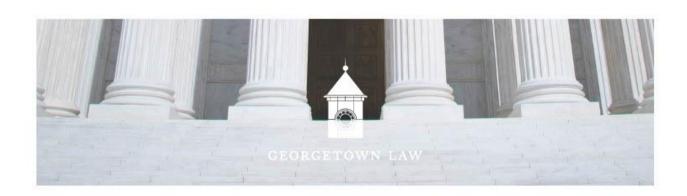


ANNUAL REPORT OCTOBER TERM 2022 SUPREME COURT INSTITUTE GEORGETOWN UNIVERSITY LAW CENTER





DATE: SEPTEMBER 5, 2023

To: GEORGETOWN LAW FACULTY AND STAFF

FROM: DEBBIE SHRAGER, IRV GORNSTEIN,

STEVEN GOLDBLATT, KAL GOLDE

RE: SUPREME COURT INSTITUTE ANNUAL REPORT

We are pleased to share the Supreme Court Institute's (SCI) Annual Report for the 2022-2023 academic year, corresponding to the Supreme Court's October Term 2022 (OT 22). SCI provided a moot court for advocates in all but one case argued at the Court.

In addition to the moot courts, SCI hosted our annual Supreme Court Term Press Briefing and Student Term Preview. During Reunion Weekend, we held a popular program highlighting some of the biggest cases on the Court's docket. We also hosted foreign delegations and special programs for the Edward Coke Appellate Inn of Court and the 100th anniversary of the Court's decision in *United States v. Thind*. Overall, SCI OT 22 programming was uniformly well attended, and YouTube videos of these programs have been viewed more than 2,900 times to date.

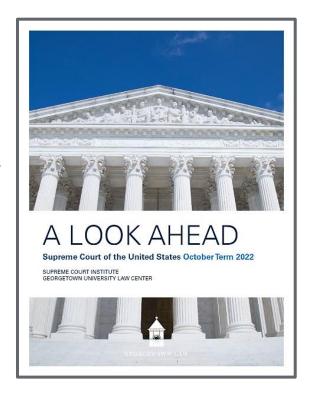
Many Georgetown Law students had an extraordinary learning experience seeing advocates prepare for arguments in a term loaded with high-profile cases of profound significance to the nation. In total, more than 1,600 students attended SCI moot courts, many as part of a class curriculum. SCI employed four student research assistants to manage the conflict and confidentiality protocols of our moot courts and continued to sponsor a practicum seminar offering enrolled students the opportunity to serve as clerks for our moot justices.

THE SCI TERM PREVIEW REPORT

SCI published its 14th annual Supreme Court Term Preview Report. This publication previewed the Court's argument docket for OT 22. At the time of publication, the Court had accepted 33 cases for review.

Working with SCI Executive Director Professor Irv Gornstein, five summer research assistants and SCI Assistant Director Kal Golde prepared detailed summaries of cases on the Court's argument docket. The report included these summaries, organized by subject matter, and a section highlighting some of the most noteworthy cases.

This publication is much anticipated by members of the Supreme Court Bar and the press as they prepare for the start of the new term. We share copies with the entire roster of SCI volunteers and members of the Supreme Court press corps. An archive of SCI's Term Previews and Annual Reports is available on the Institute's website.



SUPREME COURT INSTITUTE OT 22 MOOT COURT PROGRAM

During OT 22, SCI provided moot courts for advocates in 58 cases, all but one argued this term. As in past terms, the varied affiliations of advocates mooted reflects SCI's commitment to assist advocates without regard to the party represented or the position advanced.¹

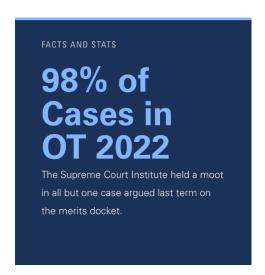
To expand our service to the Court and the Georgetown Law community, SCI offered moots to both parties, with mutual consent, in select cases that were of exceptional national importance. Through careful security and confidentiality practices, these "double moots" remain a successful expansion of our program, offering more opportunities to both advocates and the law school community to benefit from our program. This term, we held moot courts for both sides in five of the Court's most high-profile cases – involving the Voting Rights Act, affirmative action, religious freedom and LGBTQ rights, and the independent state legislature theory.

¹ SCI Policies & Procedures effective OT 2022 provide that, in general, whichever side submits the first request to the SCI Director is offered a moot. If both sides request the moot within the first 48 hours following the grant, however, a coin flip decides who will get the moot: heads, the moot goes to petitioner; tails, the moot goes to respondent.

A list of all SCI moot courts held in OT 22—organized by sitting and moot court date, including the name and affiliation of each advocate and the number of Georgetown Observers—is included at the end of this report. Comparable figures from the past 9 terms, OT 13 through OT 21, are also included. Select facts and figures about SCI moot courts this term appear below.

MOOT COURT STATISTICS

SCI mooted counsel in all but one case on the Court's OT 22 merits docket. In all, SCI provided 62 moot courts for 61 different advocates. Moot court panels were comprised of 209 unique "justices" filling 303 seats, averaging a five-member panel for each moot court. 36% of the advocates we mooted—22 attorneys—were preparing for their first Supreme Court argument. At the other end of the experience spectrum, we held moot courts for four advocates who formerly served as Solicitor General or Acting Solicitor General of the United States: Paul Clement, Neal Katyal, Don Verrilli, and Seth Waxman.



The varied affiliations of advocates mooted this term reflect SCI's continued commitment to assist counsel regardless of the party they represent or the position they advance:

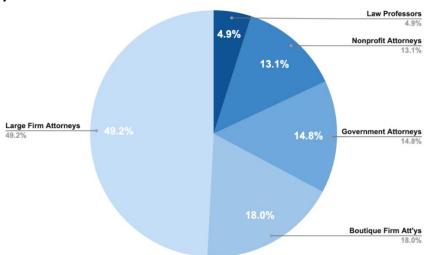
- We assisted 10 advocates appearing on behalf of a criminal defendant/habeas petitioner.
- We provided 11 moot courts for 9 advocates representing 9 states: Alabama, Arizona, California, Colorado, Nebraska, New Jersey, North Carolina, Ohio, and Texas.
- We mooted advocates affiliated with:
 - 5 nonprofit organizations: ACLU, Alliance Defending Freedom, Lawyers' Committee for Civil Rights, NAACP, and Pacific Legal Foundation.
 - 3 law schools: Stanford, Virginia, and Washington.

² The number of moot courts and unique advocates differs for OT 22 because SCI provided multiple moot courts for a few repeat advocates this term, as well as single moot courts for a few pairs of advocates in cases that were consolidated or presented similar issues.

30 private law practices:

- o 11 advocates affiliated with 8 small/boutique firms (fewer than 100 attorneys).
- 30 advocates affiliated with 22 large firms (100 or more attorneys).

OT 22 Advocates by Affiliation:



More moots were held for advocates representing petitioners or appellants (36 moots or 58%) than those held for counsel representing respondents or appellees (25 moots or 40%). One moot prepared an advocate appointed by the Court to defend the judgment below.

As in prior terms, the number and percentage of male advocates (we mooted 52 men, or 85% of all advocates) far surpassed female advocates (we mooted 9 women, or 15% of all advocates).

In six cases, we held two separate moots, either for both parties or for one party, as well as a Court-appointed amicus.³

Samiyyah Ali (Williams & Connolly) and Prof. Cliff Sloan discuss the moot court in Counterman v. Colorado.

³ In OT 22, SCI mooted petitioner and respondent in *Allen v. Milligan, Students for Fair Admissions v. Harvard College, Students for Fair Admissions v. University of North Carolina, 303 Creative v. Elenis, and Moore v. Harper*; and petitioner and Court-appointed amicus in *Jones v. Hendrix*.

MOOT COURT PANELISTS

SCI is fortunate that many attorneys generously donate their time and expertise by serving as moot court justices. The SCI moot court program brings volunteers to the Georgetown Law campus from more than 100 organizations—and every term, these volunteers include several Georgetown Law graduates! We are especially grateful to the many members of the Georgetown Law faculty who serve on serve on moot court panels—they make our program possible! This term 77% of our moot court panels included at least one Georgetown Law professor.

Most-Frequent GULC Panelists

26 moots: Prof. Irv Gornstein

7 moots: Prof. Paul Smith

Most-Frequent External Panelists

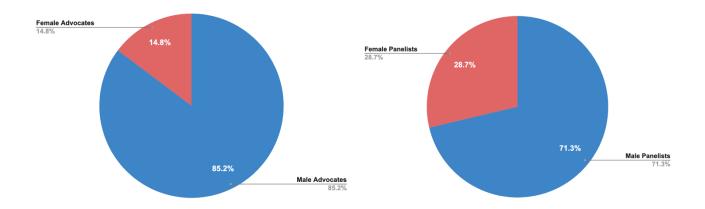
5 moots: Dori Bernstein (LL.M.'89)

3 moots: Jonathan Bond, Hash Mooppan,

Erin Murphy (L'06)

PARTICIPANTS BY GENDER⁴

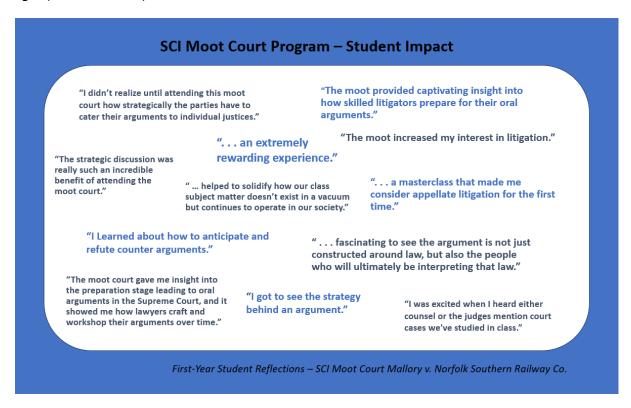
There continues to be little diversity among advocates who argue at the Court; a small minority are women or people of color. SCI confirms at least one female participant for every moot court panel and aspires to include the same representation of panelists of color. As firms, judges, and other organizations practicing before the Supreme Court increase their employment of underrepresented groups, we actively seek to increase the diversity of our volunteer roster.



⁴ SCI does not ask advocates or panelists to disclose personal information, including gender identity. We apologize for any error made here.

ATTENDANCE AT SCI MOOT COURTS

Georgetown Law student and faculty attendance at SCI moot courts was robust. A total of 1,633 student observers attended this term's moots. Our moot in *Mallory v. Norfolk Southern Railway*, a personal-jurisdiction case with two first-year Civil Procedure classes in attendance, was this term's most well attended moot (281 observers). Other popular moots were *National Pork Producers Council v. Ross* (161 observers); *Students for Fair Admissions v. Harvard College* (107 observers); and *Gonzalez v. Google* (100 observers).



CONTINUED PARTNERSHIPS WITH GEORGETOWN LAW FACULTY AND STUDENT ORGANIZATIONS

Class Moots

SCI moot courts were integrated into the curriculum of many courses during the 2022-23 academic year:

Professors Kevin Arlyck and Dave Vladeck's Civil Procedure students—all first-year students in Sections 1 and 5 attended the moot court for petitioner in *Mallory v. Norfolk Southern Railway Co.*, No. 21-1168. The issue was whether the due process clause of the 14th Amendment prohibits a state from requiring a corporation to consent to personal jurisdiction to do business in the state.

Professors Caroline Frederickson and Irv Gornstein's Constitutional Law students—all first-year students in Section 4 attended the moot court for respondents in *National Pork Producers Council v. Ross*, No. 21-468. The issues were whether allegations that a state law has dramatic economic effects outside of the state and requires pervasive changes to a nationwide industry are a violation of the dormant Commerce Clause; and whether such allegations, concerning a law that is based solely on preferences regarding out-of-state housing of farm animals, state a claim under *Pike v. Bruce Church*.

Professors Jonah Perlin's Legal Practice and Nina Srejovic's Intellectual Property and Information Policy Clinic students attended the moot court for petitioner in *Gonzalez v. Google LLC*, No. 21-1333. The issue was whether Section 230(c)(1) of the Communications Decency Act immunizes interactive computer services when they make targeted recommendations of information provided by another information content provider, or only limits the liability of interactive computer services when they engage in editorial functions (e.g., deciding to display or withdraw) regarding such information.

Professor Madhavi Sunder's Copyright Law students attended the moot court for respondent in *Andy Warhol Foundation for the Visual Arts v. Goldsmith*, No. 21-869, held on behalf of Adjunct Professor Lisa Blatt. The issue was what it means for a work of art to be "transformative" for purposes of fair use under the Copyright Act.

Professor Sherally Munshi's Asian American Legal Studies Seminar students attended the moot court for petitioner in *Students for Fair Admissions Inc. v. Harvard College / University of North Carolina*, Nos. 20-1199, 21-707. The issue was whether to overrule the Court's 2003 decision in *Grutter v. Bollinger*, holding that the University of Michigan could consider race in its undergraduate admissions process as part of its efforts to obtain a diverse student body.

Professor David Kuney's Bankruptcy Advocacy Practicum students attended the moot court for petitioner in *Lac du Flambeau Band of Lake Superior Chippewa Indians v. Coughlin*, No. 22-227. The issue was whether the Bankruptcy Code unequivocally expresses Congress' intent to abrogate the sovereign immunity of Native American tribes.

Professors Paul Clement and Lisa Blatt's Separation of Powers Seminar students attended the moot court for petitioner in *Axon Enterprise, Inc. v. Federal Trade Commission*, No. 21-86, held on behalf of Prof. Clement. The issue was whether federal district courts have the power to review challenges to the constitutionality of the FTC's structure.

Professor Paul Smith's Election Law Seminar students attended the moot court for respondents in *Allen v. Milligan / Caster*, Nos. 21-1086, 21-1087. The issue was whether the state of Alabama's 2021 redistricting plan for its seven seats in the U.S. House of Representatives violated Section 2 of the Voting Rights Act.

Professor Jay Thomas' Advanced Patent Law Seminar students attended the moot court for petitioner in *Amgen Inc. v. Sanofi,* No. 21-757. The issue was, when a patent applicant must provide a description of its invention that would enable a "skilled artisan" to make and use the invention, what must the applicant show to meet that requirement.



Panelists at the moot court in Ciminelli v. United States. From left to right: Prof. Julie O'Sullivan, Ginger Anders (Munger Tolles & Olson), Prof. Irv Gornstein, Jim Feldman (Solo Practitioner), Prof. Shon Hopwood, and Brian Lipshutz (Paul, Weiss).

Regular Partnerships with Faculty

Several professors routinely incorporate SCI moot courts into their class curricula:

- Appellate Courts Immersion Clinic (Professor Brian Wolfman)
- Appellate Advocacy Clinic (Professor Erica Hashimoto)⁵
- Federal Practice Seminar: Contemporary Issues (Professor Gornstein and Judge Nina Pillard)
- Criminal Procedure and the Roberts Court Seminar (Professor Gornstein and Judge Pamela Harris)
- Supreme Court Litigation Seminar (Professor Donald Ayer)
- Supreme Court Seminar (Professor Susan Bloch)
- Supreme Court Today (Professors Michael Dreeben and Annie Owens)

This year, these professors required or recommended that their students attend the following moots. The subject matter of these moots included veterans' benefits, separation of powers, criminal law and procedure, and religious freedom in the workplace. Many professors bringing their students to a moot also served as a moot court justice for that case.

⁵ Professor Hashimoto, who served on several OT 22 moot court panels, also required her Appellate Advocacy Clinic students to attend at least one moot of their choice.

• Arellano v. McDonough, No. 21-432

Whether the effective date of an award of service-related disability compensation to a veteran of the United States military is subject to equitable tolling.

Axon Enterprise, Inc. v. Federal Trade Commission, No. 21-86

Whether statutory review by the SEC and FTC displaces a district court's federal-question jurisdiction over claims challenging as unconstitutional the structure or existence of the SEC or FTC.

• Dubin v. United States, No. 22-10

Whether a person commits aggravated identity theft any time they mention or otherwise recite someone else's name while committing a predicate offense.

• National Pork Producers Council v. Ross, No. 21-468

Whether the 9th Circuit properly dismissed a complaint challenging a California law under a dormant Commerce Clause rationale.

Samia v. United States, No. 22-196

Whether prosecutors violated a defendant's right under the Sixth Amendment when they admitted a confession from one of his co-defendants, redacted so that it did not use the defendant's name.

• Lac de Flambeau Band of Lake Superior Chippewa Indians v. Coughlin, No. 22-227

Whether the Bankruptcy Code unequivocally expresses Congress's intent to abrogate the sovereign immunity of Native American tribes.

• Bittner v. United States, No. 21-1195

Whether the failure to file an annual report disclosing foreign bank accounts counts as a single violation of the Bank Secrecy Act, or whether a violation occurs each time an individual account is not properly reported.

Amgen Inc. v. Sanofi, No. 21-757

When a patent applicant must provide a description of its invention that would enable a "skilled artisan" to make and use the invention, what must the applicant show to meet that requirement.

• *Groff v. DeJoy*, No. 22-174

Whether the Court should overrule its 1977 decision in *Trans World Airlines v. Hardison,* on the accommodations that employers must provide for their employees' religious practices.



Pratik Shah (Akin Gump) speaks with Prof. Brian Wolfman and students in his Appellate Courts Immersion Clinic after the moot court in Lac du Flambeau Band v. Coughlin.

SCI Judicial Clerkship Practicum

The Supreme Court Institute Judicial Clerkship practicum, taught by Adjunct Professor Daniel Woofter, offered eight J.D. students the opportunity to serve as "law clerks" to professors and practitioners who volunteered to serve as justices on an SCI moot panel. Each student clerk led a class discussion of the case; wrote a bench memo synthesizing the critical facts, pertinent legal framework, and contentions of the parties and *amici curiae*; met with their assigned justice to discuss the case; observed the moot court; listened to the oral argument; and prepared a post-argument analysis. Volunteer professors and practitioners for this year's practicum were Professors Gornstein, Hashimoto, and Glen Nager; Tejinder Singh of Sparacino PLLC; Kevin Russell of Goldstein, Russell & Woofter; Andy Pincus of Mayer Brown; and Jon Taylor of Gupta Wessler.

Barristers' Council

SCI collaborates with the Barristers' Council to make our moot courtroom available for special events held for Georgetown Law students. For the past two years, while Hart auditorium has been under renovation, SCI has hosted the final round of the Leahy Moot Court Competition. SCI Director Shrager facilitated live streaming so families and friends could watch the event.

In November, SCI partnered with Barristers' Council to have a group of members attend the moot court for state and private plaintiffs in *Haaland v. Brackeen*, No. 21-376, and consolidated cases (the issue was whether provisions of the Indian Child Welfare Act violate the Constitution). Afterwards the students had lunch with the advocates: Judd Stone, Texas Solicitor General, and Matt McGill, a partner at Gibson Dunn.

OTHER MOOT COURT OBSERVERS

To further our academic mission and support the teaching of our volunteers, SCI will permit students not enrolled at Georgetown Law to attend a moot court with their professors, by prior arrangement with the advocate.⁶

In January, the firm of Goldstein Russell (whose attorneys are regular SCI volunteers) hosts a week-long Supreme Court Litigation Clinic for Harvard Law students. SCI worked with the firm to arrange for the clinic students to observe an SCI moot court. This term, the students observed our moot court for Lisa Blatt, counsel for petitioner, in *Turkiye Halk Bankasi A.S. v. United States*, No. 21-1450. The issue was whether U.S. district courts may exercise subject-matter jurisdiction over criminal prosecutions against foreign sovereigns and their instrumentalities under 18 U.S.C. § 3231 and in light of the Foreign Sovereign Immunities Act.

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⁶ SCI moots are generally open only to students currently enrolled at Georgetown Law.

In February, students in Stanford Law's Supreme Court Clinic attended the moot court for petitioner in *Dubin v. United States*, No. 22-10, held on behalf of their instructor, Professor Jeff Fisher. The issue was whether a person commits aggravated identity theft any time they mention or otherwise recite someone else's name while committing a predicate offense.

In March, students in West Virginia Law's Supreme Court Clinic (pictured at right) attended the moot court for petitioner in *Lora v. United States*, No. 22-49. The moot was held on behalf of their instructor, Professor Larry Rosenberg, who is also an attorney at Jones Day. The issue was whether 18 U.S.C. § 924(c)(1)(D)(ii), which provides that "no term of imprisonment imposed ... under this subsection shall run concurrently with any other term of imprisonment," is triggered when a defendant is convicted and sentenced under 18 U.S.C. § 924(j).



In March and April, students of Washington College of Law Professor Elizabeth Beske, who volunteers as a panelist with our program, attended one of two moot courts. The first moot court was for petitioner in *Jack Daniel's Properties v. VIP Products LLC*, No. 22-148, concerning whether humorous use of another's trademark as one's own on a commercial product is subject to the Lanham Act's traditional likelihood-of-confusion analysis, or instead receives heightened First Amendment protection from trademark-infringement claims. The second moot court was for petitioner in *Yegiazaryan v. Smagin*, No. 22-381, concerning whether a foreign plaintiff states a cognizable civil claim under the Racketeer Influenced and Corrupt Organizations Act when it suffers an injury to intangible property, and if so, under what circumstances.

COMMENTS AND THANK YOU'S

"

The Court issued the opinion in *Wilkins* today. I wanted to thank you again for hosting a moot court for me prior to oral argument. It was a great experience, and I could not have done as well at oral argument without the help of you and those who you invited to judge. If you could please pass along my thanks to all of those that took the time to attend the moot, I would greatly appreciate it. We at PLF are very grateful for the Supreme Court Institute. We have had a busy term and I know my colleagues are also thankful for the excellent moot courts you host.

- Jeffrey W. McCoy, Pacific Legal Foundation

Thank you for hosting us today . . . The moot was highly productive and an overall great experience.

- Esha Bhandari, ACLU

- I wanted to take the time and write you a more detailed thank you note. I've had a few days to reflect upon the victory, and my abiding feeling is one of sincere gratitude. ... As I entered the campus, what I found was a friendly, collaborative, and helpful environment. You and your team assembled a top-notch group of practitioners and interested students who helped our team think through the weaknesses of the case. ... You made a real difference in the life of my client, as well as to the proper interpretation of the law. Thanks to you, I retire from SCOTUS 1-0.
 - Ed Sullivan, Oberti Sullivan LLP

Thanks! And thank you! The moot was beyond helpful.

- Zachary D. Tripp, Weil, Gotshal & Manges LLP

- I'm writing to thank you for hosting and participating in the moot. It was incredibly helpful—and prepared me well to answer every single one of the questions I received. I'm not sure whether we'll win. But I'm certain I wouldn't have performed as well without your help.
 - Ben Flowers, Ohio Solicitor General
 - Thanks so much ... It was a very helpful moot. I appreciate all the work you [all] put into preparing these.
 - Douglas H. Hallward-Driemeier, Ropes & Gray LLP
- Thank you all very much for your time last week in helping me prepare for the *Percoco* argument. The argument was this morning and went smoothly from my perspective, thanks in large part to the excellent moot. I really appreciate the assistance and hope to be able to return the favor in the future.
 - Yaakov Roth, Jones Day
 - Thank you so very much!! I am immensely grateful, as always, for the wonderful moot.

 This was very helpful.

 Paul Hughes, McDermott

Please pass along my sincere thanks to the panelists for helping to prepare me for the oral argument in *Students for Fair Admissions v University of N. Carolina*. I feel the moot helped me tremendously and, frankly, was much tougher than the actual questioning (and that's saying something b/c the questioning by the justices was not easy). A hallmark of a great moot. My deepest gratitude and appreciation to all panelists and to the Georgetown Clinic for arranging the moot!

- David Hinojosa, Lawyers' Committee for Civil Rights Under Law

I attended one of the admitted students' sessions that discussed the [Supreme Court] Institute, and it was one of the reasons I chose Georgetown.

- Email to SCI Director Shrager from a new student, L'26

Comparing the moot judges' questioning to when I listened to part of the oral arguments in front of the actual Court, I noted that the Supreme Court Institute really does a fantastic job at recreating the true atmosphere of the Court. The pace and depth of questions were all exactly on point . . . I heard many similar inquiries from the actual Justices.

- First year student, L'25

SCI Research Assistants

Student involvement in our program includes the opportunity to serve as a research assistant. Each year, four students are selected to work with SCI for the academic year. These students implement our conflict and confidentiality procedures—a responsibility that is essentially a year-long course in Supreme Court procedure, professional conflicts, and the contemporary Court. During the summer, SCI Executive Director Irv Gornstein also hires four research assistants to draft case summaries for our annual Term Preview.



From left to right: SCI 2022-23 research assistants Hannah Gehringer, Hasala Ariyaratne, Ciara Cooney, and Blake Phillips; Counselor to the Chief Justice Judge Robert Dow.

SCI PROGRAMMING AND PRESS COVERAGE

Annual SCI Press Term Preview, September 21, 2022

SCI held its annual press briefing covering some of the most significant cases to be considered in OT 22. The panel was moderated by Professor Gornstein, and panelists included Lisa Blatt (Williams & Connolly), Professor Kelsi Corkran, Roman Martinez (Latham & Watkins), and Hashim Mooppan (Jones Day). The discussion included a question-and-answer session with members of the Supreme Court press. A video of this and past press briefings may be accessed on the SCI Website. Select media coverage and engagement: New York Times⁷, Washington Post⁸, NPR⁹, YouTube Video (1,800 views).¹⁰



Annual SCI Student Term Preview, September 21, 2022



SCI Executive Director Professor Irv
Gornstein (pictured far right) moderated this
year's panel discussion of some of the most
significant cases on the Court's OT 22 docket.
The panelists were (pictured, left to right)
Professors Madhavi Sunder, Mike
Gottesman, Kelsi Corkran, and Robin
Lenhardt. Co-sponsored by the Georgetown
Law chapters of the American Constitution
Society and Federalist Society, this annual

event is also Georgetown University's official event for the observance of Constitution Day. Students throughout the university are invited to watch this program on Zoom or view a recording.¹¹

SCI Annual Alumni Term Highlights Program, October 7, 2022

SCI hosted its annual Supreme Court preview during Georgetown Law's Reunion Weekend. Panelists included Professors Kelsi Corkran, Aderson Francois, and Madhavi Sunder, and SCI Executive Director Irv Gornstein served as moderator. The panel discussed some of the most significant cases heard by the Court in the past term and looked forward to what to expect in OT 22.

⁷ https://www.nytimes.com/2022/10/02/us/conservative-supreme-court-legitimacy.html (last accessed August 21, 2023).

⁸ https://www.washingtonpost.com/379b51ec-1c6c-11ec-bcb8-0cb135811007 story.html (last accessed August 21, 2023).

⁹ https://www.npr.org/2022/10/03/1126041958/supreme-court-new-term (last accessed August 21, 2023).

¹⁰ https://www.youtube.com/watch?v=ndhoj3dOCzs (last accessed August 21, 2023).

¹¹ https://www.youtube.com/watch?v=Ov3FGeXRGi0&t=227s (last accessed August 21, 2023).

Edward Coke Appellate Inn of Court, January 25, 2023

In January, SCI partnered with the Edward Coke Appellate Inn of Court to host a discussion on trends in legal higher education. The event was co-sponsored by Georgetown's Institute for Constitutional Advocacy and Protection (ICAP) and the Center for the Constitution. The panel was moderated by Ishan Bhabha, Co-Chair of Jenner & Block's education practice group, with remarks by Georgetown Law Dean of Admissions Andy Cornblatt, Professor Erica Hashimoto, George Washington Law Professor Blake Morant, and George Mason Law Professor Ilya Somin. SCI's research assistants and practicum course students, and students affiliated with ICAP and the Center, were invited to attend the program and meet members of the Inn at a pre-event reception.



From left to right: Ishan Bhabha, Dean Andy Cornblatt, Prof. Erica Hashimoto, Prof. Blake Morant, and Prof. Ilya Somin

Members of the Appellate Inn and Georgetown Law students enjoyed a networking reception before the discussion.

Examining the Legacy of Bhagat Singh Thind, 100 Years Later, April 20, 2023

This year was the 100th anniversary of the Supreme Court's decision in *United States v. Thind*, in which Sikh-American man Bhagat Singh Thind unsuccessfully sought to obtain United States citizenship based on the historical connection between Sikh culture and the term "Aryan." At the time, only white people were eligible to become U.S. citizens. SCI sponsored a discussion of the decision organized and moderated by second-year Georgetown Law student Ashwin Ramaswami. The panelists were Sam Singh Attariwala of the Sikh Coalition, Georgetown Law Professor Sherally Munshi, and Tejinder Singh of Sparacino PLLC. The event was co-sponsored by the South Asian Bar Association of DC, the South Asian Law Students Association, and the Dharmic Law Student Association.



From left to right: Tejinder Singh (Sparacino PLLC), Prof. Sherally Munshi, Sam Singh Attariwala (The Sikh Coalition), and 2L Ashwin Ramaswami.

Peruvian Judges and Members of Supreme Court of Justice



Prof. Alvaro Santos, far left, and Prof. Lelia Mooney, second from right, of CAROLA, with judges from Peru.

Georgetown Law's Center for the Advancement of the Rule of Law in the Americas (CAROLA) partnered with SCI to welcome a group of distinguished judges visiting from Peru, including then-President of the Supreme Court of Justice Elvia Barrios Alvardo, and four sitting Justices from the Supreme Court of Peru and the Superior Court of Cusco. These guests were joined by various officials from the U.S. State Department. Professors Alvaro Santos and Lelia Mooney spoke to the group about CAROLA's work, and SCI Director Shrager introduced SCI's Moot Court Program.

United Kingdom Supreme Court Judicial Assistants

The Supreme Court Institute has a longstanding partnership with the American Inns of Court. Each spring, SCI hosts a group of Supreme Court Judicial Assistants from the United Kingdom (the equivalent of U.S. Supreme Court Clerks), led by Judge Thomas L. Ambro, a senior judge on the U.S. Court of Appeals for the Third Circuit. SCI staff met with the group to discuss the Institute's moot court program and American Supreme Court practice. The group also attended the moot court for Amy Sharia (Williams & Connolly), counsel for respondent in *Dupree v. Younger*, No. 22-210. The issue in that case was whether, to preserve an issue for an appeal, a party must reassert a purely legal argum

appeal, a party must reassert a purely legal argument rejected at summary judgment in a post-trial motion.



Amy Saharia of Williams & Connolly speaks with U.K. Judicial Assistants after her moot court.

End-of-Term Reception



The Supreme Court Institute's annual celebration marks the completion of Supreme Court arguments for the current term. The event is held to thank those who volunteered as moot court justices and participated in other SCI programs, and to recognize an honoree who has contributed significantly to the work of the Supreme Court. Since 2000, it has been a "must attend" annual gathering for many members of the legal community. Dean Treanor served as host for the festivities.

This year, we honored Deputy Solicitor General Malcolm Stewart for his 30 years of service in the Office of Solicitor General of the United States. Deputy Solicitor General Ed Kneeler, Malcolm's longtime colleague and himself an SCI honoree, spoke in tribute to Malcolm. Associate Justice Elena Kagan generously agreed to present SCI's gift to Malcom—an "official" Washington Capitals hockey puck (signed by the Justice), along with a matching display box. Associate Justice Brett Kavanaugh also attended the event. Other attendees included members of the bench and bar, Supreme Court press, Georgetown Law faculty, administration, and staff, as well as students who participated in closely affiliated classes.

APPENDIX A: OT 22 SCI MOOT COURTS¹²

October Sitting

Delaware v. Pennsylvania and Wisconsin, No.

220145, 9/28/22

Advocate: Neal Katyal, Hogan Lovells

Georgetown Observers: 15

Class: Supreme Court Seminar (Bloch)

Arellano v. McDonough, No. 21-432, 9/28/22

Advocate: James Barney, Finnegan

Georgetown Observers: 15

Class: Appellate Courts Immersion Clinic

(Wolfman)

Sackett v. EPA, No. 21-454, 9/29/22 Advocate: Damien Schiff, Pacific Legal

Foundation

Georgetown Observers: 31

Allen v. Milligan, No. 21-1086, 9/30/22

Advocate: Edmund LaCour, Alabama AG's

Office

Georgetown Observers: -

Allen v. Milligan, No. 21-1086, 9/30/22

Advocates: Deuel Ross, NAACP; Abha Khanna,

Elias Law Group

Georgetown Observers: 93 Class: Election Law (Smith) Andy Warhol Foundation v. Goldsmith, No. 21-

869, 10/3/22

Advocate: Lisa Blatt, Williams & Connolly

Georgetown Observers: 97 Class: Copyright Law (Sunder)

Reed v. Goertz, No. 21-442, 10/6/22

Advocate: Judd Stone, Texas Attorney General's

Office

Georgetown Observers: 12

National Pork Producers Council v. Ross, No.

21-468, 10/6/22

Advocates: Michael Mongan, California AG's

Office; Jeffrey Lamken, MoloLamken

Georgetown Observers: 161

Class: Constitutional Law I (Bloch, Fredrickson,

Gornstein), Federal Practice Seminar

(Gornstein), Supreme Court Seminar (Bloch)

Helix Energy Solutions v. Hewitt, No. 21-984,

10/7/22

Advocate: Ed Sullivan, Oberti Sullivan

Georgetown Observers: 8

¹² Party mooted in blue; first-time SCOTUS advocates in green; female advocates in red.

November Sitting

Students for Fair Admissions v. Harvard

College / University of North Carolina, Nos. 20-

1099, 21-707, 10/26/22

Advocates: Patrick Strawbridge & Cameron

Norris, Consovoy McCarthy Georgetown Observers: 15

Class: Asian American Legal Studies Seminar

(Munshi)

Jones v. Hendrix, No. 21-857, 10/27/22

Advocate: Morgan Ratner, Sullivan & Cromwell

Georgetown Observers: 4

Cruz v. Arizona, No. 21-846, 10/27/22

Advocate: Joseph Kanefield, Arizona AG's Office

Georgetown Observers: 5

Jones v. Hendrix, No. 21-857, 10/28/22

Advocate: Daniel Ortiz, University of Virginia

Law School

Georgetown Observers: 15

Students for Fair Admissions v. University of

North Carolina, No. 21-707, 10/28/22

Advocates: Ryan Park, North Carolina AG's Office; David Hinojosa, Lawyers' Committee

Georgetown Observers: 54

Students for Fair Admissions v. Harvard

College, No. 20-1099, 10/28/22

Advocate: Seth Waxman, WilmerHale

Georgetown Observers: 107

Bittner v. United States, No. 21-1195, 10/28/22

Advocate: Daniel Geyser, Haynes and Boone

Georgetown Observers: 28

Class: Appellate Courts Immersion Clinic

(Wolfman)

Axon Enterprise v. FTC, No. 21-86, 11/2/22

Advocate: Paul Clement, Clement & Murphy

Georgetown Observers: 71

Class: Separation of Powers Seminar (Clement),

Supreme Court Seminar (Bloch)

Health & Hospital Corp. of Marion County v.

Talevski, No. 21-806, 11/3/22

Advocate: Andrew Tutt, Arnold & Porter

Georgetown Observers: 9

Haaland v. Brackeen, No. 21-376, 11/4/22

Advocates: Matt McGill, Gibson Dunn; Judd

Stone, Texas AG's Office Georgetown Observers: 23

Mallory v. Norfolk Southern Railway, No. 21-

1168, 11/4/22

Advocate: Ashley Keller, Keller Postman

Georgetown Observers: 281

Class: Civil Procure (Arlyck, Vladeck); Federal

Practice Seminar (Gornstein)

December Sitting

Percoco v. United States, No. 21-1158, 11/21/22

Advocate: Yaakov Roth, Jones Day

Georgetown Observers: 9

Ciminelli v. United States, No. 21-1170, 11/22/21

Advocate: Michael Dreeben, O'Melveny &

Myers

Georgetown Observers: 5

Wilkins v. United States, No. 21-1164, 11/22/2022

Advocate: Jeffrey McCoy, Pacific Legal

Foundation

Georgetown Observers: 0

United States v. Texas, No. 22-58, 11/22/22 Advocate: Judd Stone, Texas AG's Office

Georgetown Observers: 1

303 Creative v. Elenis, No. 21-476, 11/30/22

Advocate: Kristen Waggoner, Alliance

Defending Freedom Georgetown Observers: -

303 Creative v. Elenis, No. 21-476, 11/30/22 Advocate: Eric Olson, Colorado AG's Office

Georgetown Observers: 43

Bartenwerfer v. Buckley, No. 21-908, 12/1/22 Advocate: Zack Tripp, Weil Gotshal & Manges

Georgetown Observers: 3

Mall of America v. Transform Holdco, No. 21-1270, 12/1/22

Advocate: Douglas Hallward-Driemeier, Ropes

& Gray

Georgetown Observers: 1

U.S. ex rel. Polansky v. Executive Health

Resources, No. 21-1052, 12/1/22

Advocate: Mark Mosier, Covington & Burling

Georgetown Observers: -

Moore v. Harper, No. 21-1271, 12/2/22 Advocate: David Thompson, Cooper & Kirk

Georgetown Observers: 11

Moore v. Harper, No. 21-1271, 12/2/22

Advocates: Neal Katyal, Hogan Lovells; Donald

Verrilli, Munger Tolles & Olson Georgetown Observers: 36

January Sitting

In re Grand Jury, No. 21-1397, 1/4/23

Advocate: Daniel Levin, Munger Tolles & Olsen

Georgetown Observers: 7

Ohio v. Federal Labor Relations Authority, No.

21-1454, 1/5/23

Advocate: Benjamin Flowers, Ohio Attorney

General's Office

Georgetown Observers: -

Glacier Northwest Inc. v. Int'l Brotherhood of

Teamsters, No. 21-1449, 1/5/23

Advocate: Darin Dalmat, Barnard Iglitzin

Georgetown Observers: 2

Puerto Rico v. Centro de Periodismo

Investigativo, No. 22-96, 1/6/23

Advocate: Sarah Harris, Williams & Connolly

Georgetown Observers: -

Turkiye Halk Bankasi v. United States, No. 21-

1450, 1/10/23

Advocate: Lisa Blatt, Williams & Connolly

Georgetown Observers: 4

Class: Harvard Supreme Court Clinic

Perez v. Sturgis Public Schools, No. 21-887,

1/13/23

Advocate: Shay Dvoretzky, Skadden

Georgetown Observers: 6

Santos-Zacaria v. Garland, No. 21-1436,

1/13/23

Advocate: Paul Hughes, McDermott Will &

Emery

Georgetown Observers: 3

February Sitting

Gonzalez v. Google, No. 21-1333, 2/15/23 Advocate: Eric Schnapper, University of

Washington Law School Georgetown Observers: 100

Class: Legal Research and Writing (Perlin),

Intellectual Property Clinic (Srejovic)

Twitter v. Taamneh, No. 21-1496, 2/17/23 Advocate: Eric Schnapper, University of

Washington Law School Georgetown Observers: 31 **New York v. New Jersey**, No. 220156, 2/22/23 Advocate: Jeremy Feigenbaum, New Jersey

AG's Office

Georgetown Observers: 5

Biden v. Nebraska, **Dept. of Education v. Brown**, Nos. 22-506, 22-535, 2/24/23

Advocates: James Campbell, Nebraska AG's Office; Michael Connolly, Consovoy McCarthy

Georgetown Observers: 30

Dubin v. United States, No. 22-10, 2/24/23

Advocate: Jeffrey Fisher, Stanford Law School

Georgetown Observers: 50

Class: Criminal Procedure Seminar (Gornstein),

Supreme Court Litigation Seminar (Ayer),

Stanford Supreme Court Clinic

March Sitting

Arizona / Dept. of the Interior v. Navajo

Nation, Nos. 21-1484, 22-51, 3/15/23

Advocate: Shay Dvoretzky, Skadden

Georgetown Observers: 6

Abitron Austria v. Hetronic Int'l, No. 21-1043,

3/16/23

Advocate: Lucas Walker, MoloLamken

Georgetown Observers: 6

Coinbase, Inc. v. Bielski, No. 22-105, 3/17/23

Advocate: Neal Katyal, Hogan Lovells

Georgetown Observers: 8

Jack Daniel's v. VIP Products, No. 22-148,

3/17/22

Advocate: Bennett Cooper, Dickinson Wright

Georgetown Observers: 15

United States v. Hansen, No. 22-179, 3/22/23

Advocate: Esha Bhandari, ACLU

Georgetown Observers: 4

Amgen, Inc. v. Sanofi, No. 21-757, 3/22/23

Advocate: Andrew Tutt, Arnold & Porter

Georgetown Observers: 22

Class: Supreme Court Litigation Seminar (Ayer)

Smith v. United States, No. 21-1576, 3/23/23

Advocate: Samir Deger-Sen, Latham & Watkins

Georgetown Observers: 5

Samia v. United States, No. 20-1573, 3/24/22

Advocate: Kannon Shanmugam, Paul Weiss

Georgetown Observers: 37

Class: Criminal Procedure Seminar (Gornstein),

Supreme Court Today Seminar (Dreeben)

Polselli v. IRS, No. 21-1599, 3/24/23

Advocate: Shay Dvoretzky, Skadden

Georgetown Observers: 5

Lora v. United States, No. 22-49, 3/27/23

Advocate: Lawrence Rosenberg, Jones Day

Georgetown Observers: 6

Class: West Virginia Law School Supreme Court

Clinic

April Sitting

Slack Technologies v. Pirani, No. 22-200,

4/10/23

Advocate: Thomas Hungar, Gibson Dunn

Georgetown Observers: 5

Pugin v. Garland, Garland v. Cordero-Garcia,

Nos. 22-23, 22-331, 4/12/23

Advocates: Martha Hutton, O'Melveny &

Myers; Mark Fleming, WilmerHale

Georgetown Observers: 7

U.S. ex rel. Schutte v. SuperValu, Inc., No. 21-

1326, 4/12/22

Advocate: Carter Phillips, Sidley Austin

Georgetown Observers: 5

Groff v. DeJoy, No. 22-174, 4/14/23

Advocate: Aaron Streett, Baker Botts

Georgetown Observers: 36

Class: Supreme Court Litigation Seminar (Ayer),

Appellate Practice Seminar (Murphy)

Counterman v. Colorado, No. 22-138, 4/14/23

Advocate: John Elwood, Arnold & Porter

Georgetown Observers: 32

Dupree v. Younger, No. 22-210, 4/19/23 Advocate: Amy Saharia, Williams & Connolly

Georgetown Observers: 12

Lac du Flambeau Band v. Coughlin, No. 22-227,

4/20/23

Advocate: Pratik Shah, Akin Gump

Georgetown Observers: 20

Class: Appellate Courts Immersion Clinic (Wolfman), Bankruptcy Practicum (Kuney)

Tyler v. Hennepin County, No. 22-166, 4/20/23

Advocate: Christina Martin, Pacific Legal

Foundation

Georgetown Observers: 5

Yegiazaryan, CMB Monaco v. Smagin, Nos. 22-

381, 22-383

Advocate: Vincent Levy, Holwell Shuster &

Goldberg

Georgetown Observers: 6

APPENDIX B: MOOT COURT STATISTICS

Term	Percent of Args. Mooted	Arguments Mooted	Total Moots ¹³	Moots for Petitioner	Moots for Respondent	Moots for Amicus
OT 21	100%	61/61	64	32 (50%)	31 (48%)	1 (2%)
OT 19	100%	57/57	59	38 (64%)	19 (32%)	2 (4%)
OT 17	98%	62/63	63	41 (65%)	21 (33%)	1 (2%)
OT 15	97%	67/69	68	45 (66%)	22 (32%)	1 (2%)
OT 13	96%	67/70	67	43 (64%)	24 (36%)	0 (-)

Term	Justice Seats Filled	Total Justices	Female Justices ¹⁴	Male Justices	Panels with Female Justice(s)
OT 22	303	209	87 (29%)	216 (71%)	98.4%
OT 21	319	210	84 (26%)	235 (74%)	98.4%
OT 20	314	190	81 (26%)	233 (74%)	98.4%
OT 19	295	195	91 (31%)	204 (69%)	98.3%
OT 18	359	241	95 (26%)	264 (74%)	94.4%
OT 17	309	224	-	-	-
OT 16	318	237	-	-	-
OT 15	337	234	-	-	-
OT 14	340	232	-	-	-
OT 13	334	228	-	-	-

¹³ In OT 22, SCI held two moot courts, one for each side, in four cases: *Allen v. Milligan, Jones v. Hendrix, 303 Creative v. Elenis, and Moore v. Harper*. SCI held three moot courts, one for petitioners combined and two for respondents separately, in two cases: *Students for Fair Admissions v. Harvard College* and *Students for Fair Admissions v. University of North Carolina*. SCI held one moot court for respondents in two cases that were argued separately but presented similar issues: *Biden v. Nebraska* and *Department of Education v. Brown*.

¹⁴ SCI began tracking statistics regarding the gender makeup of our panels and justices in OT 18.

Term	Advocates Mooted	Female Advocates	Male Advocates	First-Time Advocates	Former U.S. Solicitors General ¹⁵	Criminal/Habeas Advocates ¹⁶		
OT 22	61	9 (15%)	52 (85%)	22 (36%)	4	10		
OT 21	60	19 (32%)	41 (68%)	27 (45%)	5	14		
OT 20	55	11 (20%)	44 (80%)	30 (55%)	5	7		
OT 19	53	5 (12%)	48 (88%)	22 (42%)	4	9		
OT 18	66	15 (23%)	51 (77%)	34 (52%)	5	15		
OT 17	57	9 (16%)	48 (84%)	28 (49%)	3	14		
OT 16	52	9 (17%)	43 (83%)	17 (33%)	2	17		
OT 15	59	5 (8%)	54 (92%)	21 (36%)	2	17		
OT 14	60	10 (17%)	50 (83%)	32 (53%)	2	10		
OT 13	54	5 (9%)	49 (91%)	25 (46%)	4	15		
Term	Advocates With Multiple Moots							
OT 22	S. Dvoretzky (3)	S. Dvoretzky (3); N. Katyal (3); J. Stone (3); L. Blatt (2); J. Lamken (2); E. Schnapper (2)						
OT 21	J. Stone (3); D. Frederick (3); B. Flowers (2); M. Kimberly (2); D. Geyser (2); K. Shanmugam (2); P. Clement (2)							
OT 20	K. Shanmugam (4); J. Fisher (3); P. Clement (2); D. Geyser (2); S. Harris (2); N. Katyal (2); M. Mongan (2); D. Zimmer (2)							
OT 19	P. Clement (4); L. Blatt (3); B. Burgess (2); T. Crouse (2); P. Hughes (2); R. Martinez (2)							
OT 18	K. Shanmugam (4); J. Fisher (3); S. Dvoretzky (2); D. Frederick (2); T. Heytens (2)							
OT 17	P. Clement (4);	P. Clement (4); D. Geyser (3); J. Fisher (2); N. Katyal (2); E. Murphy (2); J. Rosenkranz (2); F. Yarger (2)						
OT 16	N. Katyal (5); S. Waxman (4); J. Bursch (2); S. Dvoretzky (2); M. Elias (2); J. Fisher (2); C. Landau (2); J. Rosenkranz (2); A. Unikowsky (2)							
OT 15	P. Clement (4); T. Goldstein (3); P. Smith (3); N. Katyal (2); J. Green (2); D. Frederick (2); C. Landau (2); N.							

OT 15

OT 14

OT 13

Francisco (2)

P. Clement (4); S. Waxman (4); J. Bursch (3); K. Russell (3); J. Fisher (2); N. Katyal (2); E. Schnapper (2)

S. Waxman (4); T. Goldstein (3); N. Katyal (2); J. Fisher (2); E. Schnapper (2); J. Elwood (2)

¹⁵ In OT 22, SCI provided moots for the following former United States SGs or Acting SGs: Paul Clement, Neal Katyal (3 moots), Don Verrilli, and Seth Waxman. Since 2012, SCI has also provided moots for former SGs/Acting SGs Greg Garre, Ian Gershengorn, and Barbara Underwood.

¹⁶ In OT 21, SCI mooted the following advocates representing criminal defendants or habeas petitioners: Yaakov Roth (*Percoco v. United States*), Michael Dreeben (*Ciminelli v. United States*), Lisa Blatt (*Turkiye Halk Bankasi v. United States*), Samir Deger-Sen (*Smith v. United States*), Jeffrey Fisher (*Dubin v. United States*), Lawrence Rosenberg (*Lora v. United States*), Esha Bhandari (*United States v. Hansen*), Kannon Shanmugam (*Samia v. United States*), John Elwood (*Counterman v. Colorado*), and Daniel Ortiz (*Jones v. United States*).

Term	Large Firms Mooted ¹⁷	Boutique Firms ¹⁸	Solo Law Offices	Non-Profit Organizations ¹⁹	State/Local/ Foreign Govt. ²⁰	Law Schools/ Academia ²¹
OT 22	22	8	0	5	9	3
OT 21	23	8	1	6	13	1
OT 20	17	11	1	7	4	5
OT 19	17	5	1	5	8	2
OT 18	17	12	4	6	9	3
OT 17	14	5	3	4	11	5
OT 16	18	10	3	3	8	3
OT 15	16	12	4	2	9	2
OT 14	20	7	0	2	11	6
OT 13	22	9	2	4	5	5

¹⁷ Firms with more than 100 attorneys. In OT 22, SCI mooted attorneys from the following large firms: Akin Gump Strauss Hauer & Feld, Arnold & Porter (2 moots), Baker Botts, Covington & Burling, Dickinson Wright, Finnegan Henderson Farabow Garrett & Dunner, Gibson Dunn & Crutcher (2 moots), Haynes & Boone, Hogan Lovells (3 moots), Jones Day (2 moots), Latham & Watkins, McDermott Will & Emery, Munger Tolles & Olson (2 moots), O'Melveny & Myers (2 moots), Paul Weiss Rifkind Wharton & Garrison, Ropes & Gray, Sidley Austin, Skadden Arps Slate Meagher & Flom (3 moots), Sullivan & Cromwell, Weil Gotshal & Manges, Williams & Connolly (4 moots), and Wilmer Hale Cutler Pickering & Dorr (2 moots).

¹⁸ Firms with fewer than 100 attorneys. In OT 22, SCI mooted attorneys from the following boutique firms: Barnard Iglitzin & Lavitt, Clement & Murphy, Consovoy McCarthy (3 moots), Cooper & Kirk, Elias Law Group, Holwell Shuster & Goldberg, Keller Postman, and MoloLamken (2 moots).

¹⁹ In OT 22, SCI mooted attorneys from the following non-profits: ACLU, Alliance Defending Freedom, Lawyers' Committee for Civil Rights, NAACP, and Pacific Legal Foundation.

²⁰ In OT 21, SCI mooted solicitors general or other attorneys working for the attorneys general of the following states: Alabama, Arizona, California, Colorado, Nebraska, New Jersey, North Carolina, Ohio, and Texas (3 moots).

²¹ In OT 22, SCI mooted full-time professors at three law schools: Stanford, University of Virginia, and University of Washington.

The Supreme Court Institute Georgetown Law Center

The Supreme Court institute serves the Court, the bar, and the Georgetown Law community. SCI offers its moot courts as a public service, at no charge and irrespective of the positions taken by counsel, reflecting a core commitment to the quality of Supreme Court advocacy in all cases. Many of our programs, including most moot courts, are open to students and provide a unique opportunity to explore the nuances of Supreme Court advocacy and the decision-making process.



Please address inquiries about this report to SCI Director Debbie Shrager, <u>des113@georgetown.edu</u>