In Which We Profile and Analyze the Current SCOCA Justices

Overview

Joshua Groban, Governor Jerry Brown's final appointment to the California Supreme Court, was confirmed today by the Commission on Judicial Appointments. Court watchers will be very curious to see how the new justice develops as an individual and how he interacts with the existing members. To establish a baseline for answering those questions, and to see if a larger dataset changed the results, we decided to expand on our recent analysis.

Previously, we tabulated the court's opinion and vote records during the thirteen months pro tem justices filled the vacant seat. We evaluated the impact those temporary justices had on the court's voting record. For this article we built and analyzed a three-year dataset (from January 2015 to the present) of the justices' votes and written opinions. We also examined whether a justice's biography and political reputation (defined as characteristics evidencing a conservative or liberal bent) are useful in predicting a justice's voting coalition alignment. We conclude:

- A justice's biography and political reputation are poor predictors of that justice's vote.
- The justices do not vote in blocs.
- The court's six existing members are strongly consensus-driven: 79% of the cases were unanimous and only 11% had even one dissent.
- Ideological labels like *liberal* or *conservative* are not easily applied these justices, possibly excepting justices Chin and Liu.

Very Abbreviated Biographies

A justice's background is not predictive of how they will vote. Our analysis of the written opinions, votes, and significant cases shows that the justices are independent thinkers unsuited to reductive categorization. The most important factor in any given case appears to be the court's emphasis on consensus.

To determine whether a justice's political reputation relates to their votes we first identify the characteristics that encourage an assumption about that justice's ideological orientation.[1] Note that we make no value judgments about these characteristics; as with the factors commonly used in jury selection, these are at best the basis for making assumptions. And as our analysis shows, the easy assumptions are mostly false. So when we assign a conservative or liberal reputation to a justice in the following summaries, it exists only to be challenged.

Chief Justice Tani G. Cantil-Sakauye

Born in Sacramento in 1959, the Chief Justice is 59. She graduated from C.K. McClatchy High School in 1977 and graduated with honors from the University of California, Davis in 1980 after spending a year at Sacramento City College. She earned a J.D. from the UC Davis School of Law in 1984. She first worked as a deputy district attorney in Sacramento, then served on Governor Deukmejian's senior staff as deputy legal affairs secretary and later as a deputy legislative secretary.

In 1990, Governor George Deukmejian appointed her to the Sacramento Municipal Court. In 1997, Governor Pete Wilson elevated her to the Sacramento Superior Court. In 2005, Governor Schwarzenegger nominated her to the Court of Appeal, and in 2010 Governor Schwarzenegger nominated her as Chief Justice.

The Chief Justice was appointed to the Judicial Council in September 2008 by former Chief Justice Ronald George. She served as a special master hearing Commission on Judicial Performance disciplinary proceedings. She was president of the Anthony M. Kennedy American Inn of Court in Sacramento and a member of the national Conference of Chief Justices Board of Directors.

Reputation: conservative. She was a prosecutor; served in a conservative Republican governor's administration; all four judicial appointments were by Republican governors; the New York Times called her a "lifelong Republican" (although as CalMatters first reported she recently re-registered as no party preference); and her husband is a retired Sacramento Police Department lieutenant.

Justice Ming W. Chin

Born in Klamath Falls, Oregon in 1942, Justice Chin is 76 and the oldest current court member. His parents were farmers who were not afforded a formal education. He graduated from Bellarmine College Preparatory in 1960. He received a B.A. in political science from the University of San Francisco in 1964 and a J.D. from the University of San Francisco School of Law in 1967. He was commissioned a captain in the United States Army, served two years (including a year in Vietnam) and in 1969 was awarded a Commendation Medal and Bronze Star for meritorious service. He was admitted to the bar in 1970.

Justice Chin was a deputy district attorney in Alameda county for three years. In 1973, he entered private practice with Aiken, Kramer & Cummings and led its litigation department, specializing in defense-side business and commercial litigation. There, he became a partner in 1976. He is a co-author of two Rutter Group practice guides on employment litigation and on forensic DNA evidence. Governor Deukmejian appointed him to the Alameda Superior Court in 1988, and then elevated him to the Court of Appeal in 1990. Governor Pete Wilson appointed him as presiding justice of First District, Division Three in 1994 and appointed him to the California Supreme Court in 1996.

Reputation: conservative. He was a prosecutor; he served in the military; all four judicial appointments were by Republican governors; he is "a moderate Republican"; and he is the oldest serving member.

Justice Carol A. Corrigan

Justice Corrigan is 70, born August 16, 1948 in Stockton to a librarian mother and a journalist father. She was the first in her family to get a college degree. She graduated from Saint Mary's High School in Stockton and earned her undergraduate degree from Holy Names College (then a women-only Catholic liberal arts institution) in 1970, majoring in psychology and sociology, with a double minor in history and philosophy. She attended a graduate program in clinical psychology at St. Louis University from 1970 to 1972. She attended UC Hastings, College of the Law, served as notes and comments editor of the Hastings Law Journal, and received a J.D. in 1975.

Justice Corrigan was a deputy district attorney in Alameda county from 1975 to

1987. In 1987 Governor Deukmejian appointed her to the Alameda county municipal court. In 1991 Governor Wilson appointed her to the Alameda Superior Court and in 1994 appointed her to the Court of Appeal. In 2005, Governor Schwarzenegger appointed her to the California Supreme Court. Her signature judicial project was heading the Judicial Council task force where she spent eight years rewriting the state's jury instructions.

Reputation: conservative. She was a prosecutor; all four judicial appointments were by Republican governors; she is "a moderate Republican"; and she is the second-oldest serving member.

Justice Goodwin H. Liu

Justice Liu is 48 and was born in Augusta, Georgia in 1970. He attended Rio Americano High School and earned a bachelor's degree in biology from Stanford University in 1991. He attended Oxford University on a Rhodes Scholarship and in 1993 earned an M.A. in philosophy and physiology. He then worked for two years as a senior program officer at the Corporation for National Service. He earned a J.D. from Yale Law School in 1998.

Justice Liu clerked for Judge David Tatel on the U.S. Court of Appeals for the D.C. Circuit, afterwards working as special assistant to the Deputy Secretary of the U.S. Department of Education. He clerked at the U.S. Supreme Court for Justice Ruth Bader Ginsburg during the October 2000 term. From 2001 to 2003, he practiced appellate litigation at O'Melveny & Myers in Washington, D.C. and worked on an array of antitrust, white collar, insurance, product liability, and pro bono matters.

Justice Liu was a law professor at the UC Berkeley School of Law and served as an associate dean. His primary areas of scholarly expertise were constitutional law, education law and policy, and the U.S. Supreme Court. He has published articles on constitutional law and education policy. Justice Liu chaired the board of directors of the American Constitution Society. Governor Jerry Brown nominated him to the California Supreme Court in 2011.

Reputation: liberal. He clerked for a liberal judge and liberal justice; he was a tenured academic at Berkeley; President Obama nominated him to the Ninth Circuit

(twice), but he was blocked by Republican senators; and a Democratic governor nominated him to his current position.

Justice Mariano-Florentino Cuéllar

Justice Cuéllar is 46, born in Matamoros, Mexico in 1972. He graduated from high school in Calexico. He received a B.A., magna cum laude, from Harvard in 1993, a J.D. from Yale Law School in 1997, and a Ph.D. in political science from Stanford in 2000.

After law school he worked at the U.S. Treasury Department's Office of Enforcement during the Clinton administration, and held appointed positions in the Obama administration from 2009 to 2015. He clerked for Ninth Circuit Chief Judge Mary M. Schroeder. From 2001 to 2014, he was a law professor at Stanford University. He is a scholar of public law and institutions and has written about administrative law, cyberlaw, criminal justice, public health law, international law and security, immigration, and the history of institutions. Governor Brown nominated him to the California Supreme Court in 2014.

Reputation: liberal. He was a tenured academic at Stanford; he worked in two Democratic presidential administrations; and he was appointed by a Democratic governor.

Justice Leondra R. Kruger

Justice Kruger is 42 and was born in Los Angeles in 1976. She graduated from Polytechnic High School in Pasadena and then received a B.A. with high honors from Harvard in 1997. She received her J.D. from Yale Law School in 2001 and served as editor in chief of the Yale Law Journal.

Justice Kruger was an associate at Jenner and Block LLP from 2001 to 2002. She clerked for United States Court of Appeals for the D.C. Circuit Judge David S. Tatel from 2002 and 2003, and for United States Supreme Court Justice John Paul Stevens for the 2003 October term. She was an associate at Wilmer, Cutler, Pickering, Hale and Dorr LLP from 2004 to 2006. She was a visiting assistant professor at the University of Chicago Law School in 2007. Justice Kruger started at the Office of the

Solicitor General in the U.S. Department of Justice in 2007, and she was assistant to the solicitor general before becoming acting principal deputy solicitor general in 2010. Governor Brown nominated her to the California Supreme Court in 2014.

Reputation: liberal. She clerked for a liberal judge and justice; she worked for a Democratic presidential administration; and she was appointed by a Democratic governor.

Metrics and Methodology

The current court's composition dates from January 2015, when justices Cuéllar and Kruger joined. We used Westlaw's advanced search *writtenby(justice)* in the California Supreme Court database to find all opinions written by each justice in this approximately three-year period that decided cases on the merits, including certified questions, excluding any procedural matters. We examined 300 cases.[2]

We tabulated the justices' votes in each case and we counted how many opinions in each category a justice wrote: majority, concurring, concurring and dissenting, and dissenting. The pro tem justices that filled Justice Werdegar's position after her retirement are counted as one justice, and we counted Justice Werdegar separately from the pro tems.

Data Analysis

Data Tabulation

From our data we calculate these results. A majority vote is a simple concurrence in the majority, nothing else; we separately counted votes for both the majority and a concurrence, so the total number of a justice's majority votes is the sum of those figures. All concurring votes are counted together, with concurring/dissenting votes and dissenting votes counted separately.

	TCS	Chin	Corrigan	Liu	Cuéllar	Kruger
TOTAL OPINIONS	57	64	61	89	58	53
Wrote majority	45	46	48	46	41	37
Wrote separately	12	18	13	43	17	16

Wrote concurring	4	4	5	25	5	7
Wrote con/dis	5	6	5	9	7	4
Wrote dissent	3	8	3	9	5	5
TOTAL CASES	298	297	297	300	300	299
Majority votes	234	219	224	198	232	231
Joined majority and joined a concurrence	1	2	2	4[3]	4[4]	4
Joined majority and wrote a concurrence	3	1	2	10	4	4
Total majority votes	238	222	228	212	240	239
Concurring votes	1	2	2	11	7	9
Con/Dis votes	4	7	4	3	3	3
Dissenting votes	1	5	6	7	3	3
All non-majority votes	6	14	12	21	13	15

Initial Conclusions

This dataset largely confirms our previous conclusions. The justices do not vote in blocs. Specifically, they almost never divide neatly into senior-versus-Brown voting blocs. (The three senior justices—the Chief Justice and Justices Chin and Corrigan, as well as Justice Werdegar—were appointed by Republican governors.) Opinions written by senior justices command more majorities, and Justice Liu accounts for the disparity of separate opinions between the blocs.[5]

- Confirmed: the senior justices wrote more majority opinions (139 to 124).
- Confirmed: the Brown justices write more total opinions (200 to 182) due to Justice Liu's 43 separate opinions—25 more than any other justice.
- Confirmed: the Brown justices write more separate opinions: 76 to 43 (Justice Liu again).
- Confirmed: the Brown justices write more dissents: 19 to 14.

Our previous conclusion about the distinct voting characteristics of the senior and Brown justices is confirmed. The three senior justices are in the majority more often

(827) than the Brown appointees (815). The non-majority votes (concurring and dissenting, concurring, dissenting) show the same pattern: the senior justices cast 75 non-majority votes versus the Brown justices' 125 votes. Dissenting votes are approximately even: 12 (senior) to 13 (Brown), but the senior justices write fewer dissents (14) than the Brown appointees (19).

We previously concluded that Justice Chin is the most productive of the senior justices, writing the most majorities and total opinions. No longer: he wrote the most total opinions (64), but Justice Corrigan wrote more majority opinions (48 to Chin's 46). The Chief Justice still wrote the fewest majorities (45) and total opinions in the senior bloc (57). Among the Brown members, Justice Liu remains the undisputed productivity king, writing the most majorities (46) and total opinions (89), and Justice Kruger still has the fewest in both categories. Comparing all justices, Justice Corrigan wrote the most majority opinions and Justice Kruger the fewest.

With this data as a baseline, once Justice Groban develops a body of votes and opinions we can redo this analysis to see if a four-member voting bloc emerges. Presently, the justices' votes do not show that they vote in consistent blocs. If the senior and Brown justices voted in lockstep there would be many 4–3 decisions, with the senior justices and Brown justices aligned and Justice Werdegar or a pro tem casting the deciding vote. Instead, there is a relative absence of all-senior versus all-Brown majority and dissenting lineups.

The senior and Brown justices acted as distinct opposing blocs in just one of the 300 opinions: *K.R. v. Superior Court* (2017) 3 Cal.5th 295, a 4–3 decision with Justices Werdegar, Liu, Cuéllar, and Kruger in the majority against the Chief Justice and Justices Chin and Corrigan in the dissent. The senior and Brown justices did group separately in two other cases, where Justices Liu and Kruger joined a concurring and dissenting opinion by Justice Cuéllar, but because the Brown justices concurred in the judgment, these cases do not fairly reflect opposing blocs: *Department of Finance v. Commission on State Mandates* (2016) 1 Cal.5th 749, and *People v. Johnson* (2016) 62 Cal.4th 600.

The only other 4–3 decisions were:

- *People v. Buza* (2018) 4 Cal.5th 658, with pro tem justice Perluss joining

Justices Liu and Cuéllar in dissent.
- *People v. Contreras* (2018) 4 Cal.5th 349, with the Chief Justice, Justice Corrigan, and pro tem justice Kriegler in dissent.
- *H. v. Novartis Pharmaceuticals Corp.* (2017) 4 Cal.5th 145, with the Chief Justice and Justices Corrigan and Kruger in dissent.
- *Rubenstein v. Doe No. 1* (2017) 3 Cal.5th 903, with Justices Werdegar, Liu, and Cuéllar in dissent.
- *Mountain Air Enterprises, LLC v. Sundowner Towers, LLC* (2017) 3 Cal.5th 744, with Justices Corrigan, Liu, and Kruger in dissent.
- *People v. Valencia* (2017) 3 Cal.5th 347, with Justices Werdegar, Liu, and Cuéllar in dissent.
- *Los Angeles County Bd. of Supervisors v. Superior Court* (2016) 2 Cal.5th 282 with the Chief Justice and Justices Chin and Werdegar in dissent (all appointed by Republican governors).
- *Bristol-Myers Squibb Co. v. Superior Court* (2016) 1 Cal.5th 783 with Justices Chin, Corrigan, and Werdegar in dissent (all appointed by Republican governors).
- *Sandquist v. Lebo Automotive, Inc.* (2016) 1 Cal.5th 233 with Justices Chin, Corrigan, and Kruger in dissent.

Leaving *K.R.* aside, there is no discernible pattern in the dissenting justices. True, in *Rubenstein* and *Valencia* Justices Werdegar, Liu, and Cuéllar join in dissent. But if the Brown justices voted as a bloc, those would be 4–3 *majority* decisions with Justice Kruger joining. Instead, there are varied cross-bloc combinations: Justice Kruger with the senior justices in *Buza*, Justice Chin with the Brown justices in *Contreras*, Justice Kruger with the senior justices in *Rubenstein*, Justice Corrigan with the Brown justices in *Mountain Air*, Justice Kruger with the senior justices in *Valencia*, Justice Corrigan with the Brown justices in *L.A. County*, the Chief Justice with the Brown justices in *Bristol-Myers*, and Justice Kruger with two senior justices in *Sandquist*. These varied lineups reveal *K.R.* as no more than a part of the patternless distribution of voting coalitions.

As our concurrence matrix shows, in contrast to the U.S. Supreme Court, our state high court has reliably high consensus rates. This analysis also shows that the court is highly consensus-driven. Out of 300 cases:

- In 236 (79%) all justices concurred in the judgment;
- In 31 (10%) at least one justice concurred in the judgment but dissented in part;
- In 33 (11%) at least one justice dissented.

This makes the occasional disagreements even more telling. As our majority analysis above shows, there are no consistent voting blocs. Even the Brown justices disagree with each other a fair amount. For example, in *People v. Gonzalez*[6] Justice Liu dissented from Justice Cuéllar's majority opinion; in *People v. Reed*[7] justices Liu and Kruger dissented from Justice Cuéllar's majority opinion; in *Cleveland National Forest Foundation v. San Diego Assn. of Governments*[8] Justice Cuéllar dissented from Justice Liu's majority opinion; and in *People v. Buza*[9] both justices Liu and Cuéllar dissented from Justice Kruger's majority opinion. Those cases do not indicate a liberal all-Brown-justices voting bloc—quite the contrary. This analysis does not support a conclusion that the senior and current Brown justices form reliable voting blocs.[10]

Substantive Analysis

We tabulated and categorized the opinions written by each justice in the reviewed period. We did not count votes, both because an opinion is a superior expression of a justice's thinking and because the high consensus rate will affect the results. In the "ruled for" count, we included separate opinions in which a justice stated a preference for a ruling that would have benefited a party or position. In criminal cases, we coded a result favoring the criminal appellant as liberal and one favoring the government as conservative, unless (as when a justice wrote separately) the technical winner did not reflect the opinion's true direction. In civil cases, we similarly coded for liberal or conservative results using party designations as a probative but not conclusive factor.[11] We looked for patterns such as subject matter emphasis and a result consistency that could support a conclusion that a justice has an ideological orientation.

Justice Chin wrote 64 opinions in the period we reviewed.

Subject		Number	Liberal	Conservative
Criminal justice		35		
	Automatic capital appeals	13	2 (15%)	11 (85%)
	Non-capital appeals and habeas petitions	22	11 (50%)	11 (50%)
Subtotal criminal cases			13 (37%)	22 (63%)
Civil		29		
	Commercial Law	3	1	2
	Education	2		2
	Environmental	2		2
	Family law	3	1	2
	Government	9	2	7
	Labor	2	2	
	Legal Services	1		1
	Litigation	4	3	1
	Native American	1		1
	Taxation	2	1	1
Subtotal civil cases			10 (34%)	19 (66%)
Total all cases			23 (36%)	41 (64%)
Total all cases (excluding capital)			21 (41%)	30 (59%)

Justice Chin's opinions are weighted slightly toward the criminal side, with 55% of his opinions (35 of 64) on criminal matters, including 11 majority opinions in capital cases. He favors the government by a 3:2 ratio in any given criminal case and favors the government in 85% of capital appeals. He makes conservative rulings in 66% of civil cases. In any given case he favors the government or conservative position at a nearly 3:2 ratio. It is difficult to read these results as showing anything other than Justice Chin being reliably conservative individually, and (as discussed below) the

court's most conservative member comparatively. But note the 50–50 split result in non-capital appeals, which contradicts this conclusion: we would expect a wholly conservative justice to have a weighted result here, but this is not so for Justice Chin.

Justice Corrigan wrote 61 opinions in the period we reviewed.

Subject		Number	Liberal	Conservative
Criminal justice		30		
	Automatic capital appeals	13	5 (38%)	8 (62%)
	Non-capital appeals and habeas petitions	17	13 (76%)	4 (24%)
Subtotal criminal cases			18 (60%)	12 (40%)
Civil		31		
	Agriculture	1		1
	Education	2	1	1
	Environment	3	2	1
	Government	7	3	4
	Health	1		1
	Insurance	1	1	
	Labor	3	3	
	Legal services	1		1
	Litigation	3		3
	Product liability	1	1	
	Real property	2	1	1
	Taxation	3		3
	Torts	2	1	1
	Transportation	1		1

Subtotal civil cases		13 (42%)	18 (58%)
Total all cases		31 (51%)	30 (49%)
Total all cases (excluding capital)		26 (54%)	22 (46%)

Justice Corrigan's opinions are nearly evenly divided in subject matter, with 52% of her opinions written on civil matters. She favors the defendants by a 3:2 ratio in any given criminal case but favors the government in 62% of capital appeals. In any given civil case her opinions favor defendants or the conservative position slightly more often. In any given case she slightly favors the criminal appellants or liberal result. Because these results diverge (leans conservative in civil cases but favors criminal defendants) and because her totals are all so closely balanced this analysis does not support assigning Justice Corrigan an ideological label.

Justice Kruger wrote 53 opinions in the period we reviewed.

Subject	Number	Liberal	Conservative
Criminal justice	24		
Automatic capital appeals	10	1 (10%)	9 (90%)
Non-capital appeals and habeas petitions	14	8 (57%)	6 (43%)
Subtotal criminal cases		9 (38%)	15 (62%)
Civil	29		

Commercial	1	1	
Ecommerce	1		1
Education	1		1
Energy	2	1	1
Family law	1	1	
Government	3	2	1
Health	2	1	1
Immigration	1	1	
Insurance	1	1	
Labor	4	1	3
Legal services	2	1	1
Litigation	4	2	2
Product liability	1	1	
Real property	2	1	1
Taxation	1		1
Torts	1	1	
Transportation	1		1
Subtotal civil cases		15 (51%)	14 (49%)
Total all cases		24 (45%)	29 (55%)
Total all cases (excluding capital)		23 (53%)	20 (47%)

Justice Kruger's opinions are slightly weighted in subject matter, with 55% of her opinions written on civil matters. Like Justice Corrigan, she favors the government by a 3:2 ratio in any given criminal case. Justice Kruger resembles Justice Corrigan in how evenly balanced their opinions are, but Justice Kruger favors the government in 90% of capital appeals. She rules nearly evenly in civil cases (51% rulings are liberal, 49% are conservative). Because her totals are all so closely balanced, this analysis does not support assigning Justice Kruger an ideological label.

The Chief Justice wrote 57 opinions in the period we reviewed.

Subject	Number	Liberal	Conservative
Criminal justice	28		
Automatic capital appeals	13	2 (15%)	11 (85%)
Non-capital appeals and habeas petitions	15	5 (33%)	10 (67%)
Subtotal all criminal cases		7 (25%)	21 (75%)
Civil	29		
Agriculture	1		1
Ecommerce	2	1	1
Energy and utilities	2	2	
Estate planning	1		1
Family law	2	1	1
Government	3	2	1
Health	1	1	
Insurance	2	1	1
Labor	6	4	2
Litigation	2	2	
Transportation	1	1	
Taxation	1	1	
Product liability	3	3	
Real property	2	1	1
Subtotal civil cases		20 (69%)	9 (31%)
Total all cases		27 (47%)	30 (53%)
Total all cases (excluding capital)		25 (57%)	19 (43%)

The Chief Justice's opinions nearly are evenly divided in subject matter (28 criminal, 29 civil). In any given criminal case she strongly favors the government, less so in

non-capital cases. In any given civil case she strongly favors the plaintiff or liberal result. In any given case she slightly favors the conservative position. Without the capital appeals her results are weighted liberal (57% liberal, 43% conservative). The best evidence of an ideological label is the 2:1 results ratio against non-capital criminal defendants (where the Chief Justice shows the most conservative results on the court in this category) and her tie with Justice Chin in capital criminal cases for second-most conservative. But the overall balance and diverging weights show that the Chief Justice does not deserve a conservative label; in reality she sits near this court's center.

Justice Cuéllar wrote 58 opinions in the period we reviewed.

Subject	Number	Liberal	Conservative
Criminal justice	36		
Automatic capital appeals	14	5 (36%)	9 (64%)
Non-capital appeals and habeas petitions	22	12 (55%)	10 (45%)
Subtotal criminal cases		17 (47%)	19 (53%)
Civil	22		

Subject	Number	Liberal	Conservative
Commercial	2	2	
Ecommerce	1	1	
Environment	3	2	1
Government	3	3	
Health	2	1	1
Insurance	2	1	1
Labor	5	1	4
Law firm dissolution	1		1
Litigation	1	1	
Real property	2	1	1
Subtotal civil cases		13 (59%)	9 (41%)
Total all cases		30 (52%)	28 (48%)
Total all cases (excluding capital)		25 (57%)	19 (43%)

Justice Cuéllar's opinions are weighted in subject matter, with 62% of his opinions written on criminal matters. In any given criminal case he slightly favors the government, but this is only because of the almost 2:1 ratio favoring the government in capital appeals—in non-capital cases, Justice Cuéllar slightly favors criminal defendants (55%). In any given civil case his opinions show plaintiff or the liberal position winning almost 60% of the time. Excluding automatic capital cases shows a weight favoring plaintiffs and prisoners that mirrors the Chief Justice's results in this category. And also like the Chief Justice (who is more liberal than assumed), these numbers belie the assumption about Justice Cuéllar, who in this analysis appears *less* liberal than assumed.

Justice Liu wrote 89 opinions in the period we reviewed.

Subject	Number	Liberal	Conservative
Criminal justice	51		

	Automatic capital appeals	26	12 (46%)	14 (54%)
	Non-capital appeals and habeas petitions	25	19 (76%)	6 (24%)
Subtotal criminal cases			31 (61%)	20 (39%)
Civil		38		
	Commercial law	2		2
	Constitutional law	2	1	1
	Ecommerce	1	1	
	Education	2	1	1
	Energy and Utilities	2	2	
	Environmental law	1		1
	Estate Planning	1		1
	Family law	5	3	2
	Government	4	4	
	Insurance	2	2	
	Labor and Employment	3	3	
	Litigation	5	4	1
	Native American	1	1	
	Real property	4	3	1
	Torts	2	1	1
	Transportation	1	1	
Subtotal civil cases			27 (71%)	11 (29%)
Total all cases			58 (65%)	31 (34%)
Total all cases (excluding capital)			46 (73%)	17 (27%)

Justice Liu writes more criminal than civil opinions: 57% of his opinions (51of 89) concern criminal matters. The higher opinion numbers reflect Justice Liu's tendency to write separately: he authored 13 majority opinions in capital cases, along with 4 concurrences, and 9 partial concurrences and dissents. He more frequently rules liberal in non-capital criminal cases (76%) than any other justice. And his civil case results are heavily weighted against defendants or the conservative position—far more so than the other justices. Justice Liu favors plaintiffs and prisoners more often than any other justice. These results are nearly a liberal mirror-image of Justice Chin's conservative results. Individually, Justice Liu is reliably liberal, and comparatively the court's most liberal member.

Comparing the Justices

We can rank the justices from most liberal to most conservative (reading left to right), but the ranking depends on the category.

In all criminal cases: Liu – Corrigan – Cuéllar – Kruger – Chin – Chief.

In capital cases: Liu – Corrigan – Cuéllar – (Chief and Chin tie) – Kruger.

In non-capital criminal cases: Liu– Corrigan – Kruger– Cuéllar – Chin – Chief.

In civil cases: Liu – Chief –Cuéllar– Kruger – Corrigan – Chin.

In all cases: Liu – Cuéllar – Corrigan – Chief – Kruger – Chin

In all cases excluding capital: Liu – (Cuéllar and Chief tie) – Corrigan – Kruger – Chin.

This ranking should not be read as evidence that a justice on one end is strongly ideological in an absolute sense. The ranking only shows how liberal or conservative these justices are relative to each other; it cannot measure *how* objectively liberal or conservative a justice is. Most of the justices are separated by just a few percentage points in a given category; justices Chin and Liu show the greatest variance. The median percentage that the justices rule for the liberal/conservative result in all cases is 49. Justice Liu is 16 points from that median (ruled liberally in 65% of cases), and Justice Chin is 13 points away (ruled liberally in 36% of cases). In all

cases except capital, the median percentage is 55.5. Justice Liu is 18 points from that median (ruled liberally in 73% of cases), and Justice Chin is 20 points away (ruled liberally in 36% of cases). The other justices are clustered around the center. That the justices all fall within this band helps explain the high justice-to-justice concurrence rates, the high number of unanimous decisions, and the low number of dissents.

The data contradicts common assumptions about these justices' ideological mindsets. For example, the Chief Justice is conservative on criminal cases but liberal on civil cases; one expects Justice Kruger to be very liberal, but instead she appears to be slightly conservative; similarly one expects Justice Cuéllar to be reliably liberal, but he falls to the right of Justice Corrigan in criminal cases and to the right of the Chief Justice in civil cases. True, Justice Liu is the most identifiably liberal justice, and Justice Chin is the most identifiably conservative. But the other four justices defy categorization and their assumed labels. These rankings show that the reputational or ideological labels are inconsistently and weakly applicable, particularly because where the justices appear on the spectrum depends on the issue.

Conclusion

At least with respect to his California Supreme Court appointments, Jerry Brown no longer deserves the Governor Moonbeam moniker—Governor Sunshine might be more appropriate. This is not another Rose Bird court. Instead, the current California Supreme Court lineup achieves high consensus rates, displays shifting voting blocs, and generally does not have liberal or conservative members—it has independent justices, a welcome safeguard for the fundamental rights of Californians.

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[1] This biographical information draws from publicly available sources, primarily

from their official biographies, and our own research. See, e.g., https://www.dailyjournal.com/judicial_profiles/8951. As our analysis shows, some of the popular media descriptions of the justices (particularly those from around their initial appointment to the court) are no longer accurate or at least out of date.

[2] We discarded Justice Liu's dissent from the petition for review denial in *In re Joseph H*. (2015) 367 P.3d 1; the August 29, 2018 order (S234969M) modifying the previous opinion in *Troester v. Starbucks Corporation* (2018) 5 Cal.5th 829; and the en banc decision in *Procedures for Considering Requests for Recommendations Concerning Applications for Pardon or Commutation* (2018) 4 Cal.5th 897. We also discarded the following cases because Justices Cuéllar and Kruger had not joined the court yet and did not participate: *People v. Johnson* (2015) 60 Cal.4th 966; *Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086; *Richey v. AutoNation, Inc.* (2015) 60 Cal.4th 909; *Mendiola v. CPS Security Solutions, Inc.* (2015) 60 Cal.4th 833; *State ex rel. Dept. of California Highway Patrol v. Superior Court* (2015) 60 Cal.4th 1002; and *People v. Grimes* (2015) 60 Cal.4th 729.

[3] In *Weatherford v. City of San Rafael* (2017) 2 Cal.5th 1241, Justice Liu joined the majority opinion and two concurring opinions.

[4] In *King v. CompPartners, Inc.* (2018) 5 Cal.5th 1039, Justice Cuéllar joined the majority, joined Justice Liu's concurrence, and wrote his own concurrence.

[5] This productivity has apparently been a characteristic since at least law school. See Above the Law, September 1, 2016 (former Yale Law School classmate's story about Liu's twenty page final exam "blowing her six pathetic pages out of the water").

[6] (2018) 5 Cal.5th 186.

[7] (2018) 4 Cal.5th 989.

[8] (2017) 3 Cal.5th 497.

[9] (2018) 4 Cal.5th 658.

[10] We note that Kirk Jenkins recently concluded the same in his analysis of the

most recent year's decisions. Cal. Lit. Journal Vol. 31, No. 2, at 9: "With the six permanent Justices evenly split (three Republican appointees, three Democratic) the succession of pro tem Justices all year could have shifted the Court's ideological balance back and forth from one case to the next, depending on whether the pro tem Justice was a Republican or Democratic appointee to the Court of Appeal. But in fact, the Court maintained an unusually high level of unanimity, especially in civil cases. Given the rarity of closely divided decisions and the comparatively high agreement rates between the Brown appointees to the Court and several of the Republican Justices, a sharp shift in the Court's jurisprudence once a seventh Justice takes his or her seat seems unlikely."

[11] In some instances, we made a judgment call about whether a decision's result or a separate opinion's argument was more liberal or more conservative, and we recognize that to some extent our results may be subjective and arbitrary, and fail to fully capture a decision's or justice's ideological bent.