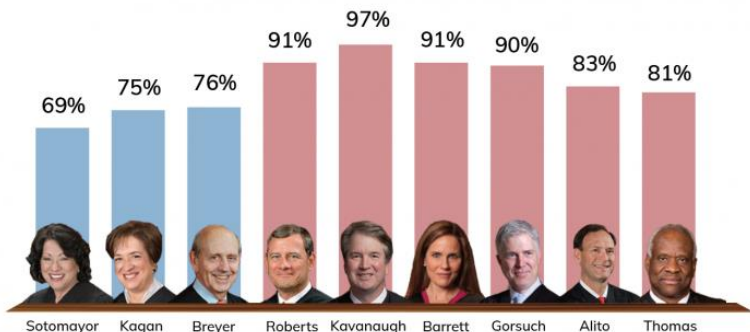


# The U.S. Supreme Court Update & Review

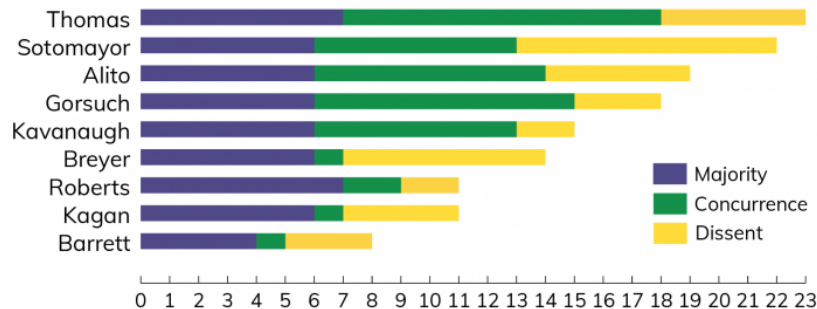
Harold Melton, Misha Tseytlin, and Elizabeth Holt Andrews

*October 26, 2021*

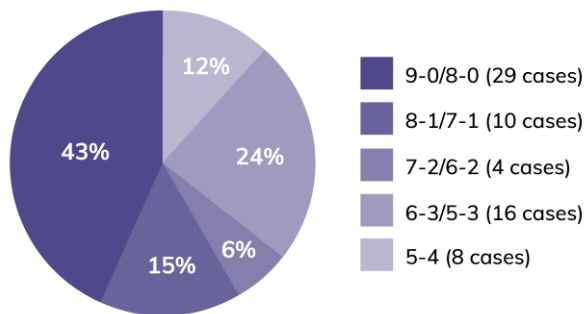
# October 2020 Term By the Numbers



Frequency in the Majority



Opinion Authorship



Strength of the Majority

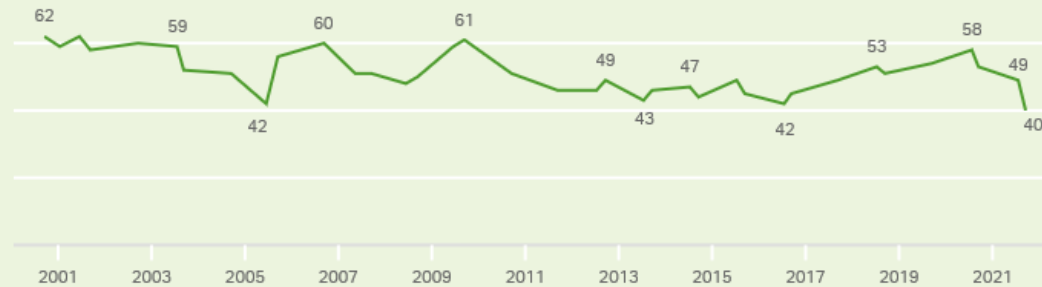
Source: SCOTUSBLOG

# The Court of Public Opinion

## Supreme Court Job Approval, Full Trend

Do you approve or disapprove of the way the Supreme Court is handling its job?

— % Approve



GALLUP

Source: Gallup



## *Cases from the Zoom Era*



# Misidentified Credit Checks Sent to Businesses Have Standing

## *TransUnion LLC v. Ramirez*

- Argued: March 30, 2021
- Decided: June 25, 2021
- In a 5-4 ruling, the Supreme Court held that only a plaintiff **concretely** harmed by a defendant's violation of the Fair Credit Reporting Act has Article III standing to seek damages against that private defendant in federal court.



# The Individual Mandate Survives Another Challenge

## *Texas v. California*

- Argued: November 10, 2020
- Decided: June 17, 2021
- The plaintiffs lack standing to challenge the Affordable Care Act's individual mandate.



# Teenage Venting is Protected Speech

## ***Mahanoy Area School District v. B.L.***

- Argued: April 28, 2021
- Decided: June 23, 2021
- The school district's decision to suspend student, B.L., from the cheerleading squad for social media posts with vulgar language/gestures violates the First Amendment.



# The End of the Line for this Long-Running Water Dispute

## *Florida v. Georgia*

- Argued: February 22, 2021
- Decided: April 1, 2021
- Florida failed to prove that Georgia's overconsumption of interstate water was a substantial factor in the economic/ecological harm to its northern watershed.





# The Court Finally Defines “Automatic Telephone Dialing System”

## ***Facebook Inc. v. Duguid***

- Argued: December 8, 2020
- Decided: April 1, 2021
- To qualify as an “automatic telephone dialing system” under the TCPA, a device must have the capacity either to store, or to produce, a telephone number using a random or sequential number generator.



### ***Ford Motor Co. v. Montana Eighth Judicial District***

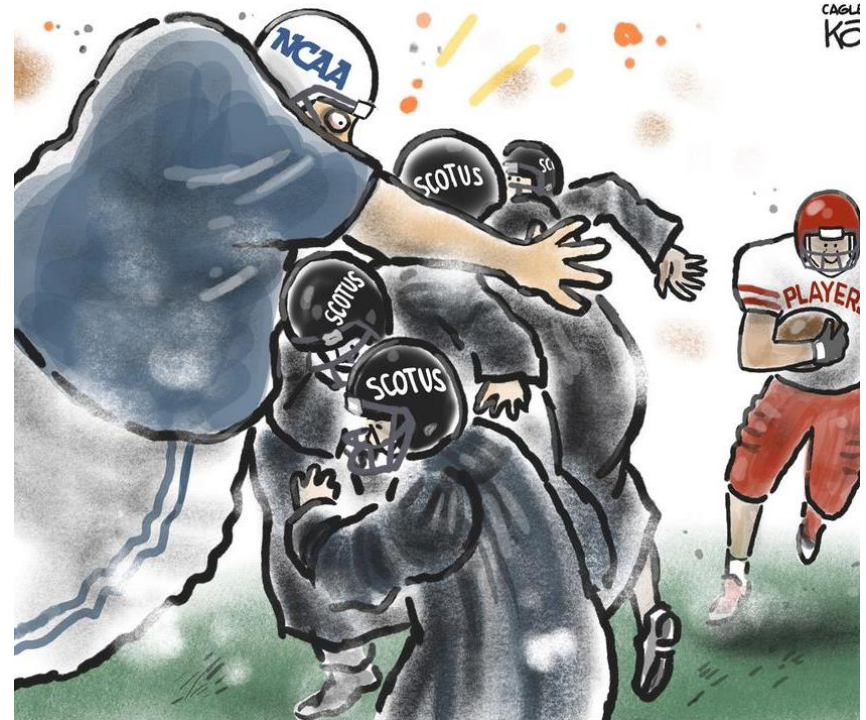
- Argued: October 7, 2020
- Decided: March 25, 2021
- The Montana state court properly exercised personal jurisdiction in products liability suit, even though cars were manufactured and originally sold out-of-state.



# The Court Loosens NCAA Grip on College Athletes

## *National Collegiate Athletic Association v. Alston*

- Argued: November 10, 2020
- Decided: June 17, 2021
- Under antitrust principles, the NCAA cannot restrict educational benefits to student-athletes.
- Cash salaries and other non-educational benefits are still off the table... for now.



# Appellate2021

# The FTC Overstepped its Enforcement Authority

## ***AMG Capital Management, LLC v. Federal Trade Commission***

- Argued: January 13, 2021
- Decided: April 22, 2021
- Section 13(b) of the FTC Act does not authorize the commission to seek equitable monetary relief.
- FTC may still seek other equitable relief (i.e., injunction).



# Corporate Decisionmaking Does Not Equate to Violation of ATS

## *Nestle USA, Inc. v. Doe, Et Al.*

- Argued: December 1, 2020
- Decided: June 17, 2021
- The domestic application of the Alien Tort Statute to activity outside the United States requires more than general allegations of corporate decisionmaking.

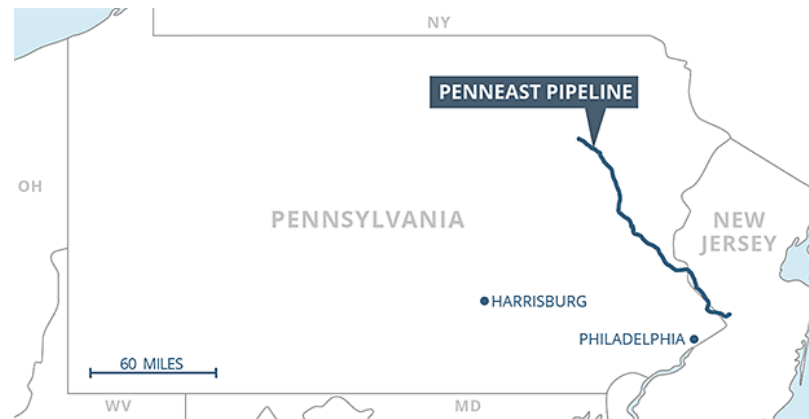




# Eminent Domain Trumps Sovereign Immunity

## *PennEast Pipeline Co. v. New Jersey*

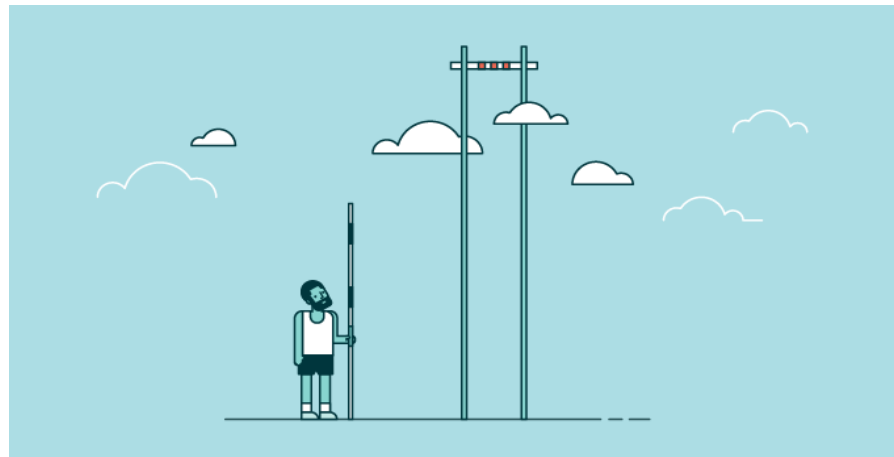
- Argued: April 28, 2021
- Decided: June 29, 2021
- A certificate of public convenience from FERC under the Natural Gas Act authorizes private parties to condemn necessary rights-of-way, regardless if public or private land.



# The Court Raises the Bar for Securities Fraud Plaintiffs

## ***Goldman Sachs Inc. v. Arkansas Teacher Retirement System***

- Argued: March 29, 2021
- Decided: June 21, 2021
- Two Key Holdings for Securities Class Actions:
  1. Defendants bear burden to rebut presumption of reliance on alleged misrepresentations.
  2. Courts can consider whether generic statements affected price.





# Big Win for Fair Use of Software Code

## *Google LLC v. Oracle America, Inc.*

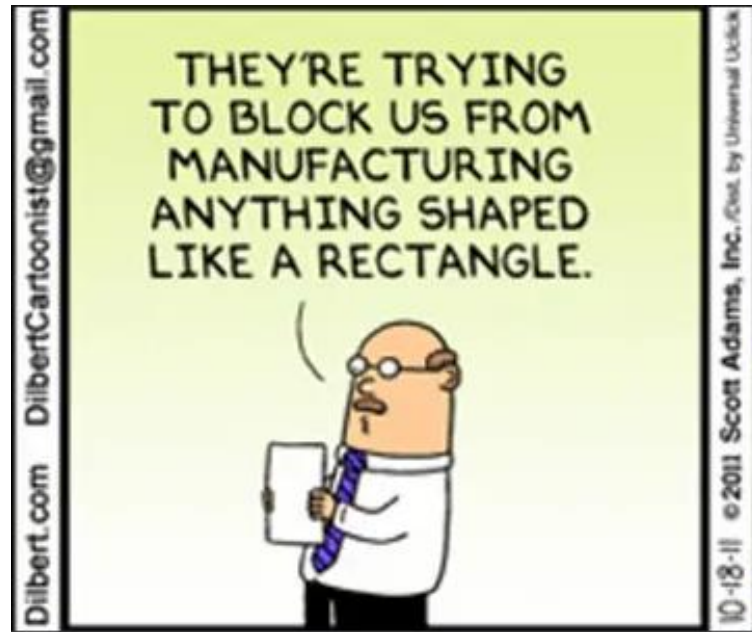
- Argued: October 7, 2020
- Decided: April 5, 2021
- The Court held that Google's use of Oracle's "declaring code" in its Android O.S. constitutes fair use under the Copyright Act.



# The Doctrine of Assignor Estoppel is Not Without Limits

## *Minerva Surgical, Inc v. Hologic, Inc.*

- Argued: April 21, 2021
- Decided: June 29, 2021
- Assignor estoppel applies when “an inventor says one thing (explicitly or implicitly) in assigning a patent and the opposite [when] litigating against the patent’s owner.”



# The Court Chips Away at ERISA Pre-emption

## ***Rutledge v. Pharmaceutical Care Management Association***

- Argued: October 6, 2020
- Decided: December 10, 2020
- Arkansas state law strengthening drug reimbursement protections for pharmacies is *not* pre-empted by ERISA.



# A Look Ahead: Upcoming Cases in The October 2021 Term



# Federal Court Jurisdiction Over Federal Arbitration Act Proceedings

## *Badgerow v. Walters*

- Argument Scheduled for November 2, 2021
- The Court will determine whether federal courts have subject-matter jurisdiction to confirm or vacate arbitration awards under the FAA, when the only basis for jurisdiction is that the underlying dispute involved a federal question.



## ***New York State Rifle & Pistol Association v. Bruen***

- Argument Scheduled for November 3, 2021
- Does New York's denial of Petitioner's applications for concealed-carry licenses for self-defense violate the Second Amendment?



# High-Profile Challenge to Mississippi Abortion Law

## *Dobbs v. Jackson Women's Health Organization*

- Argument Scheduled for December 1, 2021
- Whether all pre-viability prohibitions on elective abortions are unconstitutional.



**Troutman415**



# Questions?



# Thank You for Joining!

## U.S. Supreme Court Update & Review



**Justice Harold Melton**  
Partner, Atlanta



**Misha Tseyltin**  
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**Elizabeth Holt Andrews**  
Counsel, San Francisco