

# SCOTUS**blog** End-of-Term “Super StatPack” – OT06

## Included in this download:

1. End of Term Summary Memo
2. Justice Agreement – All cases
3. Justice Agreement – Non-unanimous cases
4. Visual Representation of 5-4 decisions
5. Opinion Tally
6. Circuit Scorecard
7. Decisions by Final Vote
8. The Court’s Workload
9. Opinion Authors by Sitting
10. State of the Docket for OT07

## Key Dates:

- Friday, June 29: Final Orders List
- September, 24: Opening Conference of OT07
- Monday, October 1: OT07 Begins

MEMORANDUM

June 28, 2007

From: Akin Gump Strauss Hauer & Feld LLP  
Re: End of Term Statistics and Analysis – October Term 2006

This memo presents the firm's annual summary of relevant statistics for the Term:

**1. Docket**

The Justices decided 68 cases after argument this Term, the lowest number in recent history. The number of decisions after argument for previous Terms are 71 (OT05), 76 (OT04), 74 (OT03), 73 (OT02), 76 (OT01), 79 (OT00), 74 (OT99), 78 (OT98), 92 (OT97), 81 (OT96), 77 (OT95), 84 (OT94), 84 (OT93), 107 (OT92), 107 (OT91), 102 (OT90). The Justices decided 72 cases in total this Term, including four summary dispositions, also a recent low. The numbers for previous terms are 82 (OT05), 80 (OT04), 79 (OT03), 80 (OT02), 81 (OT01), 85 (OT00) and 77 (OT99).

The Court reversed or vacated the lower court decision in 52 of 72 cases (72%) and affirmed the lower court in 18 of 72 cases (25%). In two cases, it affirmed in part or reversed or vacated in part. The previous Term, the Court reversed or vacated the lower court in 59 of 82 cases (72%) and affirmed the lower court in 20 of 82 cases (24%), with three cases being affirmed in part or reversed or vacated in part.

Once again, the Court considered more cases from the Ninth Circuit – 21 of 72 cases (29%) – than any other federal Court of Appeal. The Court vacated or reversed the Ninth Circuit in 18 of 21 cases (86%), versus in 15 of 18 cases (83%) the previous term. The Sixth Circuit came next with seven of 72 cases (10%), and the Second, Fifth and Eleventh Circuits each had five of 72 cases (7%). The Court also resolved four cases (6%) from the Federal Circuit, reflecting a desire to clarify the nation's patent laws. State courts accounted for seven cases this term, versus 15 the previous term.

**2. Split and Unanimous Decisions**

In OT06, 24 of 72 cases (33%) were decided by a 5-4 margin – the highest share in at least a decade. After the relatively calm Term last year, in which only 11 of 82 cases (13%) cases were decided 5-4, the level of divisiveness returned to levels seen during the OT04 term, when 24 of 80 cases (30%) were decided 5-4. The numbers from previous terms are 21 of 79 cases – 27% (OT03), 15 of 80 – 19% (OT02), 21 of 71 – 26% (OT01), 26 of 85 – 30% (OT00), 21 of 77 –

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27% (OT99), 19 of 80 – 24% (OT98), 16 of 96 – 17% (OT97), 17 of 91 – 19% (OT96), 16 of 85 – 19% (OT95).

At the same time, the share of unanimous opinions fell from the previous term. In OT06, the Court issued fully unanimous decisions in 18 of 72 cases (25%), not including an additional ten cases where the Justices were unanimous in judgment only. By comparison, 37 of 82 (45%) cases were fully unanimous the previous Term. Measured against previous terms, the share of unanimous opinions in OT06 fell below levels seen during most recent years under former Chief Justice William Rehnquist. The number of fully unanimous decisions from previous years are 17 of 80 – 21% (OT04), 25 of 79 – 32% (OT03), 31 of 80 – 39% (OT02), 26 of 81 – 32% (OT01), 25 of 85 – 29% (OT00), 25 of 77 – 32% (OT99), 22 of 80 – 28% (OT98), 34 of 95 – 36% (OT97), 29 of 91 – 32% (OT96), and 28 of 85 – 33% (OT95).

### 3. Distribution of Justices in 5-4 Decisions

Justice Kennedy voted with the majority in all 24 of the Court's 5-4 decisions. Among the Court's other members, Justice Alito voted with the majority 17 times (71%), the Chief Justice 16 times (67%), and Justices Scalia and Thomas 14 times (58%). Justice Breyer voted with the majority 11 times (46%), Justice Souter nine times (38%), Justice Ginsburg eight times (33%) and Justices Stevens seven times (29%).

Nineteen of the 5-4 cases broke down along ideological lines and, as in most every recent Term, the Court's five more conservative members won a greater share of 5-4 victories than the four more liberal justices. The Roberts-Scalia-Kennedy-Thomas-Alito combination prevailed in 13 of 24 (or 54%) 5-4 decisions, while the Stevens-Souter-Ginsburg-Breyer grouping prevailed in only six of 24 (25%) decisions. Unlike previous terms, members the Court's left-leaning block were unable to pick off anyone beside Justice Kennedy to prevail in a 5-4 case.

In 5-4 cases during previous terms, the five most conservative justices – which formerly included Chief Justice Williams Rehnquist and Justice Sandra Day O'Connor – prevailed in 6 of 11 cases – 55% (OT05), 5 of 24 cases – 21% (OT04) 10 of 21 cases – 48% (OT03), 6 of 15 cases – 40% (OT02), 8 of 21 cases – 38% (OT01), 14 of 26 cases – 54% (OT00), 14 of 21 cases – 66% (OT99), 10 of 19 cases – 53% (OT98), and 6 of 16 cases – 38% (OT97). By comparison, the four more liberal justices prevailed in 4 of 11 cases – 36% (OT05), 8 of 24 cases – 33% (OT04), 7 of 21 cases – 33% (OT03), 5 of 15 cases – 33% (OT02), 6 of 21 cases – 29% (OT01), 8 of 26 cases – 31% (OT00), 1 of 21 cases – 5% (OT99), 6 of 19 cases – 32% (OT98), and 6 of 16 cases – 38% (OT97).

Among the 5-4 cases not decided along liberal-conservatives lines in OT06, two featured the Chief Justice and Justices Kennedy, Souter, Breyer and Alito in the majority (*Phillip Morris* and

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*James*); one featured the Justices Stevens, Kennedy, Ginsburg, Breyer and Alito in the majority (*Zuni*); and one featured the Chief Justice and Justices Scalia, Kennedy, Thomas and Breyer in the majority (*Limtiaco*). *Watters v. Wachovia*, which we believe would have been decided 5-4 had Justice Thomas not recused himself, featured Justices Kennedy, Souter, Ginsburg, Breyer and Alito in the majority.

Justice Kennedy wrote for the majority in six 5-4 opinions this term, followed by Justices Stevens, Thomas and Alito with four, the Chief Justice with three. Justice Breyer with two, and Justice Ginsburg with one. Justice Souter authored no 5-4 decisions last term, nor did Justice Scalia, who had authored four 5-4 decisions in OT05.

#### **4. Levels of Agreement Between Pairs of Justices**

In OT06, the Chief Justice and Justice Alito found themselves in agreement more than any other pair of Justices. The two Bush appointees agreed in full in 88% of the cases they both heard, essentially equal to their 89% rate the previous Term. Among the other conservative members of the Court, Justices Scalia and Thomas agreed in full in 80% of the cases they heard, versus 88% in OT05.

Factoring in agreements in part and in judgment only, both the Chief Justice and Justice Alito and Justices Scalia and Thomas agreed in more than nine of 10 cases. The Chief Justice and Justice Alito agreed in judgment or more in 94% of cases they both heard, and Justices Scalia and Thomas agreed in judgment or more in 93% of the cases they both heard (almost equal to the 95% rate for both pairs in OT05). Justices Kennedy and Alito also agreed in judgment or more in 91% of cases they both heard (like their 92% rate the previous Term).

Among the Court's more liberal members, Justices Stevens and Ginsburg and Justices Souter and Breyer each agreed in full 79% of the time. Justice Ginsburg maintained similar full agreement rates with Justice Souter (81%) and Justice Breyer (76%), while Justice Stevens agreed in full less often with Justice Souter (71%) and Justice Breyer (67%) than he did with Justice Ginsburg. After including agreements in part and in judgment, Justices Stevens and Ginsburg and Justices Souter and Breyer again share the same rates of agreement – 89%.

Overall, Justice Stevens enjoyed the lowest rates of full agreement with other members of the Court. He agreed in full with Justice Thomas in only 32% of the cases they both heard, the lowest rate of any pair of Justices. He also agreed in full only 36% of the time with Justice Scalia, 41% of the time with the Chief Justice, and 42% of the time with Justice Alito. Justice Kennedy, who found himself in the minority only twice all Term, agreed in full more often than not with all other members of the Court. Justice Kennedy's full agreement rates ranged from 82% with the Chief Justice and Justice Alito to 52% with Justice Stevens.

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## **5. Dissents**

Justice Stevens was in the minority 26 times during the Term, more frequently than any other Justice. He was followed by Justice Ginsburg with 20 dissents, Justice Breyer with 17 dissents, Justices Souter and Thomas with 16 dissents, and Justice Scalia with 14 dissents. Justice Alito dissented 10 times, the Chief Justice dissented eight times, and Justice Kennedy dissented twice during OT06. Justice Thomas dissented alone four times, followed by Justice Stevens with three and Justices Scalia and Souter with one solo dissent each.

### SCOTUSblog Agreement Stats for OT06 - By Seniority

	Stevens	Scalia	Ken	Sout	Thom	Gins	Breyer	Alito	Total Cases
CJ Rob	41%	75%	79%	55%	71%	48%	57%	88%	69
	52%	88%	84%	65%	84%	59%	63%	94%	
	58%	91%	85%	70%	88%	62%	63%	94%	
	42%	9%	15%	30%	12%	38%	37%	6%	
Stevens	36%	52%	71%	32%	79%	67%	42%	72	
	50%	63%	79%	45%	85%	81%	53%		
	56%	66%	81%	52%	89%	86%	58%		
	44%	34%	19%	48%	11%	14%	42%		
Scalia	68%	47%	80%	44%	41%	72%	72		
	75%	60%	90%	58%	54%	83%			
	79%	63%	93%	61%	56%	86%			
	21%	38%	7%	39%	44%	14%			
Ken	63%	67%	59%	65%	79%	71			
	73%	74%	69%	72%	89%				
	75%	79%	73%	74%	90%				
	25%	21%	27%	26%	10%				
Sout	44%	81%	79%	56%	72				
	55%	86%	87%	64%					
	61%	89%	89%	67%					
	39%	11%	11%	33%					
Thom	41%	41%	66%	71					
	52%	51%	82%						
	59%	55%	85%						
	41%	45%	15%						
Gins	76%	50%	72						
	87%	61%							
	90%	64%							
	10%	36%							
Breyer	54%	70							
	66%								
	66%								
	34%								
Alito								72	

Key
Full
Part + All
Judg + Part + All
Disagree

## SCOTUSblog Agreement Stats for OT06 - By Ideology

		Ginsburg	Souter	Breyer	Ken	Alito	Roberts	Scalia	Thomas
<b>Stevens</b>	Full	79%	71%	67%	52%	42%	41%	36%	32%
	Part + All	85%	79%	81%	63%	53%	52%	50%	45%
	<b>Judg + Part + All</b>	<b>89%</b>	<b>81%</b>	<b>86%</b>	<b>66%</b>	<b>58%</b>	<b>58%</b>	<b>56%</b>	<b>52%</b>
	Disagree	11%	19%	14%	34%	42%	42%	44%	48%
<b>Gins</b>	Full		81%	76%	59%	50%	48%	44%	41%
	Part + All		86%	87%	69%	61%	59%	58%	52%
	<b>Judg + Part + All</b>		<b>89%</b>	<b>90%</b>	<b>73%</b>	<b>64%</b>	<b>62%</b>	<b>61%</b>	<b>59%</b>
	Disagree		11%	10%	27%	36%	38%	39%	41%
<b>Souter</b>	Full			79%	63%	56%	55%	47%	44%
	Part + All			87%	73%	64%	65%	60%	55%
	<b>Judg + Part + All</b>			<b>89%</b>	<b>75%</b>	<b>67%</b>	<b>70%</b>	<b>63%</b>	<b>61%</b>
	Disagree			11%	25%	33%	30%	38%	39%
<b>Breyer</b>	Full				65%	54%	57%	41%	41%
	Part + All				72%	66%	63%	54%	51%
	<b>Judg + Part + All</b>				<b>74%</b>	<b>66%</b>	<b>63%</b>	<b>56%</b>	<b>55%</b>
	Disagree				26%	34%	37%	44%	45%
<b>Ken</b>	Full					79%	79%	68%	67%
	Part + All					89%	84%	75%	74%
	<b>Judg + Part + All</b>					<b>90%</b>	<b>85%</b>	<b>79%</b>	<b>79%</b>
	Disagree					10%	15%	21%	21%
<b>Alito</b>	Full						88%	72%	66%
	Part + All						94%	83%	82%
	<b>Judg + Part + All</b>						<b>94%</b>	<b>86%</b>	<b>85%</b>
	Disagree						6%	14%	15%
<b>Roberts</b>	Full							75%	71%
	Part + All							88%	84%
	<b>Judg + Part + All</b>							<b>91%</b>	<b>88%</b>
	Disagree							9%	12%
<b>Scalia</b>	Full								80%
	Part + All								90%
	<b>Judg + Part + All</b>								<b>93%</b>
	Disagree								7%
									<b>Thomas</b>

**Key**

Full
Part + All
<b>Judg + Part + All</b>
Disagree

**Colors**

Agree ≥ 90%
Agree ≥ 80%
Agree ≥ 70%
Agree ≥ 60%
Agree ≥ 50%

### SCOTUSblog Agreement Stats for OT06 - Total Number of Cases

**Key**

Full
Part + All
Judg + Part + All
Disagree

CJ Rob

	Stevens	Scalia	Ken	Sout	Thom	Gins	Breyer	Alito	Total Cases
	28	52	54	38	48	33	39	61	69
	36	61	57	45	57	41	43	65	
	<b>40</b>	<b>63</b>	<b>58</b>	<b>48</b>	<b>60</b>	<b>43</b>	<b>43</b>	<b>65</b>	
	<b>29</b>	<b>6</b>	<b>10</b>	<b>21</b>	<b>8</b>	<b>26</b>	<b>25</b>	<b>4</b>	
		26	37	51	23	57	47	30	72
		36	45	57	32	61	57	38	
Stevens	<b>40</b>	<b>47</b>	<b>58</b>	<b>37</b>	<b>64</b>	<b>60</b>	<b>60</b>	<b>42</b>	
	<b>32</b>	<b>24</b>	<b>14</b>	<b>34</b>	<b>8</b>	<b>10</b>	<b>30</b>		
		48	34	57	32	29	52	72	
		53	43	64	42	38	60		
Scalia		<b>56</b>	<b>45</b>	<b>66</b>	<b>44</b>	<b>39</b>	<b>62</b>		
		<b>15</b>	<b>27</b>	<b>5</b>	<b>28</b>	<b>31</b>	<b>10</b>		
			45	47	42	45	56	71	
			52	52	49	50	63		
		Ken	<b>53</b>	<b>55</b>	<b>52</b>	<b>51</b>	<b>64</b>		
			<b>18</b>	<b>15</b>	<b>19</b>	<b>18</b>	<b>7</b>		
				31	58	55	40	72	
				39	62	61	46		
			Sout	<b>43</b>	<b>64</b>	<b>62</b>	<b>48</b>		
				<b>28</b>	<b>8</b>	<b>8</b>	<b>24</b>		
					29	28	47	71	
					37	35	58		
				Thom	<b>42</b>	<b>38</b>	<b>60</b>		
					<b>29</b>	<b>31</b>	<b>11</b>		
						53	36	72	
						61	44		
						<b>63</b>	<b>46</b>		
						<b>7</b>	<b>26</b>		
							38	70	
							46		
							<b>46</b>		
							<b>24</b>		
								Alito	72



### SCOTUSblog Agreement Stats for OT06 - By Seniority - Non-Unanimous Cases

	Stevens	Scalia	Ken	Sout	Thom	Gins	Breyer	Alito	Total Cases
CJ Rob	23%	68%	73%	42%	62%	32%	44%	85%	53
	38%	85%	79%	55%	79%	47%	52%	92%	
	45%	89%	81%	60%	85%	51%	52%	92%	
	55%	11%	19%	40%	15%	49%	48%	8%	
Stevens	15%	36%	61%	9%	72%	57%	22%	51	
	33%	51%	72%	26%	80%	75%	37%		
	41%	55%	74%	36%	85%	81%	44%		
	59%	45%	26%	64%	15%	19%	56%		
Scalia	57%	30%	74%	26%	23%	63%	54		
	66%	46%	87%	44%	40%	78%			
	72%	50%	91%	48%	42%	81%			
	28%	50%	9%	52%	58%	19%			
Ken	51%	56%	45%	54%	72%	53			
	64%	65%	58%	63%	85%				
	66%	71%	64%	65%	87%				
	34%	29%	36%	35%	13%				
Sout	25%	74%	72%	41%	54				
	40%	81%	83%	52%					
	47%	85%	85%	56%					
	53%	15%	15%	44%					
Thom	21%	21%	55%	53					
	36%	35%	75%						
	45%	40%	79%						
	55%	60%	21%						
Gins	68%	33%	54						
	83%	48%							
	87%	52%							
	13%	48%							
Breyer	40%	53							
	55%								
	55%								
	45%								
Alito								54	

Key
Full
Part + All
Judg + Part + All
Disagree

## SCOTUSblog Agreement Stats for OT06 - By Ideology - Non-Unanimous Cases

		Ginsburg	Souter	Breyer	Ken	Alito	Roberts	Scalia	Thomas
<b>Stevens</b>	Full	72%	61%	57%	36%	22%	23%	15%	9%
	Part + All	80%	72%	75%	51%	37%	38%	33%	26%
	Judg + Part + All	85%	74%	81%	55%	44%	45%	41%	36%
	Disagree	15%	26%	19%	45%	56%	55%	59%	64%
<b>Gins</b>	Full		74%	68%	45%	33%	32%	26%	21%
	Part + All		81%	83%	58%	48%	47%	44%	36%
	Judg + Part + All		85%	87%	64%	52%	51%	48%	45%
	Disagree		15%	13%	36%	48%	49%	52%	55%
<b>Souter</b>	Full			72%	51%	41%	42%	30%	25%
	Part + All			83%	64%	52%	55%	46%	40%
	Judg + Part + All			85%	66%	56%	60%	50%	47%
	Disagree			15%	34%	44%	40%	50%	53%
<b>Breyer</b>	Full				54%	40%	44%	23%	21%
	Part + All				63%	55%	52%	40%	35%
	Judg + Part + All				65%	55%	52%	42%	40%
	Disagree				35%	45%	48%	58%	60%
<b>Ken</b>	Full					72%	73%	57%	56%
	Part + All					85%	79%	66%	65%
	Judg + Part + All					87%	81%	72%	71%
	Disagree					13%	19%	28%	29%
<b>Alito</b>	Full						85%	63%	55%
	Part + All						92%	78%	75%
	Judg + Part + All						92%	81%	79%
	Disagree						8%	19%	21%
<b>Roberts</b>	Full							68%	62%
	Part + All							85%	79%
	Judg + Part + All							89%	85%
	Disagree							11%	15%
<b>Scalia</b>	Full								74%
	Part + All								87%
	Judg + Part + All								91%
	Disagree								9%
		<b>Thomas</b>							

### Key

Full
Part + All
Judg + Part + All
Disagree

### Colors

Agree ≥ 90%
Agree ≥ 80%
Agree ≥ 70%
Agree ≥ 60%
Agree ≥ 50%
Agree ≥ 40%
Agree ≥ 30%

### SCOTUSblog Agreement Stats for OT06 - By Seniority - Non-Unanimous Cases

	Stevens	Scalia	Ken	Sout	Thom	Gins	Breyer	Alito	Total Cases
CJ Rob	12	36	38	22	32	17	23	45	53
	20	45	41	29	41	25	27	49	
	24	47	42	32	44	27	27	49	
	29	6	10	21	8	26	25	4	
Stevens	8	19	33	5	39	30	12	51	
	18	27	39	14	43	40	20		
	22	29	40	19	46	43	24		
	32	24	14	34	8	10	30		
Scalia	30	16	39	14	12	34	54		
	35	25	46	24	21	42			
	38	27	48	26	22	44			
	15	27	5	28	31	10			
Ken	27	29	24	28	38	53			
	34	34	31	33	45				
	35	37	34	34	46				
	18	15	19	18	7				
Sout	13	40	38	22	54				
	21	44	44	28					
	25	46	45	30					
	28	8	8	24					
Thom	11	11	29	53					
	19	18	40						
	24	21	42						
	29	31	11						
Gins	36	18	54						
	44	26							
	46	28							
	7	26							
Breyer	21	53							
	29								
	29								
	24								
								51	

**Key**

Full
Part + All
Judg + Part + All
Disagree

# 5-4 decisions in OT06

Sorted by membership in the majority

		AMK	SAA	JGR	AS	CT	SGB	DHS	RGB	JPS
<i>Panetti</i>	June 28									
<i>Leegin</i>	June 28									
<i>Jeff. County</i>	June 28									
<i>NAHB</i>	June 25									
<i>Hein</i>	June 25									
<i>FEC</i>	June 25									
<i>Morse</i>	June 25									
<i>Bowles</i>	June 14									
<i>Uttecht</i>	June 4									
<i>Ledbetter</i>	May 29									
<i>Schriro</i>	May 14									
<i>Smith</i>	April 25									
<i>Brewer</i>	April 25									
<i>Abdul-Kabir</i>	April 25									
<i>James</i>	April 18									
<i>Carhart</i>	April 18									
<i>Zuni</i>	April 17									
<i>Watters (5-3)</i>	April 17									
<i>Mass v. EPA</i>	April 2									
<i>Limtiaco</i>	March 27									
<i>Marrama</i>	February 21									
<i>Phillip Morris</i>	February 20									
<i>Lawrence</i>	February 20									
<i>Belmontes</i>	November 13									

Number of times voting with the majority in 5-4 cases:

24    17    16    14    14    11    9    8    7

# 5-4 decisions in OT06

Sorted by overall left-right voting patterns

		JPS	RGB	DHS	SGB	AMK	SAA	JGR	AS	CT
<i>Panetti</i>	June 28									
<i>Leegin</i>	June 28									
<i>Jeff. County</i>	June 28									
<i>NAHB</i>	June 25									
<i>Hein</i>	June 25									
<i>FEC</i>	June 25									
<i>Morse</i>	June 25									
<i>Bowles</i>	June 14									
<i>Uttecht</i>	June 4									
<i>Ledbetter</i>	May 29									
<i>Schriro</i>	May 14									
<i>Smith</i>	April 25									
<i>Brewer</i>	April 25									
<i>Abdul-Kabir</i>	April 25									
<i>James</i>	April 18									
<i>Carhart</i>	April 18									
<i>Zuni</i>	April 17									
<i>Watters (5-3)</i>	April 17									
<i>Mass v. EPA</i>	April 2									
<i>Limtiaco</i>	March 27									
<i>Marrama</i>	February 21									
<i>Phillip Morris</i>	February 20									
<i>Lawrence</i>	February 20									
<i>Belmontes</i>	November 13									

Number of times voting with the majority in 5-4 cases:

7      8      9      11      24      17      16      14      14



## SUMMARY INFORMATION REGARDING THE TERM

## Status of Cases

Granted but not argued	2	Argued but not decided	3	Decided	72
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## Decided Cases: Method of Disposition

After argument and by signed opinion	68	After argument and without signed opinion	3	On the briefs	4
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## Splits in Decided Cases

Unanimous	18	9-0	10	8-1 or 7-1	9
7-2 or 6-2	8	6-3	3	5-4	24*

## Treatment of the Lower Court

Lower court reversed or vacated	53	Lower court affirmed	18	Lower court reversed or vacated in part and affirmed in part	2	Other	0
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## OPINION AUTHORSHIP

## Opinion Authorship: Total Number of Opinions

Roberts	11	Stevens	31	Scalia	24	Kennedy	15	Souter	17
Thomas	24	Ginsburg	14	Breyer	19	Alito	15		

## Opinion Authorship: Majority Opinions (including Unanimous Opinions, excluding Pluralities)

Per Curiam	6	Roberts	5	Stevens	6	Scalia	8	Kennedy	8
Souter	7	Thomas	8	Ginsburg	7	Breyer	8	Alito	6

## Opinion Authorship: Plurality or Plurality-Like Opinions

Per Curiam	0	Roberts	2	Stevens	1	Scalia	0	Kennedy	0
Souter	0	Thomas	0	Ginsburg	0	Breyer	0	Alito	1

## Opinion Authorship: Concurring Opinions

Roberts	1	Stevens	10	Scalia	7	Kennedy	6	Souter	4
Thomas	8	Ginsburg	2	Breyer	4	Alito	4		

## Opinion Authorship: Dissenting Opinions

Roberts	3	Stevens	14	Scalia	9	Kennedy	1	Souter	6
Thomas	8	Ginsburg	5	Breyer	7	Alito	4		

## Opinion Authorship: Unanimous Majority Opinions

Per Curiam	2	Roberts	2	Stevens	1	Scalia	1	Kennedy	1
Souter	2	Thomas	2	Ginsburg	2	Breyer	2	Alito	3

## DISSENTING VOTES

## Dissenting Votes: Total Number

Roberts	8	Stevens	26	Scalia	15	Kennedy	2	Souter	17
Thomas	16	Ginsburg	20	Breyer	17	Alito	10		

## Dissenting Votes: Number of Times the only Dissenter in a Case

Roberts	0	Stevens	3	Scalia	1	Kennedy	0	Souter	1
Thomas	4	Ginsburg	0	Breyer	0	Alito	0		

**FIVE-TO-FOUR CASES**

<b>Number of cases (either entirely 5-4 or 5-4 on a major issue)</b>	24*
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<b>Five to Four Cases: Alignments</b>		<b>5-4 Cases:</b>
Roberts, Scalia, Kennedy, Thomas, Alito	13	Belmontes, Lawrence, Carhart, Schiro, Ledbetter, Uttecht, Bowles, Morse, FEC v. Wisc. Right to Life, Hein, NAHB, Leegin Creative, Parents v. Seattle Schools
Stevens, Kennedy, Souter, Ginsburg, Breyer	6	Marrama, Mass v. EPA, Abdul-Kabir, Brewer, Smith, Panetti
Roberts, Kennedy, Souter, Breyer, Alito	2	PM v. Williams, James
Roberts, Scalia, Kennedy, Thomas, Breyer	1	Limtiaco
Stevens, Kennedy, Ginsburg, Breyer, Alito	1	Zuni
Kennedy, Souter, Ginsburg, Breyer, Alito	1	Watters v. Wachovia*

<b>Five-to-Four Cases: Authorship of the Opinion</b>									
Roberts	3	Stevens	4	Scalia	0	Kennedy	6	Souter	0
Thomas	4	Ginsburg	1	Breyer	2	Alito	4		

<b>Five-to-Four Cases: Membership in the Majority</b>									
Roberts	16	Stevens	7	Scalia	14	Kennedy	24	Souter	9
Thomas	14	Ginsburg	8	Breyer	11	Alito	17		

\* *Watters v. Wachovia Bank, N.A.* is treated here as a 5-4 decision, though Justice Thomas was recused.

**NOTES:**

**Pluralities:** TSSAA, FEC v. Wisc. Right to Life, Hein, Parents v. Seattle Schools

**Cases with Opinion(s) Concurring in Part and Dissenting in Part:**

*Counted as Concurrences:* Gonzalez v. Duenas-Alvarez, Osborn v. Haley, Winkelman v. Parma City School Dist., Fry v. Pliier

*Counted as Dissents:* Limtiaco v. Camacho, Morse v. Frederick, Wilkie v. Robbins

OT06 - Decisions by Final Vote

9-0 (or unan.) 28 (38%)	8-1 (or 7-1) 9 (12%)	7-2 (or 6-2) 9 (12%)	6-3 3 (4%)	5-4 24 (33%)
<i>TSSAA</i>	<i>Tellabs</i>	<i>Wilkie</i>	<i>Roper (PC)</i>	<i>PICS/Jeff. County</i>
<i>Brendlin</i>	<i>Rita</i>	<i>Powerex</i>	<i>United Hauler's</i>	<i>Panetti</i>
<i>WEA</i>	<i>Scott</i>	<i>Perm. Mission</i>	<i>Cunningham</i>	<i>Leegin Creative</i>
<i>Coke</i>	<i>MedImmune</i>	<i>Twombly</i>		<i>NAHB</i>
<i>Watson</i>	<i>Resendiz-Ponce</i>	<i>Global Crossing</i>		<i>Hein</i>
<i>Atl. Research</i>	<i>Lopez</i>	<i>Wallace</i>		<i>FEC</i>
<i>Fry</i>	<i>Rettele (PC)</i>	<i>Osborn</i>		<i>Morse**</i>
<i>Beck</i>	<i>Microsoft (7-1)</i>	<i>Erickson (PC)</i>		<i>Bowles</i>
<i>Sole</i>	<i>CSFB (7-1)</i>	<i>Rockwell (6-2)</i>		<i>Uttecht</i>
<i>Safeco</i>				<i>Ledbetter</i>
<i>Winkelman</i>				<i>Schriro</i>
<i>Hinck</i>				<i>Smith</i>
<i>EC Term of Yrs</i>				<i>Brewer</i>
<i>KSR</i>				<i>Abdul-Kabir</i>
<i>Duke Energy</i>				<i>James</i>
<i>Travelers</i>				<i>Carhart</i>
<i>Lance (PC)</i>				<i>Zuni</i>
<i>Sinochem</i>				<i>Mass v. EPA</i>
<i>Whorton</i>				<i>Marrama</i>
<i>Weyerhaeuser</i>				<i>PM v. Williams</i>
<i>Jones</i>				<i>Lawrence</i>
<i>Duenas-Alvarez</i>				<i>Belmontes</i>
<i>Norfolk Southern</i>				<i>Limtiaco</i>
<i>Burton (PC)</i>				<i>Watters†</i>
<i>Musladin</i>				
<i>Purcell (PC)</i>				
<i>Dayton (8-0)</i>				
<i>BP America (7-0)</i>				

**DIG**

*Roper (6-3)*  
*Toledo-Flores\**

**Otherwise Dismissed**

*Burton*  
*Dayton*  
*Claiborne*

Cases colored in **red** had majorities formed by Kennedy plus the four more conservative members of the Court (Roberts, Scalia, Thomas, Alito).  
 Cases colored in **blue** had majorities formed by Kennedy plus the four more liberal members of the Court (Stevens, Souter, Ginsburg, Breyer).  
 \*\*We have made the judgment that Justice Breyer's opinion concurring in judgment and dissenting in part in *Morse* is best described as a dissent.  
 †We have decided that *Watters* is best classified with the 5-4s, as it seems quite likely that had all 9 justices participated, it would have come out this way.

Final OT05

45 (52%)	5 (6%)	12 (14%)	13 (15%)	11 (13%)
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-The per curiam dismissals in *Toledo-Flores* and *Claiborne* are not included in the voting breakdown. The summary reversals in *Rettele*, *Lance*, *Purcell*, and *Erickson* are. A look at which justices form the majority and the minority in all of the cases can be found at: [http://dailywrit.com/?page\\_id=55](http://dailywrit.com/?page_id=55).

-Detailed voting relationships between each pair of justices will be released immediately upon Term's end.

-Finally, it is worth noting that the timing of decisions issued in OT05 may have been affected by three cases that may have been decided earlier in that Term but needed to be reargued. All three of those ended up 5-4.

\*Note that this issue was decided in *Lopez v. Gonzales*.



### The Court's Workload in OT06

Cases Granted or Probable Jurisdiction Noted:	73
Dismissed Before Argument:	2
Hours of Argument:	71

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Argued Merits Cases Disposed of:	71
Dismissals:	2
Remaining Merits Opinions:	0

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Merits Opinions in OT06 After Argument:	68
Summary Reversals of Non-Argued Cases:	+ 4
Total Merits Decisions:	72

\*The final number of merits opinions is calculated by taking the number of cases argued (71), subtracting the per curiam dismissals (-2), subtracting the number of times that cases argued separately were disposed of with one opinion (-2: *Carhart* and the school assignment cases), and adding the number of times that cases that were originally consolidated but disposed of with two majority opinions (+1: *Brewer* and *Abdul-Kabir*). Note also that for the final tally, we are counting two cases where no jurisdiction was found (*Dayton* and *Burton*) as “decisions,” though the two dismissals are still not counted. Summary reversals are then added to get the final total.

**Opinion Authors by Sitting**

<b>OCT</b>	<i>Author</i>	<u>Count</u>	
Lopez/T-F	DHS	JGR	1
Belmontes	AMK	JPS	1
MedImmune	AS	AS	1
BP America	SAA	AMK	1
Global Crossing	SB	DHS	1
Norfolk Southern	JGR	CT	1
Resendiz-Ponce	JPS	RBG	1
Cunningham	RBG	SGB	1
Musladin	CT	SAA	1

<b>NOV</b>	<i>Author</i>	<u>Count</u>	
Haley	RBG	JGR	1
Williams/Bock	JGR	JPS	1
Philip Morris	SB	AS	1
Lawrence	CT	AMK	1
Bockting	SAA	DHS	1
Duke Energy	DHS	CT	1
Wallace	AS	RBG	1
Marrama	JPS	SB	1
Burton	PC	SAA	2
James	SAA		
Pl. Parent./Carhart	AMK		

<b>DEC</b>	<i>Author</i>	<u>Count</u>	
Ledbetter	SAA	JGR	1
Bell Atlantic	DHS	JPS	1
KSR	AMK	AS	1
Weyerhaeuser	CT	AMK	1
Mass v. EPA	JPS	DHS	1
Watters	RBG	CT	1
Jeff. County/PICS	JGR	RBG	1
Rockwell	AS	SB	1
Duenas-Alvarez	SB	SAA	1

<b>JAN</b>	<i>Author</i>	<u>Count</u>	
United Hauler's	JGR	JGR	1
Limtiaco	CT	JPS	2*
Landrigan	CT	AS	1
Sinochem	RBG	AMK	1
Zuni	SB	DHS	1
WEA (consol)	AS	CT	2
Travelers	SAA	RBG	1
Safeco/Geico	DHS	SB	1
Smith	AMK	SAA	1
Brewer/Abdul-Kabir	JPS (x2)		

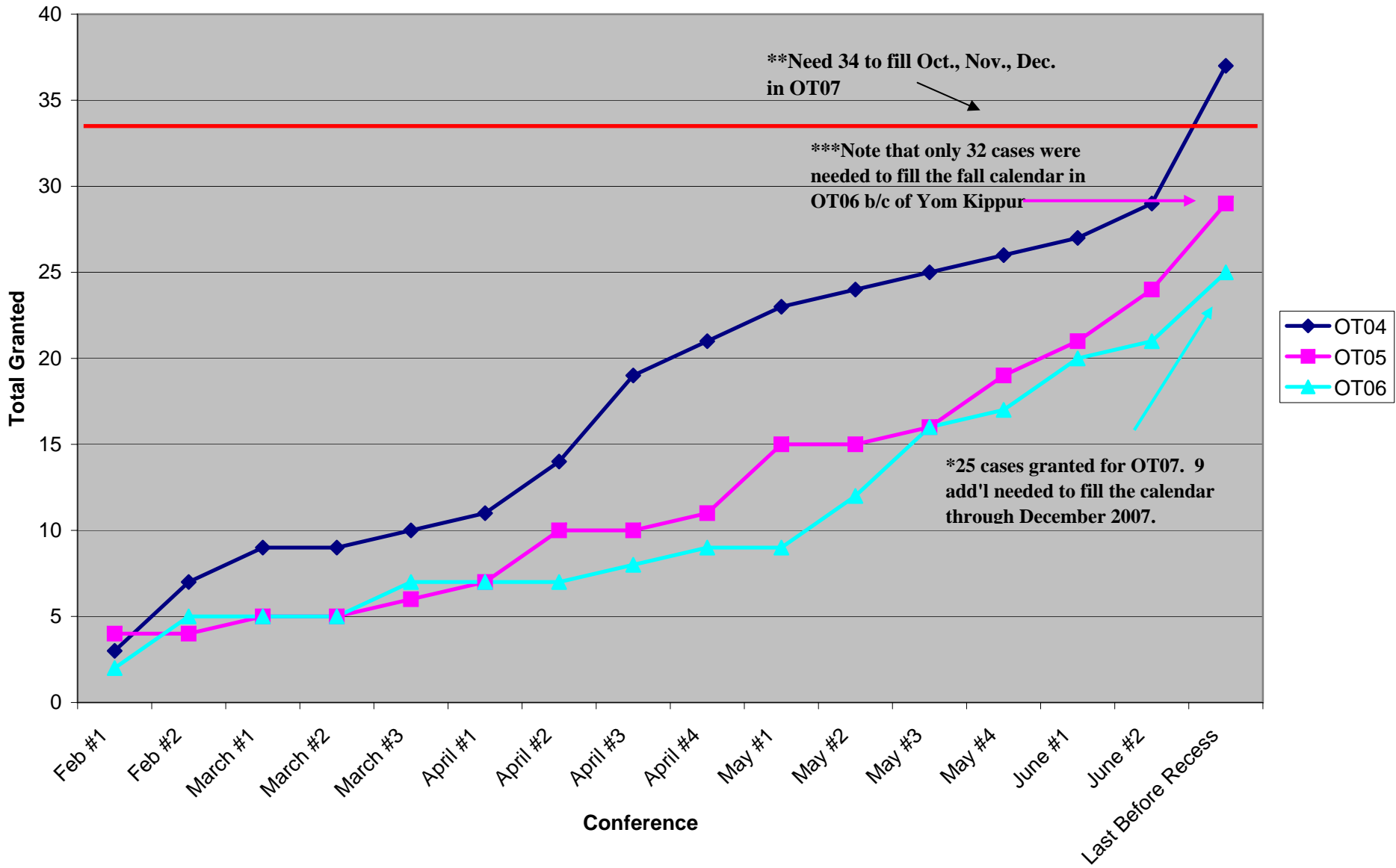
<b>FEB</b>	<i>Author</i>	<u>Count</u>	
Claiborne	PC	JGR	0
Rita	SB	JPS	0
AT&T	RBG	AS	1
EC Term of Years	DHS	AMK	1
Scott	AS	DHS	1
Winkelman	AMK	CT	0
Hein	SAA	RBG	1
		SB	1
		SAA	1

<b>MAR</b>	<i>Author</i>	<u>Count</u>	
Morse	JGR	JGR	1
Wilkie	DHS	JPS	0
Fry	AS	AS	1
Weaver	PC	AMK	1
Leegin Creative	AMK	DHS	1
Bowles	CT	CT	1
CSFB	SB	RBG	1
Tellabs	RBG	SB	1
		SAA	0

<b>APR (Wk 1)</b>	<i>Author</i>
Powerex	AS
LI Care at Home	SB
Uttecht	AMK
Wyner	RBG
Def. of Wildlife	SAA
TSSAA	JPS
Panetti	AMK

<b>APR (Wk 2)</b>	<i>Author</i>	<u>All Apr Count</u>	
Hinck	JGR	JGR	2
Atl Rsrch	CT	JPS	2
Brendlin	DHS	AS	2
Beck	AS	AMK	2
Perm. Miss	CT	DHS	1
Dayton	JPS	CT	2
Watson	SB	RBG	1
McCain/FEC	JGR	SB	2
		SAA	1

### Granted Cases From February to the Summer Recess



Note: In OT04, the Court added an additional Conference at the end of June, on the last Monday of the Term, to consider relists. Thus, the final jump of 8 cases reflects the grant of 5 cases in Conference on June 23, 2005 and an additional 3 on June 27, 2005.