

**EXHIBIT**

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## How The Court Works — The Justices' Conference

Of the cases remaining, the Justices screen the problems closely--by a process they explain freely in outline. They meet on Wednesdays and Fridays during the term in a conference room as secret as any in government. In a capital full of classified matters, and full of leaks, the Court keeps private matters private. Reporters may speculate; but details of discussion are never disclosed, and the vote is revealed only when a decision is announced. No outsider enters the room during conference. The junior Associate Justice acts as "doorkeeper," sending for reference material, for instance, and receiving it at the door. "We could not function as a court if our conferences were public," Justice Blackmun once explained, "There are just the nine of us, no more...[W]e can say what we initially believe, only to be proved wrong by the honing effect of conference and agreement and disagreement."

Five minutes before conference time, 9:30 or 10 a.m., the Justices are summoned. They exchange ritual handshakes and settle down at the long table. The Chief sits at the east end; the other Justices sit at places they have chosen in order of their seniority. Before each Justice is a copy of the day's agenda. Each decides when he or she should refrain from taking any part in a case.

The Chief Justice opens the discussion, summarizing each case. The senior Associate Justice speaks next, and comment passes down the line. To be accepted for review, a case needs only four votes, fewer than the majority required for a decision on the case itself. Counsel for the litigants are directed to submit their printed briefs so that each Justice has a set several weeks before argument.

Paradoxically, perhaps--in light of the complete confidentiality of the conference--the Supreme Court is one of the most open of government agencies and one of the most public of courts. It acts only on matters of public record; it hears counsel's arguments in public; all its orders and opinions are on the record; all materials presented to the Court for reaching its decisions are available to the public.

All conference decisions are published. The disagreements among the Justices are fully exposed to the public in the written opinions, and on occasion the language of dissent becomes vehement.

When the vote has been taken on a case, the writing of an opinion is assigned--by the Chief if he voted with the majority, otherwise by the senior Justice of the majority. Dissenters may agree among themselves on who will explain their view. Any Justice, concurring or dissenting, may write an individual opinion to emphasize a special point.