

Daniel Geyser in The National Law Journal on the New U.S. Supreme Court Term

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PRACTICES Appellate, Litigation

Haynes Boone Partner [Daniel Geyser](#), chair of the firm's U.S. Supreme Court Practice, talked with *The National Law Journal* about the upcoming U.S. Supreme Court term and the challenges that might hinder a consensus.

Below is an excerpt:

The U.S. Supreme Court launches its October 2021 term still in the middle of a pandemic and with cases that potentially may shatter the general consensus and narrow decision-making that marked the prior term.

"Last term, the court was able to forge narrow consensus in a number of hot-button cases," said Shay Dvoretzky, chair of the Supreme Court and appellate practice at Skadden, Arps, Slate, Meagher & Flom.

But the new term, with contentious issues such as abortion, guns and religion on the decision docket, will test whether the justices can continue to find common ground, he said. But even in the decisions last term that reflected narrow consensus, he added, there were significant disagreements among the justices.

"One of the trends we saw last term was narrow, unanimous holdings with real disagreements that manifested in separate writings by the justices," Dvoretzky said. For example, in *Caniglia v. Strom*, a case Dvoretzky successfully argued, the justices unanimously ruled for his client but three justices wrote separate concurring opinions. That was true also of *Fulton v. City of Philadelphia*, a clash between religious free exercise rights and the city's non-discrimination mandate.

Besides uncertainty about the justices' ability to bridge their ideological and jurisprudential differences given the issues facing them, questions also surround the roles of the newest justices: the three Trump-appointees, Justices Neil Gorsuch, Brett Kavanaugh and Amy Coney Barrett.

"We've already seen a shift where the chief justice was solidly in the middle and it truly was the Roberts Court," said Daniel Geyser, chair of the Supreme Court and appellate practice at Haynes Boone. "Now it seems like there are three groups: the liberal wing on the left; the middle with the chief justice and Justices Kavanaugh and Barrett, and on the right, Justices Clarence Thomas, Samuel Alito and Neil Gorsuch."

Geyser said it will be interesting to see what Barrett does this term with more opportunities to put her footprint on the docket. "There will be a bigger sample size," he said because this will be her second term.

To read the full article, click [here](#).

