

## SUPREME COURT OF THE UNITED STATES UPDATE 2017-2018

Jeremy C. Marwell  
Vinson & Elkins LLP

### GREAT EXPECTATIONS

- “There’s only one prediction that’s entirely safe about the upcoming term. It will be momentous.” Ginsburg, J. (Sept. 20, 2017)
- “The court’s 2017-2018 term ... promises to be one for the history books.” - Elizabeth Slattery, Heritage Foundation (Sept. 29, 2017)
- “More big cases in October sitting—travel ban, gerrymandering, arbitration, immigration detention, ATS—than in all of last term.” Adam Liptak, Twitter (July 19, 2017).



## STATISTICS TO DATE

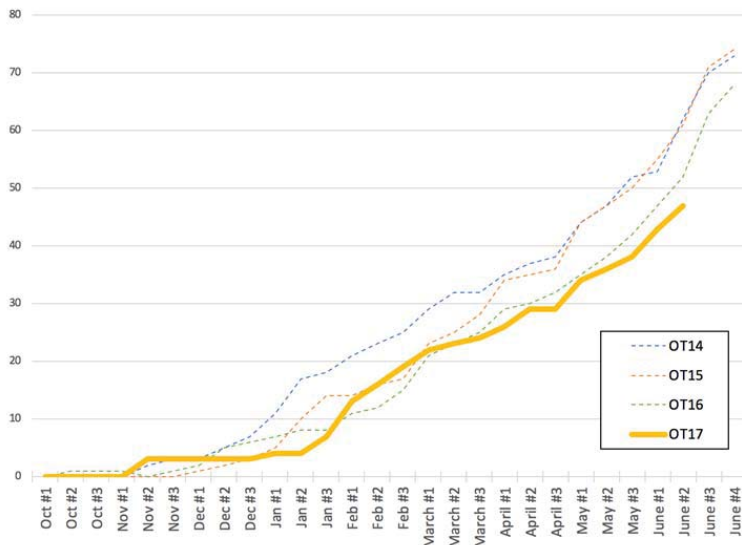
- October Term 2016
  - 62 merits decisions in argued cases
  - Decisions divided 5-3 or 5-4: 9 (15%)
  - Unanimous in judgment: 31 cases
  - Unanimous in opinion: 21 cases
- October Term 2017 (as of June 15)
  - 63 argued cases
  - 44 opinions issued in argued cases
  - Decisions divided 5-4 or 5-3: 9
  - Unanimous: 21
- Number of 5-4 opinions (historical)
  - 2015: 4 (5%)
  - 2014: 19 (26%)
  - 2013: 10 (14%)
  - 2012: 23 (29%)

Historical data from Scotusblog

## SUBJECT-MATTER OF ARGUED CASES OT 2017

- Procedure and jurisdiction: 8
- Criminal, habeas, and related: 19
- Immigration: 4
- Business law: 17
- Voting rights: 4
- Other constitutional law: 8
- Original jurisdiction: 2
- Other: 1

## PACE OF DECISIONS (AS OF JUNE 14)



Major cases awaiting decision (argued):

*Gill v. Whitford* (Oct.)  
*Carpenter* (Dec.)  
*Janus* (Feb.)  
*NIFLA* (Mar.)  
*Benisek* (Mar.)  
*Wayfair* (Apr.)  
*Lucia* (Apr.)  
*Abbott* (Apr.)  
*Trump* (Apr.)

Source: *Scotusblog*

## JUSTICE NEIL GORSUCH – FIRST FULL TERM (AS OF JUNE 15)

- Five majority opinions to date
  - *Texas v. N.M.* (unanimous); *Upper Skagit* (7-2); *Epic Systems* (5-4); *SAS Institute* (5-4); *Murphy v. Smith* (5-4)
- Percentage voting agreement (from *Scotusblog*, as of June 11): JGR (84%), AMK (84%), CT (79%); SAA (76%); EK (67%); SGB (63%), RBG (61%), SS (61%)
- Dissents: *Artis v. DC* (5-4); *Wilson v. Sellers* (6-3); *Oil States* (7-2); *Sveen* (8-1)
- Notable vote alignments: *Dimaya*; *Oil States*; *Hughes*
- By comparison:
  - SS OT'09: 8 majority opinions (four unanimous, one 8-1, two 7-2, one 6-3); 3 concurrences, 4 dissents
  - EK OT'10: 7 majority opinions (three unanimous, two 8-1, two 7-2); 0 concurrences, 3 dissents

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

## Title search: Supreme Court of the United States Update 2017-2018

Also available as part of the eCourse

[Federal Appellate Law Update 2018: Case Law Updates, Stays and Emergency Relief, and more!](#)

First appeared as part of the conference materials for the  
28<sup>th</sup> Annual Conference on State and Federal Appeals session  
"Update on the Supreme Court of the United States"