

able to business in the Business versus Business Dataset (column (4)) followed by Thomas, Whittaker, Scalia, Alito, and O'Connor, the last two being tied for fifth place.

Table 7 Rankings of Justices During The 1946–2011 Terms Based on the Fraction of Votes for Business in the Business Litigant and Business versus Business Datasets				
<i>Justice</i>	<i>Business Litigant Dataset (1)</i>	<i>5-4 Cases (2)</i>	<i>NYT (3)</i>	<i>Business versus Business (4)</i>
Alito	.630 (73)	.929 (14)	.750 (12)	.600 (15)
Roberts	.587 (75)	.857 (14)	.692 (13)	.750 (16)
Jackson	.570 (263)	.861 (36)	.565 (46)	.474 (19)
Whittaker	.557 (158)	.846 (26)	.529 (34)	.632 (19)
Thomas	.549 (295)	.696 (46)	.632 (68)	.692 (52)
Kennedy	.507 (412)	.722 (72)	.552 (116)	.556 (63)
Frankfurter	.501 (499)	.788 (66)	.511 (94)	.558 (52)
Powell	.501 (457)	.662 (74)	.487 (152)	.592 (49)
Scalia	.499 (455)	.667 (69)	.465 (127)	.606 (71)
Harlan	.478 (572)	.674 (46)	.512 (123)	.593 (59)
Stewart	.474 (700)	.671 (79)	.488 (209)	.595 (79)
O'Connor	.472 (529)	.595 (79)	.451 (153)	.600 (70)
Burger	.461 (529)	.587 (75)	.449 (176)	.554 (56)
Rehnquist	.435 (837)	.545 (123)	.410 (261)	.584 (101)
Stevens	.423 (759)	.402 (112)	.446 (249)	.430 (107)
Burton	.420 (407)	.723 (47)	.451 (71)	.514 (37)
Vinson	.412 (250)	.588 (34)	.468 (47)	.267 (15)
Reed	.410 (349)	.575 (40)	.322 (59)	.406 (32)

Blackmun	.403 (704)	.456 (103)	.377 (231)	.487 (78)
Souter	.401 (284)	.349 (43)	.446 (74)	.560 (50)
Breyer	.397 (232)	.205 (39)	.415 (53)	.535 (43)
Ginsburg	.391 (261)	.214 (42)	.475 (61)	.447 (47)
Marshall	.383 (702)	.449 (98)	.339 (233)	.375 (80)
White	.377 (942)	.495 (111)	.327 (300)	.411 (107)
Minton	.360 (203)	.462 (13)	.345 (29)	.391 (23)
Douglas	.358 (902)	.359 (103)	.337 (193)	.219 (96)
Sotomayor	.355 (31)	0 (7)	.400 (5)	— —
Goldberg	.339 (109)	.5 (2)	.290 (31)	.538 (13)
Brennan	.328 (1064)	.362 (130)	.290 (321)	.290 (124)
Clark	.310 (564)	.306 (49)	.317 (120)	.270 (63)
Warren	.242 (513)	.146 (41)	.205 (122)	.191 (68)
Murphy	.238 (126)	.231 (26)	.185 (27)	.143 (7)
Black	.236 (798)	.207 (82)	.257 (179)	.184 (87)
Rutledge	.233 (133)	.192 (26)	.259 (27)	.571 (7)
Fortas	.174 (92)	.143 (7)	.133 (30)	.333 (15)
AVERAGE (Total Votes)	.404 (15,213)	.503 (1978)	.397 (4050)	.452 (1826)

Notes:

(a) We exclude Kagan from table because she had only 16 votes in the Business Litigant Dataset and 1 vote in the Business versus Business Dataset; and we exclude Sotomayor from the Business versus Business Dataset because she had only 4 votes.

(b) *AVERAGE* is the mean of the individual Justice weighted by the number of votes for each Justice. Note that the Average includes the votes of all Justices including Kagan and Sotomayor.

(c) Justices serving in 2012 are in bold.

(d) Number of votes by each Justice in parentheses.

There are a couple of anomalies in Table 7. One is Jackson's strong support for business; he ranks third highest in all cases in the Business Litigant Dataset and second highest in 5-4 cases. As FDR's Attorney General, he prosecuted businesses