

WEDNESDAY, SEPTEMBER 6, 2023



# REFLECTIONS ON THE SUPREME COURT

University of Texas Continuing Legal Education | University of Texas School of Law  
Austin, TX

**STEPHEN I. VLADECK**

Charles Alan Wright Chair in Federal Courts, University of Texas School of Law  
E-Mail: [svladeck@law.utexas.edu](mailto:svladeck@law.utexas.edu) | Twitter: [@steve\\_vladeck](https://twitter.com/steve_vladeck)

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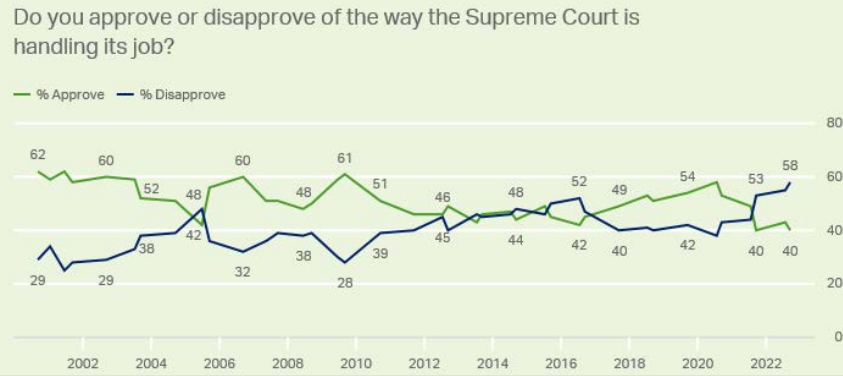
WHAT STARTS HERE CHANGES THE WORLD

## INTRODUCTION: THE STATE OF THINGS...

- Many (if not most) public discussions of the Supreme Court tend to focus on the merits docket—the 60ish decisions the justices hand down each term after briefing and argument.
- When the conversation is framed in those terms, we fall into two traps:
  1. Virtually every debate ends up dividing us into tribes; and
  2. It obscures / crowds out public discussion and debate about *other* features of the Court's (and the justices') work.

## INTRODUCTION: THE STATE OF THINGS...

- The Supreme Court has become a lightning rod—not just for its substantive decisions, but as more and more concerns have been raised about the ethical/financial behavior of at least some of the justices.
- Public support for the Court has dropped to the lowest levels since polling on it began. →
- Calls for reform?



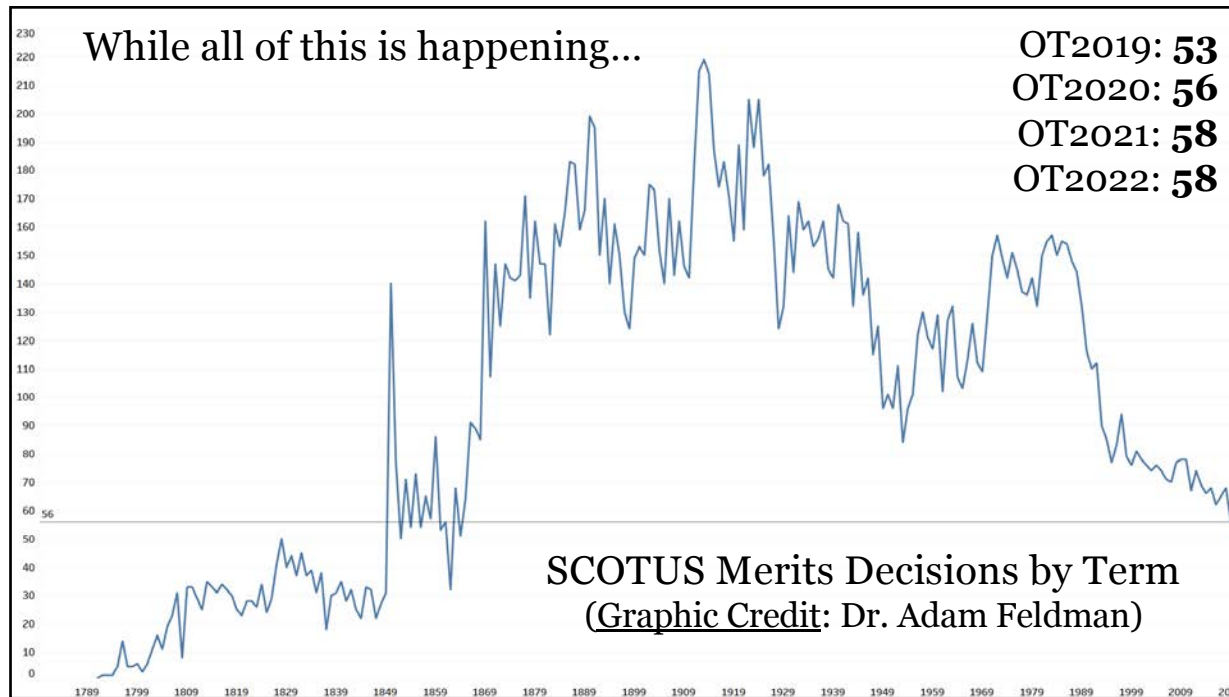
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## INTRODUCTION: THE STATE OF THINGS...

“I know this is a controversial view, but I’m willing to say it. . . . No provision in the Constitution gives [Congress] the authority to regulate the Supreme Court—period.”

— Justice Samuel Alito  
*Wall Street Journal*, July 28, 2023





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## INTRODUCTION: THE STATE OF THINGS...

What I'd like to discuss this afternoon:

- The rise of an unaccountable Supreme Court;
- Symptoms of an unaccountable Supreme Court;
- Why an unaccountable Court is a problem; and
- The awkwardness of challenging the Court while practicing before it...

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"Reflections on the U.S. Supreme Court"