Interim Stat Pack for October Term 2018: March 11, 2019

Summary of the Term

Total Merits Opinions Released	**21**
+ Signed opinions after oral argument	17
+ Summary reversals	4
Total Merits Opinions Expected	**74**
+ Petitions granted and set for argument	72
+ Summary reversals	4
- Cases suspended	1
- Cases dismissed after oral argument	1
- Cases dismissed after oral argument	0
Cases Set for Argument During OT19	**4**

Opinions By Sitting

	October	November	December	January	February	March	April		
Roberts	1	1	-	-	-	-	-	JGR	2
Thomas	1	1	1	-	-	-	-	CT	3
Ginsburg	1	1	1	1	-	-	-	RBG	4
Breyer	1	-	-	-	-	-	-	SGB	1
Alito	-	-	-	-	-	-	-	SAA	0
Sotomayor	-	1	1	-	-	-	-	SMS	2
Kagan	1	-	-	-	-	-	-	EK	1
Gorsuch	1	-	1	-	-	-	-	NMG	2
Kavanaugh	-	1	-	1	-	-	-	BMK	2

	October	November	December	January	February	March	April	Decided	17
	Decided: 6 | Remain: 3	Decided: 5 | Remain: 7	Decided: 4 | Remain: 6	Decided: 2 | Remain: 9	Decided: 0 | Remain: 6	Decided: 0 | Remain: 9	Decided: 0 | Remain: 13	Argued	48

October		November		December		January		February		March		April	
Weyerhaeuser	JGR	Schein	BMK	Apple		Merck		Return Mail		Bethune		Brunetti	
Mt. Lemmon	RBG	Lamps Plus		Nieves		Obduskey		Mission Prd.		Smith		Emulex	
Gundy		Cougar Den		Nutraceutical	SMS	Herrera		Manhattan		Cochise		Parker	
Madison	EK	Garza	SMS	Murphy		Fourth Est.	RBG	Haymond		Flowers		Kaestner Tr.	
Knick*		Frank		Timbs	RBG	Hyatt		Mont		PDR		Davis	
New Prime	NMG	Jam	JGR	Dawson	NMG	Thacker		Am. Legion		Dutra		McDonough	
Stokeling	CT	Sturgeon		Lorenzo		Rimini	BMK			Rucho		Food Mrkt.	
Stitt	SGB	Va. Uranium		Biestek		Home Dpt.				Benisek		Fort Bend	
Preap		Bucklew		Helsinn	CT	Allina				Kisor		Commerce	
Air & Liquid		BNSF Railway	RBG	Gamble		Knick						Mitchell	
		Harrison				Tenn. Wine						Rehaif	
		Culbertson	CT									Quarles	
												Taggart	

*After oral argument in *Knick v. Township of Scott, Pennsylvania* on October 3, 2018, the Supreme Court ordered new briefing and heard reargument on January 16, 2019. The total of 48 arguments counts *Knick* only once.

Circuit Scorecard

October Term 2018								October Term 2019		
	Number	Percent	Decided	Aff'd	Rev'd	Aff'd %	Rev'd %		Number	Percent
CA1	2	3%	1	1	0	100%	0%	CA1	-	-
CA2	5	7%	0	0	0	-	-	CA2	1	25%
CA3	3	4%	0	0	0	-	-	CA3	1	25%
CA4	4	5%	0	0	0	-	-	CA4	-	-
CA5	4	5%	2	0	2	0%	100%	CA5	-	-
CA6	7	9%	2	0	2	0%	100%	CA6	-	-
CA7	0	0%	-	-	-	-	-	CA7	-	-
CA8	4	5%	2	0	2	0%	100%	CA8	-	-
CA9	15	20%	5	1	4	20%	80%	CA9	1	25%
CA10	3	4%	0	0	0	-	-	CA10	-	-
CA11	7	9%	3	2	1	67%	33%	CA11	-	-
CA DC	3	4%	1	0	1	0%	100%	CA DC	-	-
CA Fed	5	7%	1	1	0	100%	0%	CA Fed	1	25%
State	11	14%	5	0	5	0%	100%	State	-	-
Dist. Court	3	4%	0	0	0	-	-	Dist. Court	-	-
Original	0	0%	-	-	-	-	-	Original	-	-
	76	100%	22	5	17	23%	77%		4	100%

* For the circuit scorecards only, we treat certain consolidated cases as separate decisions rather than as one. For consolidated cases that stemmed from different lower court decisions, such as the cases consolidated as *United States v. Stitt*, we counted the cases separately on this table to most accurately reflect the Supreme Court's treatment of the precedents below. For cases that were consolidated in the court below, such as the two petitions from the U.S. Court of Appeals for the 4th Circuit in *The American Legion v. American Humanist Association* and *Maryland-National Capital Park and Planning Commission v. AHA*, we counted the Supreme Court's decision only once. Throughout the rest of the Stat Pack consolidated cases are uniformly treated as a single case.

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	Thomas	Ginsburg	Breyer	Alito	Sotomayor	Kagan	Gorsuch	Kavanaugh	Total Votes	Overall Decisions
CA1	1-0	1-0	1-0	1-0	1-0	1-0	1-0	1-0	-	8-0	1-0
CA2											
CA3											
CA4											
CA5	0-2	0-2	0-2	0-2	0-2	0-2	0-2	0-2	0-1	0-17	0-2
CA6	0-2	0-2	0-2	0-2	0-2	0-2	0-2	0-2	0-2	0-18	0-2
CA7											
CA8	0-2	1-1	0-2	0-2	0-2	0-2	0-2	1-1	0-2	2-16	0-2
CA9	1-4	1-4	1-4	1-4	1-4	1-4	1-4	1-4	0-4	8-36	1-4
CA10											
CA11	1-2	2-1	1-2	2-1	2-1	1-2	1-2	2-1	2-1	14-13	2-1
CA DC	0-1	0-1	0-1	1-0	0-1	0-1	0-1	0-1	-	1-7	0-1
CA Fed	1-0	1-0	1-0	1-0	1-0	1-0	1-0	1-0	1-0	9-0	1-0
State	0-5	3-2	0-5	0-5	3-2	0-5	0-5	3-2	0-4	9-35	0-5
Dist. Court											
Original											
	4-18	9-13	4-18	6-16	8-14	4-18	4-18	9-13	3-14	51-142	5-17

Merits Cases By Vote Split

9-0 12 (71%)	8-1 1 (6%)	7-2 1 (6%)	6-3 1 (6%)	5-4 2 (12%)	
Mt. Lemmon (8-0)	*Jam* (7-1)	*BNSF Railway*	*Garza*	*Stokeling*	🟨
Weyerhaeuser (8-0)			*Moore* (PC)	*Madison* (5-3)	🟦
Stitt					
Emmons (PC)					
Hill (PC)					
Culbertson					
Schein					
New Prime (8-0)					
Helsinn					
Timbs					
Dawson					
Rizo (PC)					
Nutraceutical					
Fourth Est.					
Rimini					

Past Terms					
	9-0	8-1	7-2	6-3	5-4
OT11	45%	11%	8%	17%	20%
OT12	49%	5%	9%	8%	29%
OT13	66%	3%	10%	8%	14%
OT14	41%	7%	12%	15%	26%
OT145	48%	11%	20%	11%	5%
OT116	59%	9%	17%	4%	10%
OT17	39%	8%	15%	10%	26%
Avg.	50%	8%	13%	10%	19%

* We treat cases with eight or fewer votes as if they were decided by the full court. For 8-0, 7-1, and 6-2 decisions, we simply assume that the nonparticipating justice would have joined the majority. In cases that are decided 5-3, we look at each case individually to decide whether it was more likely that the nonparticipating 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.

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

***For per curium opinions, we assume that all justices who do not publicly dissent voted with the majority.
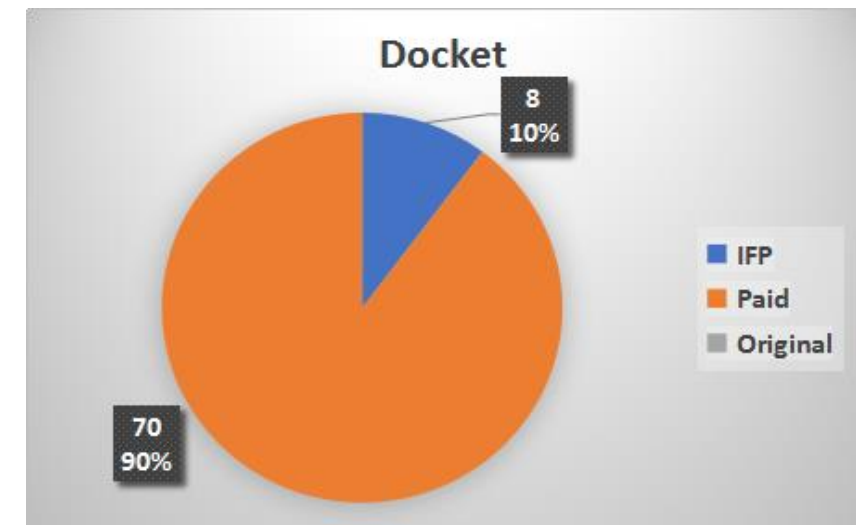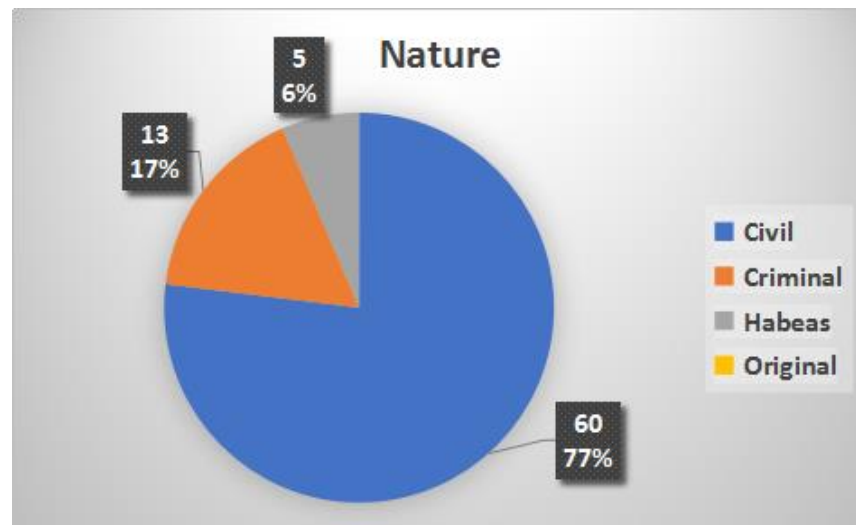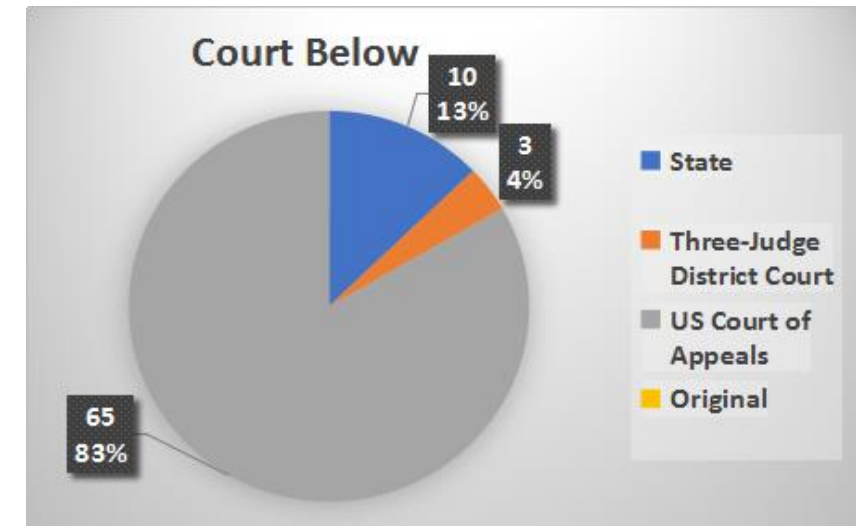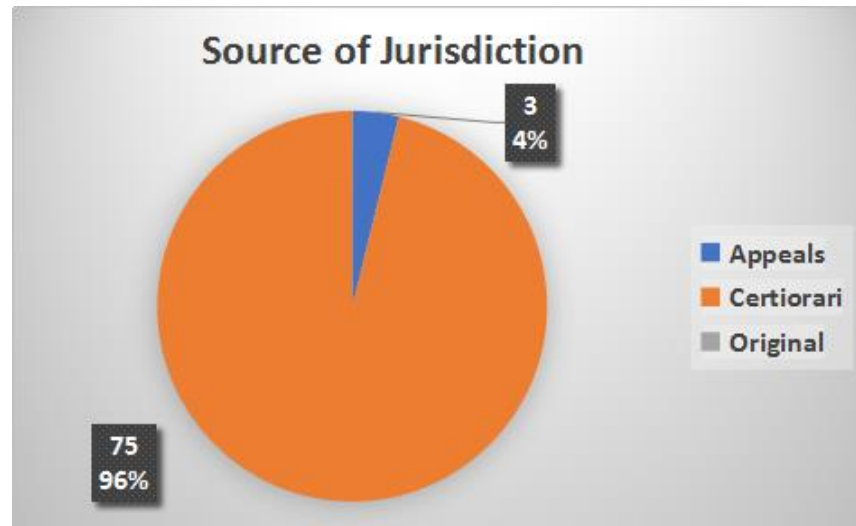
Term Index

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. For each sitting, the chart provides the number of majority opinions written by each justice and the average number of days between argument and opinion for that justice's majority opinions.

October

#	Case	Author	Vote	Days	Judg.	Court	Justice	N	Avg
1	Weyerhaeuser	JGR	8-0	57d	R	CA5	JGR	1	57d
2	Mt. Lemmon	RBG	8-0	36d	A	CA9	CT	1	98d
3	Gundy					CA2	RBG	1	36d
4	Madison	EK	5-3	148d	R	ST	SGB	1	62d
5	~~Knick~~					CA3	SAA	0	
6	New Prime	NMG	8-0	104d	A	CA1	SMS	0	
7	Stokeling	CT	5-4	98d	A	CA11	EK	1	148d
8	Stitt	SGB	9-0	62d	R	CA6	NMG	1	104d
9	Preap					CA9	BMK	0	
10	Air & Liquid					CA3	Tot.	6	
11							Expect	9	
12							Avg.		84d

November

#	Case	Author	Vote	Days	Judg.	Court	Justice	N	Avg
1	Schein	BMK	9-0	71d	R	CA5	JGR	1	119d
2	Lamps Plus					CA9	CT	1	62d
3	Cougar Den					ST	RBG	1	118d
4	Garza	SMS	6-3	120d	R	ST	SGB	0	
5	Frank					CA9	SAA	0	
6	Jam	JGR	7-1	119d	R	CADC	SMS	1	120d
7	Sturgeon					CA9	EK	0	
8	Va. Uranium					CA4	NMG	0	
9	Bucklew					CA8	BMK	1	71d
10	BNSF Railway	RBG	7-2	118d	R	CA8	Tot.	5	
11	Harrison					CA2	Expect	12	
12	Culbertson	CT	9-0	62d	R	CA11	Avg.		98d

December

#	Case	Author	Vote	Days	Judg.	Court	Justice	N	Avg
1	Apple					CA9	JGR	0	
2	Nieves					CA9	CT	1	52d
3	Nutraceutical	SMS	9-0	91d	R	CA9	RBG	1	79d
4	Murphy					CA10	SGB	0	
5	Timbs	RBG	9-0	84d	R	ST	SAA	0	
6	Dawson	NMG	9-0	79d	R	ST	SMS	1	91d
7	Lorenzo					CADC	EK	0	
8	Biestek					CA6	NMG	1	79d
9	Helsinn	CT	9-0	52d	A	CAFC	BMK	0	
10	Gamble					CA11	Tot.	4	
11							Expect	10	
12							Avg.		77d

January

#	Case	Author	Vote	Days	Judg.	Court	Justice	N	Avg
1	Merck					CA3	JGR	0	
2	Obduskey					CA10	CT	0	
3	Herrera					ST	RBG	1	55d
4	Fourth Est.	RBG	9-0	55d	A	CA11	SGB	0	
5	Hyatt					ST	SAA	0	
6	Thacker					CA11	SMS	0	
7	Rimini	BMK	9-0	49d	R	CA9	EK	0	
8	Home Dpt.					CA4	NMG	0	
9	Allina					CADC	BMK	1	49d
10	Knick					CA3	Tot.	2	
11	Tenn. Wine					CA6	Expect	11	
12							Avg.		52d

February

#	Case	Court	Justice	N	Avg
1	Return Mail	CAFC	JGR		
2	Mission Prd.	CA1	CT		
3	Manhattan	CA2	RBG		
4	Haymond	CA10	SGB		
5	Mont	CA6	SAA		
6	Am. Legion	CA4	SMS		
			EK		
			NMG		
			BMK		
			Tot.	0	
			Expect	6	
			Avg.		

March

#	Case	Court	Justice	N	Avg
1	Bethune	USDC	JGR		
2	Smith	CA6	CT		
3	Cochise	CA11	RBG		
4	Flowers	ST	SGB		
5	PDR	CA4	SAA		
6	Dutra	CA9	SMS		
7	Rucho	USDC	EK		
8	Benisek	USDC	NMG		
9	Kisor	CAFC	BMK		
			Tot.	0	
			Expect	9	
			Avg.		

April

#	Case	Court	Justice
1	Brunetti	CAFC	JGR
2	Emulex	CA9	CT
3	Parker	CA9	RBG
4	Kaestner Tr.	ST	SGB
5	Davis	CA5	SAA
6	McDonough	CA2	SMS
7	Food Mrkt.	CA8	EK
8	Fort Bend	CA5	NMG
9	Commerce	CA2	BMK
10	Mitchell	ST	Tot. 0
11	Rehaif	CA11	Expect 13
12	Quarles	CA6	Avg.
13	Taggart	CA9	

Summary Reversal

Case	Author	Vote	Days	Judg.	Court
Emmons	PC	9-0	n/a	R	CA9
Hill	PC	9-0	n/a	R	CA6
Moore	PC	6-3	n/a	R	ST
Rizo	PC	9-0	n/a	R	CA9

Total

Justice	N
JGR	2
CT	3
RBG	4
SGB	1
SAA	0
SMS	2
EK	1
NMG	2
BMK	2
PC	4
Cases disposed	25
Expected	75
Percent Decided	24%
Average time	83d

Unscheduled

		N
		1
Gray	CAFC	

Make-Up of the Merits Docket

The following charts depict different characteristics of the cases that were released with merits opinions. These charts include information about cases disposed of with signed opinions, summary reversals, or affirmances by an equally divided court.

Source of Jurisdiction

- Appeals: 3 (4%)
- Certiorari: 75 (96%)
- Original

Court Below

- State: 10 (13%)
- Three-Judge District Court: 3 (4%)
- US Court of Appeals: 65 (83%)
- Original

Nature

- Civil: 60 (77%)
- Criminal: 13 (17%)
- Habeas: 5 (6%)
- Original

## Docket

- IFP: 8 (10%)
- Paid: 70 (90%)
- Original

* 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. 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).

Total Opinion Authorship

The number of opinions five pages or longer is included in parentheses and represented by a black line in the chart below.

	Total Opinions	Majority Opinions	Concurring Opinions	Dissenting Opinions
Roberts	3 (2)	2 (2)	1 (0)	
Thomas	5 (5)	3 (3)	1 (1)	1 (1)
Ginsburg	5 (4)	4 (4)	1 (0)	
Breyer	2 (2)	1 (1)		1 (1)
Alito	2 (1)			2 (1)
Sotomayor	3 (3)	2 (2)		1 (1)
Kagan	1 (1)	1 (1)		
Gorsuch	4 (3)	2 (2)	1 (0)	1 (1)
Kavanaugh	2 (2)	2 (2)		
Per Curiam	4 (4)			
	31 (27)	**17 (17)**	**4 (1)**	**6 (5)**
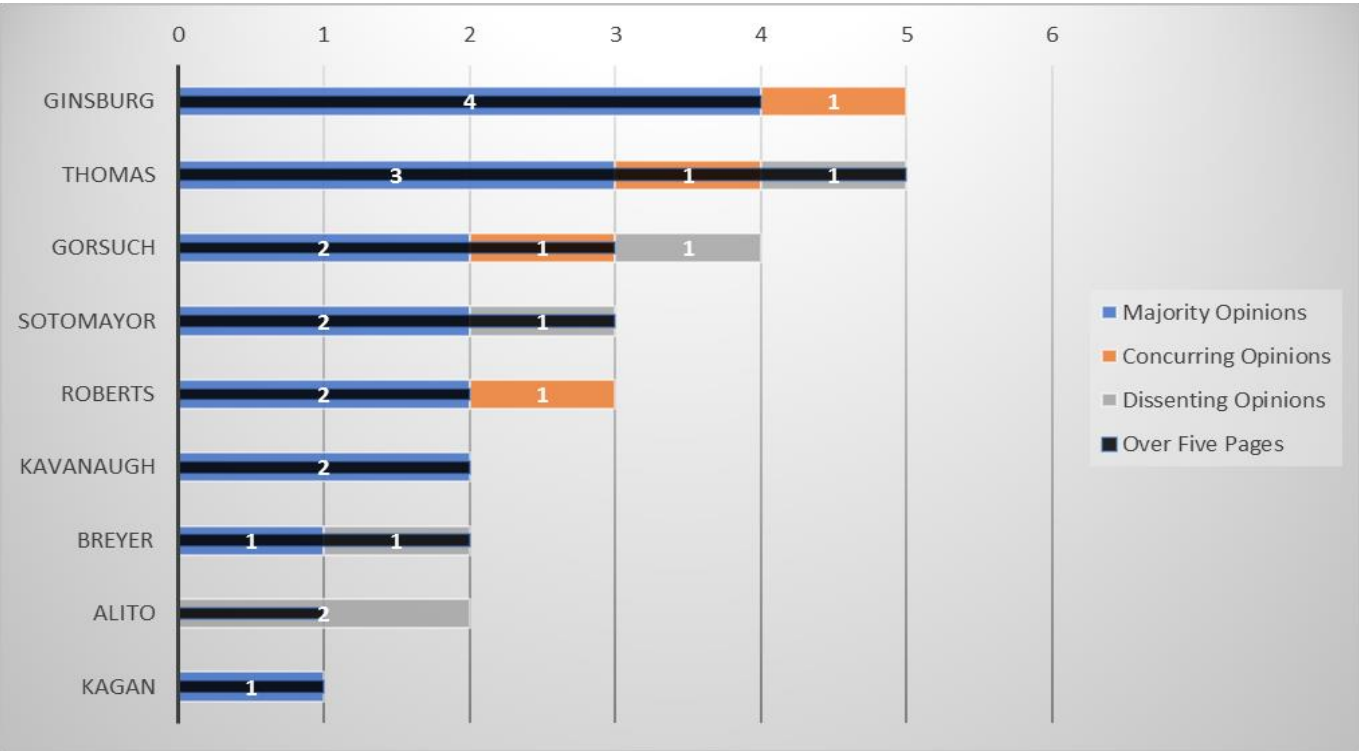
Opinions Authored By Each Justice

		Roberts	Thomas	Ginsburg	Breyer	Alito	Sotomayor	Kagan	Gorsuch	Kavanaugh	PC	
Majority Opinions	1	Weyerhaeuser	Stokeling	Mt. Lemmon	Stitt		Garza	Madison	New Prime	Schein	Emmons	
	2	Jam	Culbertson	Timbs			Nutraceutical		Dawson	Rimini	Hill	
	3		Helsinn	BNSF Railway							Moore	
	4			Fourth Est.							Rizo	
	5											
	6											
	7											
	8											
	9											21
	10											
	11											
	12											
	13											
	14											
	15											
Concurring Opinions	1	Moore	Timbs	New Prime					Timbs			
	2											
	3											
	4											
	5											
	6											
	7											
	8											
	9											4
	10											
	11											
	12											
	13											
	14											
	15											
Dissenting Opinions	1		Garza		Jam	Madison	Stokeling		BNSF Railway			
	2					Moore						
	3											
	4											
	5											
	6											
	7											
	8											6
	9											
	10											
	11											
	12											
	13											
	14											
	15											
Total		3	5	5	2	2	3	1	4	2	4	31

Frequency in the Majority

The following charts measure how frequently each justice has voted with the majority during October Term 2018. The charts include summary reversals but do not include cases that were dismissed.

All Cases									
Justice	Votes	Frequency in Majority		OT17	OT16	OT15	OT14	OT13	OT12	OT11
Roberts	21	20	95%	93%	93%	92%	80%	92%	86%	92%
Thomas	21	17	81%	81%	82%	72%	61%	88%	79%	86%
Ginsburg	21	20	95%	73%	85%	88%	86%	85%	79%	70%
Breyer	21	20	95%	73%	90%	94%	92%	88%	83%	76%
Alito	21	18	86%	79%	86%	84%	72%	88%	79%	83%
Sotomayor	21	20	95%	68%	90%	83%	89%	82%	79%	80%
Kagan	21	20	95%	74%	93%	95%	85%	92%	81%	82%
Gorsuch	21	17	81%	85%	82%	-	-	-	-	-
Kavanaugh	16	16	100%	-	-	-	-	-	-	-

Divided Cases									
Justice	Votes	Frequency in Majority		OT17	OT16	OT15	OT14	OT13	OT12	OT11
Roberts	6	5	86%	89%	83%	84%	66%	76%	73%	86%
Thomas	6	2	33%	69%	57%	49%	34%	64%	60%	74%
Ginsburg	6	5	86%	56%	63%	78%	77%	56%	60%	45%
Breyer	6	5	86%	56%	77%	89%	86%	64%	67%	57%
Alito	6	3	50%	67%	67%	70%	52%	63%	59%	69%
Sotomayor	6	5	86%	49%	76%	68%	82%	46%	59%	64%
Kagan	6	5	86%	59%	83%	91%	75%	75%	63%	67%
Gorsuch	6	2	33%	75%	63%	-	-	-	-	-
Kavanaugh	4	4	100%	-	-	-	-	-	-	-

Justice Agreement

Key

Fully Agree	(light cyan)
Agree in Full or Part	(light blue)
Agree in Full, Part, or Judgment Only	(blue)
Disagree in Judgment	(yellow)

Each pairing lists four values in key order: **Fully Agree** / **Agree in Full or Part** / **Agree in Full, Part, or Judgment Only** / **Disagree in Judgment**.

|	Thomas	Ginsburg	Breyer	Alito	Sotomayor	Kagan	Gorsuch	Kavanaugh	Total
Roberts	15 71%	19 90%	18 86%	17 81%	20 95%	20 95%	15 71%	14 88%	
	15 71%	21 100%	19 90%	17 81%	21 100%	21 100%	16 76%	15 94%	
	16 76%	21 100%	19 90%	17 81%	21 100%	21 100%	16 76%	15 94%	21
	5 24%	0 0%	2 10%	4 19%	0 0%	0 0%	5 24%	1 6%	
Thomas		14 67%	15 71%	18 86%	15 71%	15 71%	20 95%	12 75%	
		15 71%	15 71%	19 90%	15 71%	15 71%	20 95%	12 75%	
		16 76%	16 76%	20 95%	16 76%	16 76%	21 100%	13 81%	21
		5 24%	5 24%	1 5%	5 24%	5 24%	0 0%	3 19%	
Ginsburg			18 86%	16 76%	20 95%	20 95%	14 67%	15 94%	
			19 90%	17 81%	21 100%	21 100%	16 76%	15 94%	
			19 90%	17 81%	21 100%	21 100%	16 76%	15 94%	21
			2 10%	4 19%	0 0%	0 0%	5 24%	1 6%	
Breyer				17 81%	19 90%	19 90%	15 71%	15 100%	
				17 81%	19 90%	19 90%	16 76%	16 100%	
				17 81%	19 90%	19 90%	16 76%	16 100%	21
				4 19%	2 10%	2 10%	5 24%	0 0%	
Alito					17 81%	17 81%	18 86%	14 88%	
					17 81%	17 81%	20 95%	14 88%	
					17 81%	17 81%	20 95%	14 88%	21
					4 19%	4 19%	1 5%	2 12%	
Sotomayor						21 100%	15 71%	15 94%	
						21 100%	16 76%	15 94%	
						21 100%	16 76%	15 94%	21
						0 0%	5 24%	1 6%	
Kagan							15 71%	15 94%	
							16 76%	15 94%	
							16 76%	15 94%	21
							5 24%	1 6%	
Gorsuch								12 75%	
								13 81%	
								13 81%	21
								3 19%	
Kavanaugh									16

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, during OT18, took place on March 1, 2019. Categorizing grants by their conference within a given sitting ensures more accurate cross-term comparisons.
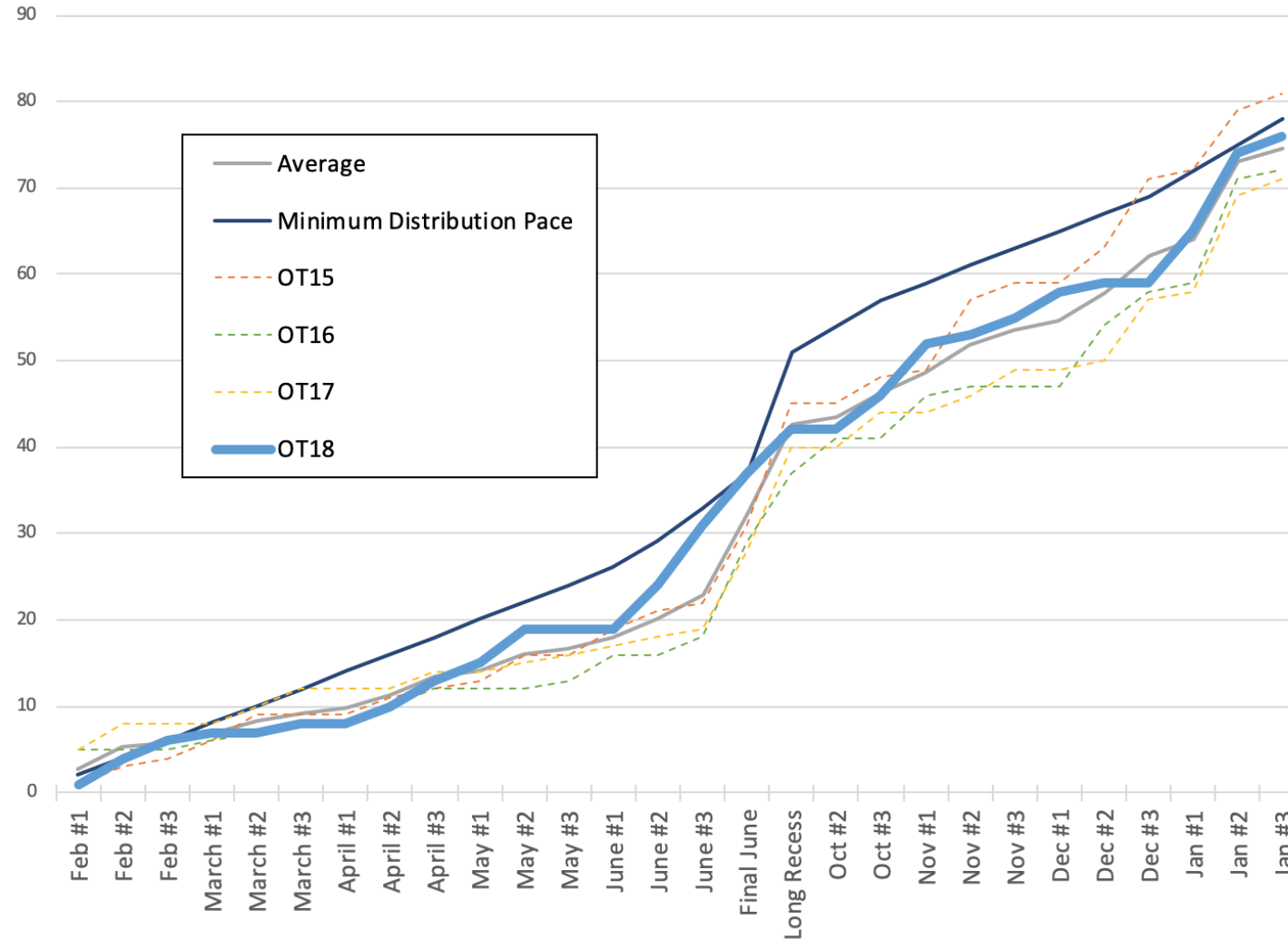
* The Minimum Distribution Pace presented in this chart reflects the number of petitions that must be granted to fill the court's docket for oral argument while giving the litigants in each case a complete or near-complete briefing schedule. The pace also reflects the number of petitions raised at each conference and other factors affecting the certiorari process.

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 opinions for Feb #3 of OT18 were actually released on March 4, 2019.
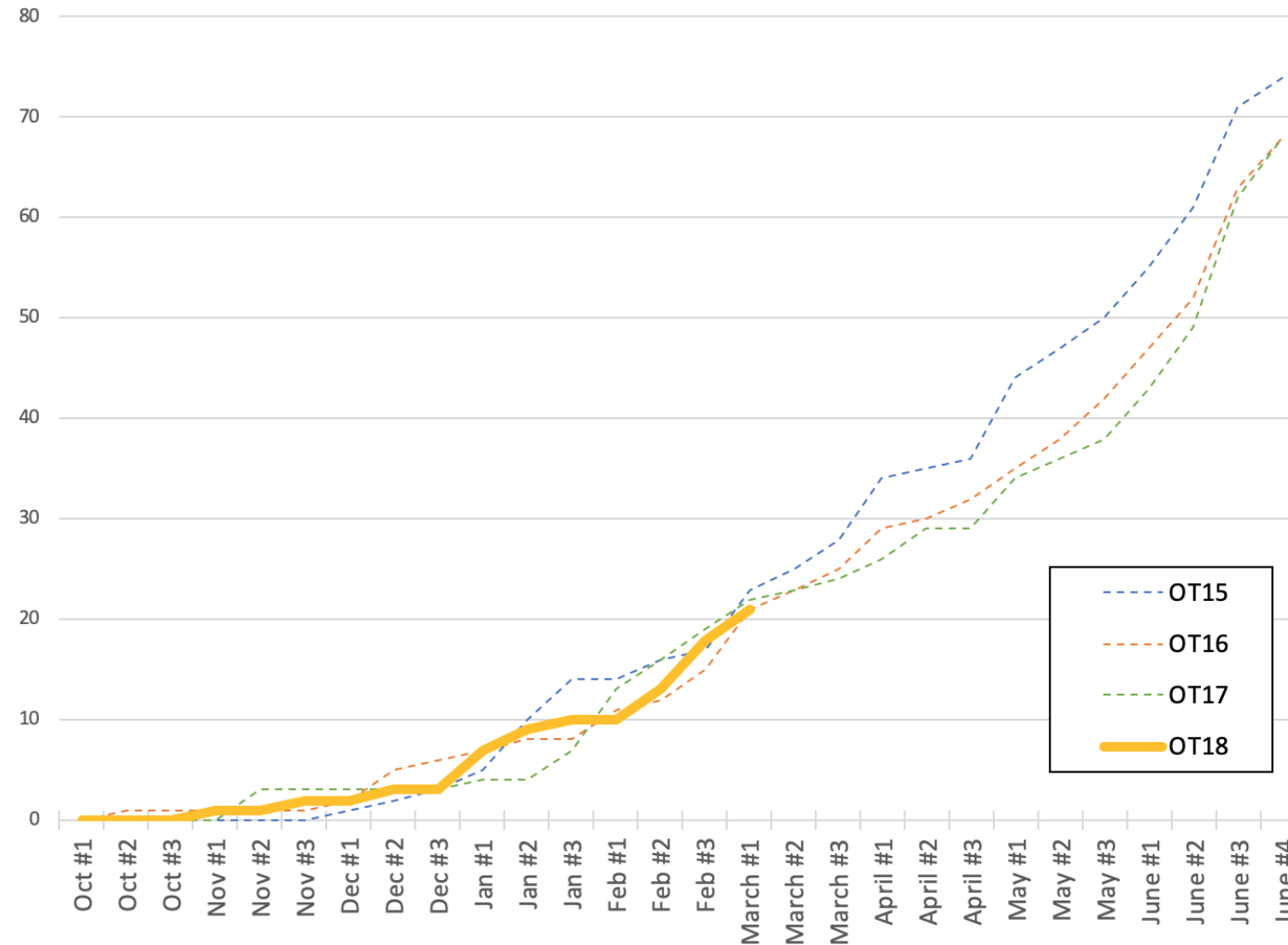
Oral Argument - Advocates

Advocates Who Have Argued Two or More Cases During OT18

Name	Appearances		Position	Law School	Supreme Court Clerkship	U.S. Solicitor General Experience	Gender
	OT18	All Time					
Edwin S. Kneedler	4	142	Deputy Solicitor General	Virginia	None	Yes	Male
Kannon K. Shanmugam	4	27	Williams & Connolly LLP*	Harvard	Antonin Scalia	Yes	Male
Jeffrey B. Wall	4	20	Principal Deputy Solicitor General	Chicago	Clarence Thomas	Yes	Male
Shay Dvoretzky	3	10	Jones Day LLP	Yale	Antonin Scalia	No	Male
Jeffrey L. Fisher	3	38	Stanford Supreme Court Clinic	Michigan	John Paul Stevens	No	Male
David C. Frederick	3	53	Kellogg, Hansen, Todd, Figel & Frederick PLLC	Texas	Byron White	Yes	Male
Malcolm L. Stewart	3	82	Deputy Solicitor General	Yale	Harry Blackmun	Yes	Male
Lisa S. Blatt	2	37	Arnold & Porter Kaye Scholer LLP*	Texas	None	Yes	Female
Allon Kedem	2	10	Assistant to the Solicitor General	Yale	Elena Kagan	Yes	Male
Ann O'Connell Adams	2	21	Assistant to the Solicitor General*	George Washington	William Rehnquist	Yes	Female
Andrew J. Pincus	2	29	Mayer Brown LLP	Columbia	None	Yes	Male
Anthony A. Yang	2	28	Assistant to the Solicitor General	Yale	None	Yes	Male
Daniel L. Geyser	2	6	Geyser PC	Harvard	None	No	Male
Erica L. Ross	2	3	Assistant to the Solicitor General	Stanford	Elena Kagan	Yes	Female
Jonathan C. Bond	2	3	Assistant to the Solicitor General	George Washington	Antonin Scalia	Yes	Male
Jonathan Ellis	2	3	Assistant to the Solicitor General	Pennsylvania	John G. Roberts	Yes	Male
Zachary D. Tripp	2	10	Assistant to the Solicitor General	Columbia	Ruth Bader Ginsburg	Yes	Male
Eric J. Feigin	2	20	Assistant to the Solicitor General	Stanford	Stephen Breyer	Yes	Male
Total: 18							

*Since their last oral arguments so far this term, Kannon Shanmugam has moved to Paul, Weiss, Rifkind, Wharton & Garrison LLP, Lisa Blatt to Williams & Connolly LLP, and Ann O'Connell Adams to the Appellate Section of the Criminal Division of the U.S. Department of Justice.