to preclearance.
12-133	American Express v. Italian Colors Restaurant	CA2	Feb 27, 2013	Jun 20, 2013	5-3	Scalia	Reversed; The Federal Arbitration Act does not permit courts to invalidate a contractual waiver of class arbitration on the ground that the plaintiff's cost of individually arbitrating a federal statutory claim exceeds the potential recovery.

OT12 Case List

(continued)

Docket	Case Name	Court	Argued	Decided	Vote	Author	Holding
VI. March (10)							
12-71	Arizona v. Inter Tribal Council	CA9	Mar 18, 2013	Jun 17, 2013	7-2	Scalia	Affirmed; Arizona's evidence-of-citizenship requirement, as applied to Federal Form applicants, is pre-empted by the National Voter Registration Act's mandate that states "accept and use" the Federal Form.
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	Jun 24, 2013	5-4	Alito	Reversed; State-law design-defect claims that turn on the adequacy of a drug's warnings are pre-empted by federal law under PLIVA v. Mensing.
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.

OT12 Case List

(continued)

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	Jun 17, 2013	5-3	Breyer	Reversed and Remanded; Governments and private parties may bring lawsuits against brand-name drug manufacturers to challenge the drug companies' payments to would-be competitors who make generic substitutes to keep the generic substitutes out of the market, but those payments are not presumptively illegal. (Alito, J., recused.)
12-144	Hollingsworth v. Perry	CA9	Mar 26, 2013	Jun 26, 2013	5-4	Roberts	Vacated and Remanded; Petitioners did not have standing to appeal the District Court's order.
12-307	United States v. Windsor	CA2	Mar 27, 2013	Jun 26, 2013	5-4	Kennedy	Affirmed; The United States has Article III standing. The Defense of Marriage Act is unconstitutional as a deprivation of the equal liberty of persons that is protected by the Fifth Amendment.
VII. April (12)							
12-398	Association for Molecular Pathology v. Myriad Genetics	CAFC	Apr 15, 2013	Jun 13, 2013	9-0	Thomas	Affirmed in Part and Reversed in Part; A naturally occurring DNA segment is a product of nature and not patent eligible merely because it has been isolated, but synthetic complementary DNA ("cDNA") is patent eligible because it is not naturally occurring.
12-167	United States v. Davila	CA11	Apr 15, 2013	Jun 13, 2013	9-0	Ginsburg	Vacated and Remanded; When a federal judge participates in plea negotiations, contrary to Federal Rule of Criminal Procedure 11(c), the defendant's guilty plea does not need to be vacated if there is no evidence in the record of prejudice to the defendant's decision to plead guilty.

OT12 Case List

(continued)

Docket	Case Name	Court	Argued	Decided	Vote	Author	Holding
12-399	Adoptive Couple v. Baby Girl	State	Apr 16, 2013	Jun 25, 2013	5-4	Alito	Reversed and Remanded; Assuming for the sake of argument that the biological father in this case is a "parent" for purposes of the Indian Child Welfare Act, the Act still does not bar termination of the biological father's paternal rights.
11-798	American Trucking Association v. Los Angeles, California	CA9	Apr 16, 2013	Jun 13, 2013	9-0	Kagan	Reversed and Remanded; The Federal Aviation Administration Authorization Act of 1994 expressly preempts provisions in concession agreements between the port and short-haul trucking companies that require trucks moving cargo in and out of the port to affix placards bearing a phone number to receive complaints to each truck and to submit a plan for off-street parking for the trucks.
12-246	Salinas v. Texas	State	Apr 17, 2013	Jun 17, 2013	5-4	Alito	Affirmed; When petitioner had not yet been placed in custody or received Miranda warnings, and voluntarily responded to some questions by police about a murder, the prosecution's use of his silence in response to another question as evidence of his guilty at trial did not violate the Fifth Amendment because petitioner failed to expressly invoke his privilege not to incriminate himself in response to the officer's question.
12-418	United States v. Kobedeaux	CA5	Apr 17, 2013	Jun 24, 2013	7-2	Breyer	Reversed and Remanded; As applied to respondent Anthony Kebodeaux, the registration requirements of the Sex Offender Registration and Notification Act fall within the scope of Congress's authority under the Necessary and Proper Clause.
11-1221	Hillman v. Maretta	State	Apr 22, 2013	Jun 3, 2013	9-0	Sotomayor	Affirmed; The Federal Employees' Group Life Insurance Act, 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	Jun 20, 2013	6-2	Roberts	Affirmed; The requirement that nongovernmental organizations wishing to receive funding from the federal government for HIV and AIDS programs overseas adopt a policy explicitly opposing prostitution violates the First Amendment. (Kagan, J., recused.)

OT12 Case List

(continued)

Docket	Case Name	Court	Argued	Decided	Vote	Author	Holding
11-889	Tarrant Regional Water District v. Herrmann	CA10	Apr 23, 2013	Jun 13, 2013	9-0	Sotomayor	Affirmed; The Red River Compact, which allocates water rights within the Red River basin among the states of Oklahoma, Texas, Arkansas, and Louisiana, does not pre-empt the Oklahoma water statutes at issue in this case.
12-357	Sekhar v. United States	CA2	Apr 23, 2013	Jun 26, 2013	9-0	Scalia	Reversed; Attempting to compel a person to recommend that his employer approve an investment does not constitute “the obtaining of property from another” under the Hobbs Act.
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	Jun 24, 2013	5-4	Kennedy	Vacated and Remanded; Employee retaliation claims filed under Title VII of the Civil Rights Act of 1964 must be proved according to traditional principles of but-for causation, not the lessened causation test stated in the 42 U.S.C. § 2000e–2(m).

VIII. Summary Reversals (5)

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.

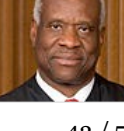
OT12 Case List

(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.
12-1084	Ryan v. Schad	CA9	-	Jun 24, 2013	9-0	<i>Per Curiam</i>	Vacated and Remanded; After a defendant was denied certiorari review by the Supreme Court, the Ninth Circuit abused its discretion by sua sponte construing the defendant’s earlier motion to stay a mandate as a motion to reconsider, and when it withheld its mandate.

Voting Alignment - All Cases

Cases are sorted by date of decision. Dissenting Justices are shaded in gray and the author of the majority opinion is highlighted in red.

Case Name	Decided	Vote	Author	Sotomayor	Ginsburg	Kagan	Breyer	Kennedy	Roberts	Alito	Scalia	Thomas
Lefemine v. Wideman	November 5, 2012	9-0	<i>Per Curiam</i>									
United States v. Bormes	November 13, 2012	9-0	Scalia									
Nitro-Lift Technologies v. Howard	November 26, 2012	9-0	<i>Per Curiam</i>									
Arkansas Game & Fish Comm'n v. United States	December 4, 2012	8-0	Ginsburg			<i>Recused</i>						
Kloeckner v. Solis	December 10, 2012	9-0	Kagan									
Ryan v. Gonzales	January 8, 2013	9-0	Thomas									
Los Angeles County Flood Control v. Natural Resources Defense Council	January 8, 2013	9-0	Ginsburg									
Already, LLC v. Nike	January 9, 2013	9-0	Roberts									
Smith v. United States	January 9, 2013	9-0	Scalia									

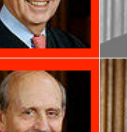
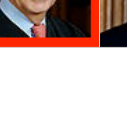
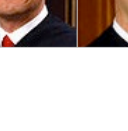
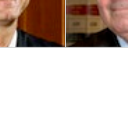
Voting Alignment - All Cases

(continued)

Case Name	Decided	Vote	Author	Sotomayor	Ginsburg	Kagan	Breyer	Kennedy	Roberts	Alito	Scalia	Thomas
Lozman v. Riviera Beach	January 15, 2013	7-2	Breyer									
Sebelius v. Auburn Regional Medical	January 22, 2013	9-0	Ginsburg									
Chafin v. Chafin	February 19, 2013	9-0	Roberts									
Bailey v. United States	February 19, 2013	6-3	Kennedy									
Federal Trade Commission v. Phoebe Putney Health	February 19, 2013	9-0	Sotomayor									
Florida v. Harris	February 19, 2013	9-0	Kagan									
Gunn v. Minton	February 20, 2013	9-0	Roberts									
Henderson v. United States	February 20, 2013	6-3	Breyer									
Johnson v. Williams	February 20, 2013	9-0	Alito									

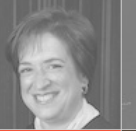
Voting Alignment - All Cases

(continued)

Case Name	Decided	Vote	Author	Sotomayor	Ginsburg	Kagan	Breyer	Kennedy	Roberts	Alito	Scalia	Thomas
Evans v. Michigan	February 20, 2013	8-1	Sotomayor									
Chaidez v. United States	February 20, 2013	7-2	Kagan									
Marx v. General Revenue Corp.	February 26, 2013	7-2	Thomas									
Clapper v. Amnesty International USA	February 26, 2013	5-4	Alito									
Gabelli v. Securities and Exchange Commission	February 27, 2013	9-0	Roberts									
Amgen Inc. v. Connecticut Retirement Plans and Trust Funds	February 27, 2013	6-3	Ginsburg									
Levin v. United States	March 4, 2013	9-0	Ginsburg									
Kirtsaeng v. John Wiley & Sons, Inc.	March 19, 2013	6-3	Breyer									
Standard Fire Insurance Company v. Knowles	March 19, 2013	9-0	Breyer									

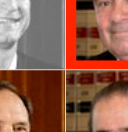
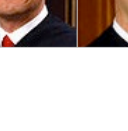
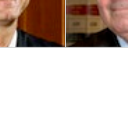
Voting Alignment - All Cases

(continued)

Case Name	Decided	Vote	Author	Sotomayor	Ginsburg	Kagan	Breyer	Kennedy	Roberts	Alito	Scalia	Thomas
Decker v. Northwest Environmental Defense Center	March 20, 2013	7-1	Kennedy				Recused					
Wos v. E.M.A.	March 20, 2013	6-3	Kennedy									
Florida v. Jardines	March 26, 2013	5-4	Scalia									
Comcast Corp. v. Behrend	March 27, 2013	5-4	Scalia									
Millbrook v. United States	March 27, 2013	9-0	Thomas									
Marshall v. Rodgers	April 1, 2013	9-0	<i>Per Curiam</i>									
Genesis Healthcare Corp. v. Symczyk	April 16, 2013	5-4	Thomas									
US Airways v. McCutchen	April 16, 2013	5-4	Kagan									
Kiobel v. Royal Dutch Petroleum Corp.	April 17, 2013	9-0	Roberts									

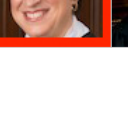
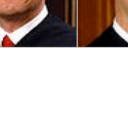
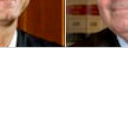
Voting Alignment - All Cases

(continued)

Case Name	Decided	Vote	Author	Sotomayor	Ginsburg	Kagan	Breyer	Kennedy	Roberts	Alito	Scalia	Thomas
Missouri v. McNeely	April 17, 2013	5-4	Sotomayor									
Moncrieffe v. Holder	April 23, 2013	7-2	Sotomayor									
McBurney v. Young	April 29, 2013	9-0	Alito									
Dan's City Used Cars v. Pelkey	May 13, 2013	9-0	Ginsburg									
Bullock v. BankChampaign, N.A.	May 13, 2013	9-0	Breyer									
Bowman v. Monsanto	May 13, 2013	9-0	Kagan									
Arlington v. Federal Communications Commission	May 20, 2013	6-3	Scalia									
PPL Corporation v. Commissioner of Internal Revenue	May 20, 2013	9-0	Thomas									
Metrish v. Lancaster	May 20, 2013	9-0	Ginsburg									

Voting Alignment - All Cases

(continued)

Case Name	Decided	Vote	Author	Sotomayor	Ginsburg	Kagan	Breyer	Kennedy	Roberts	Alito	Scalia	Thomas
Sebelius v. Cloer	May 20, 2013	9-0	Sotomayor									
McQuiggin v. Perkins	May 28, 2013	5-4	Ginsburg									
Trevino v. Thaler	May 28, 2013	5-4	Breyer									
Maryland v. King	June 3, 2013	5-4	Kennedy									
Hillman v. Maretta	June 3, 2013	9-0	Sotomayor									
Nevada v. Jackson	June 3, 2013	9-0	<i>Per Curiam</i>									
Horne v. Department of Agriculture	June 10, 2013	9-0	Thomas									
Peugh v. United States	June 10, 2013	5-4	Sotomayor									
Oxford Health Plans v. Sutter	June 10, 2013	9-0	Kagan									

Voting Alignment - All Cases

(continued)

Case Name	Decided	Vote	Author	Sotomayor	Ginsburg	Kagan	Breyer	Kennedy	Roberts	Alito	Scalia	Thomas
Association for Molecular Pathology v. Myriad Genetics	June 13, 2013	9-0	Thomas									
United States v. Davila	June 13, 2013	9-0	Ginsburg									
Tarrant Regional Water District v. Herrmann	June 13, 2013	9-0	Sotomayor									
American Trucking Association v. Los Angeles, California	June 13, 2013	9-0	Kagan									
Arizona v. Inter Tribal Council	June 17, 2013	7-2	Scalia									
Maracich v. Spears	June 17, 2013	5-4	Kennedy									
Alleyne v. United States	June 17, 2013	5-4	Thomas									
Federal Trade Commission v. Actavis	June 17, 2013	5-3	Breyer							<i>Recused</i>		
Salinas v. Texas	June 17, 2013	5-4	Alito									

Voting Alignment - All Cases

(continued)

Case Name	Decided	Vote	Author	Sotomayor	Ginsburg	Kagan	Breyer	Kennedy	Roberts	Alito	Scalia	Thomas
Agency for International Development v. Alliance for Open Society International	June 20, 2013	6-2	Roberts			<i>Recused</i>						
American Express v. Italian Colors Restaurant	June 20, 2013	5-3	Scalia	<i>Recused</i>								
Descamps v. United States	June 20, 2013	8-1	Kagan									
Fisher v. University of Texas	June 24, 2013	7-1	Kennedy			<i>Recused</i>						
University of Texas Southwestern Medical Center v. Nassar	June 24, 2013	5-4	Kennedy									
United States v. Kobedaux	June 24, 2013	7-2	Breyer									
Vance v. Ball State University	June 24, 2013	5-4	Alito									
Mutual Pharmaceutical v. Bartlett	June 24, 2013	5-4	Alito									
Ryan v. Schad	June 24, 2013	9-0	<i>Per Curiam</i>									

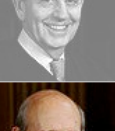
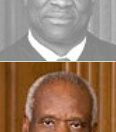
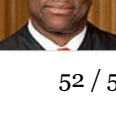
Voting Alignment - All Cases

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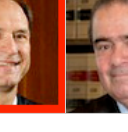
Case Name	Decided	Vote	Author	Sotomayor	Ginsburg	Kagan	Breyer	Kennedy	Roberts	Alito	Scalia	Thomas
Shelby County v. Holder	June 25, 2013	5-4	Roberts									
Koontz v. St. Johns River Water Management	June 25, 2013	5-4	Alito									
Adoptive Couple v. Baby Girl	June 25, 2013	5-4	Alito									
Hollingsworth v. Perry	June 26, 2013	5-4	Roberts									
Sekhar v. United States	June 26, 2013	9-0	Scalia									
United States v. Windsor	June 26, 2013	5-4	Kennedy									

Voting Alignment - 5-4 Decisions

Cases are sorted by date of decision. Dissenting Justices are shaded in gray and the author of the majority opinion is highlighted in red.

Case Name	Decided	Vote	Author	Sotomayor	Ginsburg	Kagan	Breyer	Kennedy	Roberts	Alito	Scalia	Thomas
Clapper v. Amnesty International USA	February 26, 2013	5-4	Alito									
Florida v. Jardines	March 26, 2013	5-4	Scalia									
Comcast Corp. v. Behrend	March 27, 2013	5-4	Scalia									
Genesis Healthcare Corp. v. Symczyk	April 16, 2013	5-4	Thomas									
US Airways v. McCutchen	April 16, 2013	5-4	Kagan									
Missouri v. McNeely	April 17, 2013	5-4	Sotomayor									
McQuiggin v. Perkins	May 28, 2013	5-4	Ginsburg									
Trevino v. Thaler	May 28, 2013	5-4	Breyer									
Maryland v. King	June 3, 2013	5-4	Kennedy									

Voting Alignment - 5-4 Decisions (continued)

Case Name	Decided	Vote	Author	Sotomayor	Ginsburg	Kagan	Breyer	Kennedy	Roberts	Alito	Scalia	Thomas
Peugh v. United States	June 10, 2013	5-4	Sotomayor									
Maracich v. Spears	June 17, 2013	5-4	Kennedy									
Alleyne v. United States	June 17, 2013	5-4	Thomas									
Federal Trade Commission v. Actavis	June 17, 2013	5-3	Breyer							Recused		
Salinas v. Texas	June 17, 2013	5-4	Alito									
American Express v. Italian Colors Restaurant	June 20, 2013	5-3	Scalia	Recused								
University of Texas Southwestern Medical Center v. Nassar	June 24, 2013	5-4	Kennedy									
Vance v. Ball State University	June 24, 2013	5-4	Alito									
Mutual Pharmaceutical v. Bartlett	June 24, 2013	5-4	Alito									

Voting Alignment - 5-4 Decisions

(continued)

Case Name	Decided	Vote	Author	Sotomayor	Ginsburg	Kagan	Breyer	Kennedy	Roberts	Alito	Scalia	Thomas
Shelby County v. Holder	June 25, 2013	5-4	Roberts									
Koontz v. St. Johns River Water Management	June 25, 2013	5-4	Alito									
Adoptive Couple v. Baby Girl	June 25, 2013	5-4	Alito									
Hollingsworth v. Perry	June 26, 2013	5-4	Roberts									
United States v. Windsor	June 26, 2013	5-4	Kennedy									