

SUPREME COURT OF THE UNITED STATES UPDATE 2018-2019

Jeremy C. Marwell
Vinson & Elkins LLP

A POST-KENNEDY SUPREME COURT

- “[The retirement of Justice Anthony Kennedy] was, I would say, the event of greatest consequence for the current Term, and perhaps for many Terms ahead.” Ginsburg, J. (June 7, 2019)
- “The 2018-2019 Supreme Court term promises to be an important one”
 - Elizabeth Slattery, Heritage Foundation (Sept. 18, 2018)
- Term “got off to a sleepy start,” but “potential blockbusters on the docket for the new year.” The Hill (Dec. 30, 2018)



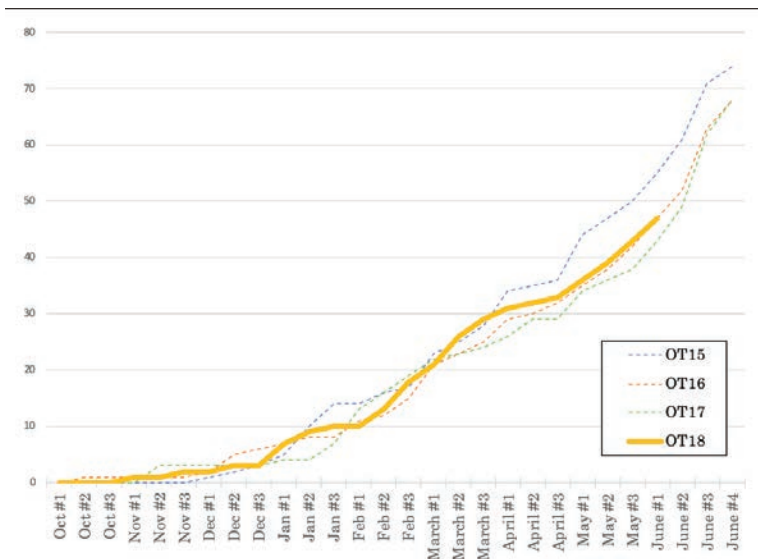
STATISTICS TO DATE

- October Term 2017
 - 63 merits decisions in argued cases
 - Decisions divided 5-3 or 5-4: 19 (26%)
 - Unanimous: 28 cases
 - October Term 2018 (as of June 18)
 - 69 argued cases
 - 49 opinions issued in argued cases
 - Decisions divided 5-4 or 5-3: 12
 - Unanimous: 25
 - Number of 5-4 opinions (historical)
 - 2016: 7 (10%)
 - 2015: 4 (5%)
 - 2014: 19 (26%)
 - 2013: 10 (14%)
 - 2012: 23 (29%)
- Historical data from Scotusblog

SUBJECT MATTER OF ARGUED CASES OT 2018

- Business law: 21
- Criminal, habeas, and related: 13
- Other constitutional law: 10
- Procedure and jurisdiction: 9
- Administrative and environmental law: 9
- Voting rights: 3
- Tribal law: 3
- Immigration: 1
- Other: 1

PACE OF DECISIONS (AS OF JUNE 17)



As of June 17, major cases awaiting decision (argued):

Gundy (Oct.)
Knick (Jan.)
American Legion (Feb.)
Rucho (Mar.)
Benisek (Mar.)
Kisor (Mar.)
Commerce (Apr.)

Source: Scotusblog

JUSTICE BRETT KAVANAUGH – FIRST FULL TERM (AS OF JUNE 17)

- Six majority opinions to date
 - *Schein* (9-0); *Rimini* (9-0); *Quarles* (9-0); *Air & Liquid* (6-3); *Apple* (5-4); *Halleck* (5-4)
- Percentage voting agreement in full, part, or judgment (from Scotusblog, as of June 15): JGR (95%); SAA (91%); CT (81%); SGB (79%); EK (77%); NG (74%); RBG (72%); SS (72%).
- Dissents: *Cougar Den* (5-4)
- Notable vote alignments: *Apple v. Pepper*; *Moore v. Texas*; *Garza v. Idaho*; *Air & Liquid*
- By comparison:
 - NG OT'17: 7 majority opinions (one unanimous, one 7-2, five 5-4); 4 concurrences; 6 dissents
 - EK OT'10: 7 majority opinions (three unanimous, two 8-1, two 7-2); 0 concurrences, 3 dissents
 - SS OT'09: 8 majority opinions (four unanimous, one 8-1, two 7-2, one 6-3); 3 concurrences, 4 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 State Update 2018-2019

Also available as part of the eCourse

[2019 eConference on State and Federal Appeals](#)

First appeared as part of the conference materials for the
29th Annual Conference on State and Federal Appeals session
"Update on the Supreme Court of the United States"