Surprising Differences: An Empirical Analysis of LexisNexis and West Headnotes in the Written Opinions of the 2009 Supreme Court Term*

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The number of headnotes assigned by LexisNexis and West are empirically examined for opinions of the 2009 Supreme Court Term. Additionally, Citizens United is examined in detail to determine the overlap of headnote-worthy language. Discrepancies in the number of headnotes assigned and disagreement as to headnote-worthy language call into question the rigor with which headnotes are created.

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Introduction

¶1 Headnotes are important.¹ They continue to be one of the main ways² that legal researchers engage with the massive body of case law³ in the United States to marshal arguments for legal advocacy, advising, and scholarship. As one publisher-supplied component of the rule of law in the United States, they contribute to the stability, social justice, and economic growth⁴ of the country by making case law usable. Headnotes are vendor-described, atomistic statements of discrete concepts⁵ of law found in judicial opinions. They are supplied by two competing legal publishers (and vendors of their online legal platforms)—LexisNexis and Thomson Reuters (formally Thomson/West, formally West Publishing, and hereinafter West). They are not primary source content but important finding aids to the primary source content that are judicial opinions. However, the two publishers show surprising differences in how they assign headnotes, as illustrated by an empirical review of the headnotes assigned to the written opinions of the 2009 Term of the United States Supreme Court. The differences between the two vendors are found in (1) the number of headnotes assigned to each case, and (2) the identification of opinion language that merits a headnote.

1. See John O. McGinnis & Steven Wasick, *Law’s Algorithm*, 66 FLA. L. REV. 991, 1003 (2014) (“[T]echnology that makes precedent broadly available improves performance” of a distributed approach to legal ordering such as the common law, case-based system.).

2. See the amount of room their explanation continues to occupy in legal research textbooks, hornbooks, and nutshells: J.D.S. ARMSTRONG & CHRISTOPHER A. KNOTT, WHERE THE LAW IS: AN INTRODUCTION TO ADVANCED LEGAL RESEARCH 107–14 (4th ed. 2013); STEPHEN M. BARKAN ET AL., FUNDAMENTALS OF LEGAL RESEARCH 38, 78–104 (9th ed. 2009); MORRIS L. COHEN & KENT C. OLSON, LEGAL RESEARCH IN A NUTSHELL 60, 83–88 (12th ed. 2016); KENT C. OLSON, PRINCIPLES OF LEGAL RESEARCH 250–64 (2d ed. 2015); AMY E. SLOAN, BASIC LEGAL RESEARCH: TOOLS AND STRATEGIES 96–122 (5th ed. 2012).

3. As of June 2012, both LexisNexis and Westlaw databases contained eleven million cases. Susan Nevelow Mart, *The Case for Curation: The Relevance of Digest and Citator Results in Westlaw and Lexis*, 32 LEGAL REFERENCE SERVS. Q. 13, 14 (2013) [hereinafter Mart, *Case for Curation*]. In March 2009, Westlaw contained “approximately nine million cases.” In March 2010, LexisNexis contained an estimated 9.7 million cases. Susan Nevelow Mart, *Relevance of Results Generated by Human Indexing and Computer Algorithms: A Study of West’s Headnotes and Key Numbers and LexisNexis’s Headnotes and Topics*, 102 LAW LIBR. J. 221, 223, 2010 LAW LIBR. J. 13, ¶ 4 [hereinafter Mart, *Relevance*].

4. *Shrink Wrap: Why the History of Economic Growth Should Be All About Recessions*, ECONOMIST (Apr. 8, 2017), <http://www.economist.com/news/finance-and-economics/21720311-faster-growth-not-due-bigger-booms-less-shrinking-history> [<https://perma.cc/Q5KJ-5TAX>] (“Before the modern era, elites would fight between themselves for the spoils of growth and send the economy back to square one through wars, corruption and the like. Respect for courts to resolve disputes prevents this from happening.”); see also *Order in the Jungle*, ECONOMIST (Mar. 13, 2008), <http://www.economist.com/node/10849115> [<https://perma.cc/6QCD-G8JZ>].

5. They are decidedly not only for “holdings” as was originally written. See *infra* ¶¶ 26–28 below on holdings and dicta.

What Are Headnotes?

¶2 To critically analyze and evaluate the assignment of headnotes by LexisNexis and West, it is important to articulate with specificity what they are and include. “Headnotes, or syllabi, are brief summaries of the points of law, usually accompanied by relevant facts bearing on that point of law. . . . Each headnote represents a point of law extracted from the case, and the number of headnotes varies from case to case.”⁶ Headnotes serve three main purposes: (1) They allow “the reader to grasp relatively quickly the legal issues discussed within the opinion”⁷ (overview function). (2) They help the reader to quickly locate the issues described in the headnote paragraphs by including bracketed numbers (“[1]”) that specify where in the opinion a particular headnote derives the basis for its summary⁸ (intra-case location function). (3) And finally, headnotes allow a researcher to identify topically similar cases that have also been marked-up, assigned headnotes, and integrated within the larger categorization scheme⁹ (digest function). This is why we refer to them as headnote systems.

¶3 Prior to computer-assisted legal research, a researcher typically started by referencing a multivolume printed digest. Digests contain all of the cases assigned headnotes with particular topics for a particular jurisdiction; they are organized alphabetically by top-level controlled vocabulary topics. Sometimes digests are regional. Sometimes they cover a particular level of the federal judiciary or, in the case of the General and Decennial digests, all West-headnoted U.S. case law. These digests reproduce the headnote summaries from the indexed cases.¹⁰ In this manner, a user obtains topical access to what is otherwise only a chronological and jurisdictional organization of case law.¹¹ Prior to the introduction of the LexisNexis categorization system, most legal researchers used West’s Key Number System.

¶4 The Key Number System is an alphanumeric categorization system that contains more than 400 top-level topics. These top-level topics are also assigned topic numbers¹² such as “92 Constitutional Law.” Beyond the top-level topic, West assigns key numbers that drill down numerous levels of the hierarchy and contain a large amount of specificity. The end result are key numbers that look like 92k1018.¹³ This key number represents six levels of the hierarchy in West’s taxonomy: (1) 92 Constitutional Law, (2) VI Enforcement of Constitutional Provisions, (3) C Determination of Constitutional Questions, (4) 3 Presumptions and

6. BARKAN ET AL., *supra* note 2, at 38.

7. *Id.*

8. *Id.*

9. *Id.*

10. *See id.* at 78, 95.

11. *See* CHRISTOPHER G. WREN & JILL ROBINSON WREN, *THE LEGAL RESEARCH MANUAL: A GAME PLAN FOR LEGAL RESEARCH AND ANALYSIS* 6 (2d ed. 1986); Paul Callister, *Thinking Like a Research Expert: Schemata for Teaching Complex Problem-Solving Skills*, 28 *LEGAL REFERENCE SERVS. Q.* 31, 40 tbl.4 (2009) [hereinafter Callister, *Thinking*]; Paul D. Callister, *Time to Blossom: An Inquiry into Bloom’s Taxonomy as a Hierarchy and Means for Teaching Legal Research Skills*, 102 *LAW LIBR. J.* 191, 203 tbl. 3, 210 fig. 6, 2010 *LAW LIBR. J.* 12 [hereinafter Callister, *Time to Blossom*]; Christopher G. Wren & Jill Robinson Wren, *The Teaching of Legal Research*, 80 *LAW LIBR. J.* 7, 35 matrix A (1988).

12. In cases of expansion or renumbering, sometimes topic numbers are followed by letters: 231H Labor and Employment. A pure numerical organization lacks the ability to change (hospitality) and still keep topics in alphabetical order without resorting to decimals.

13. *See, e.g.,* *Citizens United v. Fed. Election Comm’n*, 130 S. Ct. 876, 878 (2010).

Construction as to Constitutionality, (5) 1006 Particular Issues and Applications, and (6) 1018 Freedom of speech, expression, and press.¹⁴ At its inception in 1908, the Key Number System had 77,000 unique topics.¹⁵ There has been relatively little change in the overall number of unique topics since. In 2007, the Key Number System had “109,183 lines, of which 90,429 are postable [capable of receiving headnote content], and the remaining 18,754 are structural lines in the hierarchy.”¹⁶

¶5 Use of the headnote systems has changed dramatically since the introduction of online, hypertext legal search platforms. In 1999,¹⁷ LexisNexis was able to retrospectively introduce a headnote categorization system for its body of online case law to compete with the West Key Number System.¹⁸ It remains available exclusively online with no analog to print digests or headnote paragraphs in printed case reporters. Currently, LexisNexis includes approximately 16,000 topics in its categorization system.¹⁹ Some commentators assert that these topics are assigned, in part, by automated, patented, and algorithmic systems rather than exclusively by human editors and human decision making.²⁰

¶6 Today’s online research environment offers several distinct advantages in the use of headnote systems. The first is the easy display of all levels of the nested hierarchy that accompanies each topic assigned to a headnote.²¹ The online world also allows for easy and comprehensive updating of topics that have been renumbered or reorganized.²² Finally, the online world allows for hyperlinked access to all other cases assigned similar headnotes with further customizable refinements such as jurisdictional restraints or the inclusion of additional key words.

What to Call These Systems?

¶7 In the literature, the topical organizations of headnote content are often called classifications.²³ It is worth referencing definitions from the information science community to add clarity as to how these systems should be discussed. “Cat-

14. *Id.* (viewed on Westlaw). This is an example of the hierarchical richness and specificity of the West Key Number System.

15. WILLIAM W. MARVIN, WEST PUBLISHING CO.: ORIGIN, GROWTH, LEADERSHIP 80 (1969).

16. Daniel P. Dabney, *The Universe of Thinkable Thoughts: Literary Warrant and West’s Key Number System*, 99 LAW LIBR. J. 229, 236, 2007 LAW LIBR. J. 14, ¶ 33 (referencing a “nonpublic database maintained by West for the purpose of managing the Key Number System”).

17. Mart, *Case for Curation*, *supra* note 3, at 14. Prior to 1999, LexisNexis published few cases in print.

18. During the time that Peter Hook was a LexisNexis student associate in law school (August 1995 until May 1997), he would quietly recommend to close friends that they print their cases from Westlaw. This was due to the competitive advantage that West enjoyed at the time in being the only main legal database company that provided headnotes. For law students printing cases for studying and research, Westlaw’s headnotes conferred the advantages of the overview and intra-case location functions discussed above.

19. Mart, *Relevance*, *supra* note 3, at 224, ¶ 6.

20. *Id.* at 224–25, ¶ 7; Mart, *Case for Curation*, *supra* note 3, at 20–21.

21. BARKAN ET AL., *supra* note 2, at 93; Patrick Charles, *West Topic and Key Numbers: Focusing on the Basic Structure*, 18 PERSPECTIVES: TEACHING LEGAL RES. & WRITING 130 (2010).

22. Charles, *supra* note 21, at 132.

23. See WEST’S ANALYSIS OF AMERICAN LAW: WITH KEY NUMBER CLASSIFICATIONS (2011) (“In the practice of the department, only classification inside the literary warrant is called “classification.” West editors refer to classification outside the literary warrant as providing “library references.”); Dabney, *supra* note 16, at 244, ¶ 70; F. Allan Hanson, *From Key Words to Key Numbers: How Automation Has Transformed the Law*, 94 LAW LIBR. J. 563, 570, 2002 LAW LIBR. J. 36, ¶ 20.

egorization is the process of dividing the world into groups of entities whose members are in some way similar to each other.”²⁴ In contrast, “[c]lassification . . . involves the orderly and systematic assignment of each entity to one and only one class within a system of mutually exclusive and nonoverlapping classes.”²⁵ The Library of Congress Classification System, used to put call numbers on the spines of books, is a true classification system. Books on a shelf are placed in one, and only one, location.²⁶ The fact that both LexisNexis and West frequently assign headnote paragraphs to more than one topic, by definition makes these categorization systems rather than classification systems.

¶8 It is also worthwhile to identify whether the two competing categorization systems are controlled vocabularies, taxonomies, and thesauri. A controlled vocabulary is “an authoritative list of terms to be used in indexing (human or automated).”²⁷ Both systems are controlled vocabularies. Otherwise, they would not be as effective at gathering related case law and would be mere indexes of every word used in judicial opinions. However, they are not static. For example, the West Key Number System has evolved over time to incorporate changes in legal terminology and usage. For instance, in 2003, the controlled vocabulary topic of Master and Servant²⁸ was updated and merged with Labor Relations to form the new controlled vocabulary topic of Labor and Employment.²⁹

¶9 A taxonomy is “a controlled vocabulary with a hierarchical structure.”³⁰ As evidenced by the multipart, hierarchical topical organization displayed with each headnote (in the online world), both categorization systems are taxonomies. Furthermore, a thesaurus is a taxonomy that contains syndetic structure reflecting relationships between terms: broader terms and narrower terms (hierarchical relationships), *see also* references (associative relationships), and *use/used for* statements (equivalency relationships).³¹ The latter sometimes are called an entry vocabulary pointing the user to the preferred term. Additionally, terms in a thesaurus often carry scope notes (“brief explanations of how the term should be used in indexing”) and term history notes.³² It is unknown whether the LexisNexis categorization system is a thesaurus. While it is likely that LexisNexis has thesaurus content that it uses in-house, it is not available to the end user. West, on the other hand, makes available its thesaurus in the semi-annual book, *West’s Analysis of American Law: With Key Number Classifications*.³³ The 1994 edition of this work includes scope notes at the outset of each of the top-level topic categories (“Subjects Included”) as well as *see also* references (“Subjects Excluded and Covered by Other

24. Elin K. Jacob, *Classification and Categorization: A Difference that Makes a Difference*, 52 LIBR. TRENDS 515, 518 (2004).

25. *Id.* at 522.

26. This assumes that multiple copies of the book are not classed in different locations. The multiple assignment of call numbers to one work is possible in online, virtual call number browsing systems and may be useful to the user.

27. *About Taxonomies & Controlled Vocabularies*, TAXONOMIES & CONTROLLED VOCABULARIES SIG, <http://www.taxonomies-sig.org/about.htm> [<https://perma.cc/R64S-CUQG>].

28. Dabney, *supra* note 16, at 240, ¶ 51.

29. *See* 1 ELEVENTH DECENNIAL DIGEST pt. 1, V–VII (2005); *id.* pt. 2, IV–VI.

30. *About Taxonomies & Controlled Vocabularies*, *supra* note 27.

31. *Id.*

32. *Id.*

33. WEST’S ANALYSIS OF AMERICAN LAW: WITH KEY NUMBER CLASSIFICATIONS, *supra* note 23.

Topics”).³⁴ There are also scope notes and *see also* references for some specific key numbers.³⁵

Historical Background

¶10 To empirically analyze the two competing headnote systems, it is important to understand how they evolved historically and in response to what stimuli. This, coupled with commentators’ observations about the two systems, has informed the focus of the empirical study and the methodologies used herein.

West’s National Reporter System

¶11 When the number of cases increases dramatically and becomes overwhelming to use and navigate, this leads to new technologies for “abridgement and synthesis.”³⁶ In the late nineteenth to early twentieth centuries, the technological response to the burgeoning amount of case law was the National Reporter System and the Key Number System.³⁷ Around 1870, and around the age of eighteen, John B. West began selling office supplies and medical and legal publications out of St. Paul, Minnesota, for the D.D. Merrill Book Store.³⁸ In 1872, he struck out on his own and became a full-time seller of law-related books.³⁹ In 1876, joined by his brother Horatio, John B. West & Co. launched a weekly legal newspaper named the *Syllabi*. This publication planted the seed that became the National Reporter System.⁴⁰

¶12 The *Syllabi* provided excerpts, and soon full text, of Minnesota court decisions long before they were available in the official state reports.⁴¹ The *Syllabi* was expanded to include cases from Wisconsin, and subsequently other states in the region, and became the *North Western Reporter*.⁴² Nationwide subscriptions to and interest in the *North Western Reporter* allowed West Publishing Company to create and publish the *Federal Reporter* in 1880 (covering federal circuit and district court opinions), and the *U.S. Supreme Court Reporter* in 1882.⁴³ “These three Reporters were all edited under a *uniform* plan of headnotes and indexing which added greatly to the convenience of the user and which was not to be found in the separate State Reports.”⁴⁴ Soon after, in 1888, case law from all jurisdictions within the United States was collected, indexed, headnoted, and included in a series of reporters that cumulatively became known as the National Reporter System.⁴⁵

34. WEST’S ANALYSIS OF AMERICAN LAW: WITH KEY NUMBER CLASSIFICATIONS (1994).

35. *Id.* at 730 (Injunction “138.54. Schools; colleges and universities. *Excludes school desegregation, see Schools 13(20), and interscholastic and intercollegiate associations, see Schools 183 and Colleges and Universities 15.*”).

36. McGinnis & Wasick, *supra* note 1, at 1002.

37. *Id.* at 1003–06.

38. MARVIN, *supra* note 15, at 25–26; *see also* Robert M. Jarvis, *John B. West: Founder of the West Publishing Company*, 50 AM. J. LEGAL HIST. 1 (2010).

39. MARVIN, *supra* note 15, at 27.

40. *Id.* at 30–32.

41. *Id.* at 30–35.

42. *Id.* at 36–38.

43. *Id.* at 39, 61.

44. *Id.* at 39.

45. *Id.* at 39, 42–49.

Key Number System

¶13 Digests were soon created to allow topical exploration of this chronological collection of case law. This process began as West's *Monthly Index* in 1886, which became the *American Digest* in 1887.⁴⁶ Aided by the purchase of competing digests that were at a comparative economic disadvantage with West because West already had case law content used to produce its reporters,⁴⁷ West created the *Century Digest* in 1897,⁴⁸ followed by the first *Decennial Digest* in 1908. The Key Number System was developed by John A. Mallory and introduced in 1908⁴⁹ in the first *Decennial Digest*.⁵⁰ "This was the critical innovation from West . . . It gave lawyers the ability to identify a discrete topic that was relevant to their case and then pull up a heretofore unavailable amount of case law on that topic."⁵¹

The Advent of LexisNexis and Computerized Legal Search

¶14 The process of using computerized information retrieval systems to research the law began in the late 1950s⁵² when a computer was used to produce an index to the Pennsylvania health statutes to find and replace the outdated term "retarded child."⁵³ The genesis of LexisNexis was a 1964 working group of the Ohio Bar Association that was formed to adopt a computerized legal information system.⁵⁴ It commissioned the creation of a system that would eventually become LexisNexis.⁵⁵ As LexisNexis originally did not have any editorial value-added material such as abstracts to allow users to quickly ascertain the relevance of a returned document, it pioneered in 1970 the "keyword-in-context (KWIC) format, where the search term was highlighted and displayed with leading and following lines (much like the snippets giving the results of a current search engine)."⁵⁶ Initially, LexisNexis dedicated computer terminals were seen as a finding aid to cases that would then be read or photocopied out of traditional law books.⁵⁷ To compete, West introduced its own computerized search platform in 1975.⁵⁸ Until 1978, the West-law platform was limited to searching only West's editorial headnotes of cases and, unlike LexisNexis, did not include the full text of legal documents.⁵⁹ In 1999, when

46. *Id.* at 47–48; James H. Wyman, *Freeing the Law: Case Reporter Copyright and the Universal Citation System*, 24 FLA. ST. U. L. REV. 217, 229 (1996).

47. MARVIN, *supra* note 15, at 68–70.

48. *Id.* at 73.

49. Dabney, *supra* note 16, at 245, ¶ 81.

50. MARVIN, *supra* note 15, at 28.

51. McGinnis & Wasick, *supra* note 1, at 1005.

52. Jon Bing, *Let There Be LITE: A Brief History of Legal Information Retrieval*, 1 EUR. J.L. & INFO. TECH. (2010) [hereinafter Bing, *Let There Be LITE*], <http://ejlt.org/article/view/15/20>; Jon Bing, *Performance of Legal Text Retrieval Systems: The Curse of Boole*, 79 LAW LIBR. J. 187 (1987); K. Tamsin Maxwell & Burkhard Schafer, *Concept and Context in Legal Information Retrieval*, in JURIX: THE TWENTY-FIRST ANNUAL CONFERENCE 63, 63–72 (2008); William G. Harrington, *A Brief History of Computer-Assisted Legal Research*, 77 LAW LIBR. J. 543 (1985).

53. Bing, *Let There Be LITE*, *supra* note 52.

54. *Id.*; Wyman, *supra* note 46, at 230–32.

55. Bing, *Let There Be LITE*, *supra* note 52; Harrington, *supra* note 52, at 545.

56. Bing, *Let There Be LITE*, *supra* note 52.

57. *Id.*

58. *Id.*

59. *Id.*

LexisNexis began to retrospectively introduce headnotes, both LexisNexis and Westlaw offered full text, headnotes, and a related categorization scheme.⁶⁰

Related Literature

¶15 The literature that informs this empirical study falls into three categories: (1) the publishers' own claims as to their headnote practices; (2) other literature empirically evaluating LexisNexis and West products and commentary as to the headnote systems; and (3) a discussion of "holding" versus "dicta," which applies to the subsequent analysis as to what content is given headnote treatment.

Vendor Claims as to Their Headnote Process

¶16 To analyze and critique the assignment of headnotes by both major publishers of case law, it is useful to survey what the publishers themselves claim about their headnotes. It is legitimate to analyze whether each publisher is living up to its stated aims and intent with its headnoting.

West

¶17 In its marketing materials, West promotes its long history as being the primary digest system for U.S. case law.⁶¹ West also claims that "[t]he Key Number System makes legal research easier, more accurate, and more relevant."⁶² "Easier" is appropriate as one needs a digest system for topical access into what is otherwise only a chronological ordering of case law per a given jurisdiction.⁶³ "More accurate" and "more relevant" are much greater claims and appear similar to two information retrieval terms of art, "precision" and "recall." While "more accurate" and "more relevant" are not explicitly proven in the marketing assertion, context supplies some understanding of the claim. From the language immediately following the claim, one may infer that accuracy and relevance stem from the digest function of the West headnote system and the ability to view the full outline of West's hierarchical controlled subjects to discover the applicable divisions and elements of particular areas of the law. "The Key Number System is both an index you use to find opinions relevant to whatever legal problem you are working on and an outline of issues important in the law. This means that it will not only help you find the cases you want, but it will also help you identify the issues you need to consider in the first place!"⁶⁴

¶18 West enumerates the steps used in creating its headnote system:

- A court issues an opinion in a case.
- A copy of the case is obtained by West, where . . . trained attorney editors read the case and pick out the points of law addressed in the case.

60. Mart, *Case for Curation*, *supra* note 3, at 14.

61. "The logical organization of legal materials is essential to the maintenance of a legal system based on precedent. For more than 100 years, the legal community has relied on the Topic and Key Number System's organization of case law to locate that precedent." Thomson Reuters Westlaw, [*Topic and Key Number Overview*], <https://lawschool.westlaw.com/marketing/display/RE/24> [<https://perma.cc/8MBP-JFLR>].

62. *Id.*

63. See WREN & WREN, *supra* note 11, at 6; Callister, *Thinking*, *supra* note 11, at 40 tbl.4; Callister, *Time to Blossom*, *supra* note 11, at 203 tbl.3, 210 fig.6; Wren & Wren, *supra* note 11, 35 matrix A.

64. Thomson Reuters Westlaw, *supra* note 61.

- Written as a short, concise paragraph, these are called headnotes. . . .
- The headnotes are then passed along to attorney editors who are experts in figuring out where points of law belong in the huge Key Number System “outline.”
- These “Classifiers” find the correct location on the outline, and assign at least one Key Number to the headnote. . . .
- Then the West Digests take over. Digests are arranged alphabetically by Topic and then numerically by Key Number. There are regional, federal, state, chronological and topical digests. All cases dealing with a legal concept in the jurisdiction, time period, or topical area covered by a Digest are grouped together. . . . On Westlaw, all Key Numbers are hyperlinked to cases addressing the same issue in any jurisdiction. All you have to do is know which Key Number describes the problem or point of law on which you would like to find cases. The rest has all been done for you!⁶⁵

¶19 By its own admission, West glosses “points of law” for inclusion in its headnotes and not necessarily only holdings. West also has long emphasized its frequent use of alternative terms in its headnotes,⁶⁶ to standardize topics and keywords and make them more findable. For example, the headnote to *Ravell v. United States* uses “spectator” to refer to a woman attending an air show, even though the opinion never uses this word.⁶⁷ One commentator notes that “editors take the legal concepts from a case [and] summarize the concept in the editor’s own language[.]”⁶⁸ Sometimes, the editor’s own language is the “exact language of the court.”⁶⁹

LexisNexis

¶20 LexisNexis asserts in its promotional and marketing literature that its headnotes “reflect the language of the court.”⁷⁰ “We never editorialize headnotes, which could lead to a misinterpretation of points of law.”⁷¹ LexisNexis goes on to encourage its users to “[g]et the vital information you need from attorney-editors who write headnotes in the language of the court, ensuring reliable information and no misinterpretation.”⁷² This fidelity to the actual language of the court also appears as a selling point in LexisNexis’s instructional materials geared toward law students: “Lexis headnotes provide a more detailed overview of the legal issues discussed. You’ll understand the court’s assessment of each issue, as actual case language is used in each headnote.”⁷³ LexisNexis also promotes the overview and intra-case

65. *Id.*; see also *How a Slip Opinion Becomes a Reported Case*, 15 PASSWORD: NEWSL. POWER WEST-LAW USER 7, 7–9 (1995) (bullets added).

66. *How a Slip Opinion Becomes a Reported Case*, *supra* note 65, at 7–9.

67. *Ravell v. United States*, 855 F. Supp. 300, 300 (C.D. Cal. 1992). For a similar example of a trademark case about matchbook covers, but never using “matchbook” or “match covers” in the language of the case, see Kenneth H. Ryesky, *From Pens to Pixels: Text-Media Issues in Promulgating, Archiving, and Using Judicial Opinions Accessing the Law*, 4 J. APP. PRAC. & PROCESS 353, 382–83 (2002).

68. Mart, *Relevance*, *supra* note 3, at 223, ¶ 5.

69. *Id.* at 223 n.13.

70. LexisNexis, *LexisNexis Case Law*, <https://www.lexisnexis.com/en-us/products/caselaw.page> [<https://perma.cc/UYU9-9AQC>].

71. *Id.*

72. *Id.*

73. LEXISNEXIS, PREPARING TO SUCCEED IN CLASS (2011), http://www.lexisnexis.com/documents/lawschooltutorials/20110728015017_large.pdf [<https://perma.cc/KK62-TN3G>]; LEXISNEXIS, LEXISNEXIS HEADNOTES: HOW TO USE THE MORE LIKE THIS HEADNOTE AND RETRIEVE ALL HEADNOTES FEATURES (2005), http://www.lexisnexis.com/documents/LawSchoolTutorials/20070430111658_small.pdf [<https://perma.cc/84AG-42WC>] (“LexisNexis Headnotes show the key legal points of a case. Each LexisNexis Headnote is written by a LexisNexis legal editor, drawing directly from the language of the court.”).

location functions of its headnotes by stating that they allow a researcher to “[d]etermine if a case merits deeper analysis by quickly accessing the key legal issues and points of law material to a case.”⁷⁴ Furthermore, LexisNexis promotes the digest function of its headnote system when it states that its headnotes allow a user to “[f]ind other relevant authority with headnotes that help direct you to other important cases related to your legal question.”⁷⁵

¶21 LexisNexis’s emphasis on how its fidelity to the court’s language avoids creating misleading headnotes obliquely implies that West’s headnotes may suffer from this problem. We are not aware of any empirical research that demonstrates this is indeed a problem. If such research existed, it would probably be featured in LexisNexis promotional materials. LexisNexis also emphasizes the role of the attorney-editor in the creation of its headnotes. In an online brochure that features the twenty-nine steps of the LexisNexis editorial process, steps 20 through 25 (“Case Enhancements”) are:

20. Headnote attorney-editors read both published and unpublished cases for identification and analysis of legal issues.

21. Attorney-editors craft a case-law summary for each case, which includes a concise synopsis, an overview of relevant legal facts and pertinent authorities, and a statement of the case outcome.

22. Attorney-editors identify the issues or points of law that are material to the resolution of the case and create stand-alone headnotes for each statement of authority.

23. Every headnote is assigned the most on-point classifications from our legal topic digest. Classifications provide instructive headings for the material rules of law and are a powerful research tool for relevant subject matter.

24. Case summaries, headnotes and classifications are quickly updated in the database.

25. Work is sampled and audited for quality review. Results are monitored.⁷⁶

Steps 22 and 23 provide the language with which LexisNexis headnotes may be evaluated based on the corporation’s own claims. To what extent do their headnotes gloss the “issues or points of law that are material to the resolution of the case” and contain each statement of authority?

Commentators’ Thoughts as to What the Systems Are Designed to Do

¶22 Support is found for both sides of the issue as to whether headnotes should use the actual language of the court opinion:

74. *LexisNexis Case Law*, *supra* note 70.

75. *Id.*

76. LEXISNEXIS, CASE LAW & SHEPARD’S EDITORIAL PROCESS (2013), http://www.lexisnexis.com/pdf/LexisNexis_Case_Law_Shepards_29_Step_Editorial_Process.pdf [<https://perma.cc/3GQJ-F6W9>]; see also Shawn Nevers, *LexisNexis Headnotes*, HUNTER’S QUERY (Sept. 18, 2009), http://huntersquery.byu.edu/wordpress/index.php/2009/09/lexisnexis_headnotes/ [<https://perma.cc/7LJZ-DZ7P>]:

“[T]he editor reads the case and manually chooses the classifications. He or she has a tool much like an index that has all of the classifications listed there (topics and subtopics). For each point of law in the case that the editor chooses to include as a headnote, he or she then selects the most relevant subtopic/topic. Often they are given more than one as obviously they can not be hammered into only one subtopic. If the language does not fit any current topics, then the editor can request a new one created and a committee of editors makes that decision, but that is very rare. Once the editor has chosen the language and matched the topics, the secondary editors then check that to make sure it is correct.” (quoting e-mail from Michael Morton, LexisNexis Regional Account Manager, to Shawn Nevers).

Because the headnotes are not the actual judicial opinions, and because by design they abbreviate the information set forth in full by the opinion, and because they reflect the style of the digester and not that of the person writing the opinion, vital data from the opinion can be omitted from its headnotes; or worse yet, the headnote can inaccurately represent the gist of the opinion.⁷⁷

This provides some support to LexisNexis's marketing claims for incorporating the actual language of the court opinion. However, the same commentator also supports West's practice of using its own language to gloss headnotes to use more common key words and phrases: "[a] skilled professional case digester who writes headnotes can enhance the utility of his or her employer's publication by helping the researcher find the information sought."⁷⁸

¶23 There is an interesting discussion as to what extent these headnote categorization schemes influence the law itself: more specifically, whether they limit the ability to research the law and to even develop new rationales and arguments outside the bounds of traditional topic categories.⁷⁹

[T]he Key Number system, while detailed, could never actually cover every possible topic created by legal events. As a result, lawyers trained to use (rather than critically examine) the West Key Number System would feel pressure to wedge the facts from their case into arguments that could be developed from within the Key Topic system.⁸⁰

"The essence of a classification scheme is to be a closed list of the salient ideas in the literature it serves, and when the system, by omitting an idea, implies that the idea is not sufficiently salient to be included, it can be an obstacle to considering the idea."⁸¹ Dabney references the inability to use the Topic and Key Number System to research concepts related to feminist jurisprudence as one area of the law hampered by the language of the categorization system.⁸²

¶24 Only a little empirical work has compared the two categorization systems. Mart did an empirical analysis as to the return of relevant results between the two vendors' platforms using both the digest and citator tools available on each platform. She started with a dataset of headnotes from ten marquee cases that significantly developed the law.⁸³ Subsequently, she repeated her study on a larger corpus of ninety important federal and state cases and obtained the following results:

For digests, Key Number results had a higher percentage of relevant results than either digest function available on Lexis For citators, . . . Lexis's Shepard's algorithm produced slightly more relevant results than Westlaw's KeyCite algorithm, but the overlap in cases between the two systems is still very small. The differences in the result sets for digest and citator systems illustrate the fact that no one system or type of resource returns comprehensive results.⁸⁴

¶25 We are not aware of any study that directly compares the number of headnotes and their qualities assigned by LexisNexis and West for the same body of cases. Presumably, however, each company has performed such an analysis to gain competitive intelligence on its competitor.

77. Ryesky, *supra* note 67, at 382.

78. *Id.* at 382.

79. Dabney, *supra* note 16, at 236–39, ¶¶ 31–44.

80. McGinnis & Wasick, *supra* note 1, at 1006.

81. Dabney, *supra* note 16, at 236, ¶ 31.

82. *Id.* at 239, ¶ 46.

83. Mart, *Relevance*, *supra* note 3, at 240–47, ¶¶ 35–48.

84. Mart, *Case for Curation*, *supra* note 3, at 15.

Holdings Versus Dicta

¶26 Relevant to our inquiry is an exploration of holding and dicta, what their conflation might mean for the practice of law in the United States, and how their conflation might be abetted by the headnoting process. Stinson notes two general groupings of definitions of the “holding” of a case: (1) (the more limited) “a holding is limited to the facts plus outcome”; and (2) (the more expansive) “a holding includes the rationale or reasoning a court employs to reach a particular result.”⁸⁵ Dicta is then defined as everything else in a case that is not a holding. As only holdings are obligated to be followed by lower courts in a multitiered, common-law system, Stinson surveys the problems that result when dicta is mistakenly elevated to a holding and vice versa. This includes a lessening of (1) the accuracy of opinions (whether they are actually correct), (2) judicial authority, and (3) legitimacy of the common-law system.⁸⁶ As relates to the U.S. Supreme Court, with its abundance of law clerks and small numbers of written opinions issued each year, the Court “sets broad policy, which invites espousing dicta that would be unnecessary if the Court’s sole function were to narrowly resolve litigant’s disputes.”⁸⁷ The problem is exacerbated by the typical length of a Supreme Court written opinion.⁸⁸

¶27 One of the three reasons Stinson gives for the conflation of holdings and dicta is the increasing reliance on “the *words* found in judicial opinions rather than the underlying components of those judicial decisions—facts, issues, holdings, and outcomes.”⁸⁹ The distillation of holding from dicta can be difficult, and it is often easier to quote language from an opinion rather than succinctly summarize the holding. An additional reason that Stinson gives for preference for quotations from an opinion rather than a careful untangling of holding and dicta is that “electronic legal research encourages a focus on individual screens and snippets of text rather than documents as a whole; this devalues the significance of legal principles in favor of facts and rules taken out of context.”⁹⁰

¶28 LexisNexis, with its professed fidelity to the language of the court used for its headnote content, might be complicit with this trend of relying on quoted language rather than a careful parsing of holding from dicta. Stinson cites Doyle in noting that the development of full-text retrieval “minimized the assistance to be gained from editorial judgment.”⁹¹ This editorial judgment might support the West approach of more careful editorialized headnotes that summarize concepts rather than merely giving applicable language from the court opinion. Alternatively, advocates in our adversarial legal system want quick access to applicable snippets of language from opinions to marshal arguments most favorable for their clients. In other words, attorneys might welcome a certain degree of muddling of holding and dicta to advance the interests of their clients. Of course, this might be a structural flaw in our common law, adversarial process.

85. Judith M. Stinson, *Why Dicta Becomes Holding and Why It Matters*, 76 BROOK. L. REV. 219, 223–24 (2010).

86. *Id.* at 223–33.

87. *Id.* at 221.

88. *Id.* at 222.

89. *Id.* at 246.

90. *Id.* at 253.

91. *Id.* at 254 (quoting John Doyle, *WESTLAW and the American Digest Classification Scheme*, 84 LAW LIBR. J. 229, 229–30 (1992)).

Case Corpus

¶29 Opinions at the U.S. Supreme Court level were chosen for our study because it is assumed that they garner the most careful and thorough editorial treatment from each of the publishers. For the sake of completeness, we decided to examine the entire output of the written opinions of one term of the Court. The 2009 Term was chosen (October 5, 2009, through October 3, 2010) because this was the most recent term in which all of the opinions appeared in their bound form in the *United States Reports* when we began work on this article in January 2016. The bound and presumed final version of the *United States Reports* was important because it was the neutral source of line numbering for comparisons of the two publishers' versions of the cases and the location of their headnote placement within each case. The fact that over five years had elapsed since the final written opinion was issued also gave the two publishers plenty of time to make changes and otherwise correct errors (if any) in their editorial enhancements of the cases. This assured that the analysis was conducted on more or less final products.

¶30 The authoritative listing of written opinions come from two sources. The first is the list of slip opinions hosted on the Supreme Court's website ("2009 Term Opinions of the Court"). However, it appears that these lists are not maintained on the Court's website once the relevant opinions are published in the bound volumes of the *United States Reports*. Because of this, we obtained the listing using the Internet Archive's Wayback Machine for the appearance of the Court's website on August 28, 2010.⁹² This listing was confirmed using the data contained in the *Supreme Court Database*.⁹³ Consequently, the relevant corpus for this analysis was eighty-seven written case opinions⁹⁴ that have been given headnote treatment by at least

92. Way Back Machine, INTERNET ARCHIVE, <https://web.archive.org/web/20100828092509/http://www.supremecourt.gov/opinions/slipopinions.aspx> (U.S. Supreme Court's website captured on Aug. 28, 2010).

93. *The Supreme Court Database*, WASHINGTON UNIV. LAW, <http://supremecourtdatabase.org/> (last visited Nov. 10, 2017). As to the list of "2009 Term Opinions of the Court" and the *Supreme Court Database*, there were two discrepancies. The *Supreme Court Database* included with its listing of written opinions one case that was a sentence-long dismissal pursuant to Rule 46 rather than a written opinion, *Pottawattamie Cty. v. McGhee*, 558 U.S. 1103 (2010). Conversely, the "2009 Term Opinions of the Court" included one case not included in the *Supreme Court Database* for the 2009 Term, *Weyhrauch v. United States*, 561 U.S. 476 (2010) ("R-" number: 87): "R: Sequential number assigned by the Reporter of Decisions after the particular case was issued." *Column Header Definitions*, SUP. CT. OF THE U.S., <http://www.supremecourt.gov/opinions/definitions.aspx> [<https://perma.cc/GE7L-T9SG>]. This was a one-paragraph per curiam decision that did not garner any headnote treatment from either publisher because it merely vacated the lower court ruling consistent with a companion case in the same 2009 Term, *Skilling v. United States*, 561 U.S. 358 (2010). The *Supreme Court Database* had two other errors: the citations given for two cases were to subsequent treatments of the cases and not the original opinions in the 2009 Term that merited headnote treatment from at least one of the publishers: *Thaler v. Haynes*, 559 U.S. 43 (2010) ("R-" number: 23), *reh'g den.*, 559 U.S. 1088 (*Supreme Court Database* citations were to the "rehearing denied" memorandum decision). *United States v. Juvenile Male*, 560 U.S. 558 (2010) ("R-" number: 67), contained a certified question to the Montana State Supreme Court necessary to address a potential issue of mootness related to a juvenile sex offender. The case was subsequently resolved by *United States v. Juvenile Male*, 564 U.S. 932 (2011). The *Supreme Court Database* citations were to the subsequent and final opinion.

94. Several other listed opinions were memorandum decisions with no substantive treatment by the court and no headnotes assigned by the publishers: *Briscoe v. Virginia*, 559 U.S. 32 (2010) ("R-" number: 21), one-sentence order vacating and remanding for "further proceedings not inconsistent with the opinion, *Melendez-Diaz v. Massachusetts*, 557 U.S. 305 (2009)"; *Kiyemba v. Obama*, 559 U.S. 131 (2010) ("R-" number: 27), dismissed because change of circumstances surrounding prisoners at

one of the two publishers. These eighty-seven opinions were downloaded from Lexis Advance and Westlaw in Microsoft Word format. For Westlaw, the option to display the topic and key numbers with the expanded hierarchy was chosen.

Number of Headnotes

¶31 The metric collected for each written opinion was the total number of headnotes assigned to each case by each publisher. Thus, the unit of analysis for comparison was the entire written opinion. One author populated a spreadsheet with the count numbers for each publisher for each of the written cases of the 2009 Term. (See appendix A.) This was made relatively easy as the headnotes are numbered in each publisher's version of the opinions and the total was obtained by looking at the last numbered headnote. The spreadsheet entries of the numbers per case were then confirmed by the other author. Data was collected for the total number of headnotes assigned by West and LexisNexis, as well as the *Lawyers' Edition*, which is a different categorization scheme also owned and maintained by LexisNexis and given with the LexisNexis case opinions. The total number of headnotes given by both publishers to the eighty-seven cases is surprisingly close given the variances discussed below—1063 for LexisNexis, 1063 for *Lawyers' Edition*, and 929 for Westlaw. (See table 1.)

Headnotes per Case

¶32 The total number of headnotes assigned, divided by the eighty-seven cases, resulted in a per case average (arithmetic mean) for LexisNexis of 12.22 headnotes per case and West, 10.68. The similarity of these two averages belies vast differences between the two publishers, as discussed below. The range of the number of headnotes assigned by LexisNexis was 0 to 51. The range of the number of headnotes assigned by West was 1 to 36. In terms of statistical central tendency, some of these differences were captured by the median and mode number of headnotes assigned to the eighty-seven cases by the two publishers. (See table 1.) The median number of headnotes assigned per case by LexisNexis was eleven and nine for West. This means, by definition, half of the LexisNexis cases had fewer than eleven headnotes, and half had more. For West, half of the cases had fewer than nine headnotes, and half had more. The mode number, the most frequently occurring number of headnotes assigned per case, for LexisNexis was two and eleven (tie with six instances each) and eight for West (nine instances).

Headnotes per Page

¶33 Opinion page counts were calculated to evaluate how well the number of headnotes correlated with the number of opinion pages. The impetus for the analysis was to see whether a correlation suggested that either publisher used page length as an algorithmic prompt for a target number of headnotes. Page counts excluded the syllabus and started from the language that announced which Justice authored the opinion: "Justice _____ delivered the opinion of the Court" or, when applicable,

Guantanamo Bay resulted in no lower court having addressed the new legal issues; *Sullivan v. Florida*, 560 U.S. 181 (2010) ("R-" number: 51), dismissed as improvidently granted; *Robertson v. United States ex rel. Watson*, 560 U.S. 272 (2010) ("R-" number: 57), dismissed as improvidently granted.

Table 1
Headnote Count Comparisons

	LexisNexis	Lawyers' Edition	West
Total Headnotes	1063	1063	929
Average (Mean) Number of Assigned Headnotes per Case	12.22	12.22	10.68
Median Number of Assigned Headnotes per Case	11	11	9
Mode Amount of Assigned Headnotes per Case	2 (6 instances) 11 (6 instances)	6 (6 instances) 11 (6 instances)	8 (9 instances)
Range	0–51	0–51	1–36
<i>Citizens United v. Fed. Election Comm'n</i> (Case with Most LexisNexis Headnotes)	51	51	24
<i>Skilling v. United States</i> (Case with Most West Headnotes)	41	41	36
<i>McDonald v. City of Chicago</i> (Case with Greatest Disparity in the Number of Headnotes)	18	18	1
Number of Cases Each Publisher Assigned the Greater Number of Headnotes. (Note: Three cases had an equal number of headnotes.)	47 of 87 cases	n/a	37 of 87 cases

“Per Curiam.” The last page of the opinion contained the line “*It is so ordered*” or “*Affirmed.*” The math to determine the overall number of opinion pages was conducted automatically using a populated Excel spreadsheet: (“U.S. Reports Opinion Ends Page” minus U.S. “Reports Opinion Begins Page”) + 1. (The plus one was used to avoid one-page opinions registering as having zero page lengths.) The number of pages per opinion in the corpus is given in appendix B.

¶34 Lexis averaged 0.70 headnotes per page (1063 headnotes/1521 total pages). West averaged 0.61 headnotes per page (929 headnotes/1521 total pages). Linear regression analysis was conducted using Microsoft Excel for each of the vendors relative to the total page counts for each of the eighty-seven cases in the corpus.⁹⁵ The independent variable or predictor variable (x)⁹⁶ was the number of pages, and the dependent variable or predicted variable (y)⁹⁷ was the number of headnotes assigned by each vendor. The results are discussed in the Regression Analysis Results section below.

95. See generally CONRAD CARLBERG, REGRESSION ANALYSIS: MICROSOFT EXCEL (2016). For an additional tutorial on how to conduct such an analysis, see Janice H. Hammond, *Quantitative Methods Online Course: Regression Section* (2010), HARVARD BUS. PUBL'G FOR EDUCATORS, <https://cb.hbsp.harvard.edu/cbmp/product/6012-HTM-ENG> [<https://perma.cc/DQK2-HV8U>].

96. CARLBERG, *supra* note 95, at 130.

97. *Id.*

Headnotes per Lines

¶35 Line counts per opinion were calculated to evaluate how well the number of headnotes supplied by each publisher correlated with the number of lines in the Court's opinions. The impetus for the analysis was to see whether a correlation suggested that either publisher used the number of lines in an opinion as an algorithmic prompt for a target number of headnotes. The applicable volumes of the *United States Reports* were downloaded from the Supreme Court's website. The entire volumes were opened in the original PDF format and saved as Microsoft Word files. Additionally, continuous line numbering was enabled so each line within the volume had a distinct line number. Opinions of the Court excluded the syllabus and started from the language that announces which Justice authored the opinion: "Justice _____ delivered the opinion of the Court" or, when applicable, "Per Curiam." The last line of the opinion was the line "*It is so ordered*" or "*Affirmed*." The math to determine the overall number of lines of the opinion was conducted automatically in a populated Excel spreadsheet: ("U.S. Reports Opinion of the Court Line Number Ends" minus "U.S. Reports Opinion of the Court Line Number Begins") + 1. The number of lines per opinion in the corpus is given in appendix B.

¶36 Lexis averaged 0.016 headnotes per line (1063 headnotes/64,950 total lines). West averaged 0.014 headnotes per line (929 headnotes/64,950 total lines). Correlation analysis (linear regression) was conducted using Microsoft Excel for each of the vendors relative to the total number of lines for each of the eighty-seven cases. The independent variable (x) was the total number of lines per opinion, and the dependent variable (y) was the number of headnotes assigned by each vendor per opinion. The results are discussed in the Regression Analysis Results section below.

Regression Analysis Results

¶37 In addition to number of pages per opinion and total number of lines per opinion, two other variables were captured in the linear regression analysis: the number of majority votes and the date the opinion was released. We speculated that one or both vendors might use the voting counts as an algorithmic prompt for a target number of headnotes. Less divisive opinions with a larger number of majority votes were hypothesized to receive fewer headnotes. In the regression analysis, the number of majority votes (ranging from 5 to 9) was the independent variable (x), and the number of headnotes was the dependent variable (y). Additionally, as more controversial cases are often released later in the year, this might be another algorithmic prompt as to a target number of headnotes used by one or both publishers. It was speculated that the later an opinion was released, the greater number of headnotes it would have. In the linear regression analysis, the date was the independent variable (x), and the number of assigned headnotes was the dependent variable (y). These additional variables are also set out in appendix B.

¶38 Table 2 shows the results of the linear regression analysis conducted using Microsoft Excel for each of the variables discussed above. As to the correlation coefficient, values range between -1 and 1 .⁹⁸ Perfectly correlated items have a value of either 1 or -1 . Completely uncorrelated items have a value of zero.⁹⁹ With LexisNexis, there is a strong, positive correlation between number of headnotes per opinion and

98. *Id.* at 30–32.

99. *Id.*

Figure 1

Number of LexisNexis Headnotes per Number of Opinion Pages

number of pages per opinion. As the number of opinion pages goes up, so does the number of headnotes assigned. (See figure 1.) There is also a moderate correlation between the number of West headnotes assigned and the number of opinion pages. (See figure 2.) In this instance, the two are more correlated than not correlated. However, the greater correlation coefficient strength as to LexisNexis (0.708) than West (0.527) for this phenomenon makes it more likely that LexisNexis uses an algorithmically suggested number of headnotes based on the length of an opinion (total number of opinion pages) than does West. Alternatively, this might be a result of LexisNexis using more of the exact language of the Court—more language (longer opinions) equating to more headnotes. The results are similar as to the number of headnotes assigned per number of lines in the opinion. As might be expected, the correlation improves marginally (a few decimal places for LexisNexis [0.708 to 0.714]), which is probably due to the increased specificity that the count of lines represents over the count of pages. However, the results are (or are almost) the exact same for both publishers when compared to the correlations for number of opinion pages.

¶39 As to the remaining variables analyzed, the correlation coefficients are very weak and, in the case of the number of Justices signing the opinion, statistically unreliable.¹⁰⁰ As pertains to the 2009 Supreme Court Term, there is almost no correlation

100. See T-test results in table 2.

Table 2

Correlation Analysis Results

	Headnotes per Number of Opinion Pages		Headnotes per Number of Opinion Lines		Headnotes per Number of Majority Votes		Headnotes per Date of the Opinion	
	Lexis- Nexis	West	Lexis- Nexis	West	Lexis- Nexis	West	Lexis- Nexis	West
Correlation Coefficient ^a	0.708	0.527	0.714	0.527	-0.100	-0.082	0.349	0.210
Slope of the Regression Line ^b	0.717	0.425	0.016	0.009	-0.553	-0.361	0.043	0.021
Standard Error of the Slope of the Regression Line ^c	0.078	0.074	0.002	0.002	0.595	0.474	0.0127	0.011
t-ratio (slope of the regression line/standard error of the slope of the regression line) ^d	9.192	5.724	9.406	5.719	-0.930	-0.761	3.434	1.979
Degrees of Freedom ^e	85	85	85	85	85	85	85	85
T-test (probability of sample slope of the regression line when actual population slope of the regression line equals zero) ^f	1.101	7.63	4.07	7.788	0.823	0.776	0.000461	0.026
y-Intercept of the Regression Line ^g	-0.309	3.247	0.246	3.642	16.283	13.331	-1737.69	-827.093
Standard Error of the y-Intercept ^h	1.512	1.449	1.436	1.388	4.470	3.565	509.596	423.305
R ⁱ	0.501	0.278	0.510	0.278	0.010	0.007	0.122	0.044
Standard Error of Estimate ^j	6.259	5.994	6.203	5.995	8.817	7.031	8.304	6.898
F-Ratio ^k	85.409	32.766	88.471	32.711	0.865	0.580	11.792	3.917
Sum of Squares for the Regression ^l	3345.438	1177.187	3404.209	1175.757	67.264	28.661	813.177	186.382
Sum of Squares for the Residual ^m	3329.413	3053.802	3270.642	3055.231	6607.587	4202.327	5861.674	4044.607
Observations	87	87	87	87	87	87	87	87

a. CARLBERG, *supra* note 95, at 29–57.

b. *Id.* at 107; *see also* LINEST Function, MICROSOFT CORP., <https://support.office.com/en-us/article/LINEST-function-84d7d0d9-6e50-4101-977a-fa7abf772b6d> [<https://perma.cc/78XT-379F>].

c. CARLBERG, *supra* note 95, at 109–14.

d. *Id.* at 112.

e. *Id.* at 13, 112.

f. *Id.* at 109–14.

g. *Id.* at 107.

h. *Id.* at 109–14.

i. *Id.* at 117–19.

j. *Id.* at 120–21.

k. *Id.* at 129–48.

l. *Id.* at 125–29.

m. *Id.*

Figure 2**Number of West Headnotes per Number of Opinion Pages**

(for either publisher) between the number of headnotes assigned and the number of Justices that join the majority opinion. Even though the regression line slopes in the anticipated negative direction—more headnotes assigned when fewer Justices join the majority—the extremely low correlation coefficient rejects the hypothesis that more headnotes would be assigned when more Justices are dissenting (an indication of controversial opinions). Though a dataset of eighty-seven cases is not too small from which to draw statistical inferences,¹⁰¹ conducting the same analysis on ten or twenty years of Supreme Court cases would be more dispositive. Additionally, there is a weak correlation, for both publishers, as to the number of headnotes assigned and when in the Term opinions are released. The higher correlation coefficient for LexisNexis (0.349) than for West (0.210) indicates that LexisNexis is more likely to use the timing of an opinion release (later in the Term cases being viewed as more significant and thus more headnote worthy) to suggest that more headnotes are merited. (However, opinions released later in the Term are longer, which is the reason they garner more headnote treatment from LexisNexis.) Again, conducting the same analysis over a larger dataset might be more informative. As to the 2009 Term, results might have been skewed by the very controversial case of *Citizens United v.*

101. CHARLES WHEELAN, *NAKED STATISTICS: STRIPPING THE DREAD FROM THE DATA* 135 (2013) (“As a rule of thumb, the sample size must be at least 30 for the central limit theorem to hold true.”).

Federal Election Commission,¹⁰² which was released comparatively early in the term (Jan. 21, 2010). Chronologically, it was the nineteenth of the eighty-seven opinions released that year. (See appendix B. See appendix C for an example of the rich topical and procedural information supplied for each case in the Supreme Court database.)

Greatest Differences

¶40 Ideally, one publisher would consistently assign more headnotes than the other. This would mean that each publisher consistently identified headnote-worthy language, and one of them consistently found more headnote-worthy language in each of the cases based on its own criteria. The differing numbers could then be nicely attributed to different philosophies of headnoting. However, this is not the case. Each publisher assigned more headnotes per case than the other almost an equal number of times: forty-seven times LexisNexis assigned more headnotes than West, and thirty-seven times West assigned more headnotes than LexisNexis. Only in three cases did each publisher assign an equal number of headnotes.¹⁰³ If headnote assignment was a science rather than an art, there should be many more instances in which each publisher assigned the same number of headnotes or that one publisher consistently assigned the same ratio of a greater number than the other publisher. In other words, if “issues or points of law that are material to the resolution of the case”¹⁰⁴ (LexisNexis) and “points of law”¹⁰⁵ (West) could be consistently and accurately identified each time, there would not be the disparities seen in the data. It is important to note that LexisNexis also claims to give headnote treatment to each statement of authority.¹⁰⁶ A priori, this suggests that LexisNexis would consistently assign more headnotes than West. It does not. Tables 3 through 6 reveal the greatest disparities in the number of headnotes assigned and the resulting ratios for each publisher. The fact that in numerous instances one publisher assigned multiples of headnotes compared to the other (frequently five or six times as many) further indicates that headnote assignment is an art and not a science.

¶41 *McDonald v. Chicago*¹⁰⁷ offers the starkest contrast, with eighteen LexisNexis headnotes and only one West headnote (a ratio of 1:18, as displayed in tables 3 and 4). In this one instance, West headnotes only the holding of the case—merely enunciating the overarching legal principle on which the case stands in one headnote. Given the significant constitutional issues addressed in *McDonald*, West’s choice is puzzling. Surely the *McDonald* opinion states more than one *point of law* worthy of a headnote assignment that would interest West’s users. All three functions of headnotes (overview, intra-case location, and digest) might be improved by more than one headnote being assigned. In contrast, LexisNexis offers eighteen “issues or points of law that are material to the resolution of the case” or statements

102. *Citizens United v. Fed. Election Comm’n*, 558 U.S. 310 (2010).

103. *United States v. Marcus*, 560 U.S. 258 (2010) (seven headnotes assigned by both LexisNexis and West); *Holland v. Florida*, 560 U.S. 631 (2010) (fourteen headnotes assigned by both LexisNexis and West); *Kawasaki Kisen Kaisha Ltd. v. Regal-Beloit Corp.*, 561 U.S. 89 (2010) (seventeen headnotes assigned by both LexisNexis and West).

104. LEXISNEXIS, *supra* note 76.

105. Thomson Reuters Westlaw, *supra* note 61.

106. LEXISNEXIS, *supra* note 76.

107. 561 U.S. 742 (2010).

Table 3

Greatest Total Differences in Headnote Numbers: LexisNexis Greater Than West

Rank	Case Name	United States Reports Citation	Supreme Court Reporter Citation	United States Supreme Court Reports—Lawyers' Edition Citation	Total Number LexisNexis Headnotes	Total Number West Headnotes	Absolute Difference	Difference Ratio
1	<i>Citizens United v. Fed. Election Comm'n</i>	558 U.S. 310	130 S. Ct. 876	175 L. Ed. 2d 753	51	24	27	1:2.13
2	<i>Holder v. Humanitarian Law Project</i>	561 U.S. 1	130 S. Ct. 2705	177 L. Ed. 2d 355	29	11	18	1:2.64
3	<i>McDonald v. City of Chicago</i>	561 U.S. 742	130 S. Ct. 3020	177 L. Ed. 2d 894	18	1	17	1:18
3	<i>Carachuri-Rosendo v. Holder</i>	560 U.S. 563	130 S. Ct. 2577	177 L. Ed. 2d 68	25	8	17	1:3.13
3	<i>Carr v. United States</i>	560 U.S. 438	130 S. Ct. 2229	176 L. Ed. 2d 1152	20	3	17	1:6.67
3	<i>Abbott v. Abbott</i>	560 U.S. 1	130 S. Ct. 1983	176 L. Ed. 2d 789	26	9	17	1:2.89
7	<i>Astrue v. Ratliff</i>	560 U.S. 586	130 S. Ct. 2521	177 L. Ed. 2d 91	16	3	13	1:5.33
7	<i>Samantar v. Yousuf</i>	560 U.S. 305	130 S. Ct. 2278	176 L. Ed. 2d 1047	29	16	13	1:1.81
7	<i>Mac's Shell Serv., Inc. v. Shell Oil Prods. Co.</i>	559 U.S. 175	130 S. Ct. 1251	176 L. Ed. 2d 36	18	5	13	1:3.6
10	<i>Christian Legal Soc. Chapter of Univ. of Cal., Hastings Coll. of Law v. Martinez</i>	561 U.S. 661	130 S. Ct. 2971	177 L. Ed. 2d 838	25	13	12	1:1.92
10	<i>Dillon v. United States</i>	560 U.S. 817	130 S. Ct. 2683	177 L. Ed. 2d 271	18	6	12	1:3

of authority for its users to use and discover in reading *McDonald*.¹⁰⁸ In this instance, the LexisNexis headnotes offer more of the component building blocks that went into the holding. Presumably, these building blocks greatly interest advocates who might want to marshal them as legal arguments in their own briefs.

Idiosyncratic Differences

¶42 A few noteworthy idiosyncratic differences appear in the way headnotes were assigned. This includes the two instances in which West assigned headnotes and LexisNexis did not, as well as the two instances in which the number of LexisNexis headnotes did not equal the number of Lawyers' Edition headnotes.

108. LEXISNEXIS, *supra* note 76.

Table 4

Greatest Ratio Differences in Headnote Numbers: LexisNexis Greater Than West

Rank	Case Name	United States Reports Citation	Supreme Court Reporter Citation	United States Supreme Court Reports—Lawyers’ Edition Citation	Total Number LexisNexis Headnotes	Total Number West Headnotes	Absolute Difference	Difference Ratio
1	<i>McDonald v. City of Chicago</i>	561 U.S. 742	130 S. Ct. 3020	177 L. Ed. 2d 894	18	1	17	1:18
2	<i>Carr v. United States</i>	560 U.S. 438	130 S. Ct. 2229	176 L. Ed. 2d 1152	20	3	17	1:6.67
3	<i>New Process Steel, L.P. v. NLRB</i>	560 U.S. 674	130 S. Ct. 2635	177 L. Ed. 2d 162	13	2	11	1:6.5
4	<i>Astrue v. Ratliff</i>	560 U.S. 586	130 S. Ct. 2521	177 L. Ed. 2d 91	16	3	13	1:5.33
5	<i>NRG Power Mktg., LLC v. Me. Pub. Util. Comm’n</i>	558 U.S. 165	130 S. Ct. 693	175 L. Ed. 2d 642	10	2	8	1:5
6	<i>Jerman v. Carlisle, McNellie, Rini, Kramer & Ulrich LPA</i>	559 U.S. 573	130 S. Ct. 1605	176 L. Ed. 2d 519	9	2	7	1:4.5
7	<i>Mac’s Shell Serv., Inc. v. Shell Oil Prods. Co.</i>	559 U.S. 175	130 S. Ct. 1251	176 L. Ed. 2d 36	18	5	13	1:3.6
8	<i>Kucana v. Holder</i>	558 U.S. 233	130 S. Ct. 827	175 L. Ed. 2d 694	14	4	10	1:3.5
9	<i>Carachuri-Rosendo v. Holder</i>	560 U.S. 563	130 S. Ct. 2577	177 L. Ed. 2d 68	25	8	17	1:3.13
10	<i>Dillon v. United States</i>	560 U.S. 817	130 S. Ct. 2683	177 L. Ed. 2d 271	18	6	12	1:3

Corcoran v. Levenhagen

¶43 In only two instances, one publisher assigned headnotes in a case in which the other did not. *Corcoran v. Levenhagen*,¹⁰⁹ the first opinion of the Term, is a per curiam decision that corrects appellate error. A convicted murderer appealed his state conviction on five separate grounds for federal habeas relief. The federal district judge granted relief on one of those grounds without hearing the other four. The court of appeals reversed without analyzing the other four grounds of the original habeas petition. The Supreme Court reversed, stating that the case should have either been remanded to the district court for consideration of the four other grounds in the original habeas petition or the court of appeals should have explained why such a remand was unnecessary. West created one headnote (unitary for the whole opinion without a bracketed indicator designating a specific part of the opinion) encompassing the holding of this two-page opinion. LexisNexis offered no headnote treatment,

109. 558 U.S. 1 (2010) (“R-” number: 1).

Table 5

Greatest Total Differences in Headnote Numbers: West Greater Than LexisNexis

Rank	Case Name	United States Reports Citation	Supreme Court Reporter Citation	United States Supreme Court Reports—Lawyers' Edition Citation	Total Number LexisNexis Headnotes	Total Number West Headnotes	Absolute Difference	Difference Ratio
1	<i>Alabama v. North Carolina</i>	560 U.S. 330	130 S. Ct. 2295	176 L. Ed. 2d 1070	4	21	17	1:5.25
2	<i>Graham v. Florida</i>	560 U.S. 48	130 S. Ct. 2011	176 L. Ed. 2d 825	12	25	13	1:2.08
3	<i>Renico v. Lett</i>	559 U.S. 766	130 S. Ct. 1855	176 L. Ed. 2d 678	9	21	12	1:2.33
4	<i>Perdue v. Kenny A.</i>	559 U.S. 542	130 S. Ct. 1662	176 L. Ed. 2d 494	15	25	10	1:1.67
5	<i>Salazar v. Buono</i>	559 U.S. 700	130 S. Ct. 1803	176 L. Ed. 2d 634	11	20	9	1:1.82
6	<i>Berghuis v. Smith</i>	559 U.S. 314	130 S. Ct. 1382	176 L. Ed. 2d 249	6	13	7	1:2.17
6	<i>Milavetz, Gallop & Milavetz, P.A. v. United States</i>	559 U.S. 229	130 S. Ct. 1324	176 L. Ed. 2d 79	10	17	7	1:1.7
6	<i>South Carolina v. North Carolina</i>	558 U.S. 256	130 S. Ct. 854	175 L. Ed. 2d 713	6	13	7	1:2.17
6	<i>McDaniel v. Brown</i>	558 U.S. 120	130 S. Ct. 665	175 L. Ed. 2d 582	2	9	7	1:4.5
10	<i>Granite Rock Co. v. Teamsters</i>	561 U.S. 287	130 S. Ct. 2847	177 L. Ed. 2d 567	8	14	6	1:1.75
10	<i>Conkright v. Frommert</i>	559 U.S. 506	130 S. Ct. 1640	176 L. Ed. 2d 469	2	8	6	1:4
10	<i>Maryland v. Shatzer</i>	559 U.S. 98	130 S. Ct. 1213	175 L. Ed. 2d 1045	12	18	6	1:1.5
10	<i>Hollingsworth v. Perry</i>	558 U.S. 183	130 S. Ct. 705	175 L. Ed. 2d 657	4	10	6	1:2.5

which presumably was an oversight. Perhaps the need for headnote treatment could not easily be machine spotted or generated. Regardless, practitioners who might otherwise rely on *Corcoran*'s holding to combat similar errors in the appellate courts receive no help from LexisNexis in finding it.

United States v. Juvenile Male

¶44 *United States v. Juvenile Male*¹¹⁰ is a short, per curiam decision that certifies a question to the Montana Supreme Court necessary to address a potential issue of mootness related to a juvenile sex offender case. The case was resolved in a subsequent

110. 560 U.S. 558 (2010) ("R" number: 67).

Table 6

Greatest Ratio Differences in Headnote Numbers: West Greater Than LexisNexis

Rank	Case Name	United States Reports Citation	Supreme Court Reporter Citation	United States Supreme Court Reports—Lawyers’ Edition Citation	Total Number LexisNexis Headnotes	Total Number West Headnotes	Absolute Difference	Difference Ratio
1	<i>United States v. Juvenile Male</i>	560 U.S. 558	130 S. Ct. 2518	177 L. Ed. 2d 64	0	1	1	1:Infinite
1	<i>Corcoran v. Levenhagen</i>	558 U.S. 1	130 S. Ct. 8	175 L. Ed. 2d 1	0	1	1	1:Infinite
3	<i>Alabama v. North Carolina</i>	560 U.S. 330	130 S. Ct. 2295	176 L. Ed. 2d 1070	4	21	17	1:5.25
4	<i>McDaniel v. Brown</i>	558 U.S. 120	130 S. Ct. 665	175 L. Ed. 2d 582	2	9	7	1:4.5
5	<i>Conkright v. Frommert</i>	559 U.S. 506	130 S. Ct. 1640	176 L. Ed. 2d 469	2	8	6	1:4
6	<i>Bobby v. Van Hook</i>	558 U.S. 4	130 S. Ct. 13	175 L. Ed. 2d 255	2	7	5	1:3.5
7	<i>Hollingsworth v. Perry</i>	558 U.S. 183	130 S. Ct. 705	175 L. Ed. 2d 657	4	10	6	1:2.5
7	<i>Thaler v. Haynes</i>	559 U.S. 43	130 S. Ct. 1171	175 L. Ed. 2d 1003	2	5	3	1:2.5
7	<i>Wellons v. Hall</i>	558 U.S. 220	130 S. Ct. 727	175 L. Ed. 2d 684	2	5	3	1:2.5
10	<i>Renico v. Lett</i>	559 U.S. 766	130 S. Ct. 1855	176 L. Ed. 2d 678	9	21	12	1:2.33
10	<i>Wilkins v. Gaddy</i>	559 U.S. 34	130 S. Ct. 1175	175 L. Ed. 2d 995	3	7	4	1:2.33
10	<i>Michigan v. Fisher</i>	558 U.S. 45	130 S. Ct. 546	175 L. Ed. 2d 410	3	7	4	1:2.33
10	<i>Wong v. Belmontes</i>	558 U.S. 15	130 S. Ct. 383	175 L. Ed. 2d 328	3	7	4	1:2.33

Supreme Court Term.¹¹¹ The one West headnote (assigned without specific reference in the text of the opinion) is a long, complicated, procedural headnote. The scenario in the case, while unusual, might usefully guide future litigation involving when a federal court may appropriately certify a question to a state supreme court. Ideally, these types of cases are adequately collected under Topic and Key Number 170bk30117, “Federal Courts, particular questions.” As LexisNexis did not assign this case a headnote, only a search using Boolean terms or natural language (either by the user or behind the scenes by LexisNexis) will uncover this case. Perhaps the lack of a

111. United States v. Juvenile Male, 564 U.S. 932 (2011).

traditional paper digest frees LexisNexis from the mindset of giving headnotes to small, mostly procedural cases like this one. However, it might be better practice to err on the side of assigning headnotes to all Supreme Court written opinions.

Lexis Advance Compared with *Lawyers' Edition*

¶45 Except for two cases,¹¹² Lexis assigned the same number of headnotes to both its Lexis Advance and *Lawyers' Edition* versions. In fact, the headnote paragraph language is usually identical for both versions, and they both gloss the exact same language from the opinion. Thus, their headnote indicators are almost always side by side in the text of the opinion. However, each version of LexisNexis headnote treatment has different topic assignments as each draws from a unique taxonomy. In *Bobby v. Van Hook*, *Lawyers' Edition* has one headnote prior to the start of the Lexis Advance headnotes. However, the remaining two headnotes in both editions use the same language and gloss the same points. Similarly, in *Ontario v. Quon*, Lexis Advance headnotes one and two are combined in *Lawyers' Edition* headnote one. The remaining headnotes use identical headnote language and gloss the same language from the opinion. We have no explanation for why two of the eighty-seven cases vary in this way.

Agreement in Headnote-Worthy Opinion Language

¶46 As revealed by a case study of *Citizens United*, there are significant differences in the opinion language that garners headnote treatment from each publisher; and, in some cases, there is a surprising lack of overlap in the opinion language that is assigned headnotes by each publisher. To evaluate this, we used line numbers to map each publisher's headnotes to the exact portion of the opinion language glossed by each headnote.¹¹³ We began by parsing the opinion into its outline form (I,II,III; A,B,C; 1,2,3; etc.) and correlating these segments with the line numbering. Neutral line numbering from the *United States Reports* facilitated the ability to determine with precision where each publisher's headnotes began and ended and to compare them. (See tables 7–9.)

¶47 The operative assumption was that a headnote began where indicated in the text and ended where either the next headnote began or the specific section or subsection in the opinion ended. These are identified in table 9 as the columns "Headnote Line Number Start" and "Headnote Line Number End." A more specific, discerning, and limited line number range was also associated with each headnote based on the language of the opinion as well as the language of the headnote paragraph. This range derived from a smaller section of the opinion as reflected in the two columns in table 9 labeled "Headnote Line Number Specific Start" and "Headnote Line Number Specific End." Both line number parsings,

112. *Bobby v. Van Hook*, 558 U.S. 4, (2009), has two Lexis Advance and three *Lawyers' Edition* headnotes; *Ontario v. Quon*, 560 U.S. 746 (2010), has seven Lexis Advance and six *Lawyers' Edition* headnotes.

113. The opinion was downloaded as a PDF file from the online version of the bound volumes of the *United States Reports*, <https://www.supremecourt.gov/opinions/boundvolumes.aspx> (last visited Nov. 10, 2017). Pages that did not contain the actual opinion of the Court were deleted. This included syllabus and heading information, and all concurring and dissenting opinions that were not the opinion of the Court in any part. Next, the PDF file was converted to a Microsoft Word document, and the continuous line numbering feature was enabled.

general and more specific, were manually completed for each of the seventy-five combined headnotes assigned to *Citizens United*.

¶48 This intensive headnote study involving *Citizens United* provides an illustrative case study of the differences and vagaries of headnote assignments by LexisNexis and West. The simplest explanation would have been if all twenty-four West headnotes glossed the same portions of opinion language as twenty-four of the fifty-one LexisNexis headnotes and the remaining twenty-seven LexisNexis headnotes covered portions of the opinion not covered by West. Unfortunately, the correspondence mapping is not so simple. (See table 7.)

¶49 In thirty-two instances, LexisNexis deems portions of opinion language headnote worthy and West does not. In six instances, West deems portions of the opinion language headnote worthy and LexisNexis does not. In fourteen instances, both LexisNexis and West deem opinion language headnote worthy (thus, twenty-eight implicated headnotes—fourteen from each publisher). This agreement is encouraging as it suggests that both publishers interpret the same the legal propositions objectively as headnote worthy. However, the differences suggest a certain amount of arbitrariness that is difficult to explain. Also, on three different instances, the correlation between headnotes was 2:1, not 1:1. In other words, the opinion language covered by two West headnotes was glossed by one LexisNexis headnote and vice versa. This suggests a divergence in the size of the headnote-able unit. It should also be noted that headnote equivalency used in this study is based on overlap in the opinion language glossed. Generally, equivalency based on similar content meaning has not been examined. However, if substantially similar headnotes can be drawn from diverse sections of an opinion, this reduces the efficacy of (or at least muddles) the intra-case location function for headnotes.

¶50 Table 8 shows the variance of headnote assignments broken down by opinion section per the outline format. LexisNexis assigns headnotes to six subsections (0, IB, IID, IIB2, IVC, and V) that West does not. The same is not true in reverse: West assigns no headnotes to sections that LexisNexis likewise does not. Section 0, or the introductory section, provides a brief overview of the case and a concise holding of the opinion. Arguably, the language providing the concise holding of the opinion is headnote worthy: “The Government may regulate corporate political speech through disclaimer and disclosure requirements, but it may not suppress that speech altogether.” LexisNexis glosses this exact language with a headnote. While not headnoting this specific language, West does cover these points of law in two separate and lengthier headnotes from language much later in the opinion (headnotes 21 and 23). It is assumed that most discrete sections should have some headnote-worthy language, or else why do they exist? On the other hand, when sections merely refute portions of a party’s argument that are dispositively made moot in another section, maybe those sections do not produce any headnote-worthy language (see subsection IID).

Table 7

Headnote Equivalency Between LexisNexis and West in *Citizens United*

Opinion Part (o indicates introductory section)	LexisNexis Headnote Number	West Headnote Number	Notes About the Equivalency	Number of LexisNexis Headnotes Without West Equivalents	Number of West Headnotes Without LexisNexis Equivalents	Number of Incidences When Publishers' Headnotes Are Equivalent	Number of Implicated Headnotes That Do Not Map 1 to 1
o	1	No equivalency		1			
I.B	2	No equivalency		1			
II.A	No equivalency	1 - 2			2		
	3	3				1	
II.B	4	5				1	
	No equivalency	4			1		
II.C	5	No equivalency		1			
	6	6				1	
II.D	7	No equivalency		1			
II.E	8	No equivalency		1			
	No equivalency	7			1		
	9	8				1	
	10	9				1	
	11	10				1	
	12-14	No equivalency		3			
III	15	No equivalency		1			
	16	11				1	
	17	12	LexisNexis headnote 17 is broader than West headnote 12 and incor- porates what arguably should be a separate distinct head- note.			1	
	18	13				1	
	19- 21	No equivalency		3			
III.A.1	22	No equivalency		1			
	23	14				1	
III.B.1	24-32	No equivalency		9			
	33	15				1	
	34	No equivalency		1			
III.B.2	35	No equivalency		1			

Opinion Part (o indicates introductory section)	LexisNexis Headnote Number	West Headnote Number	Notes About the Equivalency	Number of LexisNexis Headnotes Without West Equivalents	Number of West Headnotes Without LexisNexis Equivalents	Number of Incidences When Publishers' Headnotes Are Equivalent	Number of Implicated Headnotes That Do Not Map 1 to 1
III.C	36	16, 17	LexisNexis headnote 36 incorporates the same opinion language as two separate West headnotes, 16 & 17, plus an additional legal proposition.				3
	37	No equivalency		1			
	38	18	Exact same headnote paragraph text both taken verbatim from the opinion language.			1	
	39	19	Exact same headnote paragraph text both taken verbatim from the opinion language.			1	
	No equivalency	20			1		
	40	21				1	
III.D	41, 42	22	West headnote 22 incorporates the same opinion language as two separate Lexis headnotes, 41 & 42.				3
IV.A	43, 44	23	West headnote 23 incorporates the same opinion language as two separate Lexis headnotes, 43 & 44.				3
	45-47	No equivalency	Lexis headnotes the supporting rationales.	3			
IV.B	48-49	No equivalency		2			
	No equivalency	24			1		
IV.C	50	No equivalency		1			
V	51	No equivalency		1			
Total:				32	6	14	9

Conclusions and Future Work

¶51 The data make clear that headnote assignments are far from scientific. In fact, they appear somewhat arbitrary, at least based on the discrepancies described in this article. Further study is warranted. Perhaps we will next examine cases from lower federal courts and state appellate courts to see whether the differences are even starker. We hypothesize that the lesser amount of editorial scrutiny given these cases is likely to create even more differences between LexisNexis’s and West’s headnote assignments. We also would like to compare (1) the average word count of each publisher’s headnote statements; (2) the number of hierarchical levels in each publisher’s categorization system; (3) the extent to which headnote language is taken from the court opinion itself; and (4) the number of multiple categories assigned to each headnote.

Table 8

Section-by-Section Assignment of Headnotes in *Citizens United*

Opinion Part (o indicates introductory section)	U.S. Reports Page Number Section Starts	Line Number Section Starts	Headnote Number or Range of Headnote Numbers (LexisNexis)	Headnote Number or Range of Headnote Numbers (West)	Number of LexisNexis Headnotes	Number of West Headnotes	Notes About the Section
o	318	1	1	n/a	1	o	High-level summary of the case and a concise statement of the holding.
I	319	66	n/a	n/a	o	o	No content. Just outline section designator.
I.A	319	67	n/a	n/a	o	o	Factual background section. No headnote treatment expected.
I.B	320	107	2	n/a	1	o	Statement of the applicable statutory and regulatory law.
I.C	321	142	n/a	n/a	o	o	Procedural background section. No headnote treatment expected.
II	322	185	n/a	n/a	o	o	One-sentence statement as to what Section II is about.
II.A	322	190	3	1 - 3	1	3	Statutory interpretation as to whether the applicable <i>Hillary</i> video was an “electioneering communication.”
II.B	324	254	4	4-5	1	2	Analysis as to whether <i>Hillary</i> video is the functional equivalent of express advocacy.
II.C	326	311	5-6	6	2	1	Rejecting the argument that video-on-demand should be treated differently from other forms of advocacy.
II.D	327	353	7	n/a	1	o	Addressing winning party’s argument to create an exception for nonprofit organizations. Rendered moot by more expansive, ultimate holding.
II.E	329	434	8-14	7-10	7	4	Analysis as to whether it is appropriate to revisit free speech precedents.

Opinion Part (o indicates introductory section)	U.S. Reports Page Number Section Starts	Line Number Section Starts	Headnote Number or Range of Headnote Numbers (LexisNexis)	Headnote Number or Range of Headnote Numbers (West)	Number of LexisNexis Headnotes	Number of West Headnotes	Notes About the Section
III	336	707	15–21	11–13	7	3	Section explains how the applicable law burdens the free speech of commercial entities.
III.A	342	901	n/a	n/a	0	0	No content. Just outline section designator.
III.A.1	342	902	22–23	14	2	1	Analysis of past cases addressing the constitutionality of restrictions on corporate and union political speech.
III.A.2	345	1019	n/a	n/a	0	0	Lengthy section discussing past Supreme Court precedent, <i>Buckley</i> and <i>Bellotti</i> .
III.A.3	347	1115	n/a	n/a	0	0	Stating applicable portions of the past Supreme Court case, <i>Austin</i> .
III.B	348	1137	n/a	n/a	0	0	Noting conflicting lines of precedent and the past rationales used for upholding corporate spending limits that will be addressed in subsequent sections.
III.B.1	349	1168	24–34	15	11	1	Analysis and rejection of <i>Austin</i> ’s anti-distortion rationale.
III.B.2	356	1440	35	n/a	1	0	Rejecting the anticorruption or appearance of corruption argument.
III.B.3	361	1632	n/a	n/a	0	0	Rejecting the shareholder-protection rationale argued by the government.
III.B.4	362	1667	n/a	n/a	0	0	Dismissing the need to address the issue of foreign corporations having undue influence in the national political process.
III.C	362	1681	36–40	16–21	5	6	Application of stare decisis and overturning <i>Austin</i> .
III.D	365	1784	41–42	22	2	1	Overruling <i>McConnell</i> .
IV	366	1805	n/a	n/a	0	0	No content. Just outline section designator.
IV.A	366	1806	43–47	23	5	1	Upholding BCRA’s disclaimer and disclosure provisions.
IV.B	367	1862	48–49	24	2	1	Upholding disclaimer and disclosure provisions as to broadcast advertisements.
IV.C	371	1990	50	n/a	1	0	Simple one-paragraph section explaining that BCRA’s disclaimer and disclosure requirements are constitutional based on the rationales given in the previous two subsections.
V	371	1999	51	n/a	1	0	Policy argument about not chilling new forms of speech and new forums.
Totals:					51	24	

Table 9

Headnotes Paragraph Language from Both Vendors in Citizens United

(LexisNexis headnote language reprinted with the permission of LexisNexis;
West headnote language used with permission of Thomson Reuters.)

Opinion Part	Headnote Company (LexisNexis (L) or Westlaw (W))	Company's Headnote Number	Headnote Line Number Start (Explicit from bracket indicator.)	Headnote Line Number Specific Start (Inference from opinion language).	Headnote Line Number Specific End (Inference from opinion language).	Headnote Line Number End (Explicit from end of section or sub-section or start of next bracketed headnote section.)	Headnote Paragraph	Comments
0	L	1	61	61	64	64	The Government may regulate corporate political speech through disclaimer and disclosure requirements, but it may not suppress that speech altogether.	Major holding of the opinion.
I.B	L	2	121	121	133	141	An electioneering communication is defined as any broadcast, cable, or satellite communication that refers to a clearly identified candidate for federal office and is made within 30 days of a primary or 60 days of a general election. 2 U.S.C.S. § 434(f)(3) (A). The Federal Election Commission's regulations further define an electioneering communication as a communication that is "publicly distributed." 11 C.F.R. § 100.29(a)(2) (2009). In the case of a candidate for nomination for President, publicly distributed means that the communication can be received by 50,000 or more persons in a state where a primary election is being held within 30 days. 11 C.F.R. § 100.29(b)(3)(ii).	Mere statement of the applicable statutory and regulatory law.

Opinion Part	Headnote Company (LexisNexis (L) or Westlaw (W))	Company's Headnote Number	Headnote Line Number Start (Explicit from bracket indicator.)	Headnote Line Number Specific Start (Inference from opinion language).	Headnote Line Number Specific End (Inference from opinion language).	Headnote Line Number End (Explicit from end of section or sub-section or start of next bracketed headnote section.)	Headnote Paragraph	Comments
II.A	W	1	191	191	197	234	Supreme Court would consider contention of nonprofit corporation that its film, regarding a candidate seeking nomination as a political party's candidate in the next Presidential election, did not qualify as an "electioneering communication" under federal statute prohibiting corporations from using their general treasury funds to make independent expenditures for electioneering communications within 30 days of a primary election or 60 days of general election for federal office, though nonprofit corporation raised the contention for the first time before the Supreme Court, where the district court had addressed it in its decision granting summary judgment to Federal Election Commission (FEC) with respect to nonprofit corporation's claims for declaratory and injunctive relief. Federal Election Campaign Act of 1971, §§ 304(f)(3)(A)(i), 316(b)(2), 2 U.S.C.A. §§ 434(f)(3)(A)(i), 441b(b)(2); 11 C.F.R. § 100.29(a)(2), (b)(3)(ii).	Significant contextualizing language added.

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II.A	W	2	191	199	220	234	Nonprofit corporation's film regarding a candidate seeking nomination as a political party's candidate in the next Presidential election, which the nonprofit corporation wished to distribute on cable television through video-on-demand, was an "electioneering communication," for purposes of federal statute prohibiting corporations from using their general treasury funds to make independent expenditures for electioneering communications within 30 days of a primary election or 60 days of general election for federal office; the film was a cable communication that referred to a clearly identified candidate for federal office, and distribution through video-on-demand could allow the communication to be received by 50,000 persons or more. Federal Election Campaign Act of 1971, §§ 304(f)(3)(A)(i), 316(b)(2), 2 U.S.C.A. §§ 434(f)(3)(A)(i), 441b(b)(2); 11 C.F.R. § 100.29(a)(2), (b)(3)(ii), (b)(7)(i)(G), (b)(7)(ii).	Significant contextualizing language added.
II.A	W	3	235	245	249	253	Prolix laws chill speech, for First Amendment purposes, for the same reason that vague laws chill speech, i.e., people of common intelligence must necessarily guess at the law's meaning and differ as to its application. U.S.C.A. Const. Amend. 1.	

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II.A	L	3	241	241	251	253	The First Amendment does not permit laws that force speakers to retain a campaign finance attorney, conduct demographic marketing research, or seek declaratory rulings before discussing the most salient political issues of our day. Prolix laws chill speech for the same reason that vague laws chill speech: people of common intelligence must necessarily guess at the law's meaning and differ as to its application. The Government may not render a ban on political speech constitutional by carving out a limited exemption through an amorphous regulatory interpretation.	
II.B	L	4	266	266	271	309	The functional-equivalent test for an "electioneering communication" is objective: a court should find that a communication is the functional equivalent of express advocacy only if it is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate.	

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II.B	W	5	256	266	271	309	The test for determining whether a communication is functionally equivalent to express advocacy for the election or defeat of a candidate, for purposes of federal statute barring corporations from using general treasury funds to make independent expenditures that expressly advocate the election or defeat of a candidate, through any form of media, in connection with certain qualified federal elections, is an objective test, under which a court should find that a communication is the functional equivalent of express advocacy only if it is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate. Federal Election Campaign Act of 1971, § 316, 2 U.S.C.A. § 441b.	Significant contextualizing language added.

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II.B	W	4	256	273	280	309	Nonprofit corporation's film regarding a candidate seeking nomination as a political party's candidate in the next Presidential election, which the nonprofit corporation wished to distribute on cable television through video-on-demand, was functionally equivalent to express advocacy for or against a specific candidate, for purposes of federal statute barring corporations from using general treasury funds to make independent expenditures that expressly advocate the election or defeat of a candidate, through any form of media, in connection with certain qualified federal elections; the film was, in essence, a feature-length negative advertisement that urged viewers to vote against the candidate, and in light of its historical footage, interviews with persons critical of candidate, and voiceover narration, the film would be understood by most viewers as an extended criticism of the candidate's character and her fitness for the office of the Presidency. Federal Election Campaign Act of 1971, § 316, 2 U.S.C.A. § 441b.	Significant contextualizing language added.
II.C	L	5	336	336	339	351	Courts are bound by the First Amendment. A court must decline to draw, and then redraw, constitutional lines based on the particular media or technology used to disseminate political speech from a particular speaker.	
II.C	W	6	336	347	349	351	First Amendment standards must give the benefit of any doubt to protecting rather than stifling speech. U.S.C.A. Const. Amend. 1.	

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II.C	L	6	347	347	349	351	First Amendment standards must give the benefit of any doubt to protecting rather than stifling speech.	
II.D	L	7	425	425	426	432	First Amendment freedoms need breathing space to survive.	
II.E	L	8	437	437	439	460	Political speech is speech that is central to the meaning and purpose of the First Amendment.	
II.E	W	7	448	448	455	455	Nonprofit corporation did not waive, for purposes of direct review by Supreme Court of decision of three-judge district court panel granting summary judgment to Federal Election Commission (FEC) in nonprofit corporation's action for declaratory and injunctive relief, its facial constitutional challenge, on grounds of violation of First Amendment protection of political speech, to federal statute prohibiting corporations from using their general treasury funds to make independent expenditures for electioneering communications within 30 days of a primary election or 60 days of general election for federal office, though in the district court the corporation had stipulated to the dismissal of the count in its complaint asserting the facial challenge and had proceeded on another count asserting an as-applied constitutional challenge, where the district court panel had addressed the facial challenge by noting that nonprofit corporation could prevail in the facial challenge only if the Supreme Court overruled controlling precedent. U.S.C.A. Const. Amend. 1; Federal Election Campaign Act of 1971, 316, 2 U.S.C.A. § 441b.	Significant contextualizing language added.

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II.E	W	8	457	460	462	488	The Supreme Court's practice permits review of an issue not pressed below, so long as it has been passed upon.	
II.E	L	9	457	460	462	488	United States Supreme Court practice permits review of an issue not pressed below so long as it has been passed upon.	
II.E	W	9	489	492	496	503	Once a federal claim is properly presented on appeal, a party can make any argument in support of that claim; parties are not limited to the precise arguments they made below.	
II.E	L	10	492	492	496	504	For purposes of United States Supreme Court review, once a federal claim is properly presented, a party can make any argument in support of that claim; parties are not limited to the precise arguments they made below.	
II.E	W	10	504	504	510	705	The distinction between facial constitutional challenges and as-applied constitutional challenges goes to the breadth of the remedy employed by the court, not what must be pleaded in a complaint.	

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II.E	L	11	504	504	515	522	The distinction between facial and as-applied challenges is not so well defined that it has some automatic effect or that it must always control the pleadings and disposition in every case involving a constitutional challenge. The distinction is both instructive and necessary, for it goes to the breadth of the remedy employed by a court, not what must be pleaded in a complaint. The parties cannot enter into a stipulation that prevents the court from considering certain remedies if those remedies are necessary to resolve a claim that has been preserved.	
II.E	L	12	522	522	524	683	Once a case is brought, no general categorical line bars a court from making broader pronouncements of invalidity in properly “as-applied” cases.	
II.E	L	13	683	683	686	701	First Amendment standards must eschew the open-ended rough-and-tumble of factors, which invites complex argument in a trial court and a virtually inevitable appeal.	
II.E	L	14	701	701	703	705	A statute which chills speech can and must be invalidated where its facial invalidity has been demonstrated.	
III	L	15	709	709	710	824	See U.S. Const. amend. I.	This headnote merely indicates that the First Amendment right to free speech has been quoted.
III	W	11	817	824	826	833	First Amendment has its fullest and most urgent application to speech uttered during a campaign for political office. U.S.C.A. Const. Amend. 1.	

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III	L	16	824	824	833	833	The First Amendment has its fullest and most urgent application to speech uttered during a campaign for political office. Discussion of public issues and debate on the qualifications of candidates are integral to the operation of the system of government established by the United States Constitution.	
III	L	17	834	834	839	846	Political speech must prevail against laws that would suppress it, whether by design or inadvertence. Laws that burden political speech are subject to strict scrutiny, which requires the Government to prove that the restriction furthers a compelling interest and is narrowly tailored to achieve that interest.	This headnote combines two different propositions and probably should be two separate headnotes.
III	W	12	834	836	839	846	Laws that burden political speech are subject to strict scrutiny for a violation of the First Amendment, which level of scrutiny requires the Government to prove that the restriction furthers a compelling interest and is narrowly tailored to achieve that interest. U.S.C.A. Const. Amend. 1.	
III	W	13	847	847	853	899	Premised on mistrust of governmental power, the First Amendment stands against attempts to disfavor certain subjects or viewpoints, and prohibited, too, are restrictions distinguishing among different speakers, allowing speech by some but not others. U.S.C.A. Const. Amend. 1.	

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III	L	18	847	847	853	857	Premised on mistrust of governmental power, the First Amendment stands against attempts to disfavor certain subjects or viewpoints. Prohibited, too, are restrictions distinguishing among different speakers, allowing speech by some but not others.	
III	L	19	858	858	869	888	Quite apart from the purpose or effect of regulating content, the Government may commit a constitutional wrong when by law it identifies certain preferred speakers. By taking the right to speak from some and giving it to others, the Government deprives the disadvantaged person or class of the right to use speech to strive to establish worth, standing, and respect for the speaker's voice. The Government may not by these means deprive the public of the right and privilege to determine for itself what speech and speakers are worthy of consideration. The First Amendment protects speech and speaker, and the ideas that flow from each.	This headnote replicates an entire paragraph from the opinion. It contains multiple propositions and probably should be divided into two or more headnotes. This represents particularly sloppy headnoting.
III	L	20	888	888	893	895	There are certain governmental functions that cannot operate without some restrictions on particular kinds of speech. By contrast, it is inherent in the nature of the political process that voters must be free to obtain information from diverse sources in order to determine how to cast their votes.	
III	L	21	896	896	898	899	There is no basis for the proposition that, in the context of political speech, the Government may impose restrictions on certain disfavored speakers.	

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III.A.1	L	22	904	904	905	931	First Amendment protection extends to corporations.	
III.A.1	W	14	928	931	933	1017	Political speech does not lose First Amendment protection simply because its source is a corporation. U.S.C.A. Const. Amend. 1.	
III.A.1	L	23	931	931	945	1017	Political speech does not lose First Amendment protection simply because its source is a corporation. The identity of the speaker is not decisive in determining whether speech is protected. Corporations and other associations, like individuals, contribute to the discussion, debate, and the dissemination of information and ideas that the First Amendment seeks to foster. The United States Supreme Court has thus rejected the argument that political speech of corporations or other associations should be treated differently under the First Amendment simply because such associations are not "natural persons."	Lengthy headnote that could be unpacked into several different headnotes or stated more succinctly.
III.B.1	L	24	1174	1174	1176	1193	If the First Amendment has any force, it prohibits Congress from fining or jailing citizens, or associations of citizens, for simply engaging in political speech.	

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III.B.1	L	25	1194	1194	1204	1212	Political speech is indispensable to decision-making in a democracy, and this is no less true because the speech comes from a corporation rather than an individual. The worth of speech does not depend upon the identity of its source, whether a corporation, an association, a union, or an individual. The concept that Government may restrict the speech of some elements of United States society in order to enhance the relative voice of others is wholly foreign to the First Amendment.	Lengthy headnote that could be unpacked into several different headnotes or stated more succinctly.
III.B.1	L	26	1212	1212	1220	1232	The premise has been rejected that the Government has an interest in equalizing the relative ability of individuals and groups to influence the outcome of elections. The skyrocketing cost of political campaigns cannot sustain a governmental prohibition. The First Amendment's protections do not depend on the speaker's financial ability to engage in public discussion.	
III.B.1	L	27	1232	1232	1236	1241	The rule that political speech cannot be limited based on a speaker's wealth is a necessary consequence of the premise that the First Amendment generally prohibits the suppression of political speech based on the speaker's identity.	

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III.B.1	L	28	1241	1241	1247	1248	State law grants corporations special advantages—such as limited liability, perpetual life, and favorable treatment of the accumulation and distribution of assets. This does not suffice, however, to allow laws prohibiting speech. It is rudimentary that a state cannot exact as the price of those special advantages the forfeiture of First Amendment rights.	
III.B.1	L	29	1249	1249	1257	1285	It is irrelevant for purposes of the First Amendment that corporate funds may have little or no correlation to the public's support for the corporation's political ideas. All speakers, including individuals and the media, use money amassed from the economic marketplace to fund their speech. The First Amendment protects the resulting speech, even if it was enabled by economic transactions with persons or entities who disagree with the speaker's ideas.	
III.B.1	L	30	1285	1285	1287	1346	The United States Supreme Court has consistently rejected the proposition that the institutional press has any constitutional privilege beyond that of other speakers.	
III.B.1	L	31	1346	1346	1352	1356	The Framers may have been unaware of certain types of speakers or forms of communication, but that does not mean that those speakers and media are entitled to less First Amendment protection than those types of speakers and media that provided the means of communicating political ideas when the Bill of Rights was adopted.	

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III.B.1	L	32	1356	1356	1357	1396	Ideas may compete in the marketplace without Government interference.	
III.B.1	W	15	1393	1397	1398	1439	First Amendment protects the right of corporations to petition legislative and administrative bodies. U.S.C.A. Const. Amend. 1.	
III.B.1	L	33	1397	1397	1398	1433	The First Amendment protects the right of corporations to petition legislative and administrative bodies.	
III.B.1	L	34	1434	1434	1439	1439	When Government seeks to use its full power, including the criminal law, to command where a person may get his or her information or what distrusted source he or she may not hear, it uses censorship to control thought. This is unlawful. The First Amendment confirms the freedom to think for ourselves.	

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III.B.2	L	35	1616	1616	1628	1630	When Congress finds that a problem exists, a court must give that finding due deference, but Congress may not choose an unconstitutional remedy. If elected officials succumb to improper influences from independent expenditures; if they surrender their best judgment; and if they put expediency before principle, then surely there is cause for concern. A court must give weight to attempts by Congress to seek to dispel either the appearance or the reality of these influences. The remedies enacted by law, however, must comply with the First Amendment; and, it is United States law and tradition that more speech, not less, is the governing rule. An outright ban on corporate political speech during the critical pre-election period is not a permissible remedy.	Lengthy headnote that could be unpacked into several different headnotes or stated more succinctly.
III.C	W	16	1683	1683	1685	1695	Supreme Court precedent is to be respected by the Court unless the most convincing of reasons demonstrates that adherence to it puts the Court on a course that is sure error.	
III.C	W	17	1683	1685	1690	1695	Beyond workability, the relevant factors in deciding whether to adhere to the principle of stare decisis include the antiquity of the precedent, the reliance interests at stake, and whether the decision was well reasoned.	

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III.C	L	36	1683	1683	1693	1698	United States Supreme Court precedent is to be respected unless the most convincing of reasons demonstrates that adherence to it puts the Court on a course that is sure error. Beyond workability, the relevant factors in deciding whether to adhere to the principle of stare decisis include the antiquity of the precedent, the reliance interests at stake, and of course whether the decision was well reasoned. The Court has also examined whether experience has pointed up the precedent's shortcomings.	This headnote incorporates the same opinion language as the two separate preceding West headnotes, plus an additional proposition.
III.C	L	37	1698	1698	1699	1700	The United States Supreme Court has not hesitated to overrule decisions offensive to the First Amendment.	
III.C	W	18	1696	1700	1702	1703	Stare decisis is a principle of policy and not a mechanical formula of adherence to the latest decision.	
III.C	L	38	1700	1700	1702	1709	Stare decisis is a principle of policy and not a mechanical formula of adherence to the latest decision.	
III.C	W	19	1704	1709	1711	1760	When neither party defends the reasoning of a precedent, the principle of adhering to that precedent through stare decisis is diminished.	
III.C	L	39	1709	1709	1711	1776	When neither party defends the reasoning of a precedent, the principle of adhering to that precedent through stare decisis is diminished.	

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III.C	W	20	1762	1763	1766	1775	With respect to stare decisis, reliance interests are important considerations in property and contract cases, where parties may have acted in conformance with existing legal rules in order to conduct transactions.	
III.C	W	21	1776	1779	1780	1782	Government may not, under the First Amendment, suppress political speech on the basis of the speaker's corporate identity; overruling <i>Austin v. Michigan Chamber of Commerce</i> , 494 U.S. 652, 110 S.Ct. 1391, 108 L.Ed.2d 652. U.S.C.A. Const. Amend. 1.	
III.C	L	40	1776	1776	1782	1782	<i>Austin v. Michigan Chamber of Commerce</i> , 494 U.S. 652 (1990), is overruled. The United States Supreme Court returns to the principle that the Government may not suppress political speech on the basis of the speaker's corporate identity. No sufficient governmental interest justifies limits on the political speech of nonprofit or for-profit corporations.	

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III.D	W	22	1786	1786	1804	1804	Federal statute barring corporations from using general treasury funds to make independent expenditures that expressly advocate the election or defeat of a candidate, through any form of media, in connection with certain qualified federal elections, and, as amended by Bipartisan Campaign Reform Act of 2002 (BCRA), barring corporations from using general treasury funds to make independent expenditures for electioneering communications within 30 days of a primary election or 60 days of general election for federal office, violated First Amendment political speech rights of nonprofit corporation that wished to distribute on cable television, through video-on-demand, a film regarding a candidate seeking nomination as a political party's candidate in the next Presidential election; overruling <i>McConnell v. Federal Election Com'n</i> , 540 U.S. 93, 124 S.Ct. 619, 157 L.Ed.2d 491. U.S.C.A. Const. Amend. 1; Federal Election Campaign Act of 1971, § 316, 2 U.S.C.A. § 441b.	Significant contextualizing language added with very little actual language of the Court.
III.D	L	41	1788	1788	1793	1795	Overruling <i>Austin v. Michigan Chamber of Commerce</i> , 494 U.S. 652 (1990), effectively invalidates not only § 203 of the Bipartisan Campaign Reform Act of 2002, but also 2 U.S.C.S. § 441b's prohibition on the use of corporate treasury funds for express advocacy. Section 441b's restrictions on corporate independent expenditures are therefore invalid.	

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III.D	L	42	1795	1795	1797	1804	The United States Supreme Court overrules the part of <i>McConnell v. Federal Election Comm'n</i> , 540 U.S. 93 (2003), that upheld the extension under § 203 of the Bipartisan Campaign Reform Act of 2002 of 2 U.S.C.S. § 441b's restrictions on corporate independent expenditures.	
IV.A	W	23	1807	1807	1826	1860	Provisions of Bipartisan Campaign Reform Act of 2002 (BCRA) requiring televised electioneering communications funded by anyone other than a candidate to include a disclaimer identifying the person or entity responsible for the content of the advertising, and requiring any person spending more than \$10,000 on electioneering communications within a calendar year to file a disclosure statement with the Federal Election Commission (FEC), did not violate First Amendment protection of political speech, as applied to a non-profit corporation that wished to distribute on cable television, through video-on-demand, a film regarding a candidate seeking nomination as a political party's candidate in the next Presidential election, and that wished to run three advertisements for the film. U.S.C.A. Const. Amend. 1; Federal Election Campaign Act of 1971, §§ 304(f)(1, 2), 318(a)(3), (d)(2), 2 U.S.C.A. §§ 434(f)(1, 2), 441d(a)(3), (d)(2).	

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IV.A	L	43	1809	1809	1819	1819	Under § 311 of the Bipartisan Campaign Reform Act of 2002, 2 U.S.C.S. § 441d, televised electioneering communications funded by anyone other than a candidate must include a disclaimer that “_____ is responsible for the content of this advertising.” 2 U.S.C.S. § 441d(d)(2). The required statement must be made in a clearly spoken manner, and displayed on the screen in a clearly readable manner for at least four seconds. 2 U.S.C.S. § 441d(d)(2). It must state that the communication is not authorized by any candidate or candidate's committee; it must also display the name and address (or Web site address) of the person or group that funded the advertisement. 2 U.S.C.S. § 441d(a)(3).	
IV.A	L	44	1819	1819	1826	1826	Under § 201 of the Bipartisan Campaign Reform Act of 2002, 2 U.S.C.S. § 434, any person who spends more than \$10,000 on electioneering communications within a calendar year must file a disclosure statement with the Federal Election Commission. 2 U.S.C.S. § 434(f)(1). That statement must identify the person making the expenditure, the amount of the expenditure, the election to which the communication was directed, and the names of certain contributors. 2 U.S.C.S. § 434(f)(2).	

Opinion Part	Headnote Company (LexisNexis (L) or Westlaw (W))	Company's Headnote Number	Headnote Line Number Start (Explicit from bracket indicator.)	Headnote Line Number Specific Start (Inference from opinion language).	Headnote Line Number Specific End (Inference from opinion language).	Headnote Line Number End (Explicit from end of section or sub-section or start of next bracketed headnote section.)	Headnote Paragraph	Comments
IV.A	L	45	1827	1827	1836	1838	Disclaimer and disclosure requirements may burden the ability to speak, but they impose no ceiling on campaign-related activities and do not prevent anyone from speaking. These requirements are subjected to exacting scrutiny, which requires a substantial relation between the disclosure requirement and a sufficiently important governmental interest.	
IV.A	L	46	1838	1838	1843	1853	Disclosure can be justified based on a governmental interest in providing the electorate with information about the sources of election-related spending. This interest has been applied in rejecting facial challenges to §§ 201 and 311 of the Bipartisan Campaign Reform Act of 2002, 2 U.S.C.S. §§ 434 and 441d.	
IV.A	L	47	1853	1853	1857	1860	As-applied challenges to 2 U.S.C.S. §§ 434 and 441d are be available if a group can show a reasonable probability that disclosure of its contributors' names will subject them to threats, harassment, or reprisals from either Government officials or private parties.	
IV.B	L	48	1869	1869	1872	1888	Federal Election Commission regulations do not exempt communications that propose a commercial transaction from the disclaimer and disclosure requirements in §§ 201 and 311 of the Bipartisan Campaign Reform Act of 2002, 2 U.S.C.S. §§ 434 and 441d. 72 Fed. Reg. 72901 (2007).	

Opinion Part	Headnote Company (LexisNexis (L) or Westlaw (W))	Company's Headnote Number	Headnote Line Number Start (Explicit from bracket indicator.)	Headnote Line Number Specific Start (Inference from opinion language).	Headnote Line Number Specific End (Inference from opinion language).	Headnote Line Number End (Explicit from end of section or sub-section or start of next bracketed headnote section.)	Headnote Paragraph	Comments
IV.B	W	24	1874	1879	1882	1988	Three advertisements for non-profit corporation's film regarding a candidate seeking nomination as a political party's candidate in the next Presidential election, which film the nonprofit corporation wished to distribute on cable television through video-on-demand shortly before primary election, were "electioneering communications," for purposes of provisions of Bipartisan Campaign Reform Act of 2002 (BCRA) requiring televised electioneering communications funded by anyone other than a candidate to include a disclaimer identifying the person or entity responsible for the content of the advertising; the advertisements referred to the candidate by name and contained pejorative references to her candidacy. Federal Election Campaign Act of 1971, § 318(a)(3), (d)(2), 2 U.S.C.A. § 441d(a)(3), (d)(2); 11 C.F.R. § 100.29.	Significant contextualizing language added with very little actual language of the Court.
IV.B	L	49	1888	1888	1891	1988	Identification of the source of campaign advertising may be required as a means of disclosure, so that the people will be able to evaluate the arguments to which they are being subjected.	Underlying rationale for the constitutionality of the disclaimer provision of BCRA.
IV.C	L	50	1993	1993	1995	1997	No constitutional impediment is found to the application of the disclaimer and disclosure requirements of the Bipartisan Campaign Reform Act of 2002 to a movie broadcast via video-on-demand.	

Opinion Part	Headnote Company (LexisNexis (L) or Westlaw (W))	Company's Headnote Number	Headnote Line Number Start (Explicit from bracket indicator.)	Headnote Line Number Specific Start (Inference from opinion language).	Headnote Line Number Specific End (Inference from opinion language).	Headnote Line Number End (Explicit from end of section or sub-section or start of next bracketed headnote section.)	Headnote Paragraph	Comments
V	L	51	2039	2039	2044	2051	The First Amendment underwrites the freedom to experiment and to create in the realm of thought and speech. Citizens must be free to use new forms, and new forums, for the expression of ideas. The civic discourse belongs to the people, and the Government may not prescribe the means used to conduct it.	Concluding rhetorical flourish as to the high-level rationale for the holding in the opinion.

Appendix A

Headnote Counts for the 2009 Term

R-	Case Name	United States Reports Citation	Supreme Court Reporter Citation	United States Supreme Court Reports—Lawyers' Edition Citation	Total Number LexisNexis Headnotes	Total Number West Headnotes	Absolute Difference	Difference Ratio
92	<i>Sears v. Upton</i>	561 U.S. 945	130 S. Ct. 3259	177 L. Ed. 2d 1025	8	6	2	1:1.33
91	<i>McDonald v. Chicago</i>	561 U.S. 742	130 S. Ct. 3020	177 L. Ed. 2d 894	18	1	17	1:18
90	<i>Christian Legal Soc. Chapter of Univ. of Cal., Hastings Coll. of Law v. Martinez</i>	561 U.S. 661	130 S. Ct. 2971	177 L. Ed. 2d 838	25	13	12	1:1.92
89	<i>Bilski v. Kappos</i>	561 U.S. 593	130 S. Ct. 3218	177 L. Ed. 2d 792	15	16	1	1:1.07
88	<i>Free Enter. Fund v. Public Co. Accounting Oversight Bd.</i>	561 U.S. 477	130 S. Ct. 3138	177 L. Ed. 2d 706	25	21	4	1:1.19
86	<i>Black v. United States</i>	561 U.S. 465	130 S. Ct. 2963	177 L. Ed. 2d 695	6	3	3	1:2
85	<i>Skilling v. United States</i>	561 U.S. 358	130 S. Ct. 2896	177 L. Ed. 2d 619	41	36	5	1:1.14
84	<i>Magwood v. Patterson</i>	561 U.S. 320	130 S. Ct. 2788	177 L. Ed. 2d 592	6	3	3	1:2
83	<i>Granite Rock Co. v. Teamsters</i>	561 U.S. 287	130 S. Ct. 2847	177 L. Ed. 2d 567	8	14	6	1:1.75
82	<i>Morrison v. Nat'l Austl. Bank Ltd.</i>	561 U.S. 247	130 S. Ct. 2869	177 L. Ed. 2d 535	27	22	5	1:1.23
81	<i>Doe v. Reed</i>	561 U.S. 186	130 S. Ct. 2811	177 L. Ed. 2d 493	12	8	4	1:1.5
80	<i>Monsanto Co. v. Geertson Seed Farms</i>	561 U.S. 139	130 S. Ct. 2743	177 L. Ed. 2d 461	11	10	1	1:1.1
79	<i>Kawasaki Kisen Kaisha Ltd. v. Regal-Beloit Corp.</i>	561 U.S. 89	130 S. Ct. 2433	177 L. Ed. 2d 424	17	17	0	1:1
78	<i>Rent-A-Center, W., Inc. v. Jackson</i>	561 U.S. 63	130 S. Ct. 2772	177 L. Ed. 2d 403	11	6	5	1:1.83
77	<i>Holder v. Humanitarian Law Project</i>	561 U.S. 1	130 S. Ct. 2705	177 L. Ed. 2d 355	29	11	18	1:2.64
76	<i>Dillon v. United States</i>	560 U.S. 817	130 S. Ct. 2683	177 L. Ed. 2d 271	18	6	12	1:3
75	<i>Schwab v. Reilly</i>	560 U.S. 770	130 S. Ct. 2652	177 L. Ed. 2d 234	18	13	5	1:1.38
74	<i>Ontario v. Quon</i>	560 U.S. 746	130 S. Ct. 2619	177 L. Ed. 2d 216	7	11	4	1:1.57
73	<i>Stop the Beach Renourishment, Inc. v. Fla. Dep't of Env'tl. Protection</i>	560 U.S. 702	130 S. Ct. 2592	177 L. Ed. 2d 184	14	18	4	1:1.29

R-	Case Name	United States Reports Citation	Supreme Court Reporter Citation	United States Supreme Court Reports—Lawyers’ Edition Citation	Total Number LexisNexis Headnotes	Total Number West Headnotes	Absolute Difference	Difference Ratio
72	<i>New Process Steel, L. P. v. NLRB</i>	560 U.S. 674	130 S. Ct. 2635	177 L. Ed. 2d 162	13	2	11	1:6.5
71	<i>Holland v. Florida</i>	560 U.S. 631	130 S. Ct. 2549	177 L. Ed. 2d 130	14	14	0	1:1
70	<i>Dolan v. United States</i>	560 U.S. 605	130 S. Ct. 2533	177 L. Ed. 2d 108	17	8	9	1:2.13
69	<i>Astrue v. Ratliff</i>	560 U.S. 586	130 S. Ct. 2521	177 L. Ed. 2d 91	16	3	13	1:5.33
68	<i>Carachuri-Rosendo v. Holder</i>	560 U.S. 563	130 S. Ct. 2577	177 L. Ed. 2d 68	25	8	17	1:3.13
67	<i>United States v. Juvenile Male</i>	560 U.S. 558	130 S. Ct. 2518	177 L. Ed. 2d 64	0	1	1	1:Infinite
66	<i>Krupski v. Costa Crociere S. p. A.</i>	560 U.S. 538	130 S. Ct. 2485	177 L. Ed. 2d 48	5	8	3	1:1.6
65	<i>Hamilton v. Lanning</i>	560 U.S. 505	130 S. Ct. 2464	177 L. Ed. 2d 23	16	12	4	1:1.33
64	<i>Barber v. Thomas</i>	560 U.S. 474	130 S. Ct. 2499	177 L. Ed. 2d 1	4	6	2	1:1.5
63	<i>Carr v. United States</i>	560 U.S. 438	130 S. Ct. 2229	176 L. Ed. 2d 1152	20	3	17	1:6.67
62	<i>Levin v. Commerce Energy, Inc.</i>	560 U.S. 413	130 S. Ct. 2323	176 L. Ed. 2d 1131	15	12	3	1:1.25
61	<i>Berghuis v. Thompkins</i>	560 U.S. 370	130 S. Ct. 2250	176 L. Ed. 2d 1098	16	18	2	1:1.13
60	<i>Alabama v. North Carolina</i>	560 U.S. 330	130 S. Ct. 2295	176 L. Ed. 2d 1070	4	21	17	1:5.25
59	<i>Samantar v. Yousuf</i>	560 U.S. 305	130 S. Ct. 2278	176 L. Ed. 2d 1047	29	16	13	1:1.81
58	<i>Jefferson v. Upton</i>	560 U.S. 284	130 S. Ct. 2217	176 L. Ed. 2d 1032	2	1	1	1:2
56	<i>United States v. Marcus</i>	560 U.S. 258	130 S. Ct. 2159	176 L. Ed. 2d 1012	7	7	0	1:1
55	<i>Hardt v. Reliance Standard Life Ins. Co.</i>	560 U.S. 242	130 S. Ct. 2149	176 L. Ed. 2d 998	11	6	5	1:1.83
54	<i>United States v. O’Brien</i>	560 U.S. 218	130 S. Ct. 2169	176 L. Ed. 2d 979	8	6	2	1:1.33
53	<i>Lewis v. City of Chicago</i>	560 U.S. 205	130 S. Ct. 2191	176 L. Ed. 2d 967	10	12	2	1:1.2
52	<i>American Needle, Inc. v. Nat’l Football League</i>	560 U.S. 183	130 S. Ct. 2201	176 L. Ed. 2d 947	17	16	1	1:1.06
50	<i>United States v. Comstock</i>	560 U.S. 126	130 S. Ct. 1949	176 L. Ed. 2d 878	21	16	5	1:1.31
49	<i>Graham v. Florida</i>	560 U.S. 48	130 S. Ct. 2011	176 L. Ed. 2d 825	12	25	13	1:2.08

R-	Case Name	United States Reports Citation	Supreme Court Reporter Citation	United States Supreme Court Reports—Lawyers' Edition Citation	Total Number LexisNexis Headnotes	Total Number West Headnotes	Absolute Difference	Difference Ratio
48	<i>Abbott v. Abbott</i>	560 U.S. 1	130 S. Ct. 1983	176 L. Ed. 2d 789	26	9	17	1:2.89
47	<i>Hui v. Castaneda</i>	559 U.S. 799	130 S. Ct. 1845	176 L. Ed. 2d 703	13	7	6	1:1.86
46	<i>Renico v. Lett</i>	559 U.S. 766	130 S. Ct. 1855	176 L. Ed. 2d 678	9	21	12	1:2.33
45	<i>Salazar v. Buono</i>	559 U.S. 700	130 S. Ct. 1803	176 L. Ed. 2d 634	11	20	9	1:1.82
44	<i>Stolt-Nielsen S. A. v. AnimalFeeds Int'l Corp.</i>	559 U.S. 662	130 S. Ct. 1758	176 L. Ed. 2d 605	19	24	5	1:1.26
43	<i>Merck & Co. v. Reynolds</i>	559 U.S. 633	130 S. Ct. 1784	176 L. Ed. 2d 582	17	16	1	1:1.06
42	<i>Jerman v. Carlisle, McNellie, Rini, Kramer & Ulrich LPA</i>	559 U.S. 573	130 S. Ct. 1605	176 L. Ed. 2d 519	9	2	7	1:4.5
41	<i>Perdue v. Kenny A.</i>	559 U.S. 542	130 S. Ct. 1662	176 L. Ed. 2d 494	15	25	10	1:1.67
40	<i>Conkright v. Frommert</i>	559 U.S. 506	130 S. Ct. 1640	176 L. Ed. 2d 469	2	8	6	1:4
39	<i>United States v. Stevens</i>	559 U.S. 460	130 S. Ct. 1577	176 L. Ed. 2d 435	9	14	5	1:1.56
38	<i>Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.</i>	559 U.S. 393	130 S. Ct. 1431	176 L. Ed. 2d 311	5	9	4	1:1.8
37	<i>Padilla v. Kentucky</i>	559 U.S. 356	130 S. Ct. 1473	176 L. Ed. 2d 284	14	13	1	1:1.08
36	<i>Jones v. Harris Assocs. L.P.</i>	559 U.S. 335	130 S. Ct. 1418	176 L. Ed. 2d 265	16	10	6	1:1.6
35	<i>Berghuis v. Smith</i>	559 U.S. 314	130 S. Ct. 1382	176 L. Ed. 2d 249	6	13	7	1:2.17
34	<i>Graham Cty. Soil & Water Conservation Dist. v. United States ex rel. Wilson</i>	559 U.S. 280	130 S. Ct. 1396	176 L. Ed. 2d 225	9	8	1	1:1.13
33	<i>United Student Aid Funds, Inc. v. Espinosa</i>	559 U.S. 260	130 S. Ct. 1367	176 L. Ed. 2d 158	22	26	4	1:1.18
32	<i>Milavetz, Gallop & Milavetz, P.A. v. United States</i>	559 U.S. 229	130 S. Ct. 1324	176 L. Ed. 2d 79	10	17	7	1:1.7
31	<i>Bloate v. United States</i>	559 U.S. 196	130 S. Ct. 1345	176 L. Ed. 2d 54	11	5	6	1:2.2
30	<i>Mac's Shell Serv., Inc. v. Shell Oil Prods. Co.</i>	559 U.S. 175	130 S. Ct. 1251	176 L. Ed. 2d 36	18	5	13	1:3.6
29	<i>Reed Elsevier, Inc. v. Muchnick</i>	559 U.S. 154	130 S. Ct. 1237	176 L. Ed. 2d 18	15	9	6	1:1.67

R-	Case Name	United States Reports Citation	Supreme Court Reporter Citation	United States Supreme Court Reports—Lawyers’ Edition Citation	Total Number LexisNexis Headnotes	Total Number West Headnotes	Absolute Difference	Difference Ratio
28	<i>Johnson v. United States</i>	559 U.S. 133	130 S. Ct. 1265	176 L. Ed. 2d 1	10	8	2	1:1.25
26	<i>Maryland v. Shatzer</i>	559 U.S. 98	130 S. Ct. 1213	175 L. Ed. 2d 1045	12	18	6	1:1.5
25	<i>Hertz Corp. v. Friend</i>	559 U.S. 77	130 S. Ct. 1181	175 L. Ed. 2d 1029	8	10	2	1:1.25
24	<i>Florida v. Powell</i>	559 U.S. 50	130 S. Ct. 1195	175 L. Ed. 2d 1009	7	9	2	1:1.29
23	<i>Thaler v. Haynes</i>	559 U.S. 43	130 S. Ct. 1171	175 L. Ed. 2d 1003	2	5	3	1:2.5
22	<i>Wilkins v. Gaddy</i>	559 U.S. 34	130 S. Ct. 1175	175 L. Ed. 2d 995	3	7	4	1:2.33
20	<i>Hemi Grp., LLC v. City of N.Y.</i>	559 U.S. 1	130 S. Ct. 983	175 L. Ed. 2d 943	7	4	3	1:1.75
19	<i>Citizens United v. Fed. Election Comm’n</i>	558 U.S. 310	130 S. Ct. 876	175 L. Ed. 2d 753	51	24	27	1:2.13
18	<i>Wood v. Allen</i>	558 U.S. 290	130 S. Ct. 841	175 L. Ed. 2d 738	4	3	1	1:1.33
17	<i>South Carolina v. North Carolina</i>	558 U.S. 256	130 S. Ct. 854	175 L. Ed. 2d 713	6	13	7	1:2.17
16	<i>Kucana v. Holder</i>	558 U.S. 233	130 S. Ct. 827	175 L. Ed. 2d 694	14	4	10	1:3.5
15	<i>Wellons v. Hall</i>	558 U.S. 220	130 S. Ct. 727	175 L. Ed. 2d 684	2	5	3	1:2.5
14	<i>Presley v. Georgia</i>	558 U.S. 209	130 S. Ct. 721	175 L. Ed. 2d 675	6	9	3	1:1.5
13	<i>Hollingsworth v. Perry</i>	558 U.S. 183	130 S. Ct. 705	175 L. Ed. 2d 657	4	10	6	1:2.5
12	<i>NRG Power Mktg., LLC v. Me. Pub. Util. Comm’n</i>	558 U.S. 165	130 S. Ct. 693	175 L. Ed. 2d 642	10	2	8	1:5
11	<i>Smith v. Spisak</i>	558 U.S. 139	130 S. Ct. 676	175 L. Ed. 2d 595	5	8	3	1:1.6
10	<i>McDaniel v. Brown</i>	558 U.S. 120	130 S. Ct. 665	175 L. Ed. 2d 582	2	9	7	1:4.5
9	<i>Mohawk Indus., Inc. v. Carpenter</i>	558 U.S. 100	130 S. Ct. 599	175 L. Ed. 2d 458	11	8	3	1:1.38
8	<i>Alvarez v. Smith</i>	558 U.S. 87	130 S. Ct. 576	175 L. Ed. 2d 447	4	6	2	1:1.5
7	<i>Union Pac. R. Co. v. Locomotive Eng’rs & Trainmen Gen. Comm. of Adjustment, Cent. Region</i>	558 U.S. 67	130 S. Ct. 584	175 L. Ed. 2d 428	21	20	1	1:1.05
6	<i>Beard v. Kindler</i>	558 U.S. 53	130 S. Ct. 612	175 L. Ed. 2d 417	5	4	1	1:1.25

R-	Case Name	United States Reports Citation	Supreme Court Reporter Citation	United States Supreme Court Reports—Lawyers' Edition Citation	Total Number LexisNexis Headnotes	Total Number West Headnotes	Absolute Difference	Difference Ratio
5	<i>Michigan v. Fisher</i>	558 U.S. 45	130 S. Ct. 546	175 L. Ed. 2d 410	3	7	4	1:2.33
4	<i>Porter v. McCollum</i>	558 U.S. 30	130 S. Ct. 447	175 L. Ed. 2d 398	7	4	3	1:1.75
3	<i>Wong v. Belmontes</i>	558 U.S. 15	130 S. Ct. 383	175 L. Ed. 2d 328	3	7	4	1:2.33
2	<i>Bobby v. Van Hook</i>	558 U.S. 4	130 S. Ct. 13	175 L. Ed. 2d 255	2	7	5	1:3.5
1	<i>Corcoran v. Levenhagen</i>	558 U.S. 1	130 S. Ct. 8	175 L. Ed. 2d 1	0	1	1	1:Infinite

Appendix B

Additional Information for the 2009 Term

R-	Case Name	United States Reports Citation	Date Decided	Start Page (Opinion of the Court) United States Reports	End Page (Opinion of the Court) United States Reports	United States Reports Pages ((End Page – Start Page) +1)	Total Number of Lines ((End Number – Start Number) +1)	Vote Count
92	<i>Sears v. Upton</i>	561 U.S. 945	6/29/2010	945	956	12	493	5-2
91	<i>McDonald v. City of Chicago</i>	561 U.S. 742	6/28/2010	748	791	44	1966	5-4
90	<i>Christian Legal Soc. Chapter of Univ. of Cal., Hastings Coll. of Law v. Martinez</i>	561 U.S. 661	6/28/2010	667	698	32	1448	5-4
89	<i>Bilski v. Kappos</i>	561 U.S. 593	6/28/2010	597	613	17	716	9-0
88	<i>Free Enter. Fund v. Public Co. Accounting Oversight Bd.</i>	561 U.S. 477	6/28/2010	483	514	32	1413	5-4
86	<i>Black v. United States</i>	561 U.S. 465	6/24/2010	467	474	8	337	9-0
85	<i>Skilling v. United States</i>	561 U.S. 358	6/24/2010	367	415	49	2170	9-0
84	<i>Magwood v. Patterson</i>	561 U.S. 320	6/24/2010	323	343	21	903	5-4
83	<i>Granite Rock Co. v. Teamsters</i>	561 U.S. 287	6/24/2010	291	314	24	1011	7-2
82	<i>Morrison v. National Austr. Bank Ltd.</i>	561 U.S. 247	6/24/2010	250	273	24	1047	8-0
81	<i>Doe v. Reed</i>	561 U.S. 186	6/24/2010	190	202	13	543	8-1
80	<i>Monsanto Co. v. Geertson Seed Farms</i>	561 U.S. 139	6/21/2010	144	166	23	984	7-1
79	<i>Kawasaki Kisen Kaisha Ltd. v. Regal-Beloit Corp.</i>	561 U.S. 89	6/21/2010	93	112	20	849	6-3
78	<i>Rent-A-Center, W., Inc. v. Jackson</i>	561 U.S. 63	6/21/2010	65	76	12	494	5-4
77	<i>Holder v. Humanitarian Law Project</i>	561 U.S. 1	6/21/2010	7	40	34	1466	6-3
76	<i>Dillon v. United States</i>	560 U.S. 817	6/17/2010	819	831	13	565	7-1
75	<i>Schwab v. Reilly</i>	560 U.S. 770	6/17/2010	774	795	22	975	6-3
74	<i>Ontario v. Quon</i>	560 U.S. 746	6/17/2010	750	765	16	694	9-0
73	<i>Stop the Beach Renourishment, Inc. v. Fla. Dep’t of Env’tl. Protection</i>	560 U.S. 702	6/17/2010	707	733	27	1212	8-0
72	<i>New Process Steel, L.P. v. NLRB</i>	560 U.S. 674	6/17/2010	676	688	13	570	5-4

R-	Case Name	United States Reports Citation	Date Decided	Start Page (Opinion of the Court) United States Reports	End Page (Opinion of the Court) United States Reports	United States Reports Pages ((End Page – Start Page) +1)	Total Number of Lines (End Number – Start Number) +1)	Vote Count
71	<i>Holland v. Florida</i>	560 U.S. 631	6/14/2010	634	654	21	906	7-2
70	<i>Dolan v. United States</i>	560 U.S. 605	6/14/2010	607	621	15	615	5-4
69	<i>Astrue v. Ratliff</i>	560 U.S. 586	6/14/2010	588	598	11	462	9-0
68	<i>Carachuri-Rosendo v. Holder</i>	560 U.S. 563	6/14/2010	566	582	17	755	9-0
67	<i>United States v. Juvenile Male</i>	560 U.S. 558	6/7/2010	559	562	4	132	9-0
66	<i>Krupski v. Costa Crociere S. p. A.</i>	560 U.S. 538	6/7/2010	541	557	17	723	9-0
65	<i>Hamilton v. Lanning</i>	560 U.S. 505	6/7/2010	508	524	17	732	8-1
64	<i>Barber v. Thomas</i>	560 U.S. 474	6/7/2010	476	492	17	712	6-3
63	<i>Carr v. United States</i>	560 U.S. 438	6/1/2010	441	458	18	789	6-3
62	<i>Levin v. Commerce Energy, Inc.</i>	560 U.S. 413	6/1/2010	417	433	17	745	9-0
61	<i>Berghuis v. Thompson</i>	560 U.S. 370	6/1/2010	373	391	19	793	5-4
60	<i>Alabama v. North Carolina</i>	560 U.S. 330	6/1/2010	334	358	25	1090	6-3
59	<i>Samantar v. Yousuf</i>	560 U.S. 305	6/1/2010	308	326	19	843	9-0
58	<i>Jefferson v. Upton</i>	560 U.S. 284	5/24/2010	284	295	12	463	7-2
56	<i>United States v. Marcus</i>	560 U.S. 258	5/24/2010	260	267	8	313	7-1
55	<i>Hardt v. Reliance Standard Life Ins. Co.</i>	560 U.S. 242	5/24/2010	244	256	13	564	9-0
54	<i>United States v. O'Brien</i>	560 U.S. 218	5/24/2010	221	235	15	633	9-0
53	<i>Lewis v. City of Chicago</i>	560 U.S. 205	5/24/2010	208	217	10	441	9-0
52	<i>Am. Needle, Inc. v. Nat'l Football League</i>	560 U.S. 183	5/24/2010	186	204	19	851	9-0
50	<i>United States v. Comstock</i>	560 U.S. 126	5/17/2010	129	150	22	936	7-2
49	<i>Graham v. Florida</i>	560 U.S. 48	5/17/2010	52	82	31	1323	6-3
48	<i>Abbott v. Abbott</i>	560 U.S. 1	5/17/2010	5	22	18	767	6-3
47	<i>Hui v. Castaneda</i>	559 U.S. 799	5/3/2010	801	813	13	520	9-0
46	<i>Renico v. Lett</i>	559 U.S. 766	5/3/2010	769	779	11	469	6-3
45	<i>Salazar v. Buono</i>	559 U.S. 700	4/28/2010	705	722	18	774	5-4
44	<i>Stolt-Nielsen S. A. v. AnimalFeeds Int'l Corp.</i>	559 U.S. 662	4/27/2010	666	687	22	986	5-3

R-	Case Name	United States Reports Citation	Date Decided	Start Page (Opinion of the Court) <i>United States Reports</i>	End Page (Opinion of the Court) <i>United States Reports</i>	United States Reports Pages ((End Page – Start Page) +1)	Total Number of Lines ((End Number – Start Number) +1)	Vote Count
43	<i>Merck & Co. v. Reynolds</i>	559 U.S. 633	4/27/2010	637	654	18	772	9-0
42	<i>Jerman v. Carlisle, McNellie, Rini, Kramer & Ulrich LPA</i>	559 U.S. 573	4/21/2010	576	605	30	1344	7-2
41	<i>Perdue v. Kenny A.</i>	559 U.S. 542	4/21/2010	546	560	15	634	5-4
40	<i>Conkright v. Frommert</i>	559 U.S. 506	4/21/2010	509	522	14	591	5-3
39	<i>United States v. Stevens</i>	559 U.S. 460	4/20/2010	464	482	19	809	8-1
38	<i>Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.</i>	559 U.S. 393	3/31/2010	395	416	22	962	5-4
37	<i>Padilla v. Kentucky</i>	559 U.S. 356	3/31/2010	359	375	17	724	7-2
36	<i>Jones v. Harris Assocs. L.P.</i>	559 U.S. 335	3/30/2010	338	353	16	712	9-0
35	<i>Berghuis v. Smith</i>	559 U.S. 314	3/30/2010	319	333	15	633	9-0
34	<i>Graham Cty. Soil & Water Conservation Dist. v. United States ex rel. Wilson</i>	559 U.S. 280	3/30/2010	283	302	20	896	7-2
33	<i>United Student Aid Funds, Inc. v. Espinosa</i>	559 U.S. 260	3/23/2010	263	279	17	729	9-0
32	<i>Milavetz, Gallop & Milavetz, P.A. v. United States</i>	559 U.S. 229	3/8/2010	231	253	23	976	9-0
31	<i>Bloate v. United States</i>	559 U.S. 196	3/8/2010	198	215	18	769	7-2
30	<i>Mac’s Shell Serv., Inc. v. Shell Oil Prods. Co.</i>	559 U.S. 175	3/2/2010	177	195	19	820	9-0
29	<i>Reed Elsevier, Inc. v. Muchnick</i>	559 U.S. 154	3/2/2010	157	171	15	642	8-0
28	<i>Johnson v. United States</i>	559 U.S. 133	3/2/2010	135	145	11	449	7-2
26	<i>Maryland v. Shatzer</i>	559 U.S. 98	2/24/2010	100	117	18	759	9-0
25	<i>Hertz Corp. v. Friend</i>	559 U.S. 77	2/23/2010	80	97	18	753	9-0
24	<i>Florida v. Powell</i>	559 U.S. 50	2/23/2010	53	64	12	517	7-2
23	<i>Thaler v. Haynes</i>	559 U.S. 43	2/22/2010	44	49	6	256	9-0
22	<i>Wilkins v. Gaddy</i>	559 U.S. 34	2/22/2010	34	40	7	265	9-0
20	<i>Hemi Grp., LLC v. City of N.Y.</i>	559 U.S. 1	1/25/2010	4	18	15	616	5-3

R-	Case Name	United States Reports Citation	Date Decided	Start Page (Opinion of the Court) United States Reports	End Page (Opinion of the Court) United States Reports	United States Reports Pages ((End Page – Start Page) +1)	Total Number of Lines ((End Number – Start Number) +1)	Vote Count
19	<i>Citizens United v. Fed. Election Comm’n</i>	558 U.S. 310	1/21/2010	318	372	55	2376	5-4
18	<i>Wood v. Allen</i>	558 U.S. 290	1/20/2010	293	305	13	535	7-2
17	<i>South Carolina v. North Carolina</i>	558 U.S. 256	1/20/2010	259	276	18	743	5-4
16	<i>Kucana v. Holder</i>	558 U.S. 233	1/20/2010	236	253	18	752	9-0
15	<i>Wellons v. Hall</i>	558 U.S. 220	1/19/2010	220	226	7	271	5-4
14	<i>Presley v. Georgia</i>	558 U.S. 209	1/19/2010	209	216	8	294	7-2
13	<i>Hollingsworth v. Perry</i>	558 U.S. 183	1/13/2010	184	199	16	655	5-4
12	<i>NRG Power Mktg., LLC v. Me. Pub. Util. Comm’n</i>	558 U.S. 165	1/13/2010	167	177	11	452	8-1
11	<i>Smith v. Spisak</i>	558 U.S. 139	1/12/2010	141	156	16	654	9-0
10	<i>McDaniel v. Brown</i>	558 U.S. 120	1/11/2010	121	136	16	667	9-0
9	<i>Mohawk Indus., Inc. v. Carpenter</i>	558 U.S. 100	12/8/2009	103	114	12	506	9-0
8	<i>Alvarez v. Smith</i>	558 U.S. 87	12/8/2009	89	97	9	370	8-1
7	<i>Union Pac. R. Co. v. Locomotive Eng’rs & Trainmen Gen. Comm. of Adjustment, Cent. Region</i>	558 U.S. 67	12/8/2009	71	86	16	686	9-0
6	<i>Beard v. Kindler</i>	558 U.S. 53	12/8/2009	55	63	9	360	8-0
5	<i>Michigan v. Fisher</i>	558 U.S. 45	12/7/2009	45	50	6	199	7-2
4	<i>Porter v. McCollum</i>	558 U.S. 30	11/30/2009	30	44	15	612	9-0
3	<i>Wong v. Belmontes</i>	558 U.S. 15	11/16/2009	15	28	14	545	9-0
2	<i>Bobby v. Van Hook</i>	558 U.S. 4	11/9/2009	4	13	10	396	9-0
1	<i>Corcoran v. Levenhagen</i>	558 U.S. 1	10/20/2009	2	3	2	56	9-0

Appendix C

Subject Information from Supreme Court Database

R-	Case Name	Issue Area	Issue	Authority for Decision 1 & 2	Legal Provisions Considered by the Court	Legal Provision Supplement
92	<i>Sears v. Upton</i>	Criminal Procedure	right to counsel	judicial review (state level); federal common law	constitutional amendment	Sixth Amendment (right to counsel)
91	<i>McDonald v. City of Chicago</i>	Criminal Procedure	miscellaneous criminal procedure	judicial review (state level)	constitutional amendment	Second Amendment
90	<i>Christian Legal Soc. Chapter of Univ. of Cal., Hastings Coll. of Law v. Martinez</i>	First Amendment	free exercise of religion	judicial review (state level)	constitutional amendment	First Amendment (free exercise of religion)
89	<i>Bilski v. Kappos</i>	Economic Activity	patents and copyrights: patentability of computer processes	statutory construction	infrequently litigated statutes	infrequently litigated statutes
88	<i>Free Enter. Fund v. Public Co. Accounting Oversight Bd.</i>	Miscellaneous	executive authority vis-a-vis Congress or the states	judicial review (national level); statutory construction	Constitution	Art. II, § 1 (executive power)
86	<i>Black v. United States</i>	Criminal Procedure	extra-legal jury influences: jury instructions (not necessarily in criminal cases)	federal common law	no legal provision	no legal provision
85	<i>Skilling v. United States</i>	Criminal Procedure	statutory construction of criminal laws: fraud	statutory construction; judicial review (national level)	infrequently litigated statutes	infrequently litigated statutes
84	<i>Magwood v. Patterson</i>	Criminal Procedure	habeas corpus	statutory construction	federal statute	28 U.S.C. §§ 2241-2255 (habeas corpus)
83	<i>Granite Rock Co. v. Teamsters</i>	Unions	arbitration (in the context of labor-management or employer-employee relations)	statutory construction	federal statute	Labor-Management Relations Act
82	<i>Morrison v. Nat'l Austr. Bank Ltd.</i>	Economic Activity	federal or state regulation of securities	statutory construction; federal common law	federal statute	Securities Act of 1933, the Securities and Exchange Act of 1934, or the Williams Act

R-	Case Name	Issue Area	Issue	Authority for Decision 1 & 2	Legal Provisions Considered by the Court	Legal Provision Supplement
81	<i>Doe v. Reed</i>	Privacy	Freedom of Information Act and related federal or state statutes or regulations	judicial review (state level)	constitutional amendment	First Amendment (speech, press, and assembly)
80	<i>Monsanto Co. v. Geertson Seed Farms</i>	Economic Activity	natural resources - environmental protection	statutory construction	federal statute	National Environmental Policy Act
79	<i>Kawasaki Kisen Kaisha Ltd. v. Regal-Beloit Corp.</i>	Economic Activity	liability, other than as in sufficiency of evidence, election of remedies, punitive damages	statutory construction	federal statute	Interstate Commerce, as amended
78	<i>Rent-A-Center, W., Inc. v. Jackson</i>	Unions	arbitration (in the context of labor-management or employer-employee relations)	statutory construction	infrequently litigated statutes	infrequently litigated statutes
77	<i>Holder v. Humanitarian Law Project</i>	First Amendment	federal or state internal security legislation: Smith, Internal Security, and related federal statutes	statutory construction; judicial review (national level)	infrequently litigated statutes	infrequently litigated statutes
76	<i>Dillon v. United States</i>	Criminal Procedure	statutory construction of criminal laws: sentencing guidelines	statutory construction	infrequently litigated statutes	infrequently litigated statutes
75	<i>Schwab v. Reilly</i>	Economic Activity	bankruptcy (except in the context of priority of federal fiscal claims)	statutory construction	federal statute	Bankruptcy Code, Bankruptcy Act or Rules, or Bankruptcy Reform Act of 1978
74	<i>Ontario v. Quon</i>	Criminal Procedure	search and seizure (other than as pertains to vehicles or Crime Control Act)	judicial review (state level)	constitutional amendment	Fourth Amendment
73	<i>Stop the Beach Renourishment, Inc. v. Fla. Dep't of Env'tl. Protection</i>	Due Process	due process: Takings Clause, or other non-constitutional governmental taking of property	judicial review (state level)	constitutional amendment	Fifth Amendment (Takings Clause)

R-	Case Name	Issue Area	Issue	Authority for Decision 1 & 2	Legal Provisions Considered by the Court	Legal Provision Supplement
72	<i>New Process Steel, L.P. v. NLRB</i>	Judicial Power	judicial review of administrative agency's or administrative official's actions and procedures	statutory construction	federal statute	National Labor Relations Act, as amended
71	<i>Holland v. Florida</i>	Civil Rights	indigents: inadequate representation by counsel	statutory construction	federal statute	28 U.S.C. §§ 2241-2255 (habeas corpus)
70	<i>Dolan v. United States</i>	Judicial Power	judicial administration: jurisdiction or authority of federal district courts or territorial courts	statutory construction	infrequently litigated statutes	infrequently litigated statutes
69	<i>Astrue v. Ratliff</i>	Attorneys	attorneys' and governmental employees' or officials' fees or compensation or licenses	statutory construction	federal statute	Equal Access to Justice Act
68	<i>Carachuri-Rosendo v. Holder</i>	Civil Rights	deportation	statutory construction	federal statute	Immigration and Naturalization, Immigration, Nationality, or Illegal Immigration Reform and Immigrant Responsibility Acts, as amended
67	<i>United States v. Juvenile Male</i>	Civil Rights	juveniles	Supreme Court supervision of lower federal or state courts or original jurisdiction	infrequently litigated statutes	infrequently litigated statutes
66	<i>Krupski v. Costa Crociere S. p. A.</i>	Judicial Power	judicial administration: untimely filing	statutory construction	court rules	Federal Rules of Civil Procedure, including Appellate Procedure, or relevant rules of a circuit court Judicial Code, and admiralty rules

R-	Case Name	Issue Area	Issue	Authority for Decision 1 & 2	Legal Provisions Considered by the Court	Legal Provision Supplement
65	<i>Hamilton v. Lanning</i>	Economic Activity	bankruptcy (except in the context of priority of federal fiscal claims)	statutory construction	federal statute	Bankruptcy Code, Bankruptcy Act or Rules, or Bankruptcy Reform Act of 1978
64	<i>Barber v. Thomas</i>	Criminal Procedure	statutory construction of criminal laws: sentencing guidelines	statutory construction	infrequently litigated statutes	infrequently litigated statutes
63	<i>Carr v. United States</i>	Criminal Procedure	statutory construction of criminal laws: miscellaneous	statutory construction	infrequently litigated statutes	infrequently litigated statutes
62	<i>Levin v. Commerce Energy, Inc.</i>	Federalism	federal pre-emption of state court jurisdiction	federal common law; statutory construction	infrequently litigated statutes	infrequently litigated statutes
61	<i>Berghuis v. Thompson</i>	Criminal Procedure	Miranda warnings	judicial review (state level)	constitutional amendment	Fifth Amendment (Miranda warnings)
60	<i>Alabama v. North Carolina</i>	Economic Activity	natural resources - environmental protection	statutory construction	other	interstate compact
59	<i>Samantar v. Yousuf</i>	Economic Activity	liability, other than as in sufficiency of evidence, election of remedies, punitive damages	statutory construction	infrequently litigated statutes	infrequently litigated statutes
58	<i>Jefferson v. Upton</i>	Criminal Procedure	habeas corpus	statutory construction	federal statute	28 U.S.C. §§ 2241–2255 (habeas corpus)
56	<i>United States v. Marcus</i>	Criminal Procedure	Federal Rules of Criminal Procedure	statutory construction; federal common law	court rules	Federal Rules of Criminal Procedure, or relevant rules of a circuit court
55	<i>Hardt v. Reliance Standard Life Ins. Co.</i>	Attorneys	attorneys' and governmental employees' or officials' fees or compensation or licenses	statutory construction; federal common law	federal statute	Employee Retirement Income Security Act, as amended
54	<i>United States v. O'Brien</i>	Criminal Procedure	statutory construction of criminal laws: firearms	statutory construction	infrequently litigated statutes	infrequently litigated statutes

R-	Case Name	Issue Area	Issue	Authority for Decision 1 & 2	Legal Provisions Considered by the Court	Legal Provision Supplement
53	<i>Lewis v. City of Chicago</i>	Civil Rights	employment discrimination: on basis of race, age, religion, illegitimacy, national origin, or working conditions.	statutory construction	federal statute	Civil Rights Act of 1964 (Title VII)
52	<i>American Needle, Inc. v. Nat'l Football League</i>	Economic Activity	antitrust (except in the context of mergers and union anti-trust)	statutory construction	federal statute	Sherman Act
50	<i>United States v. Comstock</i>	Federalism	national supremacy: miscellaneous	judicial review (national level)	Constitution	Art. I, § 8, ¶ 18 (Necessary and Proper Clause)
49	<i>Graham v. Florida</i>	Criminal Procedure	cruel and unusual punishment, non-death penalty	judicial review (state level)	constitutional amendment	Eighth Amendment (cruel and unusual punishment)
48	<i>Abbott v. Abbott</i>	Civil Rights	juveniles	statutory construction	other	treaty
47	<i>Hui v. Castaneda</i>	Economic Activity	liability, governmental: tort or contract actions by or against government or governmental officials other than defense of criminal actions brought under a civil rights action.	statutory construction	infrequently litigated statutes	infrequently litigated statutes
46	<i>Renico v. Lett</i>	Criminal Procedure	habeas corpus	statutory construction	federal statute	28 U.S.C. §§ 2241–2255 (habeas corpus)
45	<i>Salazar v. Buono</i>	First Amendment	establishment of religion (other than as pertains to Parochiaid:)	judicial review (national level)	constitutional amendment	First Amendment (establishment of religion)
44	<i>Stolt-Nielsen S. A. v. AnimalFeeds Int'l Corp.</i>	Economic Activity	arbitration (other than as pertains to labor-management or employer-employee relations	statutory construction	infrequently litigated statutes	infrequently litigated statutes

R-	Case Name	Issue Area	Issue	Authority for Decision 1 & 2	Legal Provisions Considered by the Court	Legal Provision Supplement
43	<i>Merck & Co. v. Reynolds</i>	Economic Activity	federal or state regulation of securities	statutory construction	federal statute	Securities Act of 1933, the Securities and Exchange Act of 1934, or the Williams Act
42	<i>Jerman v. Carlisle, McNellie, Rini, Kramer & Ulrich LPA</i>	Civil Rights	debtors' rights	statutory construction; federal common law	infrequently litigated statutes	infrequently litigated statutes
41	<i>Perdue v. Kenny A.</i>	Attorneys	attorneys' and governmental employees' or officials' fees or compensation or licenses	statutory construction	federal statute	Civil Rights Attorney's Fees Awards
40	<i>Conkright v. Frommert</i>	Economic Activity	Employee Retirement Income Security Act	statutory construction	federal statute	Employee Retirement Income Security Act, as amended
39	<i>United States v. Stevens</i>	First Amendment	First Amendment, miscellaneous	judicial review (national level)	infrequently litigated statutes	infrequently litigated statutes
38	<i>Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.</i>	Judicial Power	Federal Rules of Civil Procedure including Supreme Court Rules, application of the Federal Rules of Evidence, Federal Rules of Appellate Procedure in civil litigation, Circuit Court Rules, and state rules and admiralty rules	statutory construction	court rules	Federal Rules of Civil Procedure, including Appellate Procedure, or relevant rules of a circuit court Judicial Code, and admiralty rules
37	<i>Padilla v. Kentucky</i>	Criminal Procedure	right to counsel	judicial review (state level)	constitutional amendment	Sixth Amendment (right to counsel)
36	<i>Jones v. Harris Assocs. L.P.</i>	Economic Activity	federal or state regulation of securities	statutory construction; federal common law	infrequently litigated statutes	infrequently litigated statutes
35	<i>Berghuis v. Smith</i>	Criminal Procedure	extra-legal jury influences: voir dire (not necessarily a criminal case)	judicial review (state level)	constitutional amendment	Sixth Amendment (other provisions)

R-	Case Name	Issue Area	Issue	Authority for Decision 1 & 2	Legal Provisions Considered by the Court	Legal Provision Supplement
34	<i>Graham Cty. Soil & Water Conservation Dist. v. United States ex rel. Wilson</i>	Economic Activity	liability, governmental: tort or contract actions by or against government or governmental officials other than defense of criminal actions brought under a civil rights action.	statutory construction; statutory construction	federal statute	Federal False Claims Act
33	<i>United Student Aid Funds, Inc. v. Espinosa</i>	Economic Activity	bankruptcy (except in the context of priority of federal fiscal claims)	statutory construction; statutory construction	federal statute	Bankruptcy Code, Bankruptcy Act or Rules, or Bankruptcy Reform Act of 1978
32	<i>Milavetz, Gallop & Milavetz, P. A. v. United States</i>	Attorneys	commercial speech, attorneys	statutory construction	federal statute	Bankruptcy Code, Bankruptcy Act or Rules, or Bankruptcy Reform Act of 1978
31	<i>Bloate v. United States</i>	Criminal Procedure	speedy trial	statutory construction	infrequently litigated statutes	infrequently litigated statutes
30	<i>Mac's Shell Serv., Inc. v. Shell Oil Prods. Co.</i>	Economic Activity	antitrust (except in the context of mergers and union anti-trust)	statutory construction	infrequently litigated statutes	infrequently litigated statutes
29	<i>Reed Elsevier, Inc. v. Muchnick</i>	Economic Activity	patents and copyrights: copyright	statutory construction	infrequently litigated statutes	infrequently litigated statutes
28	<i>Johnson v. United States</i>	Criminal Procedure	statutory construction of criminal laws: assault	statutory construction	infrequently litigated statutes	infrequently litigated statutes
26	<i>Maryland v. Shatzer</i>	Criminal Procedure	Miranda warnings	judicial review (state level)	constitutional amendment	Fifth Amendment (Miranda warnings)
25	<i>Hertz Corp. v. Friend</i>	Judicial Power	miscellaneous judicial power, especially diversity jurisdiction	statutory construction; statutory construction	infrequently litigated statutes	infrequently litigated statutes
24	<i>Florida v. Powell</i>	Criminal Procedure	Miranda warnings	judicial review (state level)	constitutional amendment	Fifth Amendment (Miranda warnings)

R-	Case Name	Issue Area	Issue	Authority for Decision 1 & 2	Legal Provisions Considered by the Court	Legal Provision Supplement
23	<i>Thaler v. Haynes</i>	Criminal Procedure	extra-legal jury influences: voir dire (not necessarily a criminal case)	federal common law	no legal provision	no legal provision
22	<i>Wilkins v. Gaddy</i>	Civil Rights	liability, civil rights acts	statutory construction	federal statute	Reconstruction Civil Rights Acts (42 U.S.C. § 1983)
20	<i>Hemi Grp., LLC v. City of N.Y.</i>	Economic Activity	federal or state consumer protection: typically under the Truth in Lending; Food, Drug and Cosmetic; and Consumer Protection Credit Acts	statutory construction; federal common law	federal statute	Racketeer Influenced and Corrupt Organizations Act
19	<i>Citizens United v. Fed'l Election Comm'n</i>	First Amendment	campaign spending	judicial review (national level)	constitutional amendment	First Amendment (speech, press, and assembly)
18	<i>Wood v. Allen</i>	Criminal Procedure	habeas corpus	statutory construction	federal statute	28 U.S.C. §§ 2241–2255 (habeas corpus)
17	<i>South Carolina v. North Carolina</i>	Interstate Relations	non-real property dispute between states	federal common law	no legal provision	no legal provision
16	<i>Kucana v. Holder</i>	Civil Rights	deportation	statutory construction	federal statute	Immigration and Naturalization, Immigration, Nationality, or Illegal Immigration Reform and Immigrant Responsibility Acts, as amended
15	<i>Wellons v. Hall</i>	Criminal Procedure	discovery and inspection (in the context of criminal litigation only, otherwise Freedom of Information Act and related federal or state statutes or regulations)	federal common law	no legal provision	no legal provision

R-	Case Name	Issue Area	Issue	Authority for Decision 1 & 2	Legal Provisions Considered by the Court	Legal Provision Supplement
14	<i>Presley v. Georgia</i>	Criminal Procedure	extra-legal jury influences: voir dire (not necessarily a criminal case)	judicial review (state level)	constitutional amendment	Sixth Amendment (other provisions)
13	<i>Hollingsworth v. Perry</i>	Judicial Power	judicial administration: jurisdiction or authority of federal district courts or territorial courts	statutory construction	infrequently litigated statutes	infrequently litigated statutes
12	<i>NRG Power Mktg., LLC v. Me. Pub. Util. Comm’n</i>	Economic Activity	federal and some few state regulation of public utilities regulation: electric power	statutory construction; federal common law	federal statute	federal power
11	<i>Smith v. Spisak</i>	Criminal Procedure	cruel and unusual punishment, death penalty	judicial review (state level); federal common law	constitutional amendment	Eighth Amendment (cruel and unusual punishment)
10	<i>McDaniel v. Brown</i>	Criminal Procedure	habeas corpus	federal common law	no legal provision	no legal provision
9	<i>Mohawk Indus., Inc. v. Carpenter</i>	Judicial Power	judicial administration: untimely filing	federal common law	infrequently litigated statutes	infrequently litigated statutes
8	<i>Alvarez v. Smith</i>	Judicial Power	mootness	judicial review (state level); federal common law	Constitution	Art. III, § 2, ¶ 1 (case or controversy requirement)
7	<i>Union Pac. R. Co. v. Locomotive Eng’rs & Trainmen Gen. Comm. of Adjustment, Cent. Region</i>	Unions	labor-management disputes: employee discharge	statutory construction	federal statute	Railway Labor
6	<i>Beard v. Kindler</i>	Criminal Procedure	habeas corpus	statutory construction	federal statute	28 U.S.C. §§ 2241–2255 (habeas corpus)
5	<i>Michigan v. Fisher</i>	Criminal Procedure	search and seizure (other than as pertains to vehicles or Crime Control Act)	judicial review (state level); federal common law	constitutional amendment	Fourth Amendment
4	<i>Porter v. McCollum</i>	Criminal Procedure	habeas corpus	federal common law	no legal provision	no legal provision
3	<i>Wong v. Belmontes</i>	Civil Rights	indigents: inadequate representation by counsel	judicial review (state level)	constitutional amendment	Sixth Amendment (right to counsel)

R-	Case Name	Issue Area	Issue	Authority for Decision 1 & 2	Legal Provisions Considered by the Court	Legal Provision Supplement
2	<i>Bobby v. Van Hook</i>	Civil Rights	indigents: inadequate representation by counsel	judicial review (state level)	Constitution	Art. VI, § 2 (Supremacy Clause)
1	<i>Corcoran v. Levenhagen</i>	Judicial Power	judicial administration: Supreme Court jurisdiction or authority on appeal or writ of error, from federal district courts or courts of appeals	Supreme Court supervision of lower federal or state courts or original jurisdiction	no legal provision	no legal provision