
New York Supreme Court

Appellate Division—Second Department

JOSE AYBAR and JOSE AYBAR as Administrator of THE ESTATE
OF CRYSTAL CRUZ-AYBAR,

Docket No.:
2019-12110

Plaintiffs,

– and –

ORLANDO GONZALES, JESENIA AYBAR as
Administrator of THE ESTATE OF NOELIA OLIVERAS, JESENIA AYBAR
as Legal Guardian on behalf of K.C., a minor, ANNA AYBAR and
JESENIA AYBAR as Administratrix of THE ESTATE OF T.C.,

Plaintiffs-Respondents,

(For Continuation of Caption See Inside Cover)

JOINT OPENING BRIEF FOR THIRD-PARTY DEFENDANTS-APPELLANTS THE GOODYEAR TIRE & RUBBER COMPANY AND FORD MOTOR COMPANY

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Appellant Ford Motor Company*

– against –

U.S. TIRES AND WHEELS OF QUEENS, LLC,

Defendant-Respondent.

U.S. TIRES AND WHEELS OF QUEENS, LLC,

Third-Party Plaintiff-Respondent,

– against –

THE GOODYEAR TIRE & RUBBER COMPANY
and FORD MOTOR COMPANY,

Third-Party Defendants-Appellants,

– and –

GOODYEAR DUNLOP TIRES NORTH AMERICA, LTD,

Third-Party Defendant.

TABLE OF CONTENTS

	<u>Page</u>
TABLE OF AUTHORITIES	ii
QUESTIONS PRESENTED.....	1
PRELIMINARY STATEMENT	1
STATEMENT OF FACTS AND NATURE OF THE CASE	4
ARGUMENT	9
THE NEW YORK COURTS DO NOT HAVE SPECIFIC JURISDICTION OVER FORD AND GOODYEAR ON U.S. TIRES’S CLAIMS.....	9
A. New York’s Long-Arm Statute Does Not Authorize The Exercise Of Jurisdiction In This Case	10
B. Exercising Jurisdiction Over Ford And Goodyear Would Violate Due Process	16
C. The Stream Of Commerce Does Not Save The Supreme Court’s Analysis.....	23
CONCLUSION	34
PRINTING SPECIFICATIONS STATEMENT	35

TABLE OF AUTHORITIES

	<u>Page</u>
CASES:	
<i>Al Rushaid v. Pictet & Cie,</i> 28 N.Y.3d 316 (2016)	<i>passim</i>
<i>Asahi Metal Indus. Co. v. Superior Court,</i> 480 U.S. 102 (1987)	24, 26
<i>Aybar v. Aybar,</i> 33 N.Y.3d 1044 (2019)	2
<i>Aybar v. Aybar,</i> 34 N.Y.3d 905 (2019)	2, 9
<i>Aybar v. Aybar,</i> 169 A.D.3d 137 (2d Dep’t 2019)	2, 9, 10, 18
<i>Aybar v. Aybar,</i> 2016 N.Y. Slip Op. 31138(U), 2016 WL 3389889 (Sup. Ct., Queens County 2016)	2
<i>Aybar v. Aybar,</i> 2016 N.Y. Slip Op. 31139(U), 2016 WL 3389890 (Sup. Ct., Queens County 2016)	2
<i>Aybar v. Goodyear Tire & Rubber Co.,</i> 175 A.D.3d 1373 (2d Dep’t 2019)	3, 19
<i>Aybar v. Goodyear Tire & Rubber Co.,</i> 2016 N.Y. Slip Op. 33056(U), 2016 WL 11660767 (Sup. Ct., Queens County 2016)	3
<i>Bristol-Myers Squibb Co. v. Superior Court,</i> 137 S. Ct. 1773 (2017)	<i>passim</i>
<i>Brown v. Ford Motor Co.,</i> 347 F. Supp. 3d 1347 (N.D. Ga. 2018)	20

TABLE OF AUTHORITIES—Continued

	<u>Page</u>
<i>Cahen v. Toyota Motor Corp.</i> , 147 F. Supp. 3d 955 (N.D. Cal. 2015)	21
<i>Chew v. Dietrich</i> , 143 F.3d 24 (2d Cir. 1998)	22
<i>D & R Glob. Selections, S.L. v. Bodega Olegario Falcon Pineiro</i> , 29 N.Y.3d 292 (2017)	passim
<i>Daimler AG v. Bauman</i> , 571 U.S. 117 (2014)	17, 18
<i>D’Jamoos ex rel. Estate of Weingeroff v. Pilatus Aircraft Ltd.</i> , 566 F.3d 94 (3d Cir. 2009)	25
<i>Emigrant Funding Corp. v. Kensington Realty Grp.</i> , 178 A.D.3d 1020 (2d Dep’t 2019)	6
<i>Erwin v. Ford Motor Co.</i> , No. 8:16-cv-01322-T-24 AEP, 2016 WL 7655398 (M.D. Fla. Aug. 31, 2016)	21
<i>Fantis Foods, Inc. v. Standard Importing Co.</i> , 49 N.Y.2d 317 (1980)	15
<i>Fernandez v. DaimlerChrysler, AG</i> , 143 A.D.3d 765 (2d Dep’t 2016)	12
<i>Ford Motor Co. v. Montana Eighth Judicial Dist. Court</i> , No. 19-368, 2020 WL 254155 (Jan. 17, 2020)	32
<i>Ford Motor Co. v. Montana Eighth Judicial Dist. Court</i> , 443 P.3d 407 (Mont. 2019)	31
<i>Francis v. Bridgestone Corp.</i> , No. 2010/30, 2011 WL 2650599 (D.V.I. July 6, 2011)	22
<i>Gaillet v. Ford Motor Co.</i> , No. 16-13789, 2017 WL 1684639 (E.D. Mich. May 3, 2017)	21

TABLE OF AUTHORITIES—Continued

	<u>Page</u>
<i>Goodyear Dunlop Tires Operations, S.A. v. Brown</i> , 564 U.S. 915 (2011).....	18, 29, 32
<i>Helicopteros Nacionales de Colombia, S.A. v. Hall</i> , 466 U.S. 408 (1984).....	17
<i>In re del Valle Ruiz</i> , 939 F.3d 520 (2d Cir. 2019)	17, 22
<i>Irvin v. Southern Snow Mfg., Inc.</i> , 517 F. App’x 229 (5th Cir. 2013)	25
<i>J. McIntyre Mach., Ltd. v. Nicastro</i> , 564 U.S. 873 (2011).....	24, 26, 27
<i>Johnson v. Ward</i> , 4 N.Y.3d 516 (2005)	11
<i>Kommer v. Ford Motor Co.</i> , No. 17-CV-296 (LEK/DJS), 2019 WL 2895384 (N.D.N.Y. June 19, 2019)	21, 23
<i>Krajewski v. Osterlund, Inc.</i> , 111 A.D.2d 905 (2d Dep’t 1985).....	12, 15, 32
<i>Kreutter v. McFadden Oil Corp.</i> , 71 N.Y.2d 460 (1988)	10
<i>LaMarca v. Pak-Mor Mfg. Co.</i> , 95 N.Y.2d 210 (2000)	10
<i>Licci v. Lebanese Canadian Bank, SAL</i> , 20 N.Y.3d 327 (2012)	11, 12
<i>Longines-Wittnauer Watch Co. v. Barnes & Reinecke, Inc.</i> , 15 N.Y.2d 443 (1965)	14
<i>Magill v. Ford Motor Co.</i> , 379 P.3d 1033 (Colo. 2016).....	29, 30

TABLE OF AUTHORITIES—Continued

	<u>Page</u>
<i>McGowan v. Smith</i> , 52 N.Y.2d 268 (1981)	11, 27, 28
<i>Montgomery v. Airbus Helicopters, Inc.</i> , 414 P.3d 824 (Okla. 2018)	24, 27
<i>Paterno v. Laser Spine Inst.</i> , 24 N.Y.3d 370 (2014)	14, 30
<i>Paterno v. Laser Spine Inst.</i> , 112 A.D.3d 34 (2d Dep’t 2013)	14
<i>People v. Garvin</i> , 30 N.Y.3d 174 (2017)	22
<i>People v. Kin Kan</i> , 78 N.Y.2d 54 (1991)	22
<i>Piccoli v. Cerra, Inc.</i> , 174 A.D.3d 754 (2d Dep’t 2019)	11
<i>Pichardo v. Zayas</i> , 122 A.D.3d 699 (2d Dep’t 2014)	11, 13, 14
<i>Pitts v. Ford Motor Co.</i> , 127 F. Supp. 3d 676 (S.D. Miss. 2015)	30, 31
<i>Prentice v. Demag Material Handling Ltd.</i> , 80 A.D.2d 741 (4th Dep’t 1981)	25
<i>Progressive Cty. Mut. Ins. Co. v. Goodyear Tire & Rubber Co.</i> , No. 1:18CV321-LG-RHW, 2019 WL 846056 (S.D. Miss. Feb. 21, 2019)	20
<i>Rush v. Savchuk</i> , 444 U.S. 320 (1980)	18
<i>Schmitigal v. Twohig</i> , No. 9:19-CV-01511-DCN, 2019 WL 4689228 (D.S.C. Sept. 26, 2019)	21, 24, 25, 27

TABLE OF AUTHORITIES—Continued

	<u>Page</u>
<i>Schultz v. Hyman</i> , 201 A.D.2d 956 (4th Dep’t 1994).....	15
<i>Seiferth v. Helicopteros Atuneros, Inc.</i> , 472 F.3d 266 (5th Cir. 2006)	24, 25
<i>Singer v. Board of Educ. of N.Y.</i> , 97 A.D.2d 507 (2d Dep’t 1983).....	6
<i>Spir Star AG v. Kimich</i> , 310 S.W.3d 868 (Tex. 2010)	27, 32
<i>SPV Osus Ltd. v. UBS AG</i> , 882 F.3d 333 (2d Cir. 2018)	22
<i>Sullivan v. Ford Motor Co.</i> , No. 16-cv-03505-JST, 2016 WL 6520174 (N.D. Cal. Nov. 3, 2016)	21
<i>Thomas v. Ford Motor Co.</i> , 289 F. Supp. 3d 941 (E.D. Wis. 2017)	31, 32
<i>Thompson v. Ford Motor Co.</i> , No. 18-cv-3324-WJM-KMT, 2019 WL 4645446 (D. Colo. Sept. 24, 2019)	21
<i>U.S. Bank Nat’l Ass’n v. Bank of Am. N.A.</i> , 916 F.3d 143 (2d Cir. 2019)	10, 27
<i>Venuti v. Continental Motors Inc.</i> , 414 P.3d 943 (Utah Ct. App. 2018)	24
<i>Walden v. Fiore</i> , 571 U.S. 277 (2014).....	17, 18, 19
<i>Williams v. Beemiller, Inc.</i> , 33 N.Y.3d 523 (2019)	10
<i>World-Wide Volkswagen Corp. v. Woodson</i> , 444 U.S. 286 (1980).....	26, 28, 29

TABLE OF AUTHORITIES—Continued

	<u>Page</u>
RULES:	
CPLR 302(a)(1).....	<i>passim</i>
CPLR 302(a)(2).....	7
CPLR 302(a)(3).....	7, 8
CPLR 2219(a)	6
CPLR 5526	6
OTHER AUTHORITY:	
Michael Fabiani, <i>Post-Daimler AG v. Bauman: Stretching the Bounds of Specific Jurisdiction</i> , 60 No. 3 DRI For Def. 40 (Mar. 2018).....	33
SCOTUSblog, <i>Final Stat Pack for October Term 2018: Circuit Scorecard</i>	32

QUESTIONS PRESENTED

1. Whether a New York court can exercise specific personal jurisdiction over Ford Motor Company (“Ford”)—a Delaware corporation with its headquarters in Dearborn, Michigan—for claims arising out of a Virginia car accident.

The Supreme Court held that it could exercise specific personal jurisdiction over Ford.

2. Whether a New York court can exercise specific personal jurisdiction over The Goodyear Tire & Rubber Company (“Goodyear”)—an Ohio corporation with its headquarters in Akron, Ohio—for claims arising out of a Virginia car accident.

The Supreme Court held that it could exercise specific personal jurisdiction over Goodyear.

PRELIMINARY STATEMENT

This is the third time this Court is called upon to clarify that the New York courts cannot exercise personal jurisdiction over Ford and Goodyear for a 2012 car accident with no connection to the State. Plaintiffs allege that they were injured in a Virginia car accident after the tread on a Goodyear tire installed by U.S. Tires and Wheels of Queens, LLC (“U.S. Tires”), on their 2002 Ford Explorer separated.

Plaintiffs sued U.S. Tires for negligence, and U.S. Tires commenced a third-party action against Ford and Goodyear.

This Virginia accident spawned three lawsuits: *Aybar v. Aybar*, *Aybar v. Goodyear Tire & Rubber Co*, and this case. In all three, Ford and Goodyear moved to dismiss the claims against them for lack of personal jurisdiction. Ford and Goodyear explained that other than Plaintiffs' and U.S. Tires's New York residence, the claims here have no link to New York. The accident occurred in Virginia; Plaintiffs sustained their alleged injuries in Virginia; and neither the Explorer nor the Goodyear tire was manufactured, designed, or first sold by either Ford or Goodyear in New York.

In *Aybar v. Aybar*, the Supreme Court held that it lacked specific jurisdiction over Ford and Goodyear, but could exercise general jurisdiction over them. *See Aybar v. Aybar*, 2016 N.Y. Slip Op. 31139(U), 2016 WL 3389890 (Sup. Ct., Queens County 2016); *Aybar v. Aybar*, 2016 N.Y. Slip Op. 31138(U), 2016 WL 3389889 (Sup. Ct., Queens County 2016). This Court reversed the Supreme Court's general-jurisdiction holding, but left in place its conclusion that it lacked specific jurisdiction over Ford and Goodyear because specific jurisdiction had not been raised by Plaintiffs or U.S. Tires in the trial court. *Aybar v. Aybar*, 169 A.D.3d 137, 144-152 (2d Dep't 2019), *leave to appeal dismissed*, 33 N.Y.3d 1044 (2019), and *leave to appeal granted*, 34 N.Y.3d 905 (2019).

Likewise, in *Aybar v. Goodyear*, the Supreme Court held that it lacked specific jurisdiction over Goodyear, but could exercise general jurisdiction over it. *Aybar v. Goodyear Tire & Rubber Co.*, 2016 N.Y. Slip Op. 33056(U), 2016 WL 11660767 (Sup. Ct., Queens County 2016). The Court explained that specific jurisdiction did not lie because “Goodyear manufactured and sold the tire out of state, and the plaintiff sustained injury out-of-state.” *Id.* at 3. And in that case, too, this Court reversed the trial court’s general-jurisdiction holding, but left in place its specific-jurisdiction one, which was not challenged on appeal. *See Aybar v. Goodyear Tire & Rubber Co.*, 175 A.D.3d 1373, 1373-74 (2d Dep’t 2019).

The Supreme Court in this case broke the trend. It correctly held that *Aybar v. Aybar* meant that it did not have general jurisdiction over Ford and Goodyear. But the Supreme Court held that it could exercise *specific*, or case-linked, jurisdiction over Ford and Goodyear under New York’s long-arm statute, CPLR 302(a)(1), and that specific jurisdiction over Ford and Goodyear complied with the federal Due Process Clause.

The Supreme Court was mistaken. Both CPLR 302(a)(1) and the Due Process Clause require that a plaintiff’s cause of action *arise out of* a non-resident defendant’s contacts. The court was right that Ford and Goodyear have some contacts with New York. But the Supreme Court failed to *connect* those contacts with U.S. Tires’s third-party cause of action. Instead, the court concluded that the

“stream of commerce” connected Ford and Goodyear’s New York contacts to U.S. Tires’s cause of action. But the stream of commerce has nothing to do with this case. The stream of commerce ends with the product’s first retail sale. Here, that was outside New York. The Supreme Court thus erred in exercising specific jurisdiction over Ford and Goodyear over a cause of action having nothing to do with New York.

The Supreme Court’s decision blurs the statutory and constitutional distinction between general and specific jurisdiction. Under both New York and federal constitutional law, the lesser contacts required for a court to exercise specific jurisdiction over a non-resident defendant is offset by the requirement that the cause of action *arise out of* those contacts. The Supreme Court brushed by that distinction. In doing so, it subverted this Court’s earlier holdings that New York courts do not have general jurisdiction over Ford and Goodyear for the causes of action arising from this Virginia accident.

This Court should reverse.

STATEMENT OF FACTS AND NATURE OF THE CASE

Plaintiffs’ accident and suit. Plaintiffs allege that on July 1, 2012, while traveling in Brunswick, Virginia, the 2002 Ford Explorer in which they were passengers left the roadway and rolled over following a tread-detachment event

involving a Goodyear tire installed on the vehicle. *See* R9, R444, R446-447.¹ Plaintiffs sued U.S. Tires—the auto service shop that had installed the tire that allegedly failed in Virginia—in the Queens County Supreme Court, asserting product-liability claims. R444-472. U.S. Tires then commenced a third-party action seeking indemnification and contribution from Ford and Goodyear. R474-482.

Neither Ford nor Goodyear had any contacts in New York with Plaintiffs, U.S. Tires, the Explorer, or the tire installed on it. Ford is a Delaware corporation with its principal place of business in Dearborn, Michigan. R491. The Explorer was not designed or manufactured in New York. *Id.* Ford assembled the vehicle at its St. Louis, Missouri plant, and first sold it to Team Ford Lincoln, an independently owned Ford dealership in Steubenville, Ohio. *Id.* Team Ford Lincoln then sold the Explorer to a retail consumer. *Id.* According to Ford’s records, the Explorer entered New York in 2009, when it was purchased by a Jose

¹ At the Supreme Court, the plaintiffs were divided into two groups: Jose Aybar, and everyone else. The groups are represented by separate counsel. Only the larger group of plaintiffs appears to have opposed Ford and Goodyear’s motions to dismiss. *See* R324-325 (plaintiffs’ opposition to Goodyear’s motion to dismiss, filed by “an attorney . . . for each of the plaintiffs in the above entitled action, except for JOSE AYBAR, who is represented by separate counsel”); R702-R703 (same, in connection with Ford’s motion to dismiss). Only that larger group, then, are plaintiffs-respondents before this Court. For ease of reading, however, this brief will refer to the larger group as “Plaintiffs.”

Velez without Ford's involvement. R964. Jose Aybar then purchased the Explorer sometime in late 2011. *Id.*

Goodyear is an Ohio corporation with its principal place of business in Akron, Ohio. R147.² The tire identified by Plaintiffs and installed by U.S. Tires was not designed or manufactured in New York. Nor could it have been, as Goodyear does not have any Wrangler AP-model tire manufacturing plants in New York. R147-148. The tire was designed in Akron, Ohio and manufactured at Goodyear's Union City, Tennessee plant. R147. Although tires do not have unique identification numbers and are not tracked the way vehicles are, Goodyear's records do not reflect that it was involved in the Explorer's tire entering New York. *Id.* Jose Aybar apparently bought the tire used and brought it to New York, where U.S. Tires inspected and installed it on the Explorer two weeks before the Virginia accident. R446-447. Goodyear had no known ties with

² The Supreme Court did not list this affidavit or Goodyear's affirmation in the list of papers considered on Goodyear's motion. *See* R9; CPLR 2219(a). But they were among the "papers and other exhibits upon which the . . . order was founded," CPLR 5526, and are therefore properly included in the record. *See Singer v. Board of Educ. of N.Y.*, 97 A.D.2d 507, 507 (2d Dep't 1983) (explaining that the Supreme Court's failure to recite the papers it considered in deciding the order on appeal does not affect the substance of the order); *see also Emigrant Funding Corp. v. Kensington Realty Grp.*, 178 A.D.3d 1020, 1022 (2d Dep't 2019) (considering on appeal papers not recited as read in the trial court's order where "there is nothing in the record to suggest that the court declined to consider the . . . papers").

the tire after it left Goodyear's possession and control at the Tennessee manufacturing plant in 2002. R147.

Ford and Goodyear's motions to dismiss and the Supreme Court's order. Ford and Goodyear moved to dismiss U.S. Tires's claims against them for lack of personal jurisdiction. *See* R8-9, R384-386, R16-18. Ford and Goodyear explained that the Supreme Court did not have specific jurisdiction over them under the New York long-arm statute, [CPLR 302\(a\)\(1\)-\(3\)](#), because the claims did not arise from any contact Ford or Goodyear have with New York, and because they did not commit a tortious act in the State or a tortious act outside the State causing injury within the State. R403-405; R24-26. Ford and Goodyear also explained that the Supreme Court did not have specific jurisdiction under the Due Process Clause because Plaintiffs' claims did not arise out of or relate to any of their New York contacts. R400-403; R32-34. Ford and Goodyear finally explained that the Supreme Court did not have general jurisdiction over them under the Due Process Clause because neither is headquartered or incorporated in New York. R395-400; R23-26.

Plaintiffs and U.S. Tires opposed Ford and Goodyear's motions. Plaintiffs argued that Ford and Goodyear's contacts with New York were sufficiently continuous and systematic to render both "at home" in New York for general-jurisdiction purposes, R333-338, R704-706, and that Ford and Goodyear's contacts

with New York were sufficiently related to the cause of action for specific-jurisdiction purposes, R325-326, R710-713. U.S Tires, for its part, insisted that this Court’s decision in *Aybar v. Aybar* was incorrect and that the Supreme Court could assert general jurisdiction over Ford and Goodyear. R511-520. U.S. Tires alternatively argued that [CPLR 302\(a\)\(1\) and \(3\)](#) authorized the exercise of specific jurisdiction in this case, and that exercising specific jurisdiction would be consistent with due process. R526-537.

The Supreme Court (Denis J. Butler, J.S.C.) denied the motions to dismiss. The court first held that *Aybar v. Aybar* precluded the exercise of general jurisdiction. R10. But the court nonetheless held that it could exercise specific jurisdiction pursuant to [CPLR 302\(a\)\(1\)](#), which authorizes jurisdiction over foreign defendants who “transact[] business in New York” so long as “there is an arguable nexus or substantial relationship between the business transacted and the claim asserted.” *Id.* (citing [CPLR 302\(a\)\(1\)](#)).

The Supreme Court admitted that “the products at issue herein were manufactured out of state,” but waved away the importance of “whether Ford or Goodyear sold the particular product directly to plaintiffs.” R11. The court instead held that “the nature of” Ford and Goodyear’s activities in New York—which included marketing in New York, selling other products in New York, and “locat[ing] themselves throughout [New York](#),” *id.*—“satisfies the requirement for

an arguable nexus and substantial relationship between that business and the causes of action revolving around the alleged defective products purchased and installed on the vehicle in New York,” R12. In other words, Ford and Goodyear’s decision to place their products “into the stream of commerce” was enough to constitute a nexus between their New York contacts and U.S. Tires’s causes of action. R11. The Supreme Court also held that exercising specific jurisdiction over Ford and Goodyear did not violate the Due Process Clause. R12.

Ford and Goodyear’s appeals. The Queens County Clerk entered the Supreme Court’s order on September 27, 2019, R8, and Goodyear served the order with notice of entry on October 21, 2019. Ford and Goodyear timely appealed the Supreme Court’s order on October 17 and October 21, respectively. R3-7. The Court of Appeals subsequently granted Plaintiffs’ motion for leave to appeal in *Aybar v. Aybar*. See [34 N.Y.3d 905 \(2019\)](#).

ARGUMENT

THE NEW YORK COURTS DO NOT HAVE SPECIFIC JURISDICTION OVER FORD AND GOODYEAR ON U.S. TIRES’S CLAIMS.

Specific jurisdiction is “conduct-linked jurisdiction.” [Aybar v. Aybar](#), 169 A.D.3d at 142-143. Under both the New York long-arm statute and the Due Process Clause, a New York court’s specific jurisdiction is limited to “claims” that “arise from” a non-resident defendant’s New York contacts. [Al Rushaid v. Pictet](#)

& Cie, 28 N.Y.3d 316, 323 (2016); *U.S. Bank Nat’l Ass’n v. Bank of Am. N.A.*, 916 F.3d 143, 150 (2d Cir. 2019) (recounting similar constitutional requirement). But “New York’s long-arm statute . . . does not confer jurisdiction in every case where it is constitutionally permissible.” *Kreutter v. McFadden Oil Corp.*, 71 N.Y.2d 460, 471 (1988). The Court therefore “first determine[s] whether our long-arm statute (CPLR 302) confers jurisdiction over [the defendant] in light of its contacts with this State.” *LaMarca v. Pak-Mor Mfg. Co.*, 95 N.Y.2d 210, 214 (2000). If it does, the Court then “determine[s] whether the exercise of jurisdiction comports with due process.” *Id.* And if “either the statutory or constitutional prerequisite is lacking, the action may not proceed.” *Williams v. Beemiller, Inc.*, 33 N.Y.3d 523, 528 (2019).

Plaintiffs’ and U.S. Tires’s specific-jurisdiction arguments here flunk both the long-arm statute and the Due Process Clause. The Court should reverse.

A. New York’s Long-Arm Statute Does Not Authorize The Exercise Of Jurisdiction In This Case.

New York’s specific-jurisdiction long-arm statute, CPLR 302, allows courts to exercise “specific conduct-linked jurisdiction over a particular defendant” only for certain enumerated acts. *Aybar v. Aybar*, 169 A.D.3d at 142-143. One of those acts is “transact[ing] any business within the state,” provided that the “cause of action arise[s] from” that transaction. CPLR 302(a)(1). CPLR 302(a)(1) thus calls for a “twofold” inquiry: First, “the defendant must have conducted sufficient

activities to have transacted business in” New York; second, “the claims must arise from the transactions.” *Al Rushaid*, 28 N.Y.3d at 323; *see also Johnson v. Ward*, 4 N.Y.3d 516, 519-520 (2005) (same); *Pichardo v. Zayas*, 122 A.D.3d 699, 701 (2d Dep’t 2014) (same).

Ford and Goodyear do not contest that they transacted some business in New York for long-arm-act purposes. The “requirement is met so long as the defendant’s activities here were ‘purposeful,’” *Piccoli v. Cerra, Inc.*, 174 A.D.3d 754, 755 (2d Dep’t 2019) (quoting *Al Rushaid*, 28 N.Y.3d at 323), and Ford and Goodyear purposefully market, promote, advertise, and sell products in New York. *See* R11.

The problem is that Plaintiffs’ and U.S. Tires’s claims do not arise out of Ford and Goodyear’s New York activities. “Essential to the maintenance of a suit against a nondomiciliary under CPLR 302 (subd [a], par 1) is the existence of some articulable nexus between the business transacted and the cause of action sued upon.” *McGowan v. Smith*, 52 N.Y.2d 268, 272 (1981). Put otherwise, “the plaintiff’s cause of action must have . . . [a] ‘substantial relationship’ with the defendant’s transaction of business” in New York. *D & R Glob. Selections, S.L. v. Bodega Olegario Falcon Pineiro*, 29 N.Y.3d 292, 298-299 (2017) (quoting *Licci v. Lebanese Canadian Bank, SAL*, 20 N.Y.3d 327, 339 (2012)). For the court to

exercise jurisdiction, “at least one element” of the cause of action must “arise[] from the [defendant’s] New York contacts.” *Licci*, 20 N.Y.3d at 341.

But the nexus requirement is not met “where the relationship between the claim and transaction is ‘too attenuated’ or ‘merely coincidental.’” *D & R Glob. Selections*, 29 N.Y.3d at 299 (citation omitted). So in *Fernandez v. DaimlerChrysler, AG*, 143 A.D.3d 765 (2d Dep’t 2016), a New York resident sued foreign defendant DaimlerChrysler (A.G.) over a car crash in Pennsylvania. *Id.* at 765. In considering whether the requirements of CPLR 302(a)(1) were satisfied, this Court recognized that Daimler transacted business in New York. *See id.* at 767-768. But the Court held that those contacts did not share an “‘articulable nexus’ or a ‘substantial relationship’ to . . . the allegedly defective parts of the subject vehicle.” *Id.* Moreover, the Court noted that Daimler did not even “sell the subject vehicle to the decedant.” *Id.* The Court therefore held that “the Supreme Court was not authorized to exercise personal jurisdiction over Daimler pursuant to CPLR 302(a)(1).” *Id.*

This Court held similarly in *Krajewski v. Osterlund, Inc.*, 111 A.D.2d 905 (2d Dep’t 1985). There again, this Court held that jurisdiction did not lie over a foreign auto manufacturer for an out-of-state truck accident. *Id.* at 905-906. As in *Fernandez*, the Court recognized that the manufacturer had *some* contacts with New York: It sold current models of the truck “in the State of New York through

franchised dealers.” *Id.* at 906. But the cause of action did not arise out any of those sales because the foreign defendant did not sell or manufacture the particular truck involved in the crash. *Id.* The Court accordingly held that CPLR 302(a)(1) did not authorize the exercise of personal jurisdiction over the defendant. *Id.* at 906-907.

Pichardo is the same. In that case, the plaintiff sued New Jersey defendants for a tort occurring at the defendants’ New Jersey home. *Pichardo*, 122 A.D.3d at 700. The plaintiff argued that the court could exercise jurisdiction under CPLR 302(a)(1) because the defendants operated a church in Brooklyn where they “solicited donations”; because the defendants had “hired” the plaintiff “on about 30 separate occasions to perform work in Brooklyn and at other locations”; and because the defendants had hired the plaintiff for the job at issue while in New York. *Id.* This Court disagreed. *Id.* at 701. Looking to the plaintiff’s claims, the Court explained that the defendants’ New York activities had nothing to do with the causes of action: “[T]he alleged duty owed by the” defendants “to the plaintiff, the alleged breach of that duty, and the plaintiff’s injury all arose or occurred in New Jersey.” *Id.* The Court therefore held that “the relationship between the causes of action asserted in the complaint and the” defendants’ “activities within New York were too insubstantial to warrant a New York court’s exercise of personal jurisdiction over them pursuant to CPLR 302(a)(1).” *Id.*

These cases decide this one. Although Ford and Goodyear may have some contacts with New York, the relationship between those contacts and this cause of action is “too attenuated” to satisfy CPLR 302(a)(1). *D & R Glob. Selections*, 29 N.Y.3d at 299 (internal quotation marks omitted). All of Ford and Goodyear’s allegedly relevant conduct took place outside New York: The Explorer was designed in Michigan, assembled in Missouri, and first sold in Ohio, R491, and the Goodyear tire was designed in Ohio and manufactured in Tennessee. R147; *see also* R11 (recognizing that Ford and Goodyear manufactured the products “out of state”). Indeed, not a single “element” of this cause of action “arises from” Ford and Goodyear’s New York transactions. *Pichardo*, 122 A.D.3d at 701 (citation omitted). Because Ford and Goodyear did not sell the Explorer or tire in New York, no duty arose in New York. Nor did a breach occur in New York; in a product-defect case, the “tort” occurs where the allegedly defective product is manufactured—in this case, outside of New York. *See Longines-Wittnauer Watch Co. v. Barnes & Reinecke, Inc.*, 15 N.Y.2d 443, 459-464 (1965). And even the injury did not occur in New York because, under the long-arm statute, “the ‘situs of the injury is the location of the original event which caused the injury, not the location where the resultant damages are subsequently felt by the plaintiff.’” *Paterno v. Laser Spine Inst.*, 112 A.D.3d 34, 44 (2d Dep’t 2013) (citation omitted), *aff’d*, 24 N.Y.3d 370 (2014). Plaintiffs’ injuries here occurred in Virginia. *See* R9.

The Supreme Court ignored this cause-of-action-focused approach, and instead recounted a grab-bag of contacts Ford and Goodyear have with New York. *See* R11. But those contacts are entirely “unmoored” from this cause of action. *D & R Glob. Selections*, 29 N.Y.3d at 299 (citation omitted). Ford and Goodyear might “market[], promot[e], advertis[e],” sell, and service their products in New York, R11, but the sale of other products in New York does not satisfy the articulable-nexus requirement. *See Krajewski*, 111 A.D.2d at 906-907. Likewise, Ford and Goodyear might “each have numerous wholly owned or contractual relationships with independent dealers who sell their products, both new and used, to residents of New York,” R11, but none of those dealers sold the products Plaintiffs and U.S. Tires complain about. R491, R147. It might have been “foreseeable and anticipated by these parties that their goods and products are a large part of the used car and tire markets in the State of New York,” R11, but that is not even sufficient to constitute a purposeful contact with New York, *see Schultz v. Hyman*, 201 A.D.2d 956, 957 (4th Dep’t 1994), much less create an articulable nexus between a contact and the cause of action. And Ford and Goodyear might be “registered and authorized to do business in New York,” R11, but that registration has nothing to do with Plaintiffs’ or U.S. Tires’s cause of action. Nor, finally, is it relevant that Plaintiffs and U.S. Tires are New York residents. *See Fantis Foods, Inc. v. Standard Importing Co.*, 49 N.Y.2d 317, 326 (1980) (“It

has . . . long been held that the residence or domicile of the injured party within a State is not a sufficient predicate for jurisdiction . . .”).

In the end, the evidence below establishes only that Ford and Goodyear transacted business in New York. But “[i]t is not enough that a non-domiciliary defendant transact business in New York to confer long-arm jurisdiction.” *D & R Glob. Selections*, 29 N.Y.3d at 298. Those transactions must share some “articulable nexus” with the cause of action. *See supra* pp. 11-12. Here, the connection between Ford and Goodyear’s New York transactions and the asserted torts is, at best, “merely coincidental.” *D & R Glob. Selections*, 29 N.Y.3d at 299 (citation omitted). The Court should reverse for lack of long-arm jurisdiction.

B. Exercising Jurisdiction Over Ford And Goodyear Would Violate Due Process.

Even if New York’s long-arm statute authorized jurisdiction over Ford and Goodyear (and it does not), exercising jurisdiction over them would be improper under the Due Process Clause. *See Al Rushaid*, 28 N.Y.3d at 330 (“Exercise of personal jurisdiction under the long-arm statute must comport with federal constitutional due process requirements.”). Like the long-arm statute, the Due Process Clause only allows specific jurisdiction where the cause of action is *connected* to the non-resident defendant’s forum contacts. There is no such connection here.

The Due Process Clause allows a court to exercise specific jurisdiction over a non-resident defendant only when “the suit ‘arise[s] out of or relate[s] to the defendant’s contacts with the forum.” *Daimler AG v. Bauman*, 571 U.S. 117, 127 (2014) (quoting *Helicopteros Nacionales de Colombia, S.A. v. Hall*, 466 U.S. 408, 414 n.8 (1984)) (alterations in original). In other words, federal due process requires a “connection between the forum and the specific claims at issue.” *Bristol-Myers Squibb Co. v. Superior Court*, 137 S. Ct. 1773, 1781 (2017). “For this reason, ‘specific jurisdiction is confined to adjudication of issues deriving from, or connected with, the very controversy that establishes jurisdiction.’” *Id.* at 1780 (citation omitted). The specific-jurisdiction inquiry therefore “focuses on the relationship among the defendant, the forum, and the litigation.” *In re del Valle Ruiz*, 939 F.3d 520, 528 (2d Cir. 2019) (citation omitted). Putting those three pieces together, “[t]he exercise of specific jurisdiction depends on” the defendant’s in-forum activity “that *gave rise to*” the litigation. *Id.* at 530 (citation omitted).

This litigation does not arise out of any of Ford and Goodyear’s New York contacts. It arises out of a car accident in Virginia involving a vehicle designed in Michigan, assembled in Missouri, and first sold in Ohio, R491, and a tire designed in Ohio and manufactured in Tennessee, R147. The only thing even coming close to connecting this cause of action to New York is Plaintiffs’ and U.S. Tires’s New York residence. But “however significant the plaintiff’s contacts with the forum

may be, those contacts cannot be ‘decisive in determining whether the defendant’s due process rights are violated.’ ” *Walden v. Fiore*, 571 U.S. 277, 285 (2014) (quoting *Rush v. Savchuk*, 444 U.S. 320, 332 (1980)).

The U.S. Supreme Court has repeatedly held that there is not specific jurisdiction over a defendant in circumstances like these. It held in another tire product-defect case that “[b]ecause the episode-in-suit, the . . . accident, occurred” outside the forum and the product “alleged to have caused the accident was manufactured and sold” outside the forum, the forum’s courts “lacked specific jurisdiction to adjudicate the controversy.” *Goodyear Dunlop Tires Operations, S.A. v. Brown*, 564 U.S. 915, 919 (2011). The Court has also observed that when the accident in a product-defect case occurs outside the forum, “the question [is] one of *general*”—not specific—“jurisdiction.” *Daimler*, 571 U.S. at 127 n.5 (emphasis added).

Such is the case here. The Explorer and tire at issue were not manufactured in New York. Nor were they sold in New York. Nor did the accident occur in New York.³ *See supra* pp. 4-7. There is therefore no specific jurisdiction over

³ To be clear, Ford and Goodyear do not agree that where an accident occurs or where a plaintiff is injured is jurisdictionally relevant. *Bristol-Myers Squibb* explained that there is no specific jurisdiction when the defendant engages in no suit-related conduct in the forum, even when the plaintiff “suffer[s] foreseeable harm” there. 137 S. Ct. at 1781 (quoting *Walden*, 571 U.S. at 289). Plaintiffs’ crash and injury not occurring in New York merely makes U.S. Tires’s claims of personal jurisdiction over Ford and Goodyear “even weaker.” *Id.* at 1782.

Ford and Goodyear on Plaintiffs’ and U.S. Tires’s claims in New York. And insofar as this is a question of “general jurisdiction,” see *Daimler*, 571 U.S. at 127 n.5, this Court has already held—twice—that Ford and Goodyear are not subject to general jurisdiction in New York. See *Aybar v. Aybar*, 169 A.D.3d at 145-146; *Aybar v. Goodyear*, 175 A.D.3d at 1373-74.

The U.S. Supreme Court has also held that there is no specific jurisdiction over plaintiffs’ claims where the “relevant conduct occurred entirely” outside the forum. *Bristol-Myers Squibb*, 137 S. Ct. at 1781-82 (emphasis omitted) (quoting *Walden*, 571 U.S. at 291). So, when a defendant allegedly wrongfully took money from Nevada plaintiffs in Georgia, there was no specific jurisdiction over the defendant in Nevada even though that is where the plaintiffs lived and where they lacked access to their funds. *Walden*, 571 U.S. at 288-291. All of the defendant’s relevant conduct—taking the plaintiffs’ money—occurred in Georgia. *Id.* Or, when a defendant allegedly harmed plaintiffs by selling a certain prescription drug, there was no specific jurisdiction over the defendant in California with regards to non-resident plaintiffs because the defendant did not develop, manufacture, label, or develop a marketing strategy for that drug in California, and because the non-resident plaintiffs were not prescribed that drug, nor did they purchase or ingest that drug, in California. *Bristol-Myers Squibb*, 137 S. Ct. at 1778, 1781. Again, all

of the defendant’s relevant conduct—developing the drug and selling it to the plaintiffs—occurred outside of California. *Id.* at 1782.

So too here. All of Ford and Goodyear’s allegedly relevant conduct took place outside of New York. *See supra* pp. 5-7. There is therefore no specific jurisdiction over Ford and Goodyear in New York on Plaintiffs’ and U.S. Tires’s claims.

A long line of federal courts have dismissed similar claims against Ford and Goodyear. A Mississippi federal court found no specific jurisdiction over Goodyear in a case concerning a tire that “was neither designed nor manufactured” nor purchased in Mississippi. *Progressive Cty. Mut. Ins. Co. v. Goodyear Tire & Rubber Co.*, No. 1:18CV321-LG-RHW, 2019 WL 846056, at *3 (S.D. Miss. Feb. 21, 2019). As that court explained, “[t]hat Goodyear sells this same type of tire in Mississippi, without more, is insufficient to find that” the plaintiff’s “claims ‘relate to’ such sales.” *Id.* Similarly, a Georgia federal court held that there was no specific jurisdiction over Ford in Georgia over a car accident occurring in that State where “the vehicle was designed and developed in Michigan[,] . . . manufactured in Canada and sold to a New York dealership,” who then “sold it to a New York resident, who sold it to a Tennessee owner, who then sold it to” the plaintiff. *Brown v. Ford Motor Co.*, 347 F. Supp. 3d 1347, 1350 (N.D. Ga. 2018). And a Florida federal court held that Ford was not subject to specific jurisdiction in

that State in an accident involving a vehicle sold by Ford elsewhere because, although the plaintiff “offer[ed] a wide array of contacts Ford has with the state of Florida, [n]one of Plaintiff’s claims arise out of or relate to the contacts Plaintiff alleges Ford has had with Florida.” *Erwin v. Ford Motor Co.*, No. 8:16-cv-01322-T-24 AEP, 2016 WL 7655398, at *7 (M.D. Fla. Aug. 31, 2016). The list goes on.⁴ Plaintiffs’ and U.S. Tires’s claims against Ford and Goodyear are no different than all these prior cases.

⁴ See *Schmitgal v. Twohig*, No. 9:19-CV-01511-DCN, 2019 WL 4689228, at *3-4 (D.S.C. Sept. 26, 2019) (no specific jurisdiction over Ford in South Carolina where “plaintiffs have presented no evidence that demonstrates that their specific claims against Ford arise from Ford’s contacts with South Carolina”); *Kommer v. Ford Motor Co.*, No. 17-CV-296 (LEK/DJS), 2019 WL 2895384, at *2-3 (N.D.N.Y. June 19, 2019) (no specific jurisdiction over Ford in New York over claims that “are clearly unrelated in any way to Ford’s activity within New York. None of the F-150 vehicles at issue are alleged to have been manufactured in New York.”); *Thompson v. Ford Motor Co.*, No. 18-cv-3324-WJM-KMT, 2019 WL 4645446, at *5 (D. Colo. Sept. 24, 2019) (no specific jurisdiction over Ford in Colorado because “Ford did not design or manufacture the Vehicle in Colorado,” “did not distribute the Vehicle to a dealership in Colorado,” and “did not sell . . . the Vehicle in Colorado”); *Gaillet v. Ford Motor Co.*, No. 16-13789, 2017 WL 1684639, at *4 (E.D. Mich. May 3, 2017) (“Plaintiffs have . . . failed to establish that their claims arise out of or result from those contacts. First, the vehicle involved in the accident is not among those that Defendant sold to independent dealerships in Mississippi. It was distributed to an independent dealership in Georgia, which sold it to a Georgia resident, who in turn sold it to another Georgia resident. The vehicle only entered Mississippi when Plaintiffs transported it there unilaterally.”); *Sullivan v. Ford Motor Co.*, No. 16-cv-03505-JST, 2016 WL 6520174, at *3 (N.D. Cal. Nov. 3, 2016) (no personal jurisdiction over Ford in California because its “motion demonstrate[d] that [the plaintiff’s] injuries did not stem from Ford’s contacts with California, as extensive as those contacts may be”); *Cahen v. Toyota Motor Corp.*, 147 F. Supp. 3d 955, 962 (N.D. Cal. 2015) (no specific jurisdiction over Ford in California where the plaintiffs’ causes of action

The Court of Appeals has counseled that “the interpretation of a Federal constitutional question by the lower Federal courts”—while not binding—“may serve as useful and persuasive authority.” *People v. Garvin*, 30 N.Y.3d 174, 182 n.6 (2017) (quoting *People v. Kin Kan*, 78 N.Y.2d 54, 60 (1991)). That authority is crystal clear: The Second Circuit has “always required some *causal* relationship between an entity’s in-forum contacts and the proceeding at issue.” *del Valle Ruiz*, 939 F.3d at 530. In the Second Circuit, if “the defendant has had only limited contacts with the state . . . he will be subject to suit in that state only if the plaintiff’s injury was proximately caused by those contacts,” but if “the defendant’s contacts with the jurisdiction that relate to the cause of action are more substantial, . . . the defendant is subject to personal jurisdiction even though the acts within the state are not the proximate cause of the plaintiff’s injury.” *SPV Osus Ltd. v. UBS AG*, 882 F.3d 333, 344 (2d Cir. 2018) (quoting *Chew v. Dietrich*, 143 F.3d 24, 29 (2d Cir. 1998)).

Under that standard, specific jurisdiction would not lie over Ford and Goodyear. Their New York contacts in no way relate to this cause action, and what New York contacts they did have did not proximately cause Plaintiffs’ injury.

“stemm[ed] from transactions that occurred in” other States); *see also Francis v. Bridgestone Corp.*, No. 2010/30, 2011 WL 2650599, at *7 (D.V.I. July 6, 2011) (finding stream-of-commerce theory inapposite in tire product-defect case where cause of action did not arise from the defendant’s forum contacts).

See supra pp. 11-16; *cf.* [Kommer, 2019 WL 2895384, at *2-3](#) (no specific jurisdiction over Ford “regarding the purchase of Ford trucks” in other States because the claims “are clearly unrelated in any way to Ford’s activity within New York”). The Court should not break with the federal courts and create a situation where foreign defendants’ amenability to suit in New York depends on whether a suit is filed in the New York Supreme Court or U.S. District Court. For this reason as well, this Court should reverse the Supreme Court.

C. The Stream Of Commerce Does Not Save The Supreme Court’s Analysis.

The Supreme Court apparently believed that there was a nexus between Plaintiffs and U.S. Tires’s claims and Ford and Goodyear’s New York contacts because Ford and Goodyear placed the Explorer and tire “into the stream of commerce as a result of the[ir] purposeful business activities . . . in this state . . . targeted at New York residents,” and that the Explorer and tire “wound up in New York, and harmed plaintiffs, residents of New York.” R11; *see also* R12 (“Both third-party defendants assure the flow of their products to New York through their myriad assortment of purposeful activities in which they partake.”). But the stream-of-commerce metaphor cannot bridge the divide between Ford and Goodyear’s New York contacts and this cause of action.

First, the Supreme Court fundamentally misunderstood the stream of commerce. The metaphor “refers to the movement of goods from manufacturers

through distributors to consumers.” *J. McIntyre Mach., Ltd. v. Nicaastro*, 564 U.S. 873, 881 (2011) (plurality op.). Or, as Justice Brennan put it, the stream of commerce is “the regular and anticipated flow of products from manufacture to distribution to retail sale.” *Asahi Metal Indus. Co. v. Superior Court*, 480 U.S. 102, 117 (1987) (Brennan, J., concurring in part). Crucially, then, the stream of commerce ends with the product’s first retail sale. *Seiferth v. Helicopteros Atuneros, Inc.*, 472 F.3d 266, 273 (5th Cir. 2006); see also *Schmitgal*, 2019 WL 4689228, at *4 (“[T]he stream of commerce discussion ends when a retailer makes a sale to a consumer.”).

As the Oklahoma Supreme Court has held, the U.S. Supreme Court’s recent cases reject a “totality of the contacts” approach to specific jurisdiction, and a third person’s “unilateral choice” to bring a product into the forum “cannot serve as a basis for subjecting [a manufacturer] to suit” in the forum—even under a stream-of-commerce theory. *Montgomery v. Airbus Helicopters, Inc.*, 414 P.3d 824, 833-834 (Okla. 2018). Or, as the Utah Court of Appeals has explained, there is no specific jurisdiction under the stream of commerce when a case “does not involve the movement of manufactured goods through distribution channels to retail sale in the forum state.” *Venuti v. Continental Motors Inc.*, 414 P.3d 943, 951 (Utah Ct. App. 2018). The stream-of-commerce metaphor therefore does not supply specific jurisdiction when a product arrives in a State “through a series of third-party

sales.” *Id.* at 950; *see also Irvin v. Southern Snow Mfg., Inc.*, 517 F. App’x 229, 232 (5th Cir. 2013) (finding stream-of-commerce theory irrelevant where the defendant “sold the machine to a Louisiana customer and had no knowledge that, years later,” the plaintiff “unilaterally transported it into Mississippi”). Or, as the Fourth Department has put it, the stream of commerce provides specific jurisdiction under the Due Process Clause only where the defendant “undertook the affirmative act of delivering its product to the ultimate purchaser in this State.” *Prentice v. Demag Material Handling Ltd.*, 80 A.D.2d 741, 742 (4th Dep’t 1981).

Ford and Goodyear here did not “target[]” the Explorer and tire at New York. R11. To the contrary, Ford and Goodyear could not have foreseen the products’ movements once they exited the stream of commerce at their first retail sale outside New York. *See Seiferth*, 472 F.3d at 273. And although the Explorer and tire may have “wound up” in New York, R11, they did so through “a series of fortuitous circumstances independent of any distribution channel [Ford or Goodyear] employed,” *D’Jamoos ex rel. Estate of Weingeroff v. Pilatus Aircraft Ltd.*, 566 F.3d 94, 106 (3d Cir. 2009). To the extent that there was *any* stream of commerce here, it had long since dried up by the time Jose Aybar purchased the ten-year-old Explorer and the tire. It therefore cannot be used to find specific jurisdiction over Ford and Goodyear. *Cf. Schmitigal*, 2019 WL 4689228, at *4 (no

specific jurisdiction over Ford based on stream-of-commerce theory where “the plaintiff moved the vehicle into a different forum after its purchase”).

Second, the stream-of-commerce theory has nothing to do with the arising-out-of prong of specific personal jurisdiction. The stream-of-commerce metaphor is a method of determining whether a nonresident defendant has contacts with the forum State. See [Nicastro](#), 564 U.S. at 881-882 (plurality op.) (“[A] defendant’s placing goods into the stream of commerce ‘with the expectation that they will be purchased by consumers in the forum State’ may indicate purposeful availment.” (quoting [World-Wide Volkswagen Corp. v. Woodson](#), 444 U.S. 286, 298 (1980))). Even as the U.S. Supreme Court has fractured on the exact contours of the stream-of-commerce theory, the Justices agree on at least that. See [Asahi](#), 480 U.S. at 112 (plurality) (“The placement of a product into the stream of commerce, without more, is not an act of the defendant purposefully directed toward the forum State.”); *id.* at 116 (Brennan, J. concurring in part and concurring in judgment) (reasoning that the placement of a product into the stream of commerce shows that a foreign defendant “purposely avail[ed] itself of the” forum’s “market”); [Nicastro](#), 564 U.S. at 886-887 (plurality op.) (finding the stream of commerce insufficient to evince purposeful availment); *id.* at 905 (Ginsburg, J., dissenting) (“In sum,” the non-resident defendant “availed itself of the” forum State’s market by “promot[ing] and sell[ing] its machines in the United States.”).

But both the long-arm statute and the Due Process Clause require more than just *contacts*; they both mandate that “the plaintiff’s claim . . . *arise out of or relate to* the defendant’s forum conduct.” [U.S. Bank Nat’l Ass’n](#), 916 F.3d at 150 (emphasis added) (quoting [Bristol-Myers Squibb](#), 137 S. Ct. at 1786); *see also* [Spir Star AG v. Kimich](#), 310 S.W.3d 868, 874 (Tex. 2010) (“[S]pecific jurisdiction is limited to claims arising out of” the stream of commerce); [Montgomery](#), 414 P.3d at 833 (rejecting stream-of-commerce metaphor where “[t]he adjudication of issues” does not “derive from” or is not “connected with, the very controversy that establishes jurisdiction”). Invoking the stream of commerce is not a way to “amend the general rule[s] of personal jurisdiction.” [Nicastro](#), 564 U.S. at 882 (plurality op.); *see also* [Schmitgal](#), 2019 WL 4689228, at *4 (“The stream of commerce doctrine is not a tool by which a plaintiff may circumvent the . . . ‘arises from’ requirement for specific jurisdiction.”).

The New York Supreme Court’s cited cases are not to the contrary. The court cited [McGowan v. Smith](#) as suggesting that the stream of commerce can supply the necessary causal nexus regardless of “whether Ford or Goodyear sold the particular product directly to plaintiffs.” R11. But *McGowan* says nothing of the sort. In *McGowan*, the foreign defendant placed a fondue pot into the stream of commerce, where it was sold at retail at a Buffalo department store and eventually injured the plaintiff in Ontario, Canada. [52 N.Y.2d at 270](#). The Court of Appeals

held there was not specific jurisdiction under the long-arm statute’s transacting-business prong because “[i]t is well established . . . that the long-arm authority conferred by this subdivision does not extend to nondomiciliaries who merely ship goods into the State.” *Id.* at 271. Moreover, although the plaintiff showed that the fondue-pot maker engaged in some business in New York—its representatives visited New York on marketing-research trips—those visits were not “sufficiently related to the subject matter of the lawsuit to justify the exercise of in personam jurisdiction under” CPLR 302(a)(1). *Id.* at 272-273.

McGowan thus *supports* dismissal here. Like the fondue-pot maker in *McGowan*, Ford and Goodyear cannot be found to have transacted business in New York merely through their sale of goods that happen to reach the State. And although Plaintiffs and U.S. Tires may have shown that Ford and Goodyear engage in *some* business in New York, they have not shown that that business is “sufficiently related to the subject matter of the lawsuit to justify the exercise of in personam jurisdiction under” CPLR 302(a)(1). *Id.* In fact, this case is even further afield than *McGowan*. In *McGowan*, the allegedly defective product was first sold at retail in New York. *Id.* at 270. Here, there is no evidence that the Explorer and tire were first sold at retail inside New York. R491, 147.

The Supreme Court next relied on *World-Wide Volkswagen v. Woodson*. R12. The court’s preferred quotation from *World-Wide Volkswagen*—actually a

quotation from *Goodyear*, which was paraphrasing *World-Wide Volkswagen*—states that the “[f]low of a manufacturer’s products into the forum . . . may bolster an affiliation germane to specific jurisdiction.” R12 (quoting *Goodyear*, 564 U.S. at 927 (citing *World-Wide Volkswagen*, 444 U.S. at 297)). But *World-Wide Volkswagen* explains that the stream of commerce might make it “not unreasonable to subject” a foreign defendant “to suit in one of those States if its allegedly defective merchandise *has there been the source of injury to its owner or to others.*” *World-Wide Volkswagen*, 444 U.S. at 297 (emphasis added). But see *supra* p. 18 n.3 (explaining that the location of an injury is irrelevant). But here, Plaintiffs’ injury occurred in Virginia, not New York. And *Goodyear*, the case in which the trial court’s preferred paraphrase appears, goes on to explain that “[a] corporation’s continuous activity of some sorts within a state . . . is not enough to support the demand that the corporation be amenable to suits *unrelated* to that activity.” *Goodyear*, 564 U.S. at 927 (emphasis added and internal quotation marks omitted). Here, again, Ford and Goodyear’s contacts with New York are unrelated to the cause of action. See *supra* pp. 10-23. The Supreme Court’s paraphrased snippet from *World-Wide Volkswagen* has no bearing on this case.

The Supreme Court then “noted” two inapposite cases. R12. First, it noted that the Colorado Supreme Court denied general jurisdiction over Ford, but then remanded to determine whether the trial court had specific jurisdiction, in *Magill v.*

Ford Motor Co., 379 P.3d 1033 (Colo. 2016). R12. But the Colorado high court only did so because the trial court decided only the general-jurisdiction issue, and never considered specific jurisdiction. *Magill*, 379 P.3d at 1040. *Magill* has nothing to say about the specific-jurisdiction inquiry in this case.

Second, the trial court cited *Pitts v. Ford Motor Co.*, 127 F. Supp. 3d 676 (S.D. Miss. 2015), where the federal district court “ruled that Mississippi’s long-arm statute subjected Ford to specific personal jurisdiction in that state.” R12. True enough—but Mississippi’s long-arm statute authorizes jurisdiction over foreign defendants who “commit a tort in whole or in part in this state against a resident or nonresident of this state.” *Pitts*, 127 F. Supp. 3d at 681. And according to the district court, “the alleged tort was committed, in part, in Mississippi.” *Id.* at 682. But CPLR 302(a)(1) is narrower; it contains no such tort-based geographical component. A decision under Mississippi’s broader long-arm statute has nothing to say about the interpretation of New York’s narrower one. Cf. *Paterno v. Laser Spine Inst.*, 24 N.Y.3d 370, 380 (2014) (rejecting non-New York personal-jurisdiction cases that “involve[d] . . . personal jurisdiction statutes that are coextensive with the Federal Due Process Clause”). And beyond the long-arm statute, *Pitts* held as a matter of the Due Process Clause that personal jurisdiction *was not* proper over Ford in Mississippi when the allegedly defective product was not designed, manufactured, or first sold there, even though the accident occurred

in the State. [127 F. Supp. 2d at 685-686](#). *Pitts*, too, supports Ford and Goodyear, not Plaintiffs and U.S. Tires.

Finally, the Supreme Court cited a trifecta of cases to support the notion that “the nature of the business activities of the parties satisfies the requirement for an arguable nexus.” R12 (citing *Al Rushaid*, [28 N.Y.2d 316](#); *Ford Motor Co. v. Montana Eighth Judicial Dist. Court*, [443 P.3d 407](#) (Mont. 2019); and *Thomas v. Ford Motor Co.*, [289 F. Supp. 3d 941](#) (E.D. Wis. 2017)). None do. *Al Rushaid* concerned claims arising out of a money-laundering scheme using New York bank accounts. [28 N.Y.3d at 327-328](#). And *Al Rushaid* reinforces the New York and constitutional rule that “the cause of action” must “arise from the contacts with New York.” *Id.* [at 329](#). The cause of action there was closely linked to the New York contact: “[T]he money laundering could not proceed without the use of the correspondent bank account” in New York. *Id.* [at 330](#). Here, by contrast, the cause of action has *nothing* to do with Ford and Goodyear’s New York contacts. *See supra* pp. 17-19.

Ford Motor Company v. Montana Eighth Judicial District Court, meanwhile, concerned the exercise of specific jurisdiction over a tort that occurred in the forum State. [443 P.3d at 483](#); *see also id.* [at 491](#) (“[W]e now hold that if a defendant’s

actions resulted in the accrual of a tort action in Montana”). But the accident here did not occur in New York. *See supra* pp. 4-5.⁵


And the Supreme Court’s final case, *Thomas v. Ford Motor Company*, is just wrong. The federal district court there held that “[t]he fact that Ford did not initially sell the . . . Ford Flex in Wisconsin is wholly irrelevant to the personal jurisdiction inquiry” and that specific jurisdiction could be proper based on Ford’s marketing and selling of *other* cars in Wisconsin. 289 F. Supp. 3d at 947-948. Not so: “[E]ven regularly occurring sales of a product in a State do not justify the exercise of jurisdiction over a *claim unrelated* to those sales.” *Goodyear*, 564 U.S. at 930 n.6 (emphasis added); *see also Bristol-Myers Squibb*, 137 S. Ct. at 1781 (“When there is no . . . connection” between a defendant’s contact and the cause of action, “specific jurisdiction is lacking regardless of the extent of a defendant’s unconnected activities in the State.”); *Spir Star AG*, 310 S.W.3d at 875 (selling “similar products” in the State does not create a “connection as to products that were not”); *Krajewski*, 111 A.D.2d at 906 (no jurisdiction over truck manufacturer

⁵ Moreover, this case is on shaky ground. In January, the U.S. Supreme Court granted certiorari to review the opinion of the Montana high court. *See Ford Motor Co. v. Montana Eighth Judicial Dist. Court*, No. 19-368, 2020 WL 254155 (Jan. 17, 2020) (mem). The Supreme Court reversed roughly 65% of the cases it heard during its October 2018 Term. *See SCOTUSblog, Final Stat Pack for October Term 2018: Circuit Scorecard*, available at <https://bit.ly/30WWBqO> (last visited February 3, 2020). But this Court need not wait for the Supreme Court’s decision because (1) there is no specific jurisdiction under the long-arm statute and (2) even if the Montana decision were affirmed, this case is distinguishable.

that sold other models of the truck in New York); *see also* [Michael Fabiani, Post-Daimler AG v. Bauman: Stretching the Bounds of Specific Jurisdiction](#), 60 No. 3 DRI For Def. 40 (Mar. 2018) (noting the *Thomas v. Ford Motor Company* opinion “has the feel of a court blurring the line between general and specific jurisdiction” and “given that the remaining facts show little connection between Ford and this specific vehicle in Wisconsin[,] [w]e would not be surprised if this result is ultimately reversed on appeal”). This Court should not follow an erroneous non-New York trial court decision.

CONCLUSION

For the foregoing reasons, the Supreme Court's order should be reversed.


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February 11, 2020

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February 11, 2020

STATEMENT PURSUANT TO CPLR § 5531

New York Supreme Court
Appellate Division—Second Department

JOSE AYBAR and JOSE AYBAR as Administrator of THE ESTATE
OF CRYSTAL CRUZ-AYBAR,

Plaintiffs,

— and —

ORLANDO GONZALES, JESENIA AYBAR as Administrator of
THE ESTATE OF NOELIA OLIVERAS, JESENIA AYBAR as Legal
Guardian on behalf of K.C., a minor, ANNA AYBAR and JESENIA
AYBAR as Administratrix of THE ESTATE OF T.C.,

Plaintiffs-Respondents,

— against —

U.S. TIRES AND WHEELS OF QUEENS, LLC,

Defendant-Respondent.

U.S. TIRES AND WHEELS OF QUEENS, LLC,

Third-Party Plaintiff-Respondent,

— against —

THE GOODYEAR TIRE & RUBBER COMPANY
and FORD MOTOR COMPANY,

Third-Party Defendants-Appellants,

— and —

GOODYEAR DUNLOP TIRES NORTH AMERICA, LTD,

Third-Party Defendant.

1. The index number of the case in the court below is 703632/17.
2. The full names of the original parties are as set forth above. There have been no changes.
3. The action was commenced in Supreme Court, Queens County.
4. On or about June 17, 2014, Plaintiffs sued U.S. Tires and Wheels of Queens, LLC. Issue was joined on or about March 17, 2015 by service of a Verified Answer. On or about July 19, 2016, Defendant U.S. Tires and Wheels of Queens, LLC. impleaded Goodyear Tire & Rubber Company, Goodyear Dunlop Tires North America, Ltd., and Ford Motor Company by serving a Third-Party Summons and Complaint. Issue was joined on or about September 21, 2016 by service of a Verified Answer from The Goodyear Tire & Rubber Company and September 29, 2016 by service of a Verified Answer from Ford Motor Company.
5. The nature and object of the action involves an automobile accident.
6. This appeal is from an Order of the Honorable Denis J. Butler, dated September 25, 2019, which denied Third-Party Defendant The Goodyear Tire & Rubber Company's Motion to Dismiss the Third-Party Complaint, denied Third-Party Defendant Ford Motor Company's Motion to Dismiss the Third-Party Complaint and granted the Third-Party Plaintiff's Cross-Motion to Amend the Complaint.
7. This appeal is on the full reproduced record.

Final Stat Pack for October Term 2018

Summary of the Term	
Opinions By Sitting.....	2
Circuit Scorecard.....	3-4
Merits Cases By Vote Split.....	5
Term Index.....	6
Makeup of the Merits Docket.....	7
Total Opinion Authorship.....	8
Total Opinions Over Time.....	9
Opinions Authored By Each Justice...	10
Workload.....	11-12
Summary Reversals.....	13
Majority Opinion Authorship.....	14
Strength of the Majority.....	15
Unanimity.....	16-17
Frequency in the Majority.....	18
5-4 Cases.....	19-21
Majority Opinion Distribution.....	22
Justice Agreement.....	23-26
Time Btwn. Oral Argument and Opinion	27
Pace of Grants.....	28
Pace of Opinions.....	29
Grants Per Conference.....	30
Opinions Per Week.....	31
Oral Argument – Justices.....	32
Oral Argument – Advocates.....	33-34
Voting Alignment – All Cases.....	35-43
Voting Alignment – 5-4 Cases.....	44-46
Total Merits Opinions Released	72
+ Signed merits opinions after oral argument	66
+ Per Curiam merits opinions after oral argument	1
+ Summary reversals	5
Total Merits Opinions Expected	72
+ Petitions granted and set for argument	72
+ Summary reversals	5
- Cases removed from argument calendar	2
- Cases dismissed after oral argument	1
- Cases consolidated after oral argument	1
- Cases restored to argument calendar for OT19	1
Cases Set for Argument During OT19	41

* You can find past Stat Packs here: <<https://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 combine 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 argument, summary reversals (cases decided with per curiam opinions without briefing or oral argument, often to reverse a lower court), and cases decided by an equally divided (4-4) court. Cases that are dismissed as improvidently granted are not included in our tally of merits cases.

Opinions By Sitting

	October		November		December		January		February		March				
	Argued: 10	Decided: 9	Argued: 12	Decided: 12	Argued: 10	Decided: 9	Argued: 11	Decided: 11	Argued: 6	Decided: 6	Argued: 9	Decided: 8	Argued: 13	Decided: 12	
Roberts	1		2		1		1		-		1		1		JGR
Thomas	1		1		1		2		1		1		1		CT
Ginsburg	1		1		1		1		-		1		1		RBG
Breyer	1		1		1		2		-		1		2		SGB
Alito	1		1		1		1		1		1		1		SAA
Sotomayor	-		1		1		1		1		1		2		SMS
Kagan	2		1		1		1		1		1		1		EK
Gorsuch	1		2		1		1		1		-		2		NMG
Kavanaugh	1		1		1		1		1		1		1		BMK
Per Curiam	-		1		-		-		-		-		-		Per Cur.
	Argued: 10	Decided: 9	Argued: 12	Decided: 12	Argued: 10	Decided: 9	Argued: 11	Decided: 11	Argued: 6	Decided: 6	Argued: 9	Decided: 8	Argued: 13	Decided: 12	
<i>Weyerhaeuser</i>	JGR		<i>Schein</i>	BMK	<i>Apple</i>		<i>Merck</i>	SGB	<i>Return Mail</i>	SMS	<i>Bethune</i>	RBG	<i>Brunetti</i>	EK	
<i>Mt. Lemmon</i>	RBG		<i>Lamps Plus</i>	JGR	<i>Nieves</i>		<i>Obduskey</i>	SGB	<i>Mission Prd.</i>	EK	<i>Smith</i>	SMS	<i>Emulex</i>		
<i>Gundy</i>	EK		<i>Cougar Den</i>	SGB	<i>Nutraceutical</i>		<i>Herrera</i>	SMS	<i>Manhattan</i>	BMK	<i>Cochise</i>	CT	<i>Parker</i>	CT	
<i>Madison</i>	EK		<i>Garza</i>	SMS	<i>Mathias</i>		<i>Fourth Est.</i>	RBG	<i>Haymond</i>	NMG	<i>Flowers</i>	BMK	<i>Kaestner Tr.</i>	SMS	
<i>Kristoff</i>			<i>Frank</i>	PC	<i>Timbs</i>		<i>Hyatt</i>	CT	<i>Mont</i>	CT	<i>PDR</i>	SGB	<i>Davis</i>	NMG	
<i>New Prime</i>	NMG		<i>Jam</i>	JGR	<i>Dawson</i>		<i>Thacker</i>	EK	<i>Am. Legion</i>	SAA	<i>Dutra</i>	SAA	<i>McDonough</i>	SMS	
<i>Stokeling</i>	CT		<i>Sturgeon</i>	EK	<i>Lorenzo</i>		<i>Rimini</i>	BMK			<i>Rucho</i>	JGR	<i>Food Mkt.</i>	NMG	
<i>Stitt</i>	SGB		<i>Va. Uranium</i>	NMG	<i>Biestek</i>		<i>Home Depot</i>	CT			<i>Bennett</i>		<i>Fort Bend</i>	RBG	
<i>Preap</i>	SAA		<i>Bucklew</i>	NMG	<i>Helsinn</i>		<i>Allina</i>	NMG			<i>Kisor</i>	EK	<i>Commerce</i>	JGR	
<i>Air & Liquid</i>	BMK		<i>BNSF Rail.</i>	RBG	<i>Gamble</i>		<i>Knick</i>	SGB					<i>Mitchell</i>	SAA	
			<i>Harrison</i>	SAA			<i>Tenn. Wine</i>	SAA					<i>Rehaif</i>	SGB	
			<i>Culbertson</i>	CT									<i>Quarles</i>	BMK	
													<i>Taggart</i>	SGB	

*After oral argument in *Knick* on October 3, 2018, the Supreme Court ordered new briefing and heard reargument on January 16, 2019. After oral argument in *Emulex* on April 15, 2019, the court dismissed *Emulex* as improvidently granted. The court decided *Benisek* together with *Rucho* on June 27, 2019. On June 27, 2019, the justices set *Murphy* for reargument in October Term 2019.

Circuit Scorecard

October Term 2018								October Term 2019		
	Number	Percent	Decided	Aff'd	Rev'd	Aff'd %	Rev'd %		Number	Percent
CA1	2	3%	2	1	1	50%	50%	CA1	1	2%
CA2	5	7%	5	2	3	40%	60%	CA2	5	11%
CA3	3	4%	3	1	2	33.33%	66.67%	CA3	3	7%
CA4	4	5%	4	2	2	50%	50%	CA4	2	5%
CA5	4	5%	4	2	2	50%	50%	CA5	4	9%
CA6	7	9%	7	4	3	57.14%	42.86%	CA6	3	7%
CA7	1	1%	1	0	1	0%	100%	CA7	0	0%
CA8	4	5%	4	1	3	25%	75%	CA8	1	2%
CA9	14	19%	14	2	12	14.29%	85.71%	CA9	4	9%
CA10	2	4%	2	1	1	50%	50%	CA10	2	5%
CA11	7	9%	7	4	3	57.14%	42.86%	CA11	6	14%
CA DC	3	4%	3	2	1	66.67%	33.33%	CA DC	2	5%
CA Fed	4	5%	4	2	2	50%	50%	CA Fed	4	9%
State	11	15%	11	2	9	18%	82%	State	7	16%
Dist. Court	3	4%	3	1	2	33.33%	66.67%	Dist. Court	-	-
Original	0	0%	-	-	-	-	-	Original	-	-
	74	100%	74	27	47	36.49%	63.51%		44	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 count the Supreme Court's decision only once. Throughout the rest of the Stat Pack consolidated cases are uniformly treated as a single case.

** For purposes of the Circuit Scorecard, we include as "affirmances" merits opinions that let stand the lower-court opinion, such as Justice Ginsburg's opinion in *Virginia House of Delegates v. Bethune-Hill*, in which the court held that the appellants lacked standing and dismissed the appeal. Similarly, we include as "reversals" opinions that may in fact only vacate the lower-court decision and remand for further consideration, such as Justice Thomas' opinion in *Parker Drilling Management Services, Ltd. v. Newton*.

*** The circuit scorecard does not include *Emulex v. Varjabedian*, which was dismissed as improvidently granted. *Carpenter v. Murphy* is counted under the scorecard for October Term 2019.

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	1-1	1-1	1-1	1-1	1-1	1-1	1-1	2-0	0-1	9-8	1-1
CA2	1-4	2-3	3-2	3-2	1-4	3-2	4-1	1-4	0-4	18-26	2-3
CA3	1-2	0-3	2-1	2-1	0-3	2-1	2-1	0-3	1-2	10-17	1-2
CA4	0-4	2-2	3-1	1-3	0-4	3-1	2-2	1-3	1-3	13-23	2-2
CA5	1-3	1-3	2-2	2-2	1-3	2-2	2-2	2-2	1-2	14-21	2-2
CA6	4-3	3-4	3-4	3-4	4-3	2-5	3-4	1-6	4-3	27-36	4-3
CA7	0-1	0-1	1-0	0-1	0-1	1-0	0-1	0-1	0-1	2-7	0-1
CA8	1-3	2-2	1-3	1-3	1-3	1-3	0-4	2-2	1-3	10-26	1-3
CA9	1-13	2-12	6-8	5-9	1-13	6-8	4-10	2-12	1-12	28-97	2-12
CA10	2-0	2-0	1-1	1-1	2-0	1-1	1-1	1-1	2-0	13-5	1-1
CA11	3-4	5-2	2-5	4-3	5-2	3-4	3-4	3-4	4-3	32-31	4-3
CA DC	2-1	1-2	2-1	2-1	2-1	2-1	2-1	1-2	0-0	14-10	2-1
CA Fed	1-3	2-2	3-1	2-2	2-2	1-3	3-1	2-2	2-2	18-18	2-2
State	2-9	6-5	4-7	3-8	5-6	4-7	4-7	7-4	2-8	37-61	2-9
Dist. Court	0-3	1-2	3-0	2-1	0-3	3-0	3-0	1-2	0-3	13-14	1-2
Totals	20-54	30-44	37-37	32-42	25-49	35-39	34-40	26-48	19-47	258-400	27-47

Merits Cases By Vote Split

9-0 27 (38%)	8-1 5 (7%)	7-2 8 (11%)	6-3 11 (15%)	5-4 21 (29%)	
<i>Mt. Lemmon</i> (8-0)	<i>Jam</i> (7-1)	<i>BNSF Railway</i>	<i>Moore</i> (PC)	<i>Stokeling</i>	
<i>Weyerhaeuser</i> (8-0)	<i>Frank</i> (PC)	<i>Lorenzo</i> (6-2)	<i>Garza</i>	<i>Madison</i> (5-3)	
<i>Shitt</i>	<i>Harrison</i>	<i>Box</i> (PC)	<i>Air & Liquid</i>	<i>Cougar Den</i>	
<i>Emmons</i> (PC)	<i>Mission Prd.</i>	<i>Gamble</i>	<i>Biestek</i>	<i>Preap</i>	
<i>Hill</i> (PC)	<i>Allina</i> (7-1)	<i>Am. Legion</i>	<i>Nieves</i>	<i>Bucklew</i>	
<i>Culbertson</i>		<i>Rehaif</i>	<i>Return Mail</i>	<i>Lamps Plus</i>	
<i>Schein</i>		<i>Flowers</i>	<i>Va. Uranium</i>	<i>Hytt</i>	
<i>New Prime</i> (8-0)		<i>Tenn. Wine</i>	<i>McDonough</i>	<i>Apple</i>	
<i>Helsinn</i>			<i>Dutra</i>	<i>Herrera</i>	
<i>Timbs</i>			<i>Brunetti</i>	<i>Home Depot</i>	
<i>Dawson</i>			<i>Food Mkkt.</i>	<i>Mont</i>	
<i>Rizo</i> (PC)				<i>Bethune</i>	
<i>Nutraceutical</i>				<i>Manhattan</i>	
<i>Fourth Est.</i>				<i>Gundy</i> (5-3)	
<i>Rimini</i>				<i>Knick</i>	
<i>Obduskey</i>				<i>Davis</i>	
<i>Sturgeon</i>				<i>Kisor</i>	
<i>Thacker</i>				<i>Haymond</i>	
<i>Cochise</i>				<i>Rucho</i>	
<i>Merck</i>				<i>Commerce</i>	
<i>Smith</i>				<i>Mitchell</i>	
<i>Fort Bend</i>					
<i>Taggart</i>					
<i>Parker</i>					
<i>Quarles</i>					
<i>PDR</i>					
<i>Kaestner Tr.</i>					

Past Terms				
	9-0	8-1	7-2	5-4
OT10	46%	12%	15%	20%
OT11	45%	11%	8%	20%
OT12	49%	5%	9%	29%
OT13	66%	3%	10%	14%
OT14	41%	7%	12%	26%
OT15	48%	11%	20%	11%
OT16	59%	9%	17%	4%
OT17	39%	8%	15%	10%
Avg.	49%	8%	13%	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 liberal bloc (Ginsburg, Breyer, Sotomayor and Kagan) along with any of the more conservative justices, 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.

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

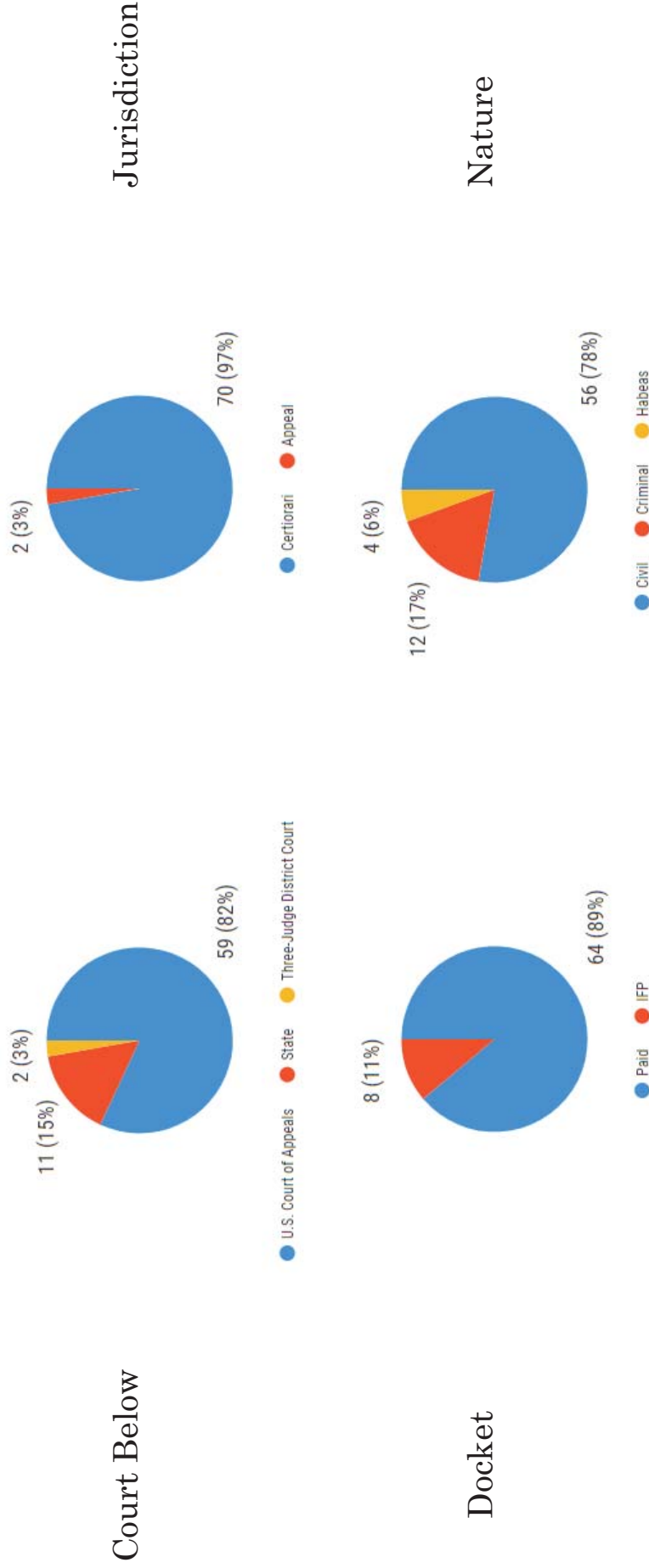
Term Index

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				November				December										
1	Weyerhaeuser	JGR	8-0 57d	R CA5	JGR	1 57d	Schein	BMK	9-0 71d	R CA5	JGR	2 148d	Apple	BMK	5-4 168d	A CA9	JGR	1 183d
2	Mt. Lemmon	RBG	8-0 36d	A CA9	CT	1 98d	Lamps Plus	JGR	5-4 177d	R CA9	CT	1 62d	Nieves	JGR	6-3 183d	R CA9	CT	1 52d
3	Gundy	EK	5-3 261d	A CA2	RBG	1 36d	Cougar Den	SGB	5-4 140d	A ST	RBG	1 118d	Nutraceutical	SMS	9-0 91d	R CA9	RBG	1 84d
4	Madison	EK	5-3 148d	R ST	SGB	1 62d	Garza	SMS	6-3 120d	R ST	SGB	1 140d	Murphy	CA10		R CA10	SGB	1 114d
5	Kirtland			CA3	SAA	1 160d	Frank	PC	8-1 140d	R CA9	SAA	1 139d	Timbs	RBG	9-0 84d	R ST	SAA	1 194d
6	New Prime	NMG	8-0 104d	A CA1	SMS	0	Jam	JGR	7-1 119d	R CADC	SMS	1 120d	Dawson	NMG	9-0 79d	R ST	SMS	1 91d
7	Stokeling	CT	5-4 98d	A CA11	EK	2 205d	Sturgeon	EK	9-0 141d	R CA9	EK	1 141d	Lorenzo	SGB	6-2 114d	A CADC	EK	1 118d
8	Stitt	SGB	9-0 62d	R CA6	NMG	1 104d	Va. Uranium	NMG	6-3 224d	A CA4	NMG	2 148d	Biestek	EK	6-3 118d	A CA6	NMG	1 79d
9	Preap	SAA	5-4 160d	R CA9	BMK	1 160d	Bucklew	NMG	5-4 146d	A CA8	BMK	1 71d	Helsinn	CT	9-0 52d	A CAFC	BMK	1 168d
10	Air & Liquid	BMK	6-3 160d	A CA3	Tot.	9	BNSF Railway	RBG	7-2 118d	R CA8	PC	1 140d	Gamble	SAA	7-2 194d	A CA11	Tot.	9
11					Expect	9	Harrison	SAA	8-1 139d	R CA2	Tot.	12					Expect	9
12					Avg.		Culbertson	CT	9-0 62d	R CA11	Expect	12					Avg.	
											Avg.							
January				February				March										
1	Merck	SGB	9-0 133d	R CA3	JGR	1 156d	Return Mail	SMS	6-3 110d	R CAFC	JGR	0 97d	Bethune	RBG	5-4 91d	A USDC	JGR	1 93d
2	Obduskey	SGB	9-0 72d	A CA10	CT	2 129d	Mission Prd.	EK	8-1 89d	R CA1	CT	1	Smith	SMS	9-0 71d	R CA6	CT	1 55d
3	Herrera	SMS	5-4 132d	R ST	RBG	1 55d	Manhattan	BMK	5-4 112d	R CA2	RBG	0	Cochise	CT	9-0 55d	A CA11	RBG	1 91d
4	Fourth Est.	RBG	9-0 55d	A CA11	SGB	2 103d	Haymond	NMG	5-4 120d	R CA10	SGB	0	Flowers	BMK	7-2 93d	R ST	SGB	1 87d
5	Hyatt	CT	5-4 124d	R ST	SAA	1 161d	Mont	CT	5-4 97d	A CA6	SAA	1 113d	PDR	SGB	9-0 87d	R CA4	SAA	1 91d
6	Thacher	EK	9-0 105d	R CA11	SMS	1 132d	Am. Legion	SAA	7-2 113d	R CA4	SMS	1 110d	Dutra	SAA	6-3 91d	R CA9	SMS	1 71d
7	Rimini	BMK	9-0 49d	R CA9	EK	1 105d					EK	1 89d	Rucho	JGR	5-4 93d	R USDC	EK	1 91d
8	Home Depot	CT	5-4 133d	A CA4	NMG	1 139d					NMG	1 120d	Kisor	EK	5-4 91d	R CAFC	NMG	0
9	Allina	NMG	7-1 139d	A CADC	BMK	1 49d					BMK	1 112d					BMK	1 93d
10	Knick	JGR	5-4 156d	R CA3	Tot.	11					Tot.	6					Tot.	8
11	Tenn. Wine	SAA	7-2 161d	A CA6	Expect	11					Expect	6					Expect	8
12					Avg.						Avg.						Avg.	
						110d						107d	Total	JGR	7 116d		Dismissed after argument	1
1	Brunetti	EK	6-3 70d	A CAFC	JGR	1 65d	Emmons	PC	9-0 n/a	R CA9	CT	8 85d	CT	8 85d		Dismissed before argument	2	
2	Finch				CA9	CT	1 55d	Hill	PC	9-0 n/a	R CA6	6 71d	RBG	6 71d		Consolidated after argument	1	
3	Parker	CT	9-0 55d	R CA9	RBG	1 42d	Moore	PC	6-3 n/a	R ST	RBG	8 88d	SGB	8 88d		Rehearing next term	1	
4	Kaestner Tr.	SMS	9-0 66d	A ST	SGB	2 50d	Rizo	PC	9-0 n/a	R CA9	SAA	7 132d	SAA	7 132d				
5	Davis	NMG	5-4 68d	A CA5	SAA	1 65d	Box	PC	7-2 n/a	R CA7	SMS	7 93d	SMS	7 93d				
6	McDonough	SMS	6-3 64d	R CA2	SMS	2 65d					EK	8 128d	EK	8 128d				
7	Food Mkt.	NMG	6-3 63d	CA8	EK	1 70d					NMG	8 118d	NMG	8 118d				
8	Fort Bend	RBG	9-0 42d	A CA5	NMG	2 66d					BMK	7 100d	BMK	7 100d				
9	Commerce	JGR	5-4 65d	R CA2	BMK	1 47d					PC	6	PC	6				
10	Mitchell	SAA	5-4 65d	R ST	Tot.	12					Cases disposed	72	Cases disposed	72				
11	Rehaif	SGB	7-2 59d	R CA11	Expect	12					Expected	72	Expected	72				
12	Quarles	BMK	9-0 47d	A CA6	Avg.		59d				Percent Decided	100%	Percent Decided	100%				
13	Taggart	SGB	9-0 40d	R CA9							Average time	105d	Average time	105d				

Makeup 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.

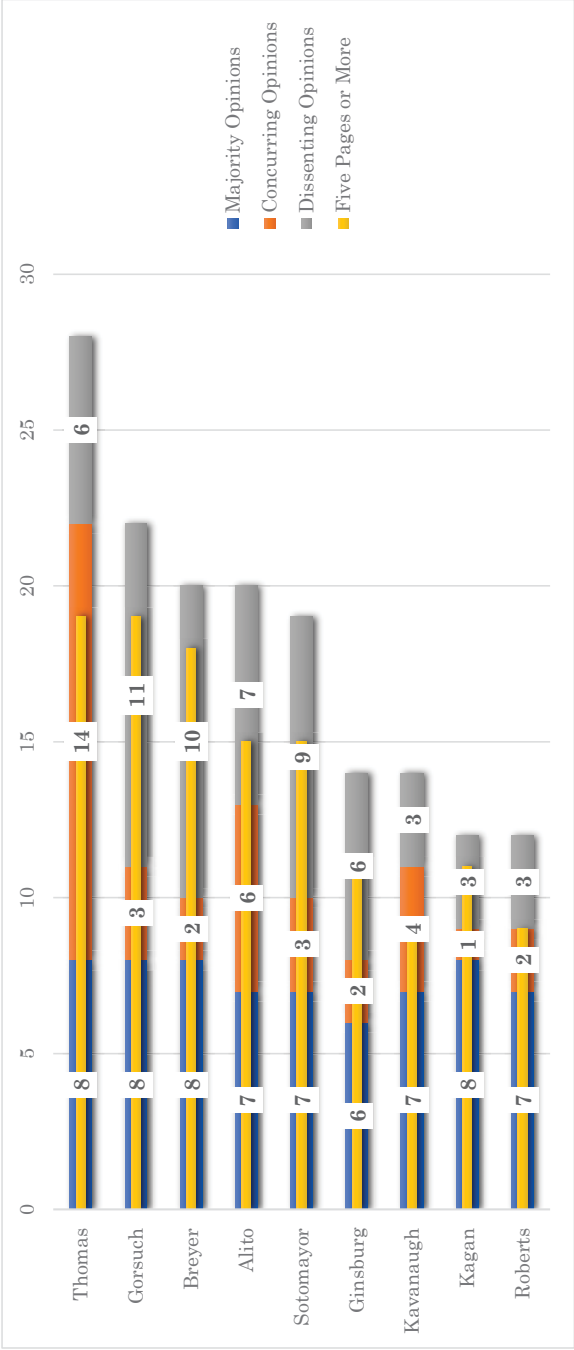


* Technically, all paid and in forma pauperis cases have been on the same docket since 1971, with paid cases beginning each year with case number 1, and IFP cases beginning at number 5001. Original cases remain on a separate docket and follow a separate numbering convention. For more information on the dockets, see Eugene Gressman et al., 'Supreme Court Practice' 55-56 (9th ed. 2007).

Total Opinion Authorship

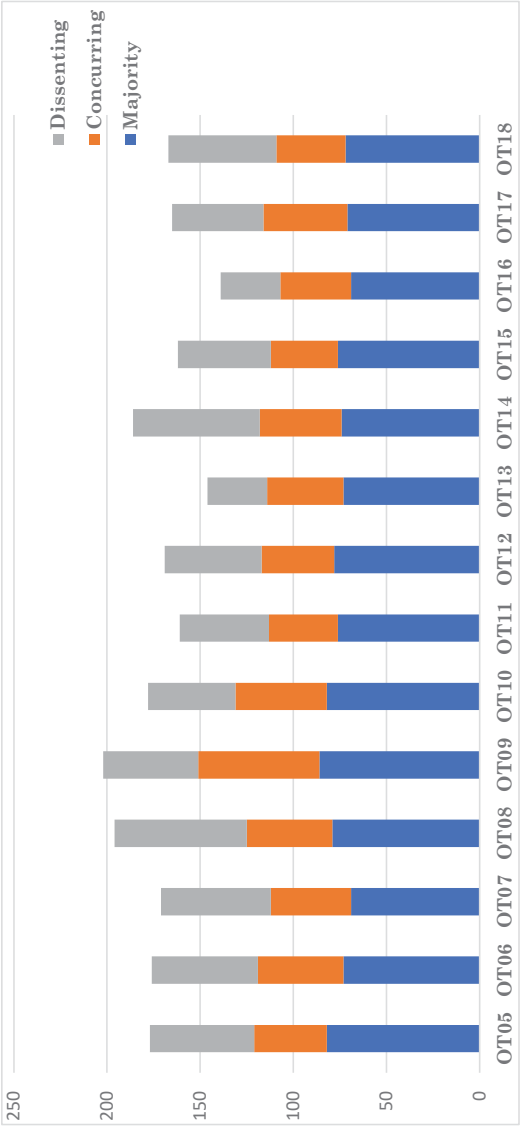
The number of opinions five pages or longer is included in parentheses and represented by the thicker bars in the chart below.

	Total Opinions	Majority Opinions	Concurring Opinions	Dissenting Opinions
Roberts	12 (9)	7 (7)	2 (0)	3 (2)
Thomas	28 (19)	8 (8)	14 (7)	6 (4)
Ginsburg	14 (11)	6 (6)	2 (1)	6 (4)
Breyer	20 (18)	8 (8)	2 (0)	10 (10)
Alito	20 (15)	7 (7)	6 (2)	7 (6)
Sotomayor	19 (15)	7 (7)	3 (1)	9 (7)
Kagan	12 (11)	8 (8)	1 (0)	3 (3)
Gorsuch	22 (19)	8 (8)	3 (2)	11 (9)
Kavanaugh	14 (11)	7 (7)	4 (2)	3 (2)
Per Curiam	6 (5)	6 (5)	- (-)	- (-)



Total Opinions Over Time

Term	Majority Opinions	Concurring Opinions	Dissenting Opinions	Total Opinions
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
OT13	73	41	32	146
OT14	74	44	68	186
OT15	76	36	50	162
OT16	69	38	32	139
OT17	71	45	49	165
OT18	72	37	58	167
Average (OT05-OT17)	76	44	52	171



Opinions Authored By Each Justice

	Roberts	Thomas	Ginsburg	Breyer	Alito	Sotomayor	Kagan	Gorsuch	Kavanaugh	PC				
Majority Opinions	1	Weyerhaeuser	Culbertson	Stitt	Preap	Nutraceutical	Madison	New Prime	Schein	Enmons				
	2	Jam	Stokeling	Cougar Den	Harrison	Garza	Sturgeon	Dawson	Rimini	Hill				
	3	Lamps Plus	Helsinn	Obduskey	Gamble	Herrera	Biestek	Bucklew	Air & Liquid	Moore				
	4	Nieves	Hyatt	BNSF Railway	Lorenzo	Smith	Thacker	Allina	Apple	Rizo				
	5	Knick	Cochise	Fort Bend	Merck	Return Mail	Mission Prd.	Va. Uranium	Quarles	Frank				
	6	Rucho	Home Depot	Bethune	Taggart	McDonough	Gundy	Food Mkt.	Manhattan	Box				
	7	Commerce	Mont		PDR	Kaestner Tr.	Brunetti	Davis	Flowers					
	8		Parker		Rehaif		Kisor	Haymond						
	9													
	10													
	11													
	12													
	13													
	14													
	15													
Concurring Opinions	1	Moore	Timbs	New Prime	Merck	Obduskey	Am. Legion	Timbs	Preap					
	2	Kisor	Preap		Gundy	Sturgeon		Cougar Den	Bucklew					
	3		Bucklew		Kaestner Tr.	Mission Prd.		Am. Legion	PDR					
	4		Lamps Plus		Flowers				Am. Legion					
	5		Merck		Brunetti									
	6		Nieves		Commerce									
	7		Box											
	8		Quarles											
	9		Gamble											
	10		PDR											
	11		Am. Legion											
	12		Knick											
	13		Commerce											
	14		Mitchell											
	15													
Dissenting Opinions	1	Cougar Den	Garza	Lamps Plus	Jam	Moore	Stokeling	Lamps Plus	BNSF Railway	Cougar Den				
	2	Va. Uranium	Frank	Nieves	Preap	Madison	Biestek	Knick	Air & Liquid	Davis				
	3	Brunetti	Harrison	Box	Bucklew	Herrera	Bucklew	Rucho	Biestek	Kisor				
	4		Lorenzo	Gamble	Lamps Plus	Home Depot	Lamps Plus		Apple					
	5		McDonough	Am. Legion	Hyatt	Bethune	Nieves	Mission Prd.	Mission Prd.					
	6		Flowers	Dutra	Allina	Rehaif	Mont	Nieves	Nieves					
	7				Return Mail	Haymond	Manhattan	Gamble	Gamble					
	8				Brunetti		Brunetti	Gundy	Gundy					
	9				Food Mkt.		Mitchell	Tenn. Wine	Tenn. Wine					
	10				Commerce			Kisor	Kisor					
	11													
	12													
	13													
	14													
	15													
Total				12	28		14	20	19	12	22	14	6	167

*Plurality opinions, like those by Justice Breyer in *Washington State Department of Licensing v. Cougar Den Inc.* and Justice Gorsuch in *Virginia Uranium Inc. v. Warren*, are treated as majority opinions throughout the Stat Pack.

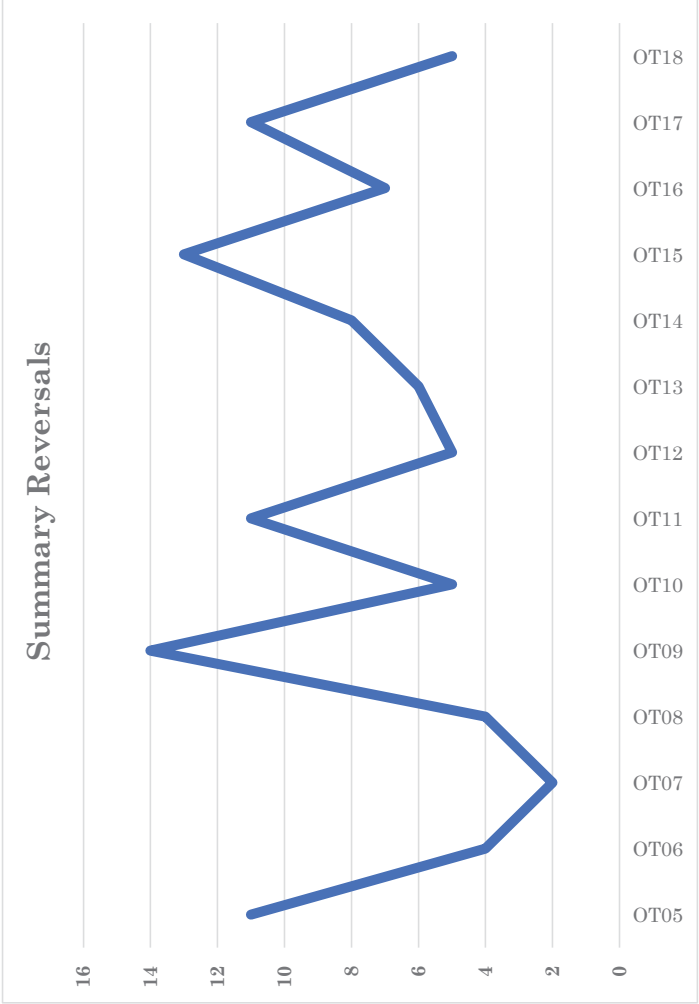
Workload – Opinions Released Each Week

The chart below demonstrates how many opinions were released by each justice during each opinion week.

	October			November			December			January			February			March			April			May			June			Total
	#1	#2	#3	#1	#2	#3	#1	#2	#3	#1	#2	#3	#1	#2	#3	#1	#2	#3	#1	#2	#3	#1	#2	#3	#4			
JGR	Majority																									7		
	Concurring																									2		
	Dissenting																									3		
	Total																									12		
CT	Majority																									8		
	Concurring																									14		
	Dissenting																									6		
	Total																									28		
RBG	Majority																									6		
	Concurring																									2		
	Dissenting																									6		
	Total																									14		
SGB	Majority																									8		
	Concurring																									2		
	Dissenting																									10		
	Total																									20		
SAA	Majority																									7		
	Concurring																									6		
	Dissenting																									7		
	Total																									20		
SMS	Majority																									7		
	Concurring																									3		
	Dissenting																									9		
	Total																									19		
EK	Majority																									8		
	Concurring																									1		
	Dissenting																									3		
	Total																									12		
NMG	Majority																									8		
	Concurring																									3		
	Dissenting																									11		
	Total																									22		
BMK	Majority																									7		
	Concurring																									4		
	Dissenting																									3		
	Total																									14		

Summary Reversals

Term	Summary Reversals
OT05	11
OT06	4
OT07	2
OT08	4
OT09	14
OT10	5
OT11	11
OT12	5
OT13	6
OT14	8
OT15	13
OT16	7
OT17	11
OT18	5
Average (OT05-OT17)	8



Majority Opinion Authorship

Majority Opinions Authored

	Total	9-0	8-1	7-2	6-3	5-4	Average Majority
Roberts	7	1	1	-	1	4	6.1
Thomas	8	4	-	-	-	4	7
Ginsburg	6	4	-	1	-	1	8
Breyer	8	5	-	2	-	1	8
Alito	7	-	1	3	1	2	6.4
Sotomayor	7	3	-	-	3	1	7.1
Kagan	8	2	1	-	2	3	6.6
Gorsuch	8	2	1	-	2	3	6.6
Kavanaugh	7	3	-	1	1	2	7.1
	66	24	4	7	10	21	7

Percentage of Majority Opinions Decided with Unanimous Judgment	
Ginsburg	66.67%
Breyer	62.5%
Thomas	50%
Sotomayor	42.86%
Kavanaugh	42.86%
Kagan	25%
Gorsuch	25%
Roberts	14%
Alito	0%

Authorship as a Percentage of Similar Opinions

	9-0	8-1	7-2	6-3	5-4
Roberts	4%	25%	-	10%	19%
Thomas	17%	-	-	-	19%
Ginsburg	17%	-	14%	-	4%
Breyer	21%	-	29%	-	4%
Alito	-	25%	43%	10%	10%
Sotomayor	13%	-	-	30%	4%
Kagan	8%	25%	-	20%	14%
Gorsuch	8%	25%	-	20%	14%
Kavanaugh	13%	-	14%	10%	10%

Average Days Between Argument and Opinion	
Alito	132d
Kagan	128d
Gorsuch	118d
Roberts	116d
Kavanaugh	100d
Sotomayor	93d
Breyer	88d
Thomas	85d
Ginsburg	71d

Strength of the Majority

Argument Sitting	Decided	9-0	8-1	7-2	6-3	5-4	Average Majority
October	9	4			1	4	6.89
November	12	3	3	1	2	3	7.08
December	9	4		2	2	1	7.44
January	10	5	1			4	7.27
February	5		1	1	1	2	6
March	8	3		1	1	3	6.88
April	12	5		1	3	3	7.08
Summary Reversal	5	3		1	1		8

Number of Opinions Per Case
2
3.67
2.44
1.9
3.17
2.29
2.25
2.33

Cases Affirmed by an Equally Divided Court	
Term	Total
OT05	0
OT06	0
OT07	2
OT08	0
OT09	0
OT10	2
OT11	0
OT12	0
OT13	0
OT14	0
OT15	4
OT16	0
OT17	1
OT18	0
Average (OT05-OT17)	0.7

Term Recusals	
Justice	Total
Kavanaugh	8

Solo Dissents		
Justice	Total (OT18)	Average* (OT05-OT17)
Breyer	2	.28
Thomas	2	2.1
Gorsuch	1	.5
Alito	-	.62
Sotomayor	-	.89
Kagan	-	0
Roberts	-	0
Kavanaugh	-	0

* Averages consider only the terms during which a justice served on the court. Chief Justice Roberts and Justice Kagan have never filed a lone dissenting vote.

Unanimity

To take a closer look at unanimity at the court, we created three distinct measures of unanimity. The measures of unanimity are defined as follows:

- Measure #1:** When all justices simply voted for the same judgment – i.e., whether to affirm or reverse the judgment below. This is the broadest measure of unanimity because it allows for justices to write separate opinions – and sometimes even conflicting ones – as long as each justice voted to affirm or reverse the decision below.
- Measure #2:** When all justices joined some part of the same majority opinion, but one or more justices (1) wrote separately to state an individual position or (2) did not join the majority opinion in full.
- Measure #3:** When all justices joined a single majority opinion in full, without any justices writing separate concurring opinions. This is the narrowest measure of unanimity because it requires that the justices agree in full and without any written reservations or additions.

	Measure #3	All Justices in Total Agreement	19	26.64%
	Measure #2	All Justices Join the Majority Opinion	24	33.33%
	Measure #1	All Justices Vote For the Same Judgment	28	38.89%
Divided		Justices Disagree On Whether To Affirm, Reverse, Or Vacate The Decision Below	44	61.11%

* Note that Measure #2 incorporates the cases captured in Measure #1, just as Measure #3 captures those cases included in Measures #1 and #2. For more information on our measures of unanimity, see Kedar S. Bhatia, A Few Notes On Unanimity, SCOTUSBlog (July 10, 2014 10:40 AM), <<http://www.scotusblog.com/2014/07/a-few-notes-on-unanimity/>>.

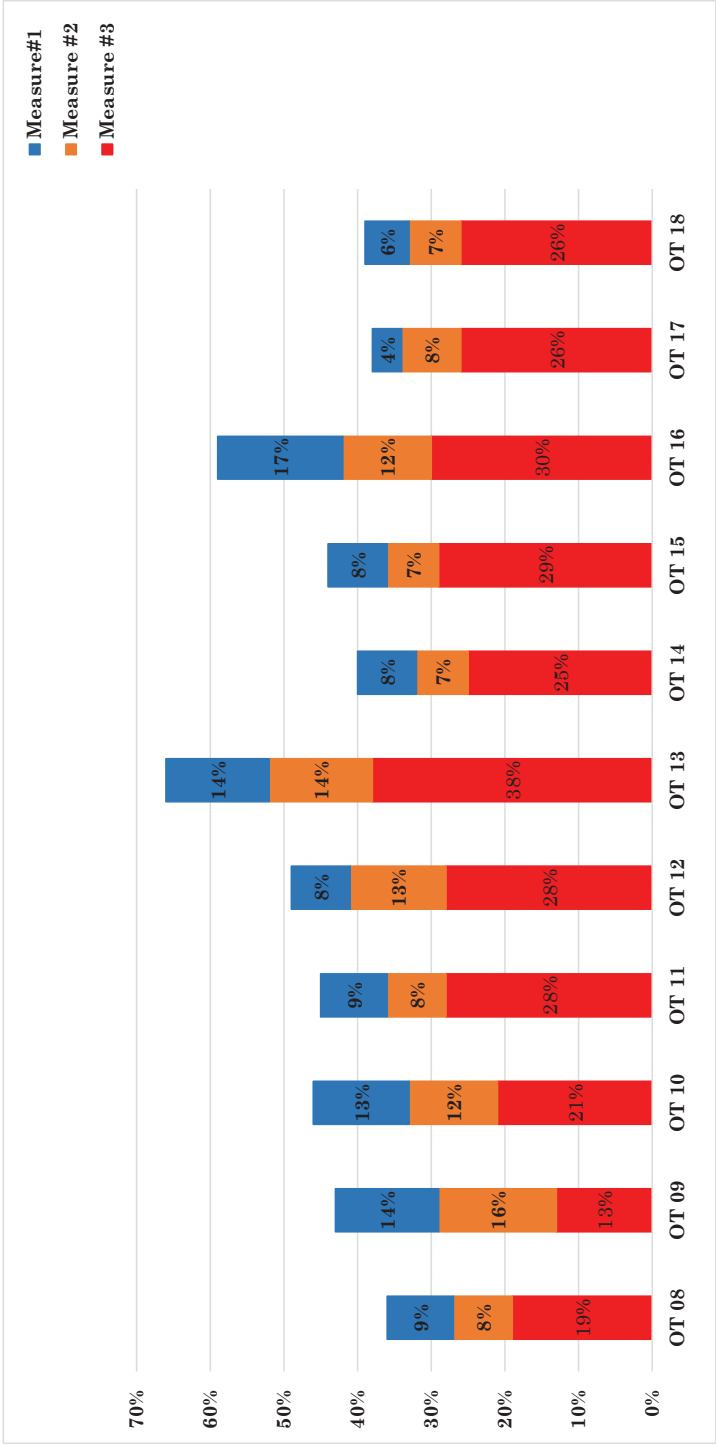
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Frequency in the Majority

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	72	61	85%	93%	92%	80%	92%	86%	92%	
Thomas	72	52	72%	82%	72%	61%	88%	79%	86%	
Ginsburg	72	55	76%	85%	88%	86%	85%	79%	70%	
Breyer	72	56	78%	90%	94%	92%	88%	83%	76%	
Alito	72	57	79%	86%	84%	72%	88%	79%	83%	
Sotomayor	72	55	76%	90%	83%	89%	82%	79%	80%	
Kagan	72	60	83%	93%	95%	85%	92%	81%	82%	
Gorsuch	72	52	72%	82%	-	-	-	-	-	
Kavanaugh	64	56	88%	-	-	-	-	-	-	

Divided Cases										
Justice	Votes	Frequency in Majority	OT17	OT16	OT15	OT14	OT13	OT12	OT11	
Roberts	44	33	75%	83%	84%	66%	76%	73%	86%	
Thomas	44	24	55%	57%	49%	34%	64%	60%	74%	
Ginsburg	44	27	61%	63%	78%	77%	56%	60%	45%	
Breyer	44	28	64%	77%	89%	86%	64%	67%	57%	
Alito	44	29	66%	67%	70%	52%	63%	59%	69%	
Sotomayor	44	27	61%	76%	68%	82%	46%	59%	64%	
Kagan	44	32	73%	83%	91%	75%	75%	63%	67%	
Gorsuch	44	24	55%	63%	-	-	-	-	-	
Kavanaugh	39	31	79%	-	-	-	-	-	-	

5-4 Cases

Alignment of the Majority			
Majority		21	Cases
Roberts, Thomas, Alito, Gorsuch, Kavanaugh		7	<i>Preap, Bucklew, Lamps Plus, Hyatt, Manhattan, Knick, Rucho</i>
Ginsburg, Breyer, Sotomayor, Kagan, Gorsuch		4	<i>Cougar Den, Herrera, Davis, Haymond</i>
Roberts, Ginsburg, Breyer, Sotomayor, Kagan		3	<i>Madison, Kisor, Commerce</i>
Roberts, Thomas, Ginsburg, Alito, Kavanaugh		1	<i>Mont</i>
Roberts, Thomas, Breyer, Alito, Kavanaugh		1	<i>Mitchell</i>
Thomas, Ginsburg, Breyer, Sotomayor, Kagan		1	<i>Home Depot</i>
Thomas, Ginsburg, Sotomayor, Kagan, Gorsuch		1	<i>Bethune</i>
Thomas, Breyer, Alito, Gorsuch, Kavanaugh		1	<i>Stokeling</i>
Ginsburg, Breyer, Alito, Sotomayor, Kagan		1	<i>Gundy</i>
Ginsburg, Breyer, Sotomayor, Kagan, Kavanaugh		1	<i>Apple</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
OT05	11	12%	73%	53%	45%	7
OT06	24	33%	79%	68%	54%	6
OT07	12	17%	67%	50%	33%	6
OT08	23	29%	70%	69%	48%	7
OT09	16	19%	69%	73%	50%	7
OT10	16	20%	88%	71%	63%	4
OT11	15	20%	67%	50%	33%	7
OT12	23	29%	70%	63%	43%	7
OT13	10	14%	60%	67%	40%	7
OT14	19	26%	68%	38%	26%	7
OT15	4	5%	100%	25%	25%	2
OT16	7	10%	86%	33%	29%	3
OT17	19	26%	74%	100%	74%	5
OT18	21	29%	81%	41%	33%	10
Average	16	21%	75%	57%	43%	6

* For the purposes of this chart, a “Conservative Victory” occurs whenever the majority consists of Chief Justice Roberts and Justices Thomas, Alito, Gorsuch and Kavanaugh. A “Liberal Victory” occurs whenever the majority consists of Justices Ginsburg, Breyer, Sotomayor, Kagan and one conservative. An ideological split occurs with either of these two types of victories.

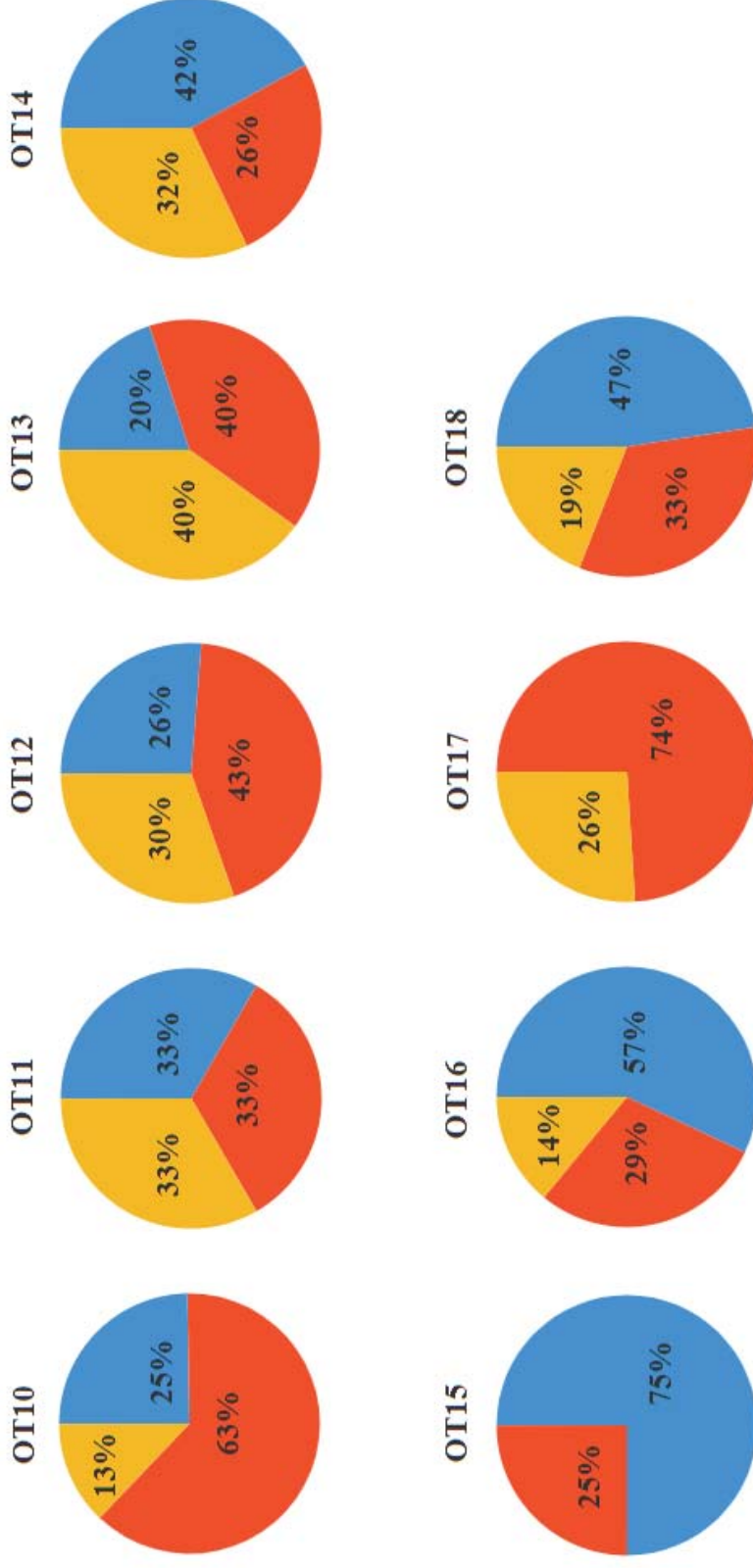
5-4 Cases

Membership in a 5-4 Majority											
Justice	Cases Decided	Frequency in Majority	OT17	OT16	OT15	OT14	OT13	OT12	OT11	OT10	
Gorsuch	21	13	84%	67%	-	-	-	-	-	-	-
Kavanaugh	19	11	-	-	-	-	-	-	-	-	-
Roberts	21	12	89%	29%	25%	53%	70%	61%	67%	63%	
Thomas	21	12	79%	43%	25%	37%	50%	65%	67%	75%	
Ginsburg	21	12	26%	71%	75%	63%	40%	43%	33%	38%	
Breyer	21	12	21%	71%	75%	74%	50%	48%	47%	31%	
Alito	21	11	79%	29%	25%	47%	60%	57%	60%	63%	
Sotomayor	21	11	21%	71%	75%	68%	30%	39%	47%	38%	
Kagan	21	11	17%	71%	50%	53%	50%	43%	40%	38%	

5-4 Majority Opinion Authorship *											
Justice	Cases Decided	Frequency in the Majority	Opinions Authored	Frequency as Author	OT17	OT16	OT15	OT14	OT13	OT12	OT10
Roberts	21	12	4	33%	12%	0%	0%	20%	14%	14%	30%
Thomas	21	12	4	33%	20%	33%	0%	0%	20%	13%	33%
Kagan	21	11	3	27%	33%	20%	0%	10%	60%	10%	0%
Gorsuch	21	13	3	23%	31%	0%	-	-	-	-	-
Alito	21	11	2	18%	27%	0%	100%	33%	33%	46%	0%
Kavanaugh	19	11	2	18%	-	-	-	-	-	-	-
Sotomayor	21	11	1	9%	0%	0%	0%	15%	0%	22%	17%
Ginsburg	21	12	1	8%	20%	20%	0%	25%	0%	10%	33%
Breyer	21	12	1	8%	25%	20%	33%	21%	0%	18%	20%

* These percentages consider how often a justice writes the majority opinion when that justice is in the majority.

5-4 Cases



*For OT10 through OT17, a victorious conservative majority (in red) includes Kennedy, Roberts, Scalia/Gorsuch, Thomas and Alito. A victorious liberal majority (in blue) includes Kennedy, Ginsburg, Breyer, Sotomayor and Kagan. Different majorities are marked in yellow.

**For OT 18, a victorious conservative majority (in red) includes Roberts, Thomas, Alito, Gorsuch and Kavanaugh. A victorious liberal majority (in blue) includes Ginsburg, Breyer, Sotomayor, Kagan and one other justice. Different majorities are marked in yellow.

Majority Opinion Distribution

For each case decided with a merits opinion, the author of the majority opinion is selected by the most senior justice who votes with the majority. For example, in *Herrera v. Wyoming*, a 5-4 decision in which Justices Ginsburg, Breyer, Sotomayor, Kagan and Gorsuch voted in the majority, Justice Ginsburg (the most senior justice in the majority) assigned authorship duties to Justice Sotomayor (the author of the majority opinion). The tables below demonstrate how the five most senior justices on the court assigned majority opinions during OT18 when they had the chance. For unanimous cases we have showed only statistics for Chief Justice Roberts because he is always the most senior justice in the majority for unanimous opinions.

Unanimous Cases									
	Roberts	Thomas	Ginsburg	Breyer	Alito	Sotomayor	Kagan	Gorsuch	Kavanaugh
Roberts (24)	1	4	4	5	0	3	2	2	3

5-4 Cases									
	Roberts	Thomas	Ginsburg	Breyer	Alito	Sotomayor	Kagan	Gorsuch	Kavanaugh
Roberts (12)	4	2	0	0	2		2	1	1
	Thomas (3)	2	1	0	0	0	0	0	0
		Ginsburg (6)		0	1	0	1	1	2
				Breyer (0)	0	0	0	0	0
				Alito (0)	0	0	0	0	0

Justice Agreement – All Cases

Roberts	Thomas		Ginsburg		Breyer		Alito		Sotomayor		Kagan		Gorsuch		Kavanaugh		Total	
	37	51%	39	54%	44	61%	58	81%	38	53%	45	63%	42	58%	50	78%		
	48	67%	45	63%	49	68%	61	85%	45	63%	50	69%	44	61%	57	89%		
	54	75%	46	64%	51	71%	63	88%	48	67%	51	71%	48	67%	59	92%		
	18	25%	26	36%	21	29%	9	13%	24	33%	21	29%	24	33%	5	8%		
Thomas	28	39%	27	38%	27	38%	42	58%	25	35%	33	46%	47	65%	37	58%	72	
	32	44%	32	44%	32	44%	56	78%	31	43%	38	53%	57	79%	46	72%		
	36	50%	37	51%	37	51%	61	85%	36	50%	43	60%	58	81%	51	80%		
	36	50%	35	49%	35	49%	11	15%	36	50%	29	40%	14	19%	13	20%		
	53	74%	53	74%	53	74%	32	44%	58	81%	59	82%	34	47%	35	55%		
Ginsburg	57	79%	57	79%	57	79%	37	51%	63	88%	62	86%	38	53%	36	56%	72	
	59	82%	59	82%	59	82%	41	57%	67	93%	63	88%	45	63%	40	63%		
	13	18%					31	43%	5	7%	9	12%	27	37%	24	37%		
	39	54%					39	54%	53	74%	58	81%	32	44%	41	64%		
	42	58%					42	58%	59	82%	61	85%	34	47%	42	66%		
Breyer	46	64%					46	64%	61	85%	62	86%	39	54%	45	70%	72	
	26	36%					26	36%	11	15%	10	14%	33	46%	19	30%		
	31	43%					31	43%	31	43%	38	53%	44	61%	49	77%		
	36	50%					36	50%	36	50%	42	58%	51	71%	58	91%		
	41	57%					41	57%	41	57%	46	64%	53	74%	58	91%		
Alito	31	43%					31	43%	31	43%	26	36%	19	26%	6	9%	72	
	57	79%					57	79%	57	79%	57	79%	32	44%	32	50%		
	62	86%					62	86%	62	86%	62	86%	37	51%	35	55%		
	63	88%					63	88%	63	88%	63	88%	45	63%	41	64%		
	9	12%					9	12%	9	12%	9	12%	27	37%	23	36%		
Key																		72
	Sotomayor																	
	Kagan																	
	Gorsuch																	
Fully Agree																		72
	Kagan																	
	Gorsuch																	
	Gorsuch																	
	Gorsuch																	
Agree in Full or Part																		72
	Kagan																	
	Gorsuch																	
	Gorsuch																	
	Gorsuch																	
Agree in Full, Part, or Judgment Only																		72
	Kagan																	
	Gorsuch																	
	Gorsuch																	
	Gorsuch																	
Disagree in Judgment																		72
	Kagan																	
	Gorsuch																	
	Gorsuch																	
	Gorsuch																	
Kavanaugh																		64
	Kagan																	
	Gorsuch																	
	Gorsuch																	
	Gorsuch																	

Key

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

Justice Agreement – Divided Cases

Thomas		Ginsburg	Breyer	Alito	Sotomayor	Kagan	Gorsuch	Kavanaugh	Total									
Roberts	15	34%	16	36%	19	43%	32	73%	16	36%	20	45%	18	41%	28	72%	44	
	24	55%	18	41%	22	50%	35	80%	19	43%	23	52%	19	43%	34	87%		
	26	59%	18	41%	23	52%	35	80%	20	45%	23	52%	20	45%	34	87%		
	18	41%	26	59%	21	48%	9	20%	24	55%	21	48%	24	55%	5	13%		
Thomas		7	16%	4	9%	20	45%	5	11%	10	23%	24	55%	17	44%	44		
		7	16%	7	16%	31	70%	7	16%	13	30%	30	68%	24	62%			
		8	18%	9	20%	33	75%	8	18%	15	34%	30	68%	26	67%			
		36	82%	35	80%	11	25%	36	82%	29	66%	14	32%	13	33%			
Ginsburg		27	61%	27	61%	10	23%	33	75%	33	75%	12	27%	14	36%	44		
		29	66%	29	66%	12	27%	36	82%	34	77%	12	27%	14	36%			
		31	70%	31	70%	13	30%	39	89%	35	80%	17	39%	15	38%			
		13	30%	13	30%	31	70%	5	11%	9	20%	27	61%	24	62%			
Breyer		15	34%	28	64%	30	68%	8	18%	19	49%	44						
		17	39%	32	73%	33	75%	8	18%	20	51%							
		18	41%	33	75%	34	77%	11	25%	20	51%							
		26	59%	11	25%	10	23%	33	75%	19	49%							
Alito		10	23%	14	32%	20	45%	26	67%	44								
		12	27%	17	39%	24	55%	33	85%									
		13	30%	18	41%	25	57%	33	85%									
		31	70%	26	59%	19	43%	6	15%									
Key		Sotomayor															44	
Fully Agree		35 80%																16 41%
Agree in Full or Part		32 73%																13 33%
Agree in Full, Part, or Judgment Only		35 80%																14 36%
Disagree in Judgment		9 20%															23 59%	44
		Kagan															17 44%	
		15 34%															19 49%	
		15 34%															20 51%	
		19 43%															19 49%	44
		25 57%															16 41%	
		Gorsuch															19 49%	
		20 51%															19 49%	
		19 49%															20 51%	39
		20 51%															19 49%	
		20 51%															19 49%	
		19 49%															19 49%	

Justice Agreement – 5-4 Cases

Roberts	Thomas	Ginsburg	Breyer	Alito	Sotomayor	Kagan	Gorsuch	Kavanaugh	Total
	8 40%	3 15%	3 15%	14 70%	2 10%	2 10%	9 45%	11 61%	20
	14 70%	4 20%	4 20%	16 80%	3 15%	3 15%	10 50%	15 83%	
	15 75%	4 20%	4 20%	16 80%	3 15%	3 15%	10 50%	15 83%	
	5 25%	16 80%	16 80%	4 20%	17 85%	17 85%	10 50%	3 17%	
Thomas	3 15%	3 15%	2 10%	10 50%	2 10%	2 10%	10 50%	10 56%	20
	3 15%	3 15%	2 10%	16 80%	2 10%	2 10%	13 65%	14 78%	
	3 15%	3 15%	3 15%	17 85%	2 10%	2 10%	13 65%	15 83%	
	17 85%	17 85%	17 85%	3 15%	18 90%	18 90%	7 35%	3 17%	
Ginsburg	12 60%	4 20%	12 60%	1 5%	16 80%	17 85%	5 25%	2 11%	20
	14 70%		14 70%	1 5%	18 90%	18 90%	5 25%	2 11%	
	16 80%		16 80%	2 10%	18 90%	19 95%	7 35%	2 11%	
	4 20%		4 20%	18 90%	2 10%	1 5%	13 65%	16 89%	
Breyer	3 15%	3 15%	3 15%	3 15%	14 70%	14 70%	4 20%	4 22%	20
	3 15%		3 15%	3 15%	16 80%	16 80%	4 20%	4 22%	
	4 20%		4 20%	4 20%	17 85%	17 85%	6 30%	4 22%	
	16 80%		16 80%	16 80%	3 15%	3 15%	14 70%	14 78%	
Alito	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	10 50%	13 72%	20
	0 0%		0 0%	0 0%	0 0%	0 0%	12 60%	17 94%	
	1 5%		1 5%	1 5%	1 5%	1 5%	12 60%	17 94%	
	19 95%		19 95%	19 95%	19 95%	19 95%	8 40%	1 6%	
Sotomayor	18 90%	18 90%	18 90%	18 90%	18 90%	18 90%	5 25%	1 6%	20
	20 100%		20 100%	20 100%	20 100%	20 100%	5 25%	1 6%	
	20 100%		20 100%	20 100%	20 100%	20 100%	7 35%	1 6%	
	0 0%		0 0%	0 0%	0 0%	0 0%	13 65%	17 94%	
Kagan	5 25%	5 25%	5 25%	5 25%	5 25%	5 25%	5 25%	1 6%	20
	5 25%		5 25%	5 25%	5 25%	5 25%	5 25%	1 6%	
	7 35%		7 35%	7 35%	7 35%	7 35%	7 35%	1 6%	
	13 65%		13 65%	13 65%	13 65%	13 65%	13 65%	17 94%	
Gorsuch	7 39%	10 56%	7 39%	10 56%	10 56%	10 56%	10 56%	10 56%	20
	10 56%		10 56%	10 56%	10 56%	10 56%	10 56%	10 56%	
	10 56%		10 56%	10 56%	10 56%	10 56%	10 56%	10 56%	
	8 44%		8 44%	8 44%	8 44%	8 44%	8 44%	8 44%	
Kavanaugh	18	18	18	18	18	18	18	18	18
	18		18	18	18	18	18	18	
	18		18	18	18	18	18	18	
	18		18	18	18	18	18	18	

Key

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

Justice Agreement – Highs and Lows

	Highest Agreement			Lowest Agreement		
All Cases	1	Ginsburg - Sotomayor	93.1%	1	Thomas - Ginsburg	50.0%
	2	Roberts - Kavanaugh	92.2%	2	Thomas - Sotomayor	50.0%
	3	Alito - Kavanaugh	90.6%	3	Thomas - Breyer	51.4%
	4	Roberts - Alito	87.5%	4	Breyer - Gorsuch	54.2%
	5	Ginsburg - Kagan	87.5%	5	Ginsburg - Alito	56.9%
	6	Sotomayor - Kagan	87.5%	6	Alito - Sotomayor	56.9%
	7	Breyer - Kagan	86.1%	7	Thomas - Kagan	59.7%
	8	Thomas - Alito	84.7%	8	Ginsburg - Gorsuch	62.5%
	9	Breyer - Sotomayor	84.7%	9	Ginsburg - Kavanaugh	62.5%
	10	Ginsburg - Breyer	81.9%	10	Sotomayor - Gorsuch	62.5%

Divided Cases	1	Ginsburg - Sotomayor	88.6%	1	Thomas - Ginsburg	18.2%
	2	Roberts - Kavanaugh	87.2%	2	Thomas - Sotomayor	18.2%
	3	Alito - Kavanaugh	84.6%	3	Thomas - Breyer	20.5%
	4	Roberts - Alito	79.5%	4	Breyer - Gorsuch	25.0%
	5	Ginsburg - Kagan	79.5%	5	Ginsburg - Alito	29.5%
	6	Sotomayor - Kagan	79.5%	6	Alito - Sotomayor	29.5%
	7	Breyer - Kagan	77.3%	7	Thomas - Kagan	34.1%
	8	Thomas - Alito	75.0%	8	Ginsburg - Kavanaugh	38.5%
	9	Breyer - Sotomayor	75.0%	9	Sotomayor - Gorsuch	38.6%
	10	Ginsburg - Breyer	70.5%	10	Ginsburg - Gorsuch	38.6%

5-4 Cases	1	Sotomayor - Kagan	100.0%	1	Alito - Sotomayor	5.0%
	2	Ginsburg - Kagan	95.0%	2	Alito - Kagan	5.0%
	3	Alito - Kavanaugh	94.4%	3	Sotomayor - Kavanaugh	5.6%
	4	Ginsburg - Sotomayor	90.0%	4	Kagan - Kavanaugh	5.6%
	5	Thomas - Alito	85.0%	5	Thomas - Sotomayor	10.0%
	6	Breyer - Sotomayor	85.0%	6	Thomas - Kagan	10.0%
	7	Breyer - Kagan	85.0%	7	Ginsburg - Alito	10.0%
	8	Thomas - Kavanaugh	83.3%	8	Ginsburg - Kavanaugh	11.1%
	9	Roberts - Kavanaugh	83.3%	9	Roberts - Sotomayor	15.0%
	10	Ginsburg - Breyer	80.0%	10	Roberts - Kagan	15.0%

Time Between Oral Argument and Opinion

Argued	Avg.	Total	Remain
October	121d	9	-
November	133d	12	-
December	120d	9	-
January	110d	11	-
February	107d	6	-
March	84d	8	-
April	59d	12	-
Overall	105d	67	0

Average	105d
Median	97d

Shortest	<i>Mt. Lemmon</i>	36d
Longest	<i>Gundy</i>	261d

Averages	
OT05	79d
OT06	96d
OT07	94d
OT08	94d
OT09	109d
OT10	106d
OT11	97d
OT12	95d
OT13	94d
OT14	95d
OT15	95d
OT16	92d
OT17	109d

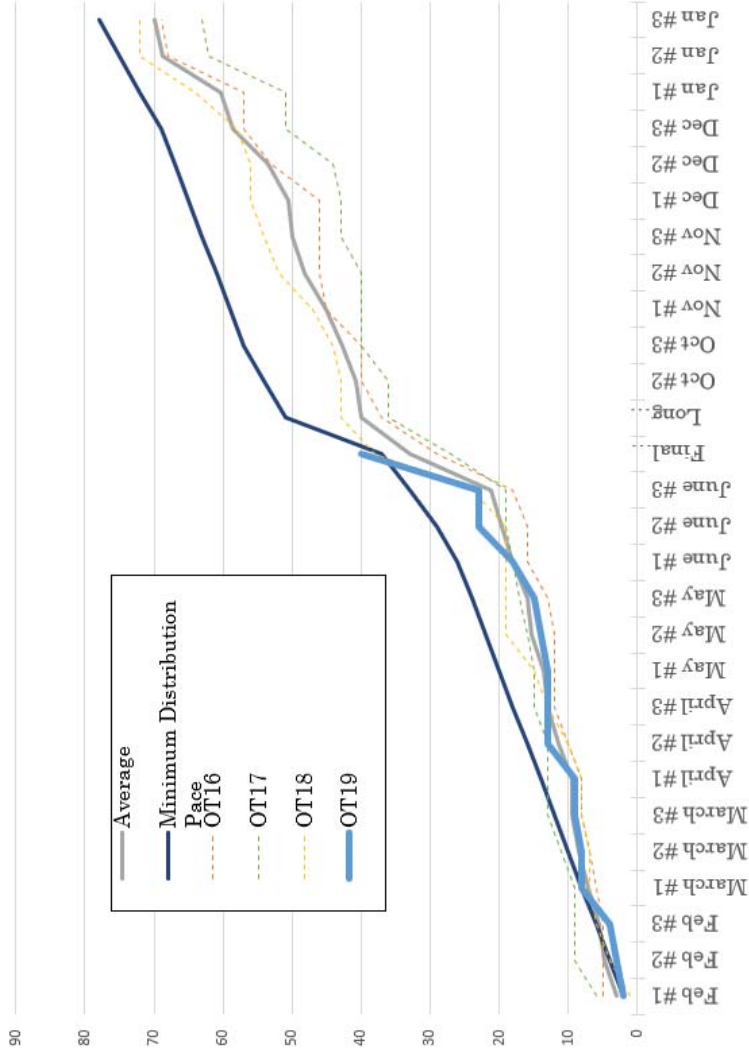
	Rank	Case	Days	Author	Vote	Argued	Decided
Shortest	1	<i>Mt. Lemmon</i>	36d	Ginsburg	8-0	October 1, 2018	November 6, 2018
	2	<i>Taggart</i>	40d	Breyer	9-0	April 24, 2019	June 3, 2019
	3	<i>Fort Bend</i>	42d	Ginsburg	9-0	April 22, 2019	June 3, 2019
	4	<i>Quarles</i>	47d	Kavanaugh	9-0	April 24, 2019	June 10, 2019
	5	<i>Rimini Street</i>	49d	Kavanaugh	9-0	January 14, 2019	March 4, 2019
	6	<i>Helsinn</i>	52d	Thomas	9-0	December 4, 2018	January 25, 2019
	7	<i>Fourth Est.</i>	55d	Ginsburg	9-0	January 8, 2019	March 4, 2019
	8	<i>Cochise</i>	55d	Thomas	9-0	March 19, 2019	May 13, 2019
	9	<i>Parker</i>	55d	Thomas	9-0	April 16, 2019	June 10, 2019
	10	<i>Weyerhaeuser</i>	57d	Roberts	8-0	October 1, 2018	November 27, 2018

	Rank	Case	Days	Author	Vote	Argued	Decided
Longest	1	<i>Gundy</i>	261d	Kagan	5-3	October 2, 2018	June 20, 2019
	2	<i>Va. Uranium</i>	224d	Gorsuch	6-3	November 5, 2018	June 17, 2019
	3	<i>Gamble</i>	194d	Alito	7-2	December 5, 2018	June 17, 2019
	4	<i>Nieves</i>	183d	Roberts	6-3	November 26, 2018	May 28, 2019
	5	<i>Lamps Plus</i>	177d	Roberts	5-4	October 29, 2018	April 24, 2019
	6	<i>Apple</i>	168d	Kavanaugh	5-4	November 26, 2018	May 13, 2019
	7	<i>Tenn. Wine</i>	161d	Alito	7-2	January 16, 2019	June 26, 2019
	8	<i>Preap</i>	160d	Alito	5-4	October 10, 2018	March 19, 2019
	9	<i>Air & Liquid</i>	160d	Kavanaugh	6-3	October 10, 2018	March 19, 2019
	10	<i>Knick</i>	156d	Roberts	5-4	January 16, 2019	June 21, 2019

	0-30 days	30-59	60-89	90-119	120-149	150-179	180-209	210-239	More than 240
OT15	1	17	16	19	5	3	6	0	0
OT16	0	16	21	11	6	5	2	1	0
OT17	1	8	18	12	10	5	4	1	1
OT18	0	11	16	17	13	6	2	1	1

Pace of Grants

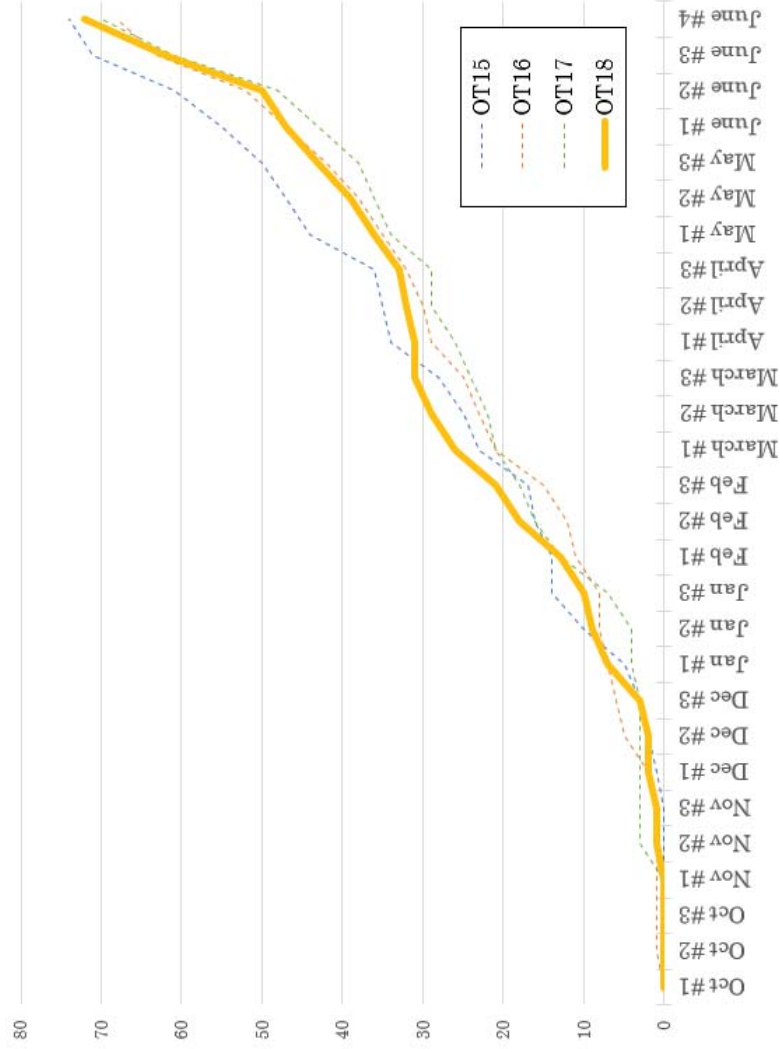
The following chart plots the pace at which the court fills its merits docket for a given term. Each date marker represents the conference within a given sitting. For instance, Feb #3 is the third February conference, which, during OT18, took place on March 1, 2019. Categorizing grants by their conference 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.



Grants Per Conference

October Term																				
	'06	'07	'08	'09	'10	'11	'12	'13	'14	'15	'16	'17	'18	'19	Average (OT 06-OT18)	Range (OT06-OT18)	Calendar Weeks Covered	Grants Per Weeks Covered (OT06-OT18)		
Feb #1	4	2	8	9	3	7	6	4	0	1	5	6	1	2	4.3	0-9	4	1.1		
Feb #2	0	3	3	1	1	0	0	2	5	2	0	3	3	1	1.8	6.9	1	1.8		
Feb #3	1	0	0	1	3	1	0	1	1	1	0	0	2	1	0.8	0-3	1	0.8		
March #1	0	0	8	0	4	2	2	3	1	2	1	0	1	4	1.8	0-8	2	0.9		
March #2	1	2	2	1	0	1	1	2	1	3	1	2	0	0	1.3	4.2	1	1.3		
March #3	1	0	2	1	0	2	2	1	1	0	1	2	1	1	1.1	0-2	1	1.1		
April #1	3	0	2	3	4	1	1	2	3	0	0	0	0	0	1.5	0-4	2	0.7		
April #2	0	1	2	3	2	0	0	1	2	2	2	0	2	4	1.3	4.3	1	1.3		
April #3	1	1	0	4	0	2	1	1	2	1	2	2	3	0	1.5	0-4	1	1.5		
May #1	4	0	1	4	1	1	0	1	1	1	0	0	2	0	1.2	0-4	2	0.6		
May #2	0	3	0	1	5	1	1	5	1	3	0	1	4	1	1.9	4.2	1	1.9		
May #3	1	4	0	1	1	1	1	2	1	0	1	1	0	1	1.1	0-4	1	1.1		
June #1	4	1	0	2	0	2	1	2	0	3	3	1	0	3	1.5	0-4	1	1.5		
June #2	1	3	3	4	4	4	2	1	2	2	0	1	0	5	2.1	15.9	1	2.5		
June #3	2	1	3	3	3	4	1	4	3	1	2	0	5	0	2.5	0-5	1	2.6		
June #4	5	5	9	7	7	13	10	12	13	9	11	8	14	17	9.9	5-14	1	8.7		
Oct #1	9	17	10	11	13	7	9	8	12	13	8	9	5		10.1	5-17	13	0.8		
Oct #2	2	0	1	5	7	2	7	2	0	0	3	0	0		2.2	14.2	2	1.5		
Oct #3	1	2	1	2	1	4	1	2	3	3	0	4	1		1.9	0-4	1	2.2		
Nov #1	4	2	2	3	5	1	4	1	0	1	5	0	3		2.4	0-5	2	1.4		
Nov #2	2	1	1	0	0	5	1	0	4	7	1	0	5		2.1	0-7	1	1.8		
Nov #3	0	1	5	1	2	3	4	2	2	2	0	3	2		2.1	0-5	1	2.1		
Dec #1	0	3	2	3	3	4	3	4	2	0	0	0	2		2.0	0-4	1	2.1		
Dec #2	3	3	2	2	2	1	2	1	3	4	7	1	0		2.4	1-7	2	1.2		
Dec #3	5	6	2	3	3	5	5	2	3	7	4	7	2		4.2	2-7	1	3.8		
Jan #1	7	6	4	1	5	1	3	8	0	1	0	0	6		3.2	0-8	4	0.8		
Jan #2	4	4	6	5	0	0	6	3	6	4	11	11	8		5.2	0-11	1	4.3		
Jan #3	7	2	0	0	0	1	2	0	1	3	1	1	0		1.4	0-7	1	1.5		
Total	72	73	79	81	79	76	76	77	73	76	69	63	72	40	74.3	63-81	52	1.4		

Opinions Per Week

October Term																Average (OT 06-OT17)	Range (OT06-OT17)
	'06	'07	'08	'09	'10	'11	'12	'13	'14	'15	'16	'17	'18				
Oct #1	0	0	0	0	0	0	0	0	0	0	0	0	0	0.0	0-0		
Oct #2	0	0	1	0	0	0	0	0	0	0	1	0	0	0.2	0-1		
Oct #3	1	0	0	1	0	0	0	0	0	0	0	0	0	0.2	0-1		
Nov #1	0	0	0	0	0	1	0	2	0	0	0	0	0	0.3	0-2		
Nov #2	0	1	1	1	1	3	1	0	2	0	0	3	1	1.1	0-3		
Nov #3	1	0	0	1	1	0	1	0	1	0	0	0	0	0.4	0-1		
Dec #1	0	0	1	1	1	0	1	3	0	1	1	0	1	0.8	0-3		
Dec #2	1	2	0	5	0	0	1	2	2	1	3	0	0	1.4	0-5		
Dec #3	2	3	1	0	1	2	1	1	2	1	1	0	1	1.3	0-3		
Jan #1	4	3	4	4	2	7	4	3	4	2	1	1	4	3.3	1-7		
Jan #2	1	3	5	5	3	4	1	1	6	5	1	0	2	2.9	1-6		
Jan #3	3	1	6	1	4	4	1	3	1	4	0	3	1	2.6	0-6		
Feb #1	5	5	5	5	4	7	9	6	3	0	3	6	3	4.8	0-9		
Feb #2	1	2	3	3	6	1	4	5	2	2	1	3	5	2.8	1-6		
Feb #3	2	1	4	2	3	1	1	1	2	1	3	2	3	1.9	1-4		
March #1	1	2	2	1	3	7	4	3	4	6	6	3	5	3.5	1-7		
March #2	2	2	5	5	2	5	3	2	3	2	2	1	3	2.8	1-5		
March #3	2	1	2	0	2	2	1	0	0	3	2	2	2	1.4	0-3		
April #1	5	5	4	4	2	4	4	4	3	6	4	2	0	3.9	2-6		
April #2	3	1	4	3	2	2	1	3	2	1	1	3	1	2.2	1-4		
April #3	5	1	4	2	2	0	1	3	1	1	2	0	1	1.8	0-5		
May #1	1	1	2	3	3	1	3	1	6	8	3	5	3	3.1	1-8		
May #2	5	4	3	6	6	5	4	5	3	3	3	2	3	4.1	2-6		
May #3	1	3	2	5	2	2	2	3	5	3	4	2	4	2.8	1-5		
June #1	4	3	5	4	8	2	3	5	1	5	5	5	4	4.2	1-8		
June #2	8	9	6	9	9	2	7	6	9	6	5	5	3	6.8	2-9		
June #3	6	7	7	10	10	8	8	8	8	10	11	13	12	8.8	6-13		
June #4	8	10	2	5	5	5	12	3	3	3	5	9	10	5.8	2-12		
Total	72	70	79	86	82	75	78	73	73	74	68	70	72	75	75	68-86	

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. 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	23.9
Breyer	18.8
Kavanaugh	15.5
Kagan	15.2
Gorsuch	14.6
Roberts	13.6
Alito	13.4
Ginsburg	8.3
Thomas	0.0

Frequency as the Top Questioner or as a Top 3 Questioner			
	Freq. Top 1	Freq. Top 3	
Sotomayor	46%	78%	
Breyer	17%	54%	
Gorsuch	14%	42%	
Kavanaugh	13%	35%	
Roberts	6%	29%	
Kagan	6%	39%	
Ginsburg	5%	10%	
Alito	6%	35%	
Thomas	0%	0%	

Cases With Most Total Justice Questions	
	Questions
<i>Rucho</i>	275
<i>Commerce</i>	219
<i>Am. Legion</i>	212
<i>PDR Network</i>	199
<i>Kaestner Tr.</i>	174
<i>Rehaif</i>	166
<i>Manhattan</i>	163
<i>Cougar Den</i>	161
<i>Davis</i>	153
<i>Murphy</i>	153

Most Active Arguments		
Argument	Number of Questions (% of all questions)	
Roberts	<i>Dawson</i>	33 (23%)
Thomas	<i>Flowers</i>	3 (2%)
Ginsburg	<i>Fort Bend</i>	34 (37%)
Breyer	<i>Halleck</i>	50 (31%)
Alito	<i>Rucho</i>	51 (19%)
Sotomayor	<i>Commerce</i>	58 (26%)
Kagan	<i>Am. Legion</i>	38 (18%)
Gorsuch	<i>Rehaif</i>	43 (26%)
Kavanaugh	<i>Rucho</i>	51 (19%)

Frequency as the First Questioner		
	Frequency	
Ginsburg	24/ 58	41%
Sotomayor	27/ 69	39%
Roberts	9/ 69	13%
Alito	5/ 69	7%
Kagan	2/ 69	3%
Breyer	1/ 69	1%
Gorsuch	1/ 69	1%
Thomas	0/ 69	0%
Kavanaugh	0/ 61	0%

Oral Argument - Advocates

Overview							
	OT12	OT13	OT14	OT15	OT16	OT17	OT18
Number of Different Advocates	120	121	112	117	100	113	124
Number of Total Appearances	193	185	178	186	158	163	182

Appearances by Advocates Who...	OT12	OT13	OT14	OT15	OT16	OT17	OT18
...Are from the Office of the Solicitor General	64 (33%)	61 (33%)	56 (31%)	59 (32%)	48 (30%)	48 (29%)	52 (29%)
...Have experience in the Office of the Solicitor General	Not Available	85 (47%)	78 (46%)	84 (71%)	73 (48%)	71 (65%)	88 (48%)
...Have argued at least twice during the Term	104 (54%)	96 (52%)	104 (58%)	109 (59%)	94 (59%)	77 (47%)	92 (51%)
...Are "expert" Supreme Court litigators*	137 (71%)	131 (71%)	116 (66%)	136 (74%)	115 (74%)	89 (56%)	125 (69%)
...Are based in Washington, D.C.**	125 (65%)	119 (64%)	101 (57%)	122 (66%)	97 (61%)	97 (60%)	109 (61%)
...Are female	33 (17%)	28 (15%)	34 (19%)	32 (18%)	33 (21%)	19 (12%)	31 (17%)
...Are female and not from the Office of the Solicitor General***	17 (13%)	11 (9%)	17 (14%)	13 (10%)	15 (14%)	10 (9%)	21 (12%)

Most Popular Advocate Origins		
State	Total	
Washington, D.C.	109	
California	12	
New York	10	
Texas	8	

Most Popular Supreme Court Clerkships			
Clerkship	Appearances	Advocates	
Antonin Scalia	26	11	
John G. Roberts	15	9	
Stephen Breyer	10	7	
Ruth Bader Ginsburg	7	4	

Most Popular Law Schools			
Law School	Appearances	Advocates	
Harvard	34	24	
Yale	33	18	
Chicago	15	7	
Stanford	9	5	
Michigan	8	5	

* We adopt Richard Lazarus' 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 10 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).

** An advocate's "origin" is simply the state of origin listed for that lawyer on the court's monthly hearing lists. If attorneys from the Office of the Solicitor General are omitted, lawyers based in Washington, D.C., appeared 59 times during OT18.

*** The percentage figures for this category omit all advocates from the Office of the Solicitor General. They demonstrate the percentage of female advocates from positions other than those within the Office of the Solicitor General as a percentage of all men or women arguing from positions other than those within the Office of the Solicitor General.

**** The advocate appearances in *Knick*, argued twice, are counted once.



















































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					
David C. Frederick	5	55	Kellogg, Hansen, Todd, Figel & Frederick PLLC	Texas	Byron White	Assistant to the Solicitor General	Male
Jeffrey B. Wall	5	21	Principal Deputy Solicitor General	Chicago	Clarence Thomas	Assistant to the Solicitor General	Male
Noel J. Francisco	5	11	Solicitor General	Chicago	Antonin Scalia	Solicitor General	Male
Paul D. Clement	4	96	Kirkland & Ellis LLP	Harvard	Antonin Scalia	Solicitor General	Male
Edwin S. Kneidler	4	142	Deputy Solicitor General	Virginia	None	Deputy Solicitor General	Male
Kannon K. Shanmugam	4	27	Williams & Connolly LLP*	Harvard	Antonin Scalia	Assistant to the Solicitor General	Male
Malcolm L. Stewart	4	83	Deputy Solicitor General	Yale	Harry Blackmun	Deputy Solicitor General	Male
Daniel L. Geyser	4	8	Geyser PC	Harvard	None	None	Male
Shay Dvoretzky	3	10	Jones Day LLP	Yale	Antonin Scalia	None	Male
Eric J. Feigin	3	21	Assistant to the Solicitor General	Stanford	Stephen Breyer	Assistant to the Solicitor General	Male
Jeffrey L. Fisher	3	38	Stanford Supreme Court Clinic	Michigan	John Paul Stevens	None	Male
Allon Kedem	3	11	Assistant to the Solicitor General	Yale	Elena Kagan	Assistant to the Solicitor General	Male
Zachary D. Tripp	3	11	Assistant to the Solicitor General	Columbia	Ruth Bader Ginsburg	Assistant to the Solicitor General	Male
Anthony A. Yang	3	29	Assistant to the Solicitor General	Yale	None	Assistant to the Solicitor General	Male
Jonathan C. Bond	3	4	Assistant to the Solicitor General	George Washington	Antonin Scalia	Assistant to the Solicitor General	Male
Lisa S. Blatt	2	37	Arnold & Porter Kaye Scholer LLP*	Texas	None	Assistant to the Solicitor General	Female
Theodore J. Bortrous Jr.	2	4	Gibson, Dunn & Crutcher LLP	San Diego	None	None	Male
Paul W. Hughes	2	5	Mayer Brown LLP*	Yale	None	None	Male
Neal K. Katyal	2	39	Hogan Lovells LLP	Yale	Stephen Breyer	Acting Solicitor General	Male
Rachel P. Kovner	2	13	Assistant to the Solicitor General	Stanford	Antonin Scalia	Assistant to the Solicitor General	Female
Ann O'Connell Adams	2	21	Assistant to the Solicitor General*	George Washington	William Rehnquist	Assistant to the Solicitor General	Female
Carter G. Phillips	2	87	Sidley Austin LLP	Northwestern	Warren Burger	Assistant to the Solicitor General	Male
Andrew J. Pincus	2	29	Mayer Brown LLP	Columbia	None	Assistant to the Solicitor General	Male
Seth P. Waxman	2	82	WilmerHale LLP	Yale	None	Solicitor General	Male
Michael B. Kimberly	2	5	Mayer Brown LLP*	Yale	None	None	Male
Christopher G. Michel	2	3	Assistant to the Solicitor General	Yale	John G. Roberts	Assistant to the Solicitor General	Male
Erica L. Ross	2	3	Assistant to the Solicitor General	Stanford	Elena Kagan	Assistant to the Solicitor General	Female
Jonathan Ellis	2	3	Assistant to the Solicitor General	Pennsylvania	John G. Roberts	Assistant to the Solicitor General	Male
Michael R. Huston	2	3	Assistant to the Solicitor General	Michigan	John G. Roberts	Assistant to the Solicitor General	Male
Morgan Ratner	2	3	Assistant to the Solicitor General	Harvard	John G. Roberts	Assistant to the Solicitor General	Female
Toby J. Heytens	2	9	Solicitor General of Virginia	Virginia	Ruth Bader Ginsburg	Assistant to the Solicitor General	Male
Total: 30							

*Since their last oral arguments so far this term, these attorneys have moved to new positions.






































































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	Roberts	Kavanaugh	Gorsuch	Alito	Thomas
<i>Mount Lemmon Fire District v. Guido</i>	November 6, 2018	8-0	Ginsburg									
<i>Weyerhaeuser v. U.S. Fish and Wildlife Service</i>	November 27, 2018	8-0	Roberts									
<i>United States v. Stitt</i>	December 10, 2018	9-0	Breyer									
<i>Escondido v. Emmons</i>	January 7, 2019	9-0	Per Curiam									
<i>Shoop v. Hill</i>	January 7, 2019	9-0	Per Curiam									
<i>Culbertson v. Berryhill</i>	January 8, 2019	9-0	Thomas									
<i>Henry Schein v. Archer and White Sales</i>	January 8, 2019	9-0	Kavanaugh									
<i>Stokeling v. United States</i>	January 15, 2019	5-4	Thomas									

Voting Alignment – All Cases

(continued)

Case Name	Decided	Vote	Author	Sotomayor	Ginsburg	Kagan	Breyer	Roberts	Kavanaugh	Gorsuch	Alito	Thomas
<i>New Prime v. Oliveira</i>	January 15, 2019	8-0	Gorsuch									
<i>Helsinn Healthcare v. Teva Pharmaceuticals</i>	January 22, 2019	9-0	Thomas									
<i>Moore v. Texas</i>	February 19, 2019	6-3	Per Curiam									
<i>Timbs v. Indiana</i>	February 20, 2019	9-0	Ginsburg									
<i>Dawson v. Steager</i>	February 20, 2019	9-0	Gorsuch									
<i>Yovino v. Rizo</i>	February 25, 2019	9-0	Per Curiam									
<i>Nutraceutical v. Lambert</i>	February 26, 2019	9-0	Sotomayor									
<i>Jam v. International Finance Corp.</i>	February 27, 2019	7-1	Roberts									









































































Voting Alignment – All Cases

(continued)

Case Name	Decided	Vote	Author	Sotomayor	Ginsburg	Kagan	Breyer	Roberts	Kavanaugh	Gorsuch	Alito	Thomas
<i>Garza v. Idaho</i>	February 27, 2019	6-3	Sotomayor									
<i>Madison v. Alabama</i>	February 27, 2019	5-3	Kagan									
<i>Fourth Estate Public Benefit Corp. v. Wall-Street.com</i>	March 4, 2019	9-0	Ginsburg									
<i>BNSF Railway v. Loos</i>	March 4, 2019	7-2	Ginsburg									
<i>Rimini Street Inc. v. Oracle USA Inc.</i>	March 4, 2019	9-0	Kavanaugh									
<i>Washington Department of Licensing v. Cougar Den</i>	March 19, 2019	5-4	Breyer									
<i>Nielsen v. Preap</i>	March 19, 2019	5-4	Alito									
<i>Air & Liquid Systems v. Deurries</i>	March 19, 2019	6-3	Kavanaugh									

Voting Alignment – All Cases

(continued)

Case Name	Decided	Vote	Author	Sotomayor	Ginsburg	Kagan	Breyer	Roberts	Kavanaugh	Gorsuch	Alito	Thomas
<i>Obduskey v. McCarthy & Holthus LLP</i>	March 20, 2019	9-0	Breyer									
<i>Frank v. Gaos</i>	March 20, 2019	8-1	Per Curiam									
<i>Sudan v. Harrison</i>	March 26, 2019	8-1	Alito									
<i>Sturgeon v. Frost</i>	March 26, 2019	9-0	Kagan									
<i>Lorenzo v. Securities Exchange Commission</i>	March 27, 2019	6-2	Breyer									
<i>Biestek v. Berryhill</i>	April 1, 2019	6-3	Kagan									
<i>Bucklew v. Precythe</i>	April 1, 2019	5-4	Gorsuch									
<i>Lamps Plus v. Varela</i>	April 24, 2019	5-4	Roberts									









































































Voting Alignment – All Cases

(continued)

Case Name	Decided	Vote	Author	Sotomayor	Ginsburg	Kagan	Breyer	Roberts	Kavanaugh	Gorsuch	Alito	Thomas
<i>Thacker v. Tennessee Valley Authority</i>	April 29, 2019	9-0	Kagan									
<i>California Franchise Tax Board v. Hyatt</i>	May 13, 2019	5-4	Thomas									
<i>Cochise Consultancy v. United States ex rel. Hunt</i>	May 13, 2019	9-0	Thomas									
<i>Apple v. Pepper</i>	May 13, 2019	5-4	Kavanaugh									
<i>Merck Sharp & Dohme Corp. v. Albrecht</i>	May 20, 2019	9-0	Breyer									
<i>Herrera v. Wyoming</i>	May 20, 2019	5-4	Sotomayor									
<i>Mission Product Holdings Inc. v. Tempnology, LLC</i>	May 20, 2019	8-1	Kagan									
<i>Nieves v. Bartlett</i>	May 28, 2019	6-3	Roberts									







































Voting Alignment – All Cases

(continued)

Case Name	Decided	Vote	Author	Sotomayor	Ginsburg	Kagan	Breyer	Roberts	Kavanaugh	Gorsuch	Alito	Thomas
<i>Home Depot v. Jackson</i>	May 28, 2019	5-4	Thomas									
<i>Smith v. Berryhill</i>	May 28, 2019	9-0	Sotomayor									
<i>Box v. Planned Parenthood of Indiana and Kentucky</i>	May 28, 2019	7-2	Per Curiam									
<i>Mont v. United States</i>	June 3, 2019	5-4	Thomas									
<i>Fort Bend County, Texas v. Davis</i>	June 3, 2019	9-0	Ginsburg									
<i>Taggart v. Lorenzen</i>	June 3, 2019	9-0	Breyer									
<i>Azar v. Allina Health Services</i>	June 3, 2019	7-1	Gorsuch									
<i>Parker Drilling Management Services, Ltd. v. Newton</i>	June 10, 2019	9-0	Thomas									









































































Voting Alignment – All Cases

(continued)

Case Name	Decided	Vote	Author	Sotomayor	Ginsburg	Kagan	Breyer	Roberts	Kavanaugh	Gorsuch	Alito	Thomas
<i>Return Mail Inc. v. United States Postal Service</i>	June 10, 2019	6-3	Sotomayor									
<i>Quarles v. United States</i>	June 10, 2019	9-0	Kavanaugh									
<i>Virginia Uranium v. Warren</i>	June 17, 2019	6-3	Gorsuch									
<i>Manhattan Community Access Corp. v. Halleck</i>	June 17, 2019	5-4	Kavanaugh									
<i>Gamble v. United States</i>	June 17, 2019	7-2	Alito									
<i>Virginia House of Delegates v. Bethune-Hill</i>	June 17, 2019	5-4	Ginsburg									
<i>PDR Network, LLC v. Carlton & Harris Chiropractic Inc.</i>	June 20, 2019	9-0	Breyer									
<i>The American Legion v. American Humanist Association</i>	June 20, 2019	7-2	Alito									









































































Voting Alignment – All Cases

(continued)

Case Name	Decided	Vote	Author	Sotomayor	Ginsburg	Kagan	Breyer	Roberts	Kavanaugh	Gorsuch	Alito	Thomas
<i>McDonough v. Smith</i>	June 20, 2019	6-3	Sotomayor									
<i>Gundy v. United States</i>	June 20, 2019	5-3	Kagan									
<i>Rehaif v. United States</i>	June 21, 2019	7-2	Breyer									
<i>Flowers v. Mississippi</i>	June 21, 2019	7-2	Kavanaugh									
<i>Knick v. Township of Scott, Pennsylvania</i>	June 21, 2019	5-4	Roberts									
<i>North Carolina Department of Revenue v. The Kimberly Rice Kaestner 1992 Family Trust</i>	June 21, 2019	9-0	Sotomayor									
<i>The Dutra Group v. Battlerton</i>	June 24, 2019	6-3	Alito									
<i>United States v. Davis</i>	June 24, 2019	5-4	Gorsuch									


















































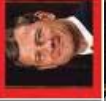



















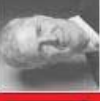


Voting Alignment – All Cases

(continued)

Case Name	Decided	Vote	Author	Sotomayor	Ginsburg	Kagan	Breyer	Roberts	Kavanaugh	Gorsuch	Alito	Thomas
<i>Food Marketing Institute v. Argus Leader Media</i>	June 24, 2019	6-3	Gorsuch									
<i>Iancu v. Brunetti</i>	June 24, 2019	6-3	Kagan									
<i>Tennessee Wine & Spirits Retailers Association v. Thomas</i>	June 26, 2019	7-2	Alito									
<i>Kisor v. Wilkie</i>	June 26, 2019	5-4	Kagan									
<i>United States v. Haymond</i>	June 26, 2019	5-4	Gorsuch									
<i>Mitchell v. Wisconsin</i>	June 27, 2019	5-4	Alito									
<i>Department of Commerce v. New York</i>	June 27, 2019	5-4	Roberts									
<i>Rucho v. Common Cause</i>	June 27, 2019	5-4	Roberts									









































































Voting Alignment – 5-4 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	Roberts	Kavanaugh	Gorsuch	Alito	Thomas
<i>Stokeling v. United States</i>	January 15, 2019	5-4	Thomas									
<i>Madison v. Alabama</i>	February 27, 2019	5-3	Kagan									
<i>Washington Department of Licensing v. Cougar Den</i>	March 19, 2019	5-4	Breyer									
<i>Nielsen v. Preap</i>	March 19, 2019	5-4	Alito									
<i>Bucklew v. Precythe</i>	April 1, 2019	5-4	Gorsuch									
<i>Lamps Plus v. Varela</i>	April 24, 2019	5-4	Roberts									
<i>California Franchise Tax Board v. Hyatt</i>	May 13, 2019	5-4	Thomas									
<i>Apple v. Pepper</i>	May 13, 2019	5-4	Kavanaugh									





































Voting Alignment – 5-4 Cases

(continued)

Case Name	Decided	Vote	Author	Sotomayor	Ginsburg	Kagan	Breyer	Roberts	Kavanaugh	Gorsuch	Alito	Thomas
<i>Herrera v. Wyoming</i>	May 20, 2019	5-4	Sotomayor									
<i>Home Depot v. Jackson</i>	May 28, 2019	5-4	Thomas									
<i>Mont v. United States</i>	June 3, 2019	5-4	Thomas									
<i>Manhattan Community Access Corp. v. Halleck</i>	June 17, 2019	5-4	Kavanaugh									
<i>Virginia House of Delegates v. Bethune-Hill</i>	June 17, 2019	5-4	Ginsburg									
<i>Gundy v. United States</i>	June 20, 2019	5-3	Kagan									
<i>Knick v. Township of Scott, Pennsylvania</i>	June 21, 2019	5-4	Roberts									
<i>United States v. Davis</i>	June 24, 2019	5-4	Gorsuch									

Voting Alignment – 5-4 Cases

(continued)

Case Name	Decided	Vote	Author	Sotomayor	Ginsburg	Kagan	Breyer	Roberts	Kavanaugh	Gorsuch	Alito	Thomas
<i>United States v. Haymond</i>	June 26, 2019	5-4	Gorsuch									
<i>Kisor v. Wilkie</i>	June 27, 2019	5-4	Kagan									
<i>Department of Commerce v. New York</i>	June 27, 2019	5-4	Roberts									
<i>Rucho v. Common Cause</i>	June 27, 2019	5-4	Roberts									
<i>Mitchell v. Wisconsin</i>	June 27, 2019	5-4	Alito	