

SUPREME COURT OF THE UNITED STATES

IN THE SUPREME COURT OF THE UNITED STATES

SOUTH DAKOTA,)
)
) Petitioner,)
)
) v.) No. 17-494
)
WAYFAIR, INC., ET AL.,)
)
) Respondents.)

Pages: 1 through 62

Place: Washington, D.C.

Date: April 17, 2018

HERITAGE REPORTING CORPORATION

Official Reporters
1220 L Street, N.W., Suite 206
Washington, D.C. 20005
(202) 628-4888
www.hrccourtreporters.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C O N T E N T S

ORAL ARGUMENT OF:	PAGE:
MARTY J. JACKLEY, ESQ.	
On behalf of the Petitioner	3
ORAL ARGUMENT OF:	
MALCOLM L. STEWART, ESQ.	
On behalf of the United States, as amicus curiae, in support of the Petitioner	18
ORAL ARGUMENT OF:	
GEORGE S. ISAACSON, ESQ.	
On behalf of the Respondents	31
REBUTTAL ARGUMENT OF:	
MARTY J. JACKLEY, ESQ.	
On behalf of the Petitioner	56

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

P R O C E E D I N G S

(10:16 a.m.)

CHIEF JUSTICE ROBERTS: We'll hear argument first this morning in Case 17-494, South Dakota versus Wayfair.

General Jackley.

ORAL ARGUMENT OF MARTY J. JACKLEY

ON BEHALF OF THE PETITIONER

MR. JACKLEY: Mr. Chief Justice, and may it please the Court:

There are two very significant consequences brought about by Quill: First, our states are losing massive sales tax revenues that we need for education, healthcare, and infrastructure.

Second, our small businesses on Main Street are being harmed because of the unlevel playing field created by Quill, where out-of-state remote sellers are given a price advantage.

JUSTICE SOTOMAYOR: I'm sorry. Isn't the problem not Quill but the fact that you don't have a mechanism to collect from consumers? It's not the merchants who are playing -- paying the sales tax; it's the

1 consumer. They're collecting it for you. So
2 find a way to collect from them.

3 MR. JACKLEY: Justice Sotomayor --
4 Sotomayor, we believe that we have a right,
5 because we have a statutory scheme in place
6 that is nondiscriminatory, there aren't
7 apportionment issues, it's a fair scheme, it
8 has safe harbors in place to allow our state to
9 --

10 JUSTICE SOTOMAYOR: Your scheme. But
11 I'm not concerned about your scheme as such.
12 I'm concerned about the many unanswered
13 questions that overturning precedents will
14 create a massive amount of lawsuits about.

15 I know you've told us that Quill has
16 created its own set of lawsuits, I guess every
17 law does, but here there are some significant
18 ones. You're not retroactive, but your
19 adversaries point out that there are many
20 states who have already made this collection
21 retroactive. So we have that question.

22 We have questions about what's the
23 contact that you have to do to impose this
24 obligation. Are we going to decide it under
25 Complete Auto? Are we going to decide it under

1 Pike balancing? How much contact is enough to
2 justify placing this obligation on an
3 out-of-town seller?

4 So there's going to be a host of
5 questions. What happens when the tax program
6 breaks down, as it already has for the states
7 who are using it, and merchants can't keep
8 track of who they've sold to? All of these are
9 questions that are wrought with difficulties.
10 So you're introducing now a whole new set of
11 difficulties to put be -- to put behind
12 something that's been in place for 30 years
13 now?

14 MR. JACKLEY: Justice Sotomayor, we
15 would encourage using the doctrines that are
16 already in place with Complete Auto when it
17 comes to a tax assessment to look for
18 discrimination, to look for apportionment
19 issues, to look at that substantial nexus.

20 JUSTICE SOTOMAYOR: How about
21 economic?

22 MR. JACKLEY: Certainly economics. It
23 can be addressed by Pike. Pike is a balancing
24 test that this Court uses for its dormant
25 Commerce Clause and Commerce Clause effect. It

1 is able to take a look at the actual --

2 JUSTICE SOTOMAYOR: So how many sales
3 does it take? You're at 200,000, I believe, or
4 200 sales, and I don't remember the monetary
5 amount. But what's the minimum?

6 MR. JACKLEY: In South Dakota, it's --
7 it's set at 200 sales, or --

8 JUSTICE SOTOMAYOR: I know what it was
9 set at. It still doesn't answer the question.
10 What's the minimum everywhere else?

11 MR. JACKLEY: The minimum would be one
12 sale because, if you look at Complete Auto,
13 that creates the nexus. And then, if you go --

14 JUSTICE SOTOMAYOR: So what are we
15 going to do with the costs that you're going to
16 put on small businesses?

17 MR. JACKLEY: The small businesses are
18 the ones that are affected most by Quill. If
19 you look at that small business on Main Street,
20 it is that business that is put at a price
21 disadvantage because of Quill.

22 If you look at what the --

23 JUSTICE SOTOMAYOR: Actually, they're
24 put at disadvantage, not by Quill, but by the
25 fact that there are massive discount sellers,

1 not just on the Internet, but even in stores
2 now. I -- I'm talking about the added cost of
3 doing business for the small businessman,
4 someone -- one of the briefs said it was a
5 \$250,000 cost to implement one of these sales
6 programs, one of these sales tax programs?

7 MR. JACKLEY: That brief left out that
8 it begins -- it's to scale, and it begins at
9 \$12 a month for 30 transactions. When you look
10 at the cost associated with collection, it --
11 it really depends --

12 JUSTICE SOTOMAYOR: That doesn't
13 include auditing. It doesn't include
14 integrating the program with the existing sales
15 program of the company. It doesn't account for
16 the maintenance of the program.

17 There's lots of costs that are
18 inherent in a process of this type.

19 MR. JACKLEY: One thing to look at is
20 the fact that all these sellers, at least in
21 the 45 states with a sales tax, already have a
22 collection and a remittance obligation and
23 already have in place the software that is able
24 to calculate --

25 JUSTICE SOTOMAYOR: I'm sorry.

1 There's five states that don't centralize the
2 state and local.

3 MR. JACKLEY: With those five states,
4 as -- as indicated from the briefing, it's to
5 scale. And it begins at \$12 a month for 30
6 transactions. And I think the important thing
7 to look at when it comes to burden is Quill, in
8 the physical presence, doesn't address that
9 issue. It doesn't address that issue because,
10 as shown in National Geographic, you may have a
11 situation where there's a warehouse, there's
12 goods that are warehoused in a particular
13 locality where it will still trigger the sales
14 tax obligation.

15 CHIEF JUSTICE ROBERTS: Well, but did
16 I understand you to acknowledge that there
17 would be a constitutional minimum with respect
18 to the burdens? In other words, that some
19 businesses would not -- you could not impose
20 the obligation on some small businesses?

21 MR. JACKLEY: Mr. Chief Justice,
22 certainly, that's what Pike is for, is to
23 determine in a balancing if there is a
24 constitutional concern, if there is a Commerce
25 Clause concern.

1 JUSTICE GINSBURG: Sounds -- sounds
2 more --

3 CHIEF JUSTICE ROBERTS: Well, in
4 anything -- the other areas you just mentioned,
5 I don't know that we've recognized a -- a
6 lowest level for things like a physical
7 presence, right? I mean, isn't it one person,
8 one building? So that -- that would be another
9 special rule in this context, wouldn't it?

10 MR. JACKLEY: You know, certainly,
11 that's one way to look at it, yes, that when
12 you look at the burdens and you look at really
13 physical presence, there are a lot of things
14 that can trigger it. It can be a building, a
15 warehouse. It can be a traveling salesperson
16 that comes to visit in South Dakota at Mount
17 Rushmore and there's a sale.

18 The other important thing to look at
19 when it comes to burden is the state schemes
20 that are being put in place, such as in
21 Colorado with the notice and the reporting
22 requirement, those are burdens that are of
23 equal or perhaps even greater than a simple
24 collection and remittance of a tax.

25 JUSTICE ALITO: If you have -- if

1 there are two options, let's say option A is
2 eliminate Quill and states can do whatever they
3 want with respect to retroactive liability and
4 with respect to the minimum number of sales
5 that are required in the state in order for the
6 sales to be taxed, in order to require them to
7 collect the tax. That's option A.

8 Option B is a congressional scheme
9 that deals with all of these problems. If
10 those are the only two options, which is
11 preferable?

12 MR. JACKLEY: Option A. The reason
13 for Option A is this: Congress has had 26
14 years to address this issue. And it's not
15 Congress, but it's Quill, it's this Court's
16 decision, that is striking down our state
17 statutes.

18 JUSTICE KAGAN: But, General, usually,
19 when somebody says something like that, that
20 Congress has not addressed an issue for 25-plus
21 years, you know, it -- it gives us reason to
22 pause, because Congress could have addressed
23 the issue and Congress chose not to.

24 This is not the kind of issue where
25 you say: Well, probably didn't get on

1 Congress's radar screen or maybe Congress was
2 too busy doing other things. This is a very
3 prominent issue which Congress has been aware
4 of for a very long time and has chosen not to
5 do something about that. And that seems to
6 make the -- your bar higher to surmount, isn't
7 it?

8 MR. JACKLEY: This is a constitutional
9 interpretation. And one way to look at
10 Congress is what was just announced by the
11 Court today, the Microsoft decision.

12 Sometimes the activity of this Court
13 will spur Congress to act. It did in the
14 Microsoft situation. But, in this instance, it
15 hasn't. And I think --

16 JUSTICE GINSBURG: That was --
17 Microsoft was just a statutory interpretation
18 question where we might expect Congress to come
19 in.

20 But, here, I take it that your point
21 is Quill, right or wrong, was this Court's
22 decision. And if time has, and changing
23 conditions, have rendered it obsolete, why
24 should the Court which created the doctrine
25 say: Well, we'll -- we'll let Congress fix up

1 what turns out to be our obsolete precedent? I
2 think that's the --

3 MR. JACKLEY: It is, Justice Ginsburg.

4 JUSTICE BREYER: If that's your
5 answer, isn't it normal that we treat a dormant
6 Commerce Clause case the same way we treat
7 statutes?

8 I mean, I think the examples are
9 legion. Congress cannot overturn
10 constitutional decisions, but, in the dormant
11 Commerce Clause case, it's different, and of
12 course they can, and of course they do.

13 So I don't really see a difference
14 there. So what's the difference?

15 MR. JACKLEY: Justice Breyer, I would
16 still say there's a difference because this is
17 a constitutional interpretation.

18 JUSTICE BREYER: No, no, but the word
19 constitutional is not magic. The reason that
20 we say we are more willing to overturn a
21 constitutional case is because Congress can't
22 act.

23 But, here, they can act. And,
24 therefore, there is no reason for treating it
25 specially. What is the response to that?

1 MR. JACKLEY: I think the reason to
2 treat it special is because we have a situation
3 where Congress has had 26 years. They --

4 JUSTICE BREYER: Well, we have briefs
5 from three Senators and Congressman Goodlatte
6 that says Congress was about to act. And,
7 indeed, what stopped them from acting was our
8 decision to decide this case.

9 MR. JACKLEY: I --

10 JUSTICE BREYER: Now that's -- that's
11 their view of it. And between whether they
12 know or whether I know, I guess they have a
13 better view. They're members of Congress, and
14 they point to many statutes. And you are 50
15 states. If you do not have the power to get
16 Congress to do something, I don't know who
17 would.

18 MR. JACKLEY: Congress doesn't have an
19 incentive in this instance to take action in
20 something that could be perceived as a tax when
21 yet they don't get the opportunity to use the
22 revenue.

23 JUSTICE ALITO: Well, as things stand
24 now, it seems that both the states and Internet
25 retailers have an incentive to ask for a

1 congressional solution to this problem.

2 So the Internet retailers will have to
3 deal with statutes like the Colorado reporting
4 statute and with aggressive moves by the states
5 to try to bring taxation within Quill in some
6 way.

7 And the states, obviously, have an
8 incentive to require retail -- Internet
9 retailers to collect the tax. So there are
10 incentives on both sides. But if Quill is
11 overruled, what incentives do the states have
12 to ask for any kind of congressional
13 legislation?

14 MR. JACKLEY: Well, certainly, if --
15 if Quill is overruled, the states will have
16 their constitutional responsibilities to follow
17 Complete Auto and to follow Pike.

18 I mean, what really has happened here
19 is, in Quill, this Court set the default. It
20 set the baseline. So where a state statute, as
21 non-discriminatory as it may be and as
22 reasonable as it may be, such as South
23 Dakota's, it's automatically unconstitutional
24 and struck down.

25 JUSTICE BREYER: Can I ask you the

1 questions that I -- two or three brief
2 questions? You answer them when you wish and
3 if you wish.

4 And the reason I'm asking like this is
5 because I read through these briefs. When I
6 read your briefs, I thought absolutely right.
7 And then I read through the other briefs, and I
8 thought absolutely right. And you cannot both
9 be absolutely right.

10 (Laughter.)

11 JUSTICE BREYER: All right. So why is
12 it, one, you have wildly different estimates of
13 costs, revenues, and what states are losing or
14 not? How do I find -- and other -- and other
15 things. Can you do this on the Internet --
16 they say there are 12 mistakes, even in South
17 Dakota, all right -- or not?

18 That's Question 1. How do I find out?
19 You have a list here of I would say -- they
20 do -- of six or eight really tough practical
21 decisions, retroactivity, all kinds of things
22 like that. How do we deal with that? Okay?

23 I would like to -- to -- to know the
24 answer to that. And you've already dealt with
25 one, which is, well, I'll put it specifically:

1 What's the standard? What's the standard?

2 The government says physical presence.

3 Huh? Any? What? Okay. So those were my
4 three questions. Anytime you want to deal with
5 them or if you want to deal with them, do so.

6 MR. JACKLEY: Use Respondents'
7 numbers. It's \$100 billion over the next 10
8 years. Use Respondents' activity. We know
9 they collect in -- Wayfair collects in 22
10 states. They do this.

11 In fact, Quill.com now collects in
12 every state. So those numbers show that they
13 do this, use the GAO to show that, of course,
14 you can do this. Companies do this every day.

15 Systemax, who was originally a
16 defendant in this case, no longer is a
17 defendant because overnight they simply
18 switched over.

19 When it comes to retroactivity, the
20 states don't want to address this
21 retroactively, which is why South Dakota,
22 illustrative of that, has indicated we're
23 prospective only.

24 In the briefing, 38 other states have
25 indicated their laws would prevent

1 retroactivity. And significantly --

2 JUSTICE GINSBURG: And that is
3 something that Congress could take care of if
4 we overturn Quill?

5 MR. JACKLEY: Absolutely. In fact --

6 CHIEF JUSTICE ROBERTS: But in terms
7 of -- in terms of the economic impact, I mean,
8 the suggestion in some of the briefs is that
9 this is a problem that has peaked in the sense
10 that the -- the bigger e-commerce companies
11 find themselves with physical presence in -- in
12 all 50 states. So they're already covered.
13 And the work-arounds that some of the states
14 have employed are also bringing more in.

15 And if it is, in fact, a problem that
16 is diminishing rather than expanding, why
17 doesn't that suggest that there are greater
18 significance to the arguments that we should
19 leave Quill in place?

20 MR. JACKLEY: Mr. Chief Justice,
21 because I think it's because of e-commerce.
22 E-commerce is now 9 percent of the market, and
23 it's rapidly growing.

24 If you look at the numbers, it's been
25 challenging for the states to collect on that

1 e-commerce. The collection rate is as low as
2 40 --

3 CHIEF JUSTICE ROBERTS: Sure,
4 e-commerce is expanding, and companies like
5 Amazon account for a large part of that. But
6 they're already collecting in all 50 states.

7 And that's the problem. It's not that
8 e-commerce is expanding. It -- it is -- it is
9 -- from your point of view, I think, the
10 problem you have to address is that the
11 coverage in terms of collecting the taxes is
12 expanding as well.

13 MR. JACKLEY: Mr. Chief Justice,
14 certainly, it's expanding, but what remains is
15 that \$100 billion loss over the next 10 years.

16 Mr. Chief Justice, if I may please
17 reserve the remainder of my time.

18 CHIEF JUSTICE ROBERTS: Thank you,
19 counsel.

20 MR. JACKLEY: Thank you.

21 CHIEF JUSTICE ROBERTS: Mr. Stewart.

22 ORAL ARGUMENT OF MALCOLM L. STEWART
23 ON BEHALF OF THE UNITED STATES, AS AMICUS CURIAE,
24 IN SUPPORT OF THE PETITIONER

25 MR. STEWART: Mr. Chief Justice, and

1 may it please the Court:

2 I'd like to start by making two brief
3 points about the stare decisis and the wisdom
4 of leaving this matter to Congress.

5 The first point I'd like to make is,
6 whatever this Court decides, whether it
7 overrules *Bellas Hess* and *Quill*, whether it
8 leaves those in place, whether it does
9 something in between, Congress can act.
10 Congress can impose whatever solution it
11 believes is appropriate.

12 And, indeed, if states are given
13 greater latitude to experiment in this area, to
14 devise different schemes that would balance the
15 interests of out-of-state retailers against the
16 interests of consumers within the states' brick
17 -- brick-and-mortar retailers, the states' own
18 interest in -- in acquiring funds, if states
19 can experiment, Congress will have a wider
20 variety of models to look at to decide what
21 aspects of each it would like to -- to choose.

22 The second thing I'd say about stare
23 --

24 JUSTICE SOTOMAYOR: That doesn't do
25 anything -- that doesn't do anything for the

1 interim period and for the dislocation and
2 lawsuits that will -- it will engender until
3 there is a congressional settlement.

4 MR. STEWART: I mean, the second thing
5 I would say about Quill is that Quill has come
6 to be understood to stand for the proposition
7 that an out-of-state retailer cannot be made to
8 collect state sales tax unless it has employees
9 or a physical facility within the state. That
10 -- that's the meaning that's been attached to
11 the phrase "physical presence requirement" that
12 the Court used in Quill.

13 I think, in context, it's very clear
14 that Quill was not issuing an at least
15 inadvertent holding about the role of the
16 Internet presence in determining a company's
17 obligation to collect state sales tax.

18 The Court was dealing with Bellas
19 Hess. It summarized the Bellas Hess rule as
20 being that, if the out-of-state retailer's only
21 contact with the taxing state was delivery of
22 goods and catalogs by mail or common carrier,
23 that was insufficient.

24 And then the Court used the term
25 "physical presence requirement," we believe, as

1 shorthand for that principle. But the Court
2 was not saying anything one way or the other
3 about the role of a pervasive Internet presence
4 in establishing sufficient contacts with the
5 state to allow for the collection duty.

6 And a rough analog might be that in
7 the past 15 years, the Court -- this Court has
8 sometimes acknowledged that its prior decisions
9 had used the word "jurisdictional" in a
10 less-than-precise manner, and the Court has
11 sometimes said statutes that we previously
12 characterized as jurisdictional are not really
13 that; they are something else.

14 And, to be sure, lower courts during
15 the interim were wary of rejecting this Court's
16 statement that a particular statute was
17 jurisdictional, even if it seemed to be
18 unthinking, but the Court, when it righted
19 itself, didn't feel obligated to go through the
20 steps of deciding whether the standards for
21 overruling a prior precedent had been
22 established. It simply said: We used the
23 wrong shorthand; we -- we're not wrong as to
24 the substance, and we'll go from there.

25 And I think that --

1 CHIEF JUSTICE ROBERTS: Mr. Stewart,
2 do -- do you believe that there is a
3 constitutional minimum so that even a company
4 -- a small business using the Internet may have
5 greater burdens than Amazon and, therefore,
6 they have a constitutional claim under your
7 position, or, under your position, can the
8 states impose the burdens on any -- any
9 micro-business, I guess is what the term has
10 been used?

11 MR. STEWART: I think our view as to
12 the -- the correct answer, the -- the answer
13 that is most consistent with this Court's --
14 the body of this Court's dormant Commerce
15 Clause jurisprudence is there's no
16 constitutional minimum, that if you have an
17 out-of-state retailer who is deliberately
18 selling a particular physical good within the
19 state, shipping the good into the state for
20 delivery to the customer and transfer of title,
21 that that is a sufficient basis for subjecting
22 that retailer to the tax collection obligation
23 in the same way that if that single good turned
24 out to be defective, the state could be subject
25 to the -- I'm sorry, the retailer could be

1 subject to regulatory burdens imposed by the
2 state, conceivably could be hauled into -- to
3 court to answer for the --

4 JUSTICE GINSBURG: Mr. -- Mr. Stewart,
5 isn't that the very kind of question that
6 Congress would be equipped to deal with,
7 establishing a minimum?

8 MR. STEWART: Certainly, the fact that
9 we don't think there's a constitutional minimum
10 doesn't mean it wouldn't be a good idea and it
11 wouldn't hinder Congress's ability to decide
12 that a minimum -- minimum should be establish
13 --

14 JUSTICE KAGAN: But isn't that
15 essentially a reason why we should leave this
16 to Congress? In other words, from this Court's
17 perspective, the choice is just binary. It's
18 -- it's you either have the Quill rule or you
19 don't.

20 But Congress is capable of crafting
21 compromises and trying to figure out how to
22 balance the wide range of interests involved
23 here.

24 Now the General said Congress hasn't
25 done that, but, again, you know, Congress can

1 decide when it wants to craft a compromise and
2 when it doesn't want to craft a compromise.
3 And then Congress, if it decides it wants to
4 craft a compromise, can craft a compromise in
5 ways that we cannot.

6 MR. STEWART: I -- I would certainly
7 agree that Congress has a broader range of
8 options available to it than does the Court and
9 an ability to devise more nuanced solutions.

10 I don't think, with respect, that it's
11 accurate to characterize the choice before the
12 Court as binary; that is, although it would not
13 be our preferred constitutional rule, it would
14 be open to the Court to say physical presence
15 in the form of employees or physical facilities
16 within the state is not an ironclad requirement
17 and yet not go as far as -- as we've advocated;
18 namely, that anything --

19 JUSTICE BREYER: All right. But the
20 one --

21 MR. STEWART: -- within the state is
22 -- is sufficient. And one thing that the Court
23 could do is, as it often does, say: We'll look
24 at the statute before us. We will decide
25 whether the nexus that South Dakota has

1 required in the form of economic contacts
2 within the state as a prerequisite to the tax
3 collection duty -- that at any rate is
4 constitutionally sufficient. And the Court
5 could leave for another day and for Congress
6 the question should a lesser link be sufficient
7 as well.

8 JUSTICE BREYER: All right. But,
9 look, the part that's bringing me there, which
10 I really think we can't do after reading these
11 briefs, is what they -- their side puts up a
12 certain specter which I'm sensitive to, which
13 is that we have four or maybe five giant
14 potential retailers in the country; I mean,
15 there could be a very small number selling
16 virtually anything. And they sell over the
17 Internet. And the hope of preventing
18 oligopoly, et cetera, is small business, which
19 finds it easy to enter.

20 Now you raise with this entry
21 barriers, and they say a lot and you say a
22 little. And I don't know if it's a little or
23 if it's a lot. And if it is a lot, there might
24 be ways of putting minimums in that would, in
25 fact, preserve the possibility of competition

1 and the possibility of new entry, stopping the
2 entry barriers from raising too high.

3 Now that's something the Antitrust
4 Division could testify about, but they're not
5 going to testify here. And so that's the kind
6 of problem that worries me.

7 MR. STEWART: Well, let me say two or
8 three things about that. The first is that the
9 GAO report said that something like 80 or 90 of
10 the 100 biggest Internet retailers are paying
11 their state sales taxes.

12 JUSTICE BREYER: Oh, is that it?

13 MR. STEWART: So it's -- it's big
14 companies, but it's not just the -- the four or
15 five biggest giants.

16 And so the question is kind of how far
17 down the line do you go? How small does a
18 company have to become in order for the -- the
19 burden of collecting state sales taxes to -- to
20 be substantial as -- as a practical matter?

21 And, you know, our front-line answer
22 is the dormant Commerce Clause doesn't entitle
23 a fledgling business to the ability to make a
24 profit if the obligation to collect sales taxes
25 in various states pushes it from making a

1 profit to -- to sustaining a loss. That's not
2 a constitutional defect.

3 But the other thing we would say is
4 nobody on the other side is really seriously
5 contending that the South Dakota law in and of
6 itself places exorbitant burdens. And, indeed,
7 nobody on the other side is even contending
8 that if every state did exactly what South
9 Dakota has done, that the burdens would be
10 exorbitant.

11 JUSTICE ALITO: But the South Dakota
12 law is obviously a test case. You know, it was
13 -- it was devised to present the most
14 reasonable incarnation of this scheme. But do
15 you have any doubt that states that are
16 tottering on the edge of insolvency and
17 municipalities which may be in even worse
18 position have a strong incentive to grab
19 everything they possibly can?

20 MR. STEWART: And -- and, certainly,
21 if the Court issued a decision that said
22 physical presence is no -- that adopted our --
23 kind of our view of the correct answer that
24 said you sell -- you make one sale into the
25 state, you are obligated to collect the sales

1 tax, I have no doubt that if the Court issued
2 that ruling, many states would adopt regimes
3 that are less hospitable to retailers, unless
4 they were stopped from doing that by Congress.

5 My -- my point, though, is that there
6 are various contexts in the -- the dormant
7 Commerce Clause, particularly in determining
8 whether a state's tax is likely to cause
9 duplicative taxation, in which the Court says:
10 What if every state were to do this? Wouldn't
11 the burdens on interstate commerce be
12 exorbitant?

13 I have my doubts that that mode of
14 analysis applies here, but even if it -- if it
15 did, what the retailers are asking for is
16 something more -- much more than that. They
17 are asking for the Court to say that because,
18 if every other state adopted a regime that was
19 a much more onerous variant of what South
20 Dakota's statute does, South Dakota's statute
21 must be invalid.

22 There's no basis in the Court's
23 dormant Commerce Clause jurisprudence for
24 holding that.

25 JUSTICE GORSUCH: So even if --

1 CHIEF JUSTICE ROBERTS: Well --

2 JUSTICE ALITO: Well, on the issue of
3 duplicative --

4 CHIEF JUSTICE ROBERTS: Go ahead.

5 JUSTICE ALITO: -- duplicative
6 taxation, does the government have a position
7 on the question whether retroactive application
8 of -- of this would be constitutional?

9 MR. STEWART: In our view, it would be
10 constitutional, in -- in part because, as I was
11 saying earlier, we don't understand Quill to
12 have issued an in -- inadvertent holding with
13 respect to Internet presence. The Court, in
14 our view, can simply clarify Quill rather than
15 overrule it.

16 But even if the Court felt that
17 retroactive application of the decision, the
18 collection of back taxes, raised more
19 substantial constitutional problems, it could
20 simply leave open the possibility of additional
21 Pike-type challenges to back taxes even as
22 prospective application of --

23 JUSTICE GINSBURG: Mr. Stewart, may --
24 may I just ask --

25 MR. STEWART: -- the law was

1 sustained.

2 JUSTICE GINSBURG: -- before you
3 finish, what is the government's position on
4 the prospect of prospective overruling of
5 Quill? Then we would have no retroactivity
6 problem.

7 MR. STEWART: I -- I think the Court
8 has eschewed prospective announcement of
9 constitutional rules in the following sense:
10 That is, the Court has determined, certainly
11 correctly I -- I believe, that the Court's role
12 is to interpret the Constitution, not to amend
13 it.

14 If the Court says in June of this year
15 that the dormant Commerce Clause means X, it
16 can't say that up until now the dormant
17 Commerce Clause meant something else. And in
18 that sense, prospective decision-making is
19 inconsistent with the judicial role.

20 However, there are circumstances --
21 and qualified immunity is one of them -- where
22 even though the newly announced constitutional
23 rule as a rule applies retroactively, the
24 ability of -- the availability of particular
25 types of relief may depend on whether people

1 were justifiably uncertain at the time.

2 CHIEF JUSTICE ROBERTS: Thank you,
3 counsel.

4 Mr. Isaacson.

5 ORAL ARGUMENT OF GEORGE S. ISAACSON
6 ON BEHALF OF THE RESPONDENTS

7 MR. ISAACSON: Mr. Chief Justice, and
8 if it please the Court:

9 I'd like to direct my initial
10 responses to some of the questions that Justice
11 Breyer was asking counsel. He pointed out the
12 fact that there were conflicting numbers before
13 the Court regarding what is the amount of lost
14 revenue that the states are experiencing, and
15 he said, what should we rely upon?

16 The most authoritative, independent,
17 and extensive study was the one that was done
18 by the General Accountability Office, and the
19 General Accountability Office determined that
20 the private study that was done by two
21 professors at the University of Tennessee,
22 which was issued in 2009 based on 2006 figures,
23 and then updated in 2012 based upon 2009
24 figures, the GAO indicated that the figures
25 were only one-quarter to one-third of the

1 amount of lost revenues.

2 JUSTICE BREYER: That -- that wasn't
3 the problem really. The problem really is your
4 brief is filled with stuff. I mean, for
5 example, go to the website, which I went to,
6 that they recommend, and it seems easy to
7 determine what the sales tax was. And you say:
8 But, my God, even 12 mistakes in South Dakota.

9 And, moreover, there are 10,000
10 different ones, and you try to do that and you
11 get it wrong, and either the state assesses
12 \$500 penalty for every mistake, which is
13 billions or, you know, a lot, and -- or the
14 class action lawyers sue you for having paid
15 too much. All right? Your brief is filled
16 with that kind of thing.

17 Their brief says: You know, even if
18 we don't have perfect software, we can develop
19 it. It's not so hard. And when there's a
20 demand for it, we'll do it, and it'll be easy.

21 And you say: It's going to cost
22 thousands and thousands of dollars for a small
23 business, maybe all their profits eaten up in
24 hiring accountants. They say: That won't be
25 necessary. We'll do it on software.

1 And, hey, they're not going to -- and
2 do it -- overrule prospectively. Okay? Both
3 are logical. How do I decide who's right?

4 MR. ISAACSON: Well, part of that
5 problem, Justice Breyer, is the fact that
6 there's no record in this case. And so, in
7 trying to determine even as a matter of stare
8 decisis where there is a special justification
9 for overruling Quill, I think the problem that
10 you've identified is that no record has been
11 presented to the Court that would support that
12 substantial justification.

13 JUSTICE GINSBURG: But how about going
14 back to the very basic issue? An -- assertion
15 is that asking an out-of-state seller to
16 collect tax on goods shipped in-state
17 discriminates against interstate commerce.

18 But, I see it, why isn't it, far from
19 discriminating, equalizing sellers; that is,
20 anyone who wants to sell in-state, whether an
21 in-state shop, an out-of-state shop, everybody
22 is treated to the same tax collection
23 obligation. All who exploit an in-state market
24 are subject to the in-state tax.

25 Why isn't that equalizing rather than

1 discriminating?

2 MR. ISAACSON: Well, the -- the
3 dormant Commerce Clause takes as its principal
4 objective the maintenance of a single national
5 marketplace that is free and accessible to all
6 participants.

7 And the Court found back in the Bellas
8 Hess decision in '67 that the existence of 2300
9 different sales and use tax jurisdictions with
10 varying rates, varying exemptions, varying
11 taxability items, varying filing requirements
12 and audit obligations, was a burden on in-state
13 commerce.

14 In 1992, when Quill was decided, that
15 figure went from 2300 to 6,000. That figure
16 today is over 12,000 different jurisdictions.

17 So the concern that the Bellas Hess
18 and Quill courts had was the notion that a free
19 and open market would be encumbered by that
20 degree of complexity. And that complexity has
21 only worsened over time.

22 JUSTICE GORSUCH: I -- I -- I don't
23 think you've quite addressed Justice Ginsburg's
24 question, though, which is brick-and-mortar
25 retailers, if they choose to operate in any

1 given jurisdiction, have to comply with that
2 jurisdiction. There are a lot of retailers
3 that have to comply with lots of different
4 jurisdictions' rules.

5 Why should we favor, this Court favor,
6 a particular business model that relies not on
7 brick and mortar but on mail order?

8 I understand in Bellas Hess the Court
9 was concerned about a nascent, small mail order
10 industry. Those concerns seem a little
11 antiquated today.

12 So maybe if you could address, Justice
13 Ginsburg's question is the same one I have, so
14 anything you might say on that would be
15 helpful.

16 MR. ISAACSON: Thank you, Justice
17 Gorsuch.

18 Borders count. States exercise their
19 sovereignty based upon borders, territorial
20 limits. It's a key part of horizontal
21 federalism in this country.

22 So, if there's going to be some
23 standard that determines when is a company
24 subject to the tax jurisdiction of a state,
25 using the -- the territorial limits of that

1 state make sense.

2 What I think is most significant in
3 looking at this -- this issue is that most of
4 the large retailers -- 19 of the 20 largest
5 Internet retailers already do collect tax
6 because the nature of the market has required
7 them to establish a local presence. Among the
8 100 top Internet retailers, the collection rate
9 is between 86 and 97 percent.

10 JUSTICE GORSUCH: I accept that, but
11 it's still not responsive, counsel.

12 You're -- you're -- you're just merely
13 pointing out that more Internet retailers are
14 moving toward brick and mortar. Fine. But,
15 again, why should this Court favor those who
16 don't over those who do? That's the question.

17 MR. ISAACSON: So the -- the United
18 States has suggested that even one sale into
19 the state would require collection. Now a
20 point of sale retailer only has to comply with
21 one jurisdiction, where their store is located.

22 JUSTICE GORSUCH: Not necessarily.

23 JUSTICE BREYER: You may know the
24 answer -- you may know the answer, but, I mean,
25 with all these numbers, I mean, one part of the

1 answer to that in my mind or, not an answer,
2 but help resolve it, is what does it cost for a
3 mandolin seller who sells mandolins on the
4 Internet to sell them in 50 states? How much
5 does it cost him to enter that market?

6 How much did it cost Sears, Roebuck?
7 You know, that's an ancient name, but they did
8 all right.

9 (Laughter.)

10 JUSTICE BREYER: And, by the way, how
11 much does it cost Amazon voluntarily to comply?

12 And I -- I mean, see, there are
13 empirical questions that I think are -- would
14 help me reach an answer. And if you know them,
15 tell me. No one asked Amazon. What does it
16 cost Amazon? What does it cost the mandolin
17 saler -- seller? What are the -- are there
18 differences? I don't know.

19 MR. ISAACSON: So one of the reports
20 --

21 JUSTICE BREYER: Do you know? Do you
22 know what it costs Amazon?

23 MR. ISAACSON: I do not know what it
24 costs Amazon, but I do know that in the
25 Kavanagh report, which we cite in our -- in our

1 briefs to the Court, indicated that the cost of
2 just implementation and integration of a
3 software system, before you're dealing with any
4 of the other issues, costs up to \$250,000.

5 That the maintenance of a system --
6 JUSTICE GORSUCH: Well, but it starts
7 at \$12. We know that too. Right? So that
8 figure seems a little misleading.

9 I guess the real question that I think
10 Justice Breyer is maybe getting at, and I'd
11 love your help on this too, is the comparative
12 difference. Right?

13 After Quill, now states may force
14 Internet providers to provide information, like
15 Colorado does, that enable them to collect tax
16 from the taxpayer. So the real delta here
17 isn't no duty at all on the Internet supplier
18 versus collecting sales taxes. It's something
19 like Colorado's regime versus collecting sales
20 tax.

21 Do you have any information at all as
22 to which is the lesser burden? I've wondered
23 whether the Colorado regime might be more
24 burdensome to clients like yours who do sales
25 over the Internet than just simply collecting

1 the sales tax itself.

2 MR. ISAACSON: The Colorado regime is
3 much less burdensome.

4 JUSTICE GORSUCH: Do you have any data
5 on that? Is there anything at all that tells
6 us that?

7 MR. ISAACSON: Well, that law has only
8 gone into effect this year. The annual
9 reporting requirement hasn't -- hasn't arrived
10 yet. It doesn't arrive until -- until next
11 year. And so there -- there's no empirical
12 evidence in that regard.

13 But the reporting requirement for the
14 Colorado law simply requires a single annual
15 spreadsheet reporting of all the purchases that
16 were made by Colorado residents.

17 JUSTICE GINSBURG: And then the state
18 has the burden of going after consumers, I
19 mean, just in the real world, it's much more
20 efficient, much more likely, to yield funds if
21 you go after the seller than if you go after
22 the individual consumer.

23 MR. ISAACSON: And I think that
24 speaks, Justice Ginsburg, to the value of a
25 congressional solution. So, for example, what

1 Congress can require is one rate per state for
2 all remote sales.

3 It can require a clearinghouse that
4 can be used for the processing of payments. It
5 can require standard uniform definitions of
6 products so that food and sportswear and
7 clothing doesn't mean one thing in one
8 jurisdiction and another elsewhere.

9 I think an important part of the
10 history of this issue and correcting what I
11 think is the misimpression that's been
12 presented by the United States and the State of
13 South Dakota is that Congress has been active
14 on this issue going back to shortly after the
15 Quill decision.

16 Congress passed the Internet Tax
17 Freedom Act in 1998, which established an
18 Advisory Commission on Electronic Commerce,
19 which issued a comprehensive report in 2000
20 detailing the items that the states should
21 address to simplify their tax systems in order
22 to warrant federal legislation.

23 And it called upon the states to
24 develop that system within five years. The
25 minority report called upon the states to issue

1 -- to develop that system within two years.

2 The states did not develop that --
3 that system. A number of states initiated a
4 project called the Streamlined Sales Tax
5 Project to come up with such a uniform system
6 of taxation. And over two-thirds of the states
7 with populations having -- over -- states with
8 a population of more than two-thirds of the
9 national population refused to join, and that
10 included all the larger states, like New York,
11 Pennsylvania, Illinois, Texas, Florida,
12 California.

13 So that Congress has given clear
14 direction to the states, the kind of steps that
15 should be taken if they were going to be
16 obtaining from Congress broader tax
17 jurisdiction. The --

18 JUSTICE SOTOMAYOR: Can you imagine us
19 saying anything -- assuming we were -- and it's
20 hypothetical to accept your position. Is there
21 anything we can do to give Congress a signal
22 that it should act more affirmatively in this
23 area?

24 MR. ISAACSON: I would welcome a
25 decision from this Court that would indicate

1 that Congress should move forward with
2 consideration and action upon legislation. But
3 I think the wheels --

4 JUSTICE SOTOMAYOR: Well --

5 CHIEF JUSTICE ROBERTS: I'm sorry.
6 Maybe they already -- maybe they already have
7 and they've made a decision or at least
8 majorities have made a decision that this is
9 something they're going to leave the way it has
10 been for, whatever it is, 25 years. I think it
11 would be very strange for us to tell Congress
12 it ought to do something in any particular
13 area. Just a thought.

14 MR. ISAACSON: I certainly -- I
15 certainly wouldn't advise this Court on -- on
16 how it should relay to Congress. But I would
17 point out, Mr. Chief Justice, that all of the
18 players that are involved in this issue are in
19 favor of federal legislation. For the direct
20 marketing industry, as I've pointed out to you,
21 the largest players are collecting tax. They
22 would welcome simplification.

23 JUSTICE KENNEDY: But you say that --
24 that congressional action should be taken
25 against the background in which this Court has

1 made a statement of constitutional law that is
2 -- has now, especially in light of the cyber
3 age, proven incorrect. So you want Congress to
4 act against the background in which this Court
5 has made an incorrect resolution of the law.
6 That's -- that's the assumption you're making.

7 Of course, I know your backup argument
8 is that Quill is correct. I understand that.

9 MR. ISAACSON: I'm certainly not
10 suggesting that Congress should be acting to
11 correct this Court's Quill decision. Rather,
12 this Court recognized in its Quill decision
13 that Congress had the power and was better
14 suited to be addressing the issue.

15 JUSTICE KENNEDY: But -- but the
16 assumption of many of these questions is that
17 Quill is incorrect but that that doesn't make
18 any difference. And I'm suggesting that it
19 does make a difference when -- when Congress
20 acts for it to determine what the
21 constitutional rule is as correctly stated by
22 this Court.

23 Now I understand you think Quill is
24 correct, but most of these questions have --
25 have just assumed that Quill is incorrect. But

1 what difference does it make?

2 MR. ISAACSON: I think that then
3 introduces the issue of stare decisis, because
4 the standard of stare decisis is that, even
5 where the Court has ruled incorrectly, there's
6 a value in settled expectations and standing by
7 the decision previously.

8 And that is most powerful when
9 Congress has the ability to correct an error if
10 that error existed. And both the state and the
11 United States deal very lightly with the issue
12 of stare decisis.

13 JUSTICE GINSBURG: But if the Court is
14 responsible for *Bellas Hess*, and there was from
15 the very beginning strong dissenting opinions,
16 and there was a suggestion that there be a test
17 -- a test case, why shouldn't the Court take
18 responsibility to keep our case law in tune
19 with the current commercial arrangements? It's
20 been said that that has been done in the
21 antitrust area. Why are we -- Congress -- ask
22 Congress to overturn our obsolete precedent?

23 MR. ISAACSON: Well, first, the *Quill*
24 Court did not invite test case litigation on
25 the issue. Justice Kennedy raised that issue

1 in his concurring opinion in -- in the Brohl
2 decision.

3 JUSTICE GINSBURG: Yes.

4 MR. ISAACSON: But I think the main
5 reason, Justice Ginsburg, is because of the
6 power of stare decisis, especially on the issue
7 of reliance.

8 If this Court decided to overturn
9 Quill -- and I think Justice Alito giving the
10 -- the two alternatives, either a -- an
11 immediate overturning of Quill or -- or turning
12 to a congressional solution -- the result would
13 be chaotic.

14 It's interesting, if you take the
15 statement of Colorado's only member of the
16 House of Representatives, Katie Noem, said, "If
17 the Supreme Court rules in South Dakota's
18 favor, it could become a marketplace
19 free-for-all. A South Dakota small business,
20 for instance, could be forced to comply with
21 1,000 different tax structures nationwide
22 without the tools necessary to do so."

23 That's from a high official
24 representing the --

25 JUSTICE GINSBURG: Under Brohl, don't

1 --

2 MR. ISAACSON: -- State of South
3 Dakota.

4 JUSTICE GINSBURG: -- you think
5 there's enough incentive in the system that if
6 we did overrule Quill, that entrepreneurs would
7 produce software that would meet the market
8 need?

9 MR. ISAACSON: The notion of software
10 being a silver bullet, I -- I think, is -- is a
11 -- is a real misapprehension. The actual
12 looking up of the rate for the 12,000 different
13 tax jurisdictions hardly scratches the surface.

14 Retailers need to map their products
15 against that software, which is rife with
16 errors because common products are defined
17 differently in different states. And it's not
18 merely the 45 states plus the District of
19 Columbia that have sales tax, but there are
20 over 500 home rule jurisdictions that have
21 their own tax bases and definitions.

22 The record retention that's necessary
23 for exempt buyers, exempt transactions, exempt
24 uses, is a physical process that needs to be
25 done by the -- by the retailer. The filing of

1 the -- of the reports are different for the
2 various states.

3 JUSTICE KAGAN: I think what --

4 JUSTICE GINSBURG: Why is it --

5 JUSTICE KAGAN: -- Justice Ginsburg
6 was perhaps suggesting was that all these
7 functions would be essentially taken over by
8 companies like Amazon and eBay and Etsy, that
9 they would do it for all the retailers on their
10 system.

11 Now there's something a little bit
12 ironic in saying the problem with Quill is that
13 it benefited all these companies, so now we're
14 going to overturn Quill so that we can benefit
15 the exact same companies.

16 But -- but I think that that's the
17 idea; that, in fact, this would not fall on
18 individual entrepreneurs, that it -- instead,
19 they would pay fees to companies like Amazon.

20 MR. ISAACSON: The -- the problem,
21 Justice Kagan, is that a number of the
22 functions that I described simply cannot be
23 performed by software. So, for example, if you
24 need to collect resale and other forms of
25 exemption certificates, states require that

1 those be physical papers that -- that you
2 collect. There's no software solution to that.

3 If -- if a state is coming in to audit
4 you, software doesn't solve that for you in --
5 in -- in any respect. So software can do
6 certain functions, and those functions might
7 improve by entrepreneurial initiatives, but
8 they're not going to solve these other issues.

9 And what will happen, because of the
10 substantial expense that's associated with
11 this, is that small and mid-sized companies
12 will be deterred from entering that market.
13 They have a choice. They can either invest in
14 opening a store within the state and foregoing
15 a national market, or they can develop a
16 website and sell to a national market.

17 The Commerce Clause was the promise --

18 JUSTICE GINSBURG: But they say if
19 they open a store within the state, then
20 they're hit by these remote -- remote sellers,
21 and so their store in the state is suffering.
22 It is the small business person inside the
23 state that's suffering.

24 MR. ISAACSON: It's interesting,
25 Justice Ginsburg, that, currently, over

1 70 percent of all small businesses have a
2 website. And by the end of 2018, it's
3 estimated that 91 percent of small businesses
4 will have a website.

5 So the issue here is not between small
6 in-state retailers and out-of-state direct
7 marketers. The real competition is between the
8 large companies, who are omni-merchants, who
9 are multi-channel merchants, who are
10 increasingly dominating the Internet.

11 And one of the effects, if you
12 increase the cost of admission, if you have
13 barriers to entry, one of the inevitable
14 effects is going to be that those small and
15 medium-sized companies are going to be deterred
16 and there will be even greater concentration by
17 the largest retailers.

18 Again, I think that is antithetical to
19 what the objectives of the Commerce Clause
20 were.

21 The arguments that the United States
22 made, I think, raise some -- some very
23 disturbing notions of what the future would --
24 would look like.

25 The notion that Mr. Stewart presented

1 that there is no constitutional minimum if the
2 Court overturns Quill, that any single sale
3 would obligate a company to then comply with
4 the particulars of that jurisdiction's tax,
5 would really mean that you'd have most smaller
6 merchants say that's not a -- a function that
7 we can assume at an economic basis.

8 JUSTICE GINSBURG: But that would be
9 really something that would appeal to Congress
10 to fix, because the whole picture, Congress
11 doesn't want to look like it's increasing
12 taxes, but fixing something like that would not
13 encounter the same hurdle.

14 MR. ISAACSON: The absence of any
15 incentive of the states to seek a congressional
16 resolution in the event that Quill was
17 overruled, I think, is a major impediment to
18 the notion that Congress would come in and fix
19 the problem.

20 And as Justice Sotomayor pointed out,
21 what happens in the interregnum, what happens
22 in the one- or two- or three-year period before
23 Congress acts and companies are confronted with
24 this dilemma of collection?

25 The notion of a chaotic period

1 preceding Congress coming in to address the
2 issue is as daunting as any in terms of what
3 the consequence of overruling Quill would be.

4 I do want to place special --

5 JUSTICE GINSBURG: We saw today, from
6 the announcement today, that Congress can
7 sometimes act with -- with rapidity.

8 MR. ISAACSON: Well, in -- in this
9 instance, leading state leaders -- for example,
10 the Director of Tax Policy for the Conference
11 of State Legislatures has publicly stated that
12 if this Court were to overturn Quill, there's
13 no reason that the states would favor federal
14 legislation.

15 So that dynamic is one which I think
16 would likely stalemate Congress rather than
17 encourage Congress to act.

18 I do want to make special emphasis on
19 the issue of -- of stare decisis because, since
20 Quill has been in place, and there's been a
21 clear explanation of what the standard is for
22 tax jurisdiction, literally thousands of
23 companies have conformed their conduct to the
24 standard that was -- was established.

25 Justice Scalia's concurrence in the

1 Quill case said that, where that kind of
2 reliance is present and companies have ordered
3 their economic affairs in that reliance, that
4 the adoption of stare decisis is at its acme.
5 And he also pointed out that that is especially
6 so where Congress can address the issue.

7 If Congress were to address the issue,
8 I think there would be no doubt that it would
9 be purely prospective. In fact, I think that's
10 the only thing Congress could probably do, is
11 have a prospective law.

12 But this Court has indicated that a
13 purely prospective ruling is inconsistent with
14 its view of the law and made that very clear in
15 the -- in the Harper case.

16 CHIEF JUSTICE ROBERTS: What is the
17 reliance --

18 JUSTICE GORSUCH: When you say -- I'm
19 sorry.

20 CHIEF JUSTICE ROBERTS: What is the
21 reliance you're talking about, other than the
22 retroactivity question?

23 MR. ISAACSON: Companies have made
24 their investment decisions based upon a
25 business model understanding what the Quill

1 standard requires. So --

2 CHIEF JUSTICE ROBERTS: But the -- the
3 assumption, when you're talking about stare
4 decisis, is that the decision was wrong. So
5 you're saying they've made business decisions
6 on the basis of an erroneous decision, when the
7 decision is based on the fact that -- well,
8 that use taxes are not being paid.

9 MR. ISAACSON: Yeah, I think --

10 CHIEF JUSTICE ROBERTS: In other
11 words, the benefit comes from them, not just
12 from the fact that they don't have to collect,
13 but from the fact that most people aren't
14 paying use taxes.

15 MR. ISAACSON: I think Justice Kagan's
16 decisions in Bay Mills and in Kimble make clear
17 that the application of stare decisis is not
18 dependent upon the correctness of the decision
19 which is being followed.

20 In fact, if a decision is correct,
21 stare decisis isn't necessary. The decision
22 would be standing on its -- on its own legs.

23 So, here, you have a situation quite
24 different than other cases where the Court has
25 been able to declare that there was no reliance

1 or no rightful reliance. Here, you have a
2 situation where you have a whole industry that
3 has understood what the rules are.

4 I think Justice Scalia's term in -- in
5 his concurrence in the Quill case was that
6 these companies had the right to take us at our
7 word, that that was the standard that was --
8 that was applicable.

9 JUSTICE SOTOMAYOR: Is there any brief
10 I can read or any source to determine what
11 constitutes a small business in America? I
12 don't even have the answer to that. Okay? The
13 figures we were given was based on a small
14 business.

15 But is 200 sales a year the minimum,
16 or is it something higher? That's the South
17 Dakota law. It has a minimum amount of sales.
18 I don't know. I don't know enough about the
19 Internet to make a judgment, as suggested by
20 the Solicitor General, to make a judgment that
21 these are actually the right numbers.

22 Is there something I could look at to
23 figure it out?

24 MR. ISAACSON: The Small Business
25 Administration defines small business in

1 various categories of -- of business activity.
2 So that's certainly a source that you could
3 look at.

4 The figure of 200 transactions, I
5 think, needs to be put into -- into clear
6 perspective. The average Internet transaction
7 is \$84. So 200 transactions times \$84 is less
8 than \$17,000.

9 So it's not the \$100,000 a year
10 figure. And there are many Internet sellers,
11 for example, Etsy has 1.9 million participants
12 on Etsy, and many of them are selling products
13 that have only a \$10 sales value. So \$10 times
14 200 is \$2,000.

15 The compliance cost of -- of complying
16 with the South Dakota sales and use tax law on
17 \$2,000 worth of sales would far exceed whatever
18 the profit margin is. And it becomes a good
19 example of --

20 JUSTICE GORSUCH: Is the same true of
21 Colorado's reporting requirements? I mean, if
22 we're going to compare barriers to entry, we
23 have to compare apples to apples. And -- and
24 so we wouldn't compare it necessarily against a
25 baseline of nothing. We'd have to compare it

1 against the reporting requirements of a state
2 like Colorado's. So do you know what the
3 difference, the delta there is?

4 MR. ISAACSON: I don't. I don't, Your
5 Honor. I don't have that -- that figure.

6 If there are no further questions, I
7 thank the Court.

8 CHIEF JUSTICE ROBERTS: Thank you,
9 counsel.

10 General Jackley, five minutes
11 remaining.

12 REBUTTAL ARGUMENT OF MARTY J. JACKLEY

13 ON BEHALF OF THE PETITIONER

14 MR. JACKLEY: Thank you, Mr. Chief
15 Justice.

16 Justice Breyer, I owe you an answer to
17 your third question, and that is what rule
18 would apply. And I would tell you the sky
19 isn't falling, that this Court's jurisprudence
20 already in place with respect to a tax
21 assessment is Complete Auto.

22 With respect to the collections side
23 and concerns with burden, the balancing that
24 Pike has in place provides those constitutional
25 protections.

1 When it comes to Congress, I know the
2 question is --

3 JUSTICE SOTOMAYOR: I -- I'm sorry,
4 you said earlier one sale is enough for -- to
5 justify a state imposing the reporting
6 requirements. Are you backing off that?

7 MR. JACKLEY: No. I think --

8 JUSTICE SOTOMAYOR: What does Pike
9 give us that -- if you're saying one sale is
10 enough?

11 MR. JACKLEY: I think it gives you the
12 nexus. I think there could be a set of
13 circumstances, and that's precisely what Pike
14 is for, to address that in the balancing. But,
15 generally speaking, if there's a sale, there's
16 an activity in the state --

17 JUSTICE BREYER: But where -- what
18 Complete Auto is, it's -- it's a nexus such
19 that the benefits of state revenue do not
20 outweigh the compliance costs associated with
21 the tax collection obligations that the state
22 has imposed.

23 Now that seems like a sensible test,
24 until I suddenly think of 10,000 cases being
25 brought by 20,000 lawyers on one side and

1 another 20,000 on the other to decide
2 jurisdiction by jurisdiction, case by case
3 about whether that test is met.

4 Now that's -- that's -- that's why --
5 that was my problem with Complete Auto.

6 MR. JACKLEY: Complete Auto addresses
7 every other tax situation --

8 JUSTICE BREYER: That's true.

9 MR. JACKLEY: -- other than sales tax.

10 JUSTICE BREYER: That's a very good
11 point.

12 MR. JACKLEY: And Pike addresses every
13 other state regulatory system under the
14 Commerce Clause. And I think it's, based upon
15 that, the sky isn't falling.

16 The question came up about what signal
17 needs to go to Congress. And I would submit I
18 don't believe this Court has to, but if -- if
19 they're looking for a signal, that signal is to
20 overrule Quill.

21 I mean, to reset the default, so that
22 the default, like here, isn't doing all the
23 work. It's a situation where it's this Court's
24 decision in Quill that's basically striking
25 down every state statute, including mine, no

1 matter how non-discriminatory, no matter how
2 low the burdens are.

3 I live in a state that is a
4 streamlined tax state, which means we pay all
5 those collection remittance costs. In fact, we
6 actually pay the businesses up to \$70 a month
7 to be a part of that. So there is no burden.
8 Certainly less of a burden than what is
9 happening in Colorado with a notice and a
10 reporting requirement.

11 The question came up about no record.
12 And the reason there is no record in any of
13 these cases is because Quill makes every fact
14 beyond physical presence irrelevant. That's
15 why Quill was summary judgment, DMA was summary
16 judgment, this case is summary judgment.

17 And I think if you truly want to
18 protect the small sellers, Quill doesn't do
19 that, because you have the National Geographic
20 situation where a -- a business has placed
21 something in a warehouse or a sales
22 representative goes into a state, and it
23 doesn't just trigger the state's taxing. It
24 triggers every local jurisdiction also. If
25 it's California, it triggers several hundred

1 different taxing consequences.

2 So Quill doesn't protect against that.
3 A statute such as South Dakota's does. It sets
4 a reasonable limit of \$100,000 and 200 specific
5 transactions.

6 I know there's been a lot of
7 conversation about retroactivity, and I would
8 again go back to the states are not looking to
9 apply this retroactively. Thirty-eight states'
10 laws, as set forth in Part B of our appendix,
11 can't.

12 Forty-five state attorney generals,
13 the chief litigants that will be addressing
14 this issue, are telling you there are
15 significant constitutional concerns.

16 JUSTICE SOTOMAYOR: So why is it that
17 the states are doing it? The other side
18 pointed us to a number of states that are
19 already making it retroactive.

20 MR. JACKLEY: I believe --

21 JUSTICE SOTOMAYOR: So, I mean --

22 MR. JACKLEY: Justice Sotomayor, I
23 believe that the other side pointed to one
24 state, Connecticut, whose low-level
25 representative sent a letter asking it to apply

1 prospectively from here forward.

2 And I would point out that Attorney
3 General Jepsen, who signed the 45 state amicus
4 briefs, will actually be making that decision.
5 And the true problem with retroactivity is, is
6 what's at issue? What's at issue is not an
7 assessment. It's a collection.

8 So what you would be doing is telling
9 a remote seller you don't have to collect and
10 remit this, and then three years later you
11 would say: Oh, by the way, you do, and we've
12 now changed that collection responsibility to a
13 penalty and interest.

14 And that has significant
15 constitutional concerns, which is why the
16 states aren't doing it and aren't likely going
17 to do it.

18 I truly believe that if you go to look
19 at what is at issue here, it goes back to what
20 I originally said. Small businesses are not
21 being treated fairly. We're not asking remote
22 sellers to do anything that we're not already
23 asking our small businesses to do in our state,
24 and that is simply to collect and remit a tax.

25 I have no further information, Your

1 Honor.

2 CHIEF JUSTICE ROBERTS: Thank you,
3 General.

4 The case is submitted.

5 (Whereupon, at 11:16 a.m., the case
6 was submitted.)

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Official

\$	7	ahead ^[1] 29:4	auditing ^[1] 7:13
\$10 ^[2] 55:13,13	70 ^[1] 49:1	AL ^[1] 1:6	authoritative ^[1] 31:16
\$100 ^[2] 16:7 18:15	8	ALITO ^[6] 9:25 13:23 27:11 29:2,5 45:9	Auto ^[8] 4:25 5:16 6:12 14:17 56:21 57:18 58:5,6
\$100,000 ^[2] 55:9 60:4	80 ^[1] 26:9	allow ^[2] 4:8 21:5	automatically ^[1] 14:23
\$12 ^[3] 7:9 8:5 38:7	86 ^[1] 36:9	already ^[14] 4:20 5:6,16 7:21,23 15:24 17:12 18:6 36:5 42:6,6 56:20 60:19 61:22	availability ^[1] 30:24
\$17,000 ^[1] 55:8	9	alternatives ^[1] 45:10	available ^[1] 24:8
\$2,000 ^[2] 55:14,17	9 ^[1] 17:22	although ^[1] 24:12	average ^[1] 55:6
\$250,000 ^[2] 7:5 38:4	90 ^[1] 26:9	Amazon ^[9] 18:5 22:5 37:11,15,16, 22,24 47:8,19	aware ^[1] 11:3
\$500 ^[1] 32:12	91 ^[1] 49:3	amend ^[1] 30:12	B
\$70 ^[1] 59:6	97 ^[1] 36:9	America ^[1] 54:11	back ^[7] 29:18,21 33:14 34:7 40:14 60:8 61:19
\$84 ^[2] 55:7,7	A	amicus ^[4] 1:22 2:9 18:23 61:3	background ^[2] 42:25 43:4
1	a.m. ^[3] 1:14 3:2 62:5	Among ^[1] 36:7	backing ^[1] 57:6
1 ^[1] 15:18	ability ^[5] 23:11 24:9 26:23 30:24 44:9	amount ^[5] 4:14 6:5 31:13 32:1 54:17	backup ^[1] 43:7
1,000 ^[1] 45:21	able ^[3] 6:1 7:23 53:25	analog ^[1] 21:6	balance ^[2] 19:14 23:22
1.9 ^[1] 55:11	above-entitled ^[1] 1:12	analysis ^[1] 28:14	balancing ^[5] 5:1,23 8:23 56:23 57:14
10 ^[2] 16:7 18:15	absence ^[1] 50:14	ancient ^[1] 37:7	bar ^[1] 11:6
10,000 ^[2] 32:9 57:24	absolutely ^[4] 15:6,8,9 17:5	announced ^[2] 11:10 30:22	barriers ^[4] 25:21 26:2 49:13 55:22
10:16 ^[2] 1:14 3:2	accept ^[2] 36:10 41:20	announcement ^[2] 30:8 51:6	based ^[7] 31:22,23 35:19 52:24 53:7 54:13 58:14
100 ^[2] 26:10 36:8	accessible ^[1] 34:5	annual ^[2] 39:8,14	baseline ^[2] 14:20 55:25
11:16 ^[1] 62:5	account ^[2] 7:15 18:5	another ^[4] 9:8 25:5 40:8 58:1	bases ^[1] 46:21
12 ^[2] 15:16 32:8	Accountability ^[2] 31:18,19	answer ^[16] 6:9 12:5 15:2,24 22:12,12 23:3 26:21 27:23 36:24,24 37:1,1,14 54:12 56:16	basic ^[1] 33:14
12,000 ^[2] 34:16 46:12	accountants ^[1] 32:24	antiquated ^[1] 35:11	basically ^[1] 58:24
15 ^[1] 21:7	accurate ^[1] 24:11	antithetical ^[1] 49:18	basis ^[4] 22:21 28:22 50:7 53:6
17 ^[1] 1:10	acknowledge ^[1] 8:16	Antitrust ^[2] 26:3 44:21	Bay ^[1] 53:16
17-494 ^[1] 3:4	acknowledged ^[1] 21:8	Antytime ^[1] 16:4	become ^[2] 26:18 45:18
18 ^[1] 2:10	acme ^[1] 52:4	appeal ^[1] 50:9	becomes ^[1] 55:18
19 ^[1] 36:4	acquiring ^[1] 19:18	APPEARANCES ^[1] 1:16	beginning ^[1] 44:15
1992 ^[1] 34:14	act ^[10] 11:13 12:22,23 13:6 19:9 40:17 41:22 43:4 51:7,17	appendix ^[1] 60:10	begins ^[3] 7:8,8 8:5
1998 ^[1] 40:17	acting ^[2] 13:7 43:10	apples ^[2] 55:23,23	behalf ^[11] 1:18,22,25 2:5,8,13,16 3:8 18:23 31:6 56:13
2	action ^[4] 13:19 32:14 42:2,24	applicable ^[1] 54:8	behind ^[1] 5:11
20 ^[1] 36:4	active ^[1] 40:13	application ^[4] 29:7,17,22 53:17	believe ^[9] 4:4 6:3 20:25 22:2 30:11 58:18 60:20,23 61:18
20,000 ^[2] 57:25 58:1	activity ^[4] 11:12 16:8 55:1 57:16	applies ^[2] 28:14 30:23	believes ^[1] 19:11
200 ^[7] 6:4,7 54:15 55:4,7,14 60:4	acts ^[2] 43:20 50:23	apportionment ^[2] 4:7 5:18	Bellas ^[7] 19:7 20:18,19 34:7,17 35:8 44:14
200,000 ^[1] 6:3	actual ^[2] 6:1 46:11	appropriate ^[1] 19:11	benefit ^[2] 47:14 53:11
2000 ^[1] 40:19	Actually ^[4] 6:23 54:21 59:6 61:4	April ^[1] 1:10	benefited ^[1] 47:13
2006 ^[1] 31:22	added ^[1] 7:2	area ^[4] 19:13 41:23 42:13 44:21	benefits ^[1] 57:19
2009 ^[2] 31:22,23	additional ^[1] 29:20	areas ^[1] 9:4	better ^[2] 13:13 43:13
2012 ^[1] 31:23	address ^[11] 8:8,9 10:14 16:20 18:10 35:12 40:21 51:1 52:6,7 57:14	aren't ^[4] 4:6 53:13 61:16,16	between ^[5] 13:11 19:9 36:9 49:5, 7
2018 ^[2] 1:10 49:2	addressed ^[4] 5:23 10:20,22 34:23	argument ^[11] 1:13 2:3,6,11,14 3:4,7 18:22 31:5 43:7 56:12	beyond ^[1] 59:14
22 ^[1] 16:9	addresses ^[2] 58:6,12	arguments ^[2] 17:18 49:21	big ^[1] 26:13
2300 ^[2] 34:8,15	addressing ^[2] 43:14 60:13	arrangements ^[1] 44:19	bigger ^[1] 17:10
25 ^[1] 42:10	Administration ^[1] 54:25	arrive ^[1] 39:10	biggest ^[2] 26:10,15
25-plus ^[1] 10:20	admission ^[1] 49:12	arrived ^[1] 39:9	billion ^[2] 16:7 18:15
26 ^[2] 10:13 13:3	adopt ^[1] 28:2	aspects ^[1] 19:21	billions ^[1] 32:13
3	adopted ^[2] 27:22 28:18	assertion ^[1] 33:14	binary ^[2] 23:17 24:12
3 ^[1] 2:5	adoption ^[1] 52:4	assesses ^[1] 32:11	bit ^[1] 47:11
30 ^[3] 5:12 7:9 8:5	advantage ^[1] 3:20	assessment ^[3] 5:17 56:21 61:7	body ^[1] 22:14
31 ^[1] 2:13	advantages ^[1] 4:19	associated ^[3] 7:10 48:10 57:20	Borders ^[2] 35:18,19
38 ^[1] 16:24	advise ^[1] 42:15	assume ^[1] 50:7	both ^[5] 13:24 14:10 15:8 33:2 44:10
4	Advisory ^[1] 40:18	assumed ^[1] 43:25	breaks ^[1] 5:6
40 ^[1] 18:2	advocated ^[1] 24:17	assuming ^[1] 41:19	BREYER ^[2] 12:4,15,18 13:4,10 14:25 15:11 24:19 25:8 26:12 31:11 32:2 33:5 36:23 37:10,21 38:
45 ^[3] 7:21 46:18 61:3	affairs ^[1] 52:3	assumption ^[3] 43:6,16 53:3	
5	affected ^[1] 6:18	attached ^[1] 20:10	
50 ^[4] 13:14 17:12 18:6 37:4	affirmatively ^[1] 41:22	Attorney ^[3] 1:17 60:12 61:2	
500 ^[1] 46:20	age ^[1] 43:3	audit ^[2] 34:12 48:3	
56 ^[1] 2:16	aggressive ^[1] 14:4		
6	agree ^[1] 24:7		
6,000 ^[1] 34:15			
67 ^[1] 34:8			

<p>10 56:16 57:17 58:8,10 brick [3] 19:16 35:7 36:14 brick-and-mortar [2] 19:17 34:24 brief [7] 7:7 15:1 19:2 32:4,15,17 54:9 briefing [2] 8:4 16:24 briefs [9] 7:4 13:4 15:5,6,7 17:8 25:11 38:1 61:4 bring [1] 14:5 bringing [2] 17:14 25:9 broader [2] 24:7 41:16 Brohl [2] 45:1,25 brought [2] 3:12 57:25 building [2] 9:8,14 bullet [1] 46:10 burden [9] 8:7 9:19 26:19 34:12 38:22 39:18 56:23 59:7,8 burdens [10] 8:18 9:12,22 22:5,8 23:1 27:6,9 28:11 59:2 burdensome [2] 38:24 39:3 business [18] 6:19,20 7:3 22:4 25:18 26:23 32:23 35:6 45:19 48:22 52:25 53:5 54:11,14,24,25 55:1 59:20 businesses [10] 3:16 6:16,17 8:19,20 49:1,3 59:6 61:20,23 businessman [1] 7:3 busy [1] 11:2 buyers [1] 46:23</p>	<p>56:8,14 60:13 62:2 choice [3] 23:17 24:11 48:13 choose [2] 19:21 34:25 chose [1] 10:23 chosen [1] 11:4 circumstances [2] 30:20 57:13 cite [1] 37:25 claim [1] 22:6 clarify [1] 29:14 class [1] 32:14 Clause [15] 5:25,25 8:25 12:6,11 22:15 26:22 28:7,23 30:15,17 34:3 48:17 49:19 58:14 clear [6] 20:13 41:13 51:21 52:14 53:16 55:5 clearinghouse [1] 40:3 clients [1] 38:24 clothing [1] 40:7 collect [18] 3:23 4:2 10:7 14:9 16:9 17:25 20:8,17 26:24 27:25 33:16 36:5 38:15 47:24 48:2 53:12 61:9,24 collecting [8] 4:1 18:6,11 26:19 38:18,19,25 42:21 collection [17] 4:20 7:10,22 9:24 18:1 21:5 22:22 25:3 29:18 33:22 36:8,19 50:24 57:21 59:5 61:7,12 collections [1] 56:22 collects [2] 16:9,11 Colorado [8] 9:21 14:3 38:15,23 39:2,14,16 59:9 Colorado's [4] 38:19 45:15 55:21 56:2 Columbia [1] 46:19 come [4] 11:18 20:5 41:5 50:18 comes [7] 5:17 8:7 9:16,19 16:19 53:11 57:1 coming [2] 48:3 51:1 Commerce [19] 5:25,25 8:24 12:6,11 22:14 26:22 28:7,11,23 30:15,17 33:17 34:3,13 40:18 48:17 49:19 58:14 commercial [1] 44:19 Commission [1] 40:18 common [2] 20:22 46:16 Companies [16] 16:14 17:10 18:4 26:14 47:8,13,15,19 48:11 49:8,15 50:23 51:23 52:2,23 54:6 company [5] 7:15 22:3 26:18 35:23 50:3 company's [1] 20:16 comparative [1] 38:11 compare [4] 55:22,23,24,25 competition [2] 25:25 49:7 Complete [8] 4:25 5:16 6:12 14:17 56:21 57:18 58:5,6 complexity [2] 34:20,20 compliance [2] 55:15 57:20 comply [6] 35:1,3 36:20 37:11 45:20 50:3 complying [1] 55:15 comprehensive [1] 40:19 compromise [4] 24:1,2,4,4 compromises [1] 23:21</p>	<p>conceivably [1] 23:2 concentration [1] 49:16 concern [3] 8:24,25 34:17 concerned [3] 4:11,12 35:9 concerns [4] 35:10 56:23 60:15 61:15 concurrency [2] 51:25 54:5 concurring [1] 45:1 conditions [1] 11:23 conduct [1] 51:23 Conference [1] 51:10 conflicting [1] 31:12 conformed [1] 51:23 confronted [1] 50:23 Congress [6] 10:13,15,20,22,23 11:1,3,10,13,18,25 12:9,21 13:3,6,13,16,18 17:3 19:4,9,10,19 23:6,16,20,24,25 24:3,7 25:5 28:4 40:1,13,16 41:13,16,21 42:1,11,16 43:3,10,13,19 44:9,21,22 50:9,10,18,23 51:1,6,16,17 52:6,7,10 57:1 58:17 Congress's [2] 11:1 23:11 congressional [8] 10:8 14:1,12 20:3 39:25 42:24 45:12 50:15 Congressman [1] 13:5 Connecticut [1] 60:24 consequence [1] 51:3 consequences [2] 3:12 60:1 consideration [1] 42:2 consistent [1] 22:13 constitutes [1] 54:11 Constitution [1] 30:12 Constitutional [25] 8:17,24 11:8 12:10,17,19,21 14:16 22:3,6,16 23:9 24:13 27:2 29:8,10,19 30:9,22 43:1,21 50:1 56:24 60:15 61:15 constitutionally [1] 25:4 consumer [2] 4:1 39:22 consumers [3] 3:24 19:16 39:18 contact [3] 4:23 5:1 20:21 contacts [2] 21:4 25:1 contending [2] 27:5,7 context [2] 9:9 20:13 contexts [1] 28:6 conversation [1] 60:7 correct [7] 22:12 27:23 43:8,11,24 44:9 53:20 correcting [1] 40:10 correctly [2] 30:11 43:21 correctness [1] 53:18 cost [13] 7:2,5,10 32:21 37:2,5,6,11,16,16 38:1 49:12 55:15 costs [8] 6:15 7:17 15:13 37:22,24 38:4 57:20 59:5 counsel [5] 18:19 31:3,11 36:11 56:9 count [1] 35:18 country [2] 25:14 35:21 course [4] 12:12,12 16:13 43:7 COURT [59] 1:1,13 3:10 5:24 11:11,12,24 14:19 19:1,6 20:12,18,24 21:1,7,7,10,18 23:3 24:8,12,14,22 25:4 27:21 28:1,9,17 29:13,16 30:</p>	<p>7,10,14 31:8,13 33:11 34:7 35:5,8 36:15 38:1 41:25 42:15,25 43:4,12,22 44:5,13,17,24 45:8,17 50:2 51:12 52:12 53:24 56:7 58:18 Court's [11] 10:15 11:21 21:15 22:13,14 23:16 28:22 30:11 43:11 56:19 58:23 courts [2] 21:14 34:18 coverage [1] 18:11 covered [1] 17:12 craft [4] 24:1,2,4,4 crafting [1] 23:20 create [1] 4:14 created [3] 3:18 4:16 11:24 creates [1] 6:13 curiae [1] 2:22 9:18 23 current [1] 44:19 currently [1] 48:25 customer [1] 22:20 cyber [1] 43:2</p>
D			
<p>calculate [1] 7:24 California [2] 41:12 59:25 called [3] 40:23,25 41:4 came [3] 1:12 58:16 59:11 cannot [5] 12:9 15:8 20:7 24:5 47:22 capable [1] 23:20 care [1] 17:3 carrier [1] 20:22 Case [19] 3:4 12:6,11,21 13:8 16:16 27:12 33:6 44:17,18,24 52:1,15 54:5 58:2,2 59:16 62:4,5 cases [3] 53:24 57:24 59:13 catalogs [1] 20:22 categories [1] 55:1 cause [1] 28:8 centralize [1] 8:1 certain [2] 25:12 48:6 Certainly [14] 5:22 8:22 9:10 14:14 18:14 23:8 24:6 27:20 30:10 42:14,15 43:9 55:2 59:8 certificates [1] 47:25 cetera [1] 25:18 challenges [1] 29:21 challenging [1] 17:25 changed [1] 61:12 changing [1] 11:22 chaotic [2] 45:13 50:25 characterize [1] 24:11 characterized [1] 21:12 CHIEF [28] 3:3,9 8:15,21 9:3 17:6,20 18:3,13,16,18,21,25 22:1 29:1,4 31:2,7 42:5,17 52:16,20 53:2,10</p>			<p>D.C. [2] 1:9,21 DAKOTA [18] 1:3,17,18 3:5 6:6 9:16 15:17 16:21 24:25 27:5,9,11 32:8 40:13 45:19 46:3 54:17 55:16 Dakota's [5] 14:23 28:20,20 45:17 60:3 data [1] 39:4 daunting [1] 51:2 day [2] 16:14 25:5 deal [6] 14:3 15:22 16:4,5 23:6 44:11 dealing [2] 20:18 38:3 deals [1] 10:9 dealt [1] 15:24 decide [9] 4:24,25 13:8 19:20 23:11 24:1,24 33:3 58:1 decided [2] 34:14 45:8 decides [2] 19:6 24:3 deciding [1] 21:20 decision [23] 10:16 11:11,22 13:8 27:21 29:17 34:8 40:15 41:25 42:7,8 43:11,12 44:7 45:2 53:4,6,7,18,20,21 58:24 61:4 decision-making [1] 30:18 decisions [6] 12:10 15:21 21:8 52:24 53:5,16 decisis [11] 19:3 33:8 44:3,4,12 45:6 51:19 52:4 53:4,17,21 declare [1] 53:25 default [3] 14:19 58:21,22 defect [1] 27:2 defective [1] 22:24 defendant [2] 16:16,17 defined [1] 46:16 defines [1] 54:25 definitions [2] 40:5 46:21 degree [1] 34:20 deliberately [1] 22:17 delivery [2] 20:21 22:20 delta [2] 38:16 56:3 demand [1] 32:20</p>

<p>Department ^[1] 1:21 depend ^[1] 30:25 dependent ^[1] 53:18 depends ^[1] 7:11 Deputy ^[1] 1:20 described ^[1] 47:22 detailing ^[1] 40:20 determine ^[5] 8:23 32:7 33:7 43:20 54:10 determined ^[2] 30:10 31:19 determines ^[1] 35:23 determining ^[2] 20:16 28:7 deterred ^[2] 48:12 49:15 develop ^[5] 32:18 40:24 41:1,2 48:15 devise ^[2] 19:14 24:9 devised ^[1] 27:13 difference ^[8] 12:13,14,16 38:12 43:18,19 44:1 56:3 differences ^[1] 37:18 different ^[13] 12:11 15:12 19:14 32:10 34:9,16 35:3 45:21 46:12,17 47:1 53:24 60:1 differently ^[1] 46:17 difficulties ^[2] 5:9,11 dilemma ^[1] 50:24 diminishing ^[1] 17:16 direct ^[3] 31:9 42:19 49:6 direction ^[1] 41:14 Director ^[1] 51:10 disadvantage ^[2] 6:21,24 discount ^[1] 6:25 discriminates ^[1] 33:17 discriminating ^[2] 33:19 34:1 discrimination ^[1] 5:18 dislocation ^[1] 20:1 dissenting ^[1] 44:15 District ^[1] 46:18 disturbing ^[1] 49:23 Division ^[1] 26:4 DMA ^[1] 59:15 doctrine ^[1] 11:24 doctrines ^[1] 5:15 doing ^[7] 7:3 11:2 28:4 58:22 60:17 61:8,16 dollars ^[1] 32:22 dominating ^[1] 49:10 done ^[6] 23:25 27:9 31:17,20 44:20 46:25 dormant ^[10] 5:24 12:5,10 22:14 26:22 28:6,23 30:15,16 34:3 doubt ^[3] 27:15 28:1 52:8 doubts ^[1] 28:13 down ^[5] 5:6 10:16 14:24 26:17 58:25 duplicative ^[3] 28:9 29:3,5 during ^[1] 21:14 duty ^[3] 21:5 25:3 38:17 dynamic ^[1] 51:15</p>	<p>earlier ^[2] 29:11 57:4 easy ^[3] 25:19 32:6,20 eaten ^[1] 32:23 eBay ^[1] 47:8 economic ^[5] 5:21 17:7 25:1 50:7 52:3 economics ^[1] 5:22 edge ^[1] 27:16 education ^[1] 3:14 effect ^[2] 5:25 39:8 effects ^[2] 49:11,14 efficient ^[1] 39:20 eight ^[1] 15:20 either ^[4] 23:18 32:11 45:10 48:13 Electronic ^[1] 40:18 eliminate ^[1] 10:2 elsewhere ^[1] 40:8 emphasis ^[1] 51:18 empirical ^[2] 37:13 39:11 employed ^[1] 17:14 employees ^[2] 20:8 24:15 enable ^[1] 38:15 encounter ^[1] 50:13 encourage ^[2] 5:15 51:17 encumbered ^[1] 34:19 end ^[1] 49:2 engender ^[1] 20:2 enough ^[5] 5:1 46:5 54:18 57:4,10 enter ^[2] 25:19 37:5 entering ^[1] 48:12 entitle ^[1] 26:22 entrepreneurial ^[1] 48:7 entrepreneurs ^[2] 46:6 47:18 entry ^[5] 25:20 26:1,2 49:13 55:22 equal ^[1] 9:23 equalizing ^[2] 33:19,25 equipped ^[1] 23:6 erroneous ^[1] 53:6 error ^[2] 44:9,10 errors ^[1] 46:16 eschewed ^[1] 30:8 especially ^[3] 43:2 45:6 52:5 ESQ ^[5] 1:24 2:4,7,12,15 essentially ^[2] 23:15 47:7 establish ^[2] 23:12 36:7 established ^[3] 21:22 40:17 51:24 establishing ^[2] 21:4 23:7 estimated ^[1] 49:3 estimates ^[1] 15:12 ET ^[2] 1:6 25:18 Etsy ^[3] 47:8 55:11,12 even ^[19] 7:1 9:23 15:16 21:17 22:3 27:7,17 28:14,25 29:16,21 30:22 32:8,17 33:7 36:18 44:4 49:16 54:12 event ^[1] 50:16 everybody ^[1] 33:21 everything ^[1] 27:19 everywhere ^[1] 6:10 evidence ^[1] 39:12 exact ^[1] 47:15 exactly ^[1] 27:8 example ^[6] 32:5 39:25 47:23 51:9 55:11,19</p>	<p>examples ^[1] 12:8 exceed ^[1] 55:17 exempt ^[3] 46:23,23,23 exemption ^[1] 47:25 exemptions ^[1] 34:10 exercise ^[1] 35:18 existed ^[1] 44:10 existence ^[1] 34:8 existing ^[1] 7:14 exorbitant ^[3] 27:6,10 28:12 expanding ^[5] 17:16 18:4,8,12,14 expect ^[1] 11:18 expectations ^[1] 44:6 expense ^[1] 48:10 experiencing ^[1] 31:14 experiment ^[2] 19:13,19 explanation ^[1] 51:21 exploit ^[1] 33:23 extensive ^[1] 31:17</p> <p style="text-align: center;">F</p> <p>facilities ^[1] 24:15 facility ^[1] 20:9 fact ^[18] 3:22 6:25 7:20 16:11 17:5,15 23:8 25:25 31:12 33:5 47:17 52:9 53:7,12,13,20 59:5,13 fair ^[1] 4:7 fairly ^[1] 61:21 fall ^[1] 47:17 falling ^[2] 56:19 58:15 far ^[4] 24:17 26:16 33:18 55:17 favor ^[6] 35:5,5 36:15 42:19 45:18 51:13 federal ^[3] 40:22 42:19 51:13 federalism ^[1] 35:21 feel ^[1] 21:19 fees ^[1] 47:19 felt ^[1] 29:16 field ^[1] 3:18 figure ^[8] 23:21 34:15,15 38:8 54:23 55:4,10 56:5 figures ^[4] 31:22,24,24 54:13 filing ^[2] 34:11 46:25 filled ^[2] 32:4,15 find ^[4] 4:2 15:14,18 17:11 finds ^[1] 25:19 fine ^[1] 36:14 finish ^[1] 30:3 first ^[5] 3:4,12 19:5 26:8 44:23 five ^[6] 8:1,3 25:13 26:15 40:24 56:10 fix ^[3] 11:25 50:10,18 fixing ^[1] 50:12 fledgling ^[1] 26:23 Florida ^[1] 41:11 follow ^[2] 14:16,17 followed ^[1] 53:19 following ^[1] 30:9 food ^[1] 40:6 force ^[1] 38:13 forced ^[1] 45:20 foregoing ^[1] 48:14 form ^[2] 24:15 25:1 forms ^[1] 47:24</p>	<p>forth ^[1] 60:10 Forty-five ^[1] 60:12 forward ^[2] 42:1 61:1 found ^[1] 34:7 four ^[2] 25:13 26:14 free ^[2] 34:5,18 free-for-all ^[1] 45:19 Freedom ^[1] 40:17 front-line ^[1] 26:21 function ^[1] 50:6 functions ^[4] 47:7,22 48:6,6 funds ^[2] 19:18 39:20 further ^[2] 56:6 61:25 future ^[1] 49:23</p> <p style="text-align: center;">G</p> <p>GAO ^[3] 16:13 26:9 31:24 General ^[11] 1:17,20 3:6 10:18 23:24 31:18,19 54:20 56:10 61:3 62:3 generally ^[1] 57:15 generals ^[1] 60:12 Geographic ^[2] 8:10 59:19 GEORGE ^[3] 1:24 2:12 31:5 getting ^[1] 38:10 giant ^[1] 25:13 giants ^[1] 26:15 GINSBURG ^[21] 9:1 11:16 12:3 17:2 23:4 29:23 30:2 33:13 39:17,24 44:13 45:3,5,25 46:4 47:4,5 48:18,25 50:8 51:5 Ginsburg's ^[2] 34:23 35:13 give ^[2] 41:21 57:9 given ^[5] 3:19 19:12 35:1 41:13 54:13 gives ^[2] 10:21 57:11 giving ^[1] 45:9 God ^[1] 32:8 Goodlatte ^[1] 13:5 goods ^[3] 8:12 20:22 33:16 GORSUCH ^[9] 28:25 34:22 35:17 36:10,22 38:6 39:4 52:18 55:20 government ^[2] 16:2 29:6 government's ^[1] 30:3 grab ^[1] 27:18 greater ^[5] 9:23 17:17 19:13 22:5 49:16 growing ^[1] 17:23 guess ^[4] 4:16 13:12 22:9 38:9</p> <p style="text-align: center;">H</p> <p>happen ^[1] 48:9 happened ^[1] 14:18 happening ^[1] 59:9 happens ^[3] 5:5 50:21,21 harbors ^[1] 4:8 hard ^[1] 32:19 hardly ^[1] 46:13 harmed ^[1] 3:17 Harper ^[1] 52:15 hailed ^[1] 23:2 healthcare ^[1] 3:15 hear ^[1] 3:3 help ^[3] 37:2,14 38:11</p>
<p style="text-align: center;">E</p> <p>e-commerce ^[6] 17:10,21,22 18:1,4,8 each ^[1] 19:21</p>			

<p>helpful ^[1] 35:15 Hess ^[7] 19:7 20:19,19 34:8,17 35:8 44:14 high ^[2] 26:2 45:23 higher ^[2] 11:6 54:16 hinder ^[1] 23:11 hiring ^[1] 32:24 history ^[1] 40:10 hit ^[1] 48:20 holding ^[3] 20:15 28:24 29:12 home ^[1] 46:20 Honor ^[2] 56:5 62:1 hope ^[1] 25:17 horizontal ^[1] 35:20 hospitable ^[1] 28:3 host ^[1] 5:4 House ^[1] 45:16 However ^[1] 30:20 hundred ^[1] 59:25 hurdle ^[1] 50:13 hypothetical ^[1] 41:20</p>	<p>information ^[3] 38:14,21 61:25 infrastructure ^[1] 3:15 inherent ^[1] 7:18 initial ^[1] 31:9 initiated ^[1] 41:3 initiatives ^[1] 48:7 inside ^[1] 48:22 insolvency ^[1] 27:16 instance ^[4] 11:14 13:19 45:20 51:9 instead ^[1] 47:18 insufficient ^[1] 20:23 integrating ^[1] 7:14 integration ^[1] 38:2 interest ^[2] 19:18 61:13 interesting ^[2] 45:14 48:24 interests ^[3] 19:15,16 23:22 interim ^[2] 20:1 21:15 Internet ^[23] 7:1 13:24 14:2,8 15:15 20:16 21:3 22:4 25:17 26:10 29:13 36:5,8,13 37:4 38:14,17,25 40:16 49:10 54:19 55:6,10 interpret ^[1] 30:12 interpretation ^[3] 11:9,17 12:17 interregnum ^[1] 50:21 interstate ^[2] 28:11 33:17 introduces ^[1] 44:3 introducing ^[1] 5:10 invalid ^[1] 28:21 invest ^[1] 48:13 investment ^[1] 52:24 invite ^[1] 44:24 involved ^[2] 23:22 42:18 ironclad ^[1] 24:16 ironic ^[1] 47:12 irrelevant ^[1] 59:14 ISAACSON ^[31] 1:24 2:12 31:4,5,7 33:4 34:2 35:16 36:17 37:19,23 39:2,7,23 41:24 42:14 43:9 44:2,23 45:4 46:2,9 47:20 48:24 50:14 51:8 52:23 53:9,15 54:24 56:4 Isn't ^[13] 3:21 9:7 11:6 12:5 23:5,14 33:18,25 38:17 53:21 56:19 58:15,22 issue ^[29] 8:9,9 10:14,20,23,24 11:3 29:2 33:14 36:3 40:10,14,25 42:18 43:14 44:3,11,25,25 45:6 49:5 51:2,19 52:6,7 60:14 61:6,6,19 issued ^[5] 27:21 28:1 29:12 31:22 40:19 issues ^[4] 4:7 5:19 38:4 48:8 issuing ^[1] 20:14 it'll ^[1] 32:20 items ^[2] 34:11 40:20 itself ^[3] 21:19 27:6 39:1</p>	<p>join ^[1] 41:9 judgment ^[5] 54:19,20 59:15,16,16 judicial ^[1] 30:19 June ^[1] 30:14 jurisdiction ^[10] 35:1,2,24 36:21 40:8 41:17 51:22 58:2,2 59:24 jurisdiction's ^[1] 50:4 jurisdictional ^[3] 21:9,12,17 jurisdictions ^[4] 34:9,16 46:13,20 jurisdictions' ^[1] 35:4 jurisprudence ^[3] 22:15 28:23 56:19 Justice ^[119] 1:21 3:3,9,21 4:3,10 5:14,20 6:2,8,14,23 7:12,25 8:15,21 9:1,3,25 10:18 11:16 12:3,4,15,18 13:4,10,23 14:25 15:11 17:2,6,20 18:3,13,16,18,21,25 19:24 22:1 23:4,14 24:19 25:8 26:12 27:11 28:25 29:1,2,4,5,23 30:2 31:2,7,10 32:2 33:5,13 34:22,23 35:12,16 36:10,22,23 37:10,21 38:6,10 39:4,17,24 41:18 42:4,5,17,23 43:15 44:13,25 45:3,5,9,25 46:4 47:3,4,5,5,21 48:18,25 50:8,20 51:5,25 52:16,18,20 53:2,10,15 54:4,9 55:20 56:8,15,16 57:3,8,17 58:8,10 60:16,21,22 62:2 justifiably ^[1] 31:1 justification ^[2] 33:8,12 justify ^[2] 5:2 57:5</p>	<p>leaving ^[1] 19:4 left ^[1] 7:7 legion ^[1] 12:9 legislation ^[5] 14:13 40:22 42:2,19 51:14 Legislatures ^[1] 51:11 legs ^[1] 53:22 less ^[4] 28:3 39:3 55:7 59:8 less-than-precise ^[1] 21:10 lesser ^[2] 25:6 38:22 letter ^[1] 60:25 level ^[1] 9:6 Lewiston ^[1] 1:24 liability ^[1] 10:3 light ^[1] 43:2 lightly ^[1] 44:11 likely ^[4] 28:8 39:20 51:16 61:16 limit ^[1] 60:4 limits ^[2] 35:20,25 line ^[1] 26:17 link ^[1] 25:6 list ^[1] 15:19 literally ^[1] 51:22 litigants ^[1] 60:13 litigation ^[1] 44:24 little ^[5] 25:22,22 35:10 38:8 47:11 live ^[1] 59:3 local ^[3] 8:2 36:7 59:24 locality ^[1] 8:13 located ^[1] 36:21 logical ^[1] 33:3 long ^[1] 11:4 longer ^[1] 16:16 look ^[24] 5:17,18,19 6:1,12,19,22 7:9,19 8:7 9:11,12,12,18 11:9 17:24 19:20 24:23 25:9 49:24 50:11 54:22 55:3 61:18 looking ^[4] 36:3 46:12 58:19 60:8 losing ^[2] 3:13 15:13 loss ^[2] 18:15 27:1 lost ^[2] 31:13 32:1 lot ^[7] 9:13 25:21,23,23 32:13 35:2 60:6 lots ^[2] 7:17 35:3 love ^[1] 38:11 low ^[2] 18:1 59:2 low-level ^[1] 60:24 lower ^[1] 21:14 lowest ^[1] 9:6</p>
<p style="text-align: center;">I</p> <p>idea ^[2] 23:10 47:17 identified ^[1] 33:10 Illinois ^[1] 41:11 illustrative ^[1] 16:22 imagine ^[1] 41:18 immediate ^[1] 45:11 immunity ^[1] 30:21 impact ^[1] 17:7 impediment ^[1] 50:17 implement ^[1] 7:5 implementation ^[1] 38:2 important ^[3] 8:6 9:18 40:9 impose ^[4] 4:23 8:19 19:10 22:8 imposed ^[2] 23:1 57:22 imposing ^[1] 57:5 improve ^[1] 48:7 in-state ^[7] 33:16,20,21,23,24 34:12 49:6 inadvertent ^[2] 20:15 29:12 INC ^[1] 1:6 incarnation ^[1] 27:14 incentive ^[6] 13:19,25 14:8 27:18 46:5 50:15 incentives ^[2] 14:10,11 include ^[2] 7:13,13 included ^[1] 41:10 including ^[1] 58:25 inconsistent ^[2] 30:19 52:13 incorrect ^[4] 43:3,5,17,25 incorrectly ^[1] 44:5 increase ^[1] 49:12 increasing ^[1] 50:11 increasingly ^[1] 49:10 indeed ^[3] 13:7 19:12 27:6 independent ^[1] 31:16 indicate ^[1] 41:25 indicated ^[6] 8:4 16:22,25 31:24 38:1 52:12 individual ^[2] 39:22 47:18 industry ^[3] 35:10 42:20 54:2 inevitable ^[1] 49:13</p>	<p style="text-align: center;">J</p> <p>JACKLEY ^[40] 1:17 2:4,15 3:6,7,9 4:3 5:14,22 6:6,11,17 7:7,19 8:3,21 9:10 10:12 11:8 12:3,15 13:1,9,18 14:14 16:6 17:5,20 18:13,20 56:10,12,14 57:7,11 58:6,9,12 60:20,22 Jepsen ^[1] 61:3</p>	<p style="text-align: center;">K</p> <p>KAGAN ^[5] 10:18 23:14 47:3,5,21 Kagan's ^[1] 53:15 Katie ^[1] 45:16 Kavanaugh ^[1] 37:25 keep ^[2] 5:7 44:18 KENNEDY ^[3] 42:23 43:15 44:25 key ^[1] 35:20 Kimble ^[1] 53:16 kind ^[9] 10:24 14:12 23:5 26:5,16 27:23 32:16 41:14 52:1 kinds ^[1] 15:21</p> <p style="text-align: center;">L</p> <p>large ^[3] 18:5 36:4 49:8 larger ^[1] 41:10 largest ^[3] 36:4 42:21 49:17 later ^[1] 61:10 latitude ^[1] 19:13 Laughter ^[2] 15:10 37:9 law ^[13] 4:17 27:5,12 29:25 39:7,14 43:1,5 44:18 52:11,14 54:17 55:16 laws ^[2] 16:25 60:10 lawsuits ^[3] 4:14,16 20:2 lawyers ^[2] 32:14 57:25 leaders ^[1] 51:9 leading ^[1] 51:9 least ^[3] 7:20 20:14 42:7 leave ^[5] 17:19 23:15 25:5 29:20 42:9 leaves ^[1] 19:8</p>	<p style="text-align: center;">M</p> <p>made ^[11] 4:20 20:7 39:16 42:7,8 43:1,5 49:22 52:14,23 53:5 magic ^[1] 12:19 mail ^[3] 20:22 35:7,9 Main ^[3] 3:16 6:19 45:4 Maine ^[1] 1:24 maintenance ^[3] 7:16 34:4 38:5 major ^[1] 50:17 majorities ^[1] 42:8 MALCOLM ^[3] 1:20 2:7 18:22 mandolin ^[2] 37:3,16 mandolins ^[1] 37:3 manner ^[1] 21:10</p>

<p>many ^[8] 4:12,19 6:2 13:14 28:2 43:16 55:10,12 map ^[1] 46:14 margin ^[1] 55:18 market ^[9] 17:22 33:23 34:19 36:6 37:5 46:7 48:12,15,16 marketers ^[1] 49:7 marketing ^[1] 42:20 marketplace ^[2] 34:5 45:18 MARTY ^[5] 1:17 2:4,15 3:7 56:12 massive ^[3] 3:13 4:14 6:25 matter ^[6] 1:12 19:4 26:20 33:7 59:1,1 mean ^[17] 9:7 12:8 14:18 17:7 20:4 23:10 25:14 32:4 36:24,25 37:12 39:19 40:7 50:5 55:21 58:21 60:21 meaning ^[1] 20:10 means ^[2] 30:15 59:4 meant ^[1] 30:17 mechanism ^[1] 3:23 medium-sized ^[1] 49:15 meet ^[1] 46:7 member ^[1] 45:15 members ^[1] 13:13 mentioned ^[1] 9:4 merchants ^[4] 3:24 5:7 49:9 50:6 merely ^[2] 36:12 46:18 met ^[1] 58:3 micro-business ^[1] 22:9 Microsoft ^[3] 11:11,14,17 mid-sized ^[1] 48:11 might ^[6] 11:18 21:6 25:23 35:14 38:23 48:6 million ^[1] 55:11 Mills ^[1] 53:16 mind ^[1] 37:1 mine ^[1] 58:25 minimum ^[14] 6:5,10,11 8:17 10:4 22:3,16 23:7,9,12,12 50:1 54:15,17 minimums ^[1] 25:24 minority ^[1] 40:25 minutes ^[1] 56:10 misapprehension ^[1] 46:11 misimpression ^[1] 40:11 misleading ^[1] 38:8 mistake ^[1] 32:12 mistakes ^[2] 15:16 32:8 mode ^[1] 28:13 model ^[2] 35:6 52:25 models ^[1] 19:20 monetary ^[1] 6:4 month ^[3] 7:9 8:5 59:6 moreover ^[1] 32:9 morning ^[1] 3:4 mortar ^[2] 35:7 36:14 most ^[10] 6:18 22:13 27:13 31:16 36:2,3 43:24 44:8 50:5 53:13 Mount ^[1] 9:16 move ^[1] 42:1 moves ^[1] 14:4 moving ^[1] 36:14 much ^[10] 5:1 28:16,19 32:15 37:4,</p>	<p>6,11 39:3,19,20 multi-channel ^[1] 49:9 municipalities ^[1] 27:17 must ^[1] 28:21</p> <hr/> <p style="text-align: center;">N</p> <hr/> <p>name ^[1] 37:7 namely ^[1] 24:18 nascent ^[1] 35:9 National ^[6] 8:10 34:4 41:9 48:15,16 59:19 nationwide ^[1] 45:21 nature ^[1] 36:6 necessarily ^[2] 36:22 55:24 necessary ^[4] 32:25 45:22 46:22 53:21 need ^[4] 3:14 46:8,14 47:24 needs ^[3] 46:24 55:5 58:17 new ^[3] 5:10 26:1 41:10 newly ^[1] 30:22 next ^[3] 16:7 18:15 39:10 nexus ^[5] 5:19 6:13 24:25 57:12,18 nobody ^[2] 27:4,7 Noem ^[1] 45:16 non-discriminatory ^[2] 14:21 59:1 nondiscriminatory ^[1] 4:6 normal ^[1] 12:5 nothing ^[1] 55:25 notice ^[2] 9:21 59:9 notion ^[5] 34:18 46:9 49:25 50:18,25 notions ^[1] 49:23 nuanced ^[1] 24:9 number ^[5] 10:4 25:15 41:3 47:21 60:18 numbers ^[6] 16:7,12 17:24 31:12 36:25 54:21</p> <hr/> <p style="text-align: center;">O</p> <hr/> <p>objective ^[1] 34:4 objectives ^[1] 49:19 obligate ^[1] 50:3 obligated ^[2] 21:19 27:25 obligation ^[9] 4:24 5:2 7:22 8:14,20 20:17 22:22 26:24 33:23 obligations ^[2] 34:12 57:21 obsolete ^[3] 11:23 12:1 44:22 obtaining ^[1] 41:16 obviously ^[2] 14:7 27:12 Office ^[2] 31:18,19 official ^[1] 45:23 often ^[1] 24:23 Okay ^[4] 15:22 16:3 33:2 54:12 oligopoly ^[1] 25:18 omni-merchants ^[1] 49:8 one ^[34] 6:11 7:4,5,6,19 9:7,8,11 11:9 15:12,25 21:2 24:20,22 27:24 30:21 31:17 35:13 36:18,21,25 37:15,19 40:1,7,7 49:11,13 50:22 51:15 57:4,9,25 60:23 one-quarter ^[1] 31:25 one-third ^[1] 31:25</p>	<p>onerous ^[1] 28:19 ones ^[3] 4:18 6:18 32:10 only ^[10] 10:10 16:23 20:20 31:25 34:21 36:20 39:7 45:15 52:10 55:13 open ^[4] 24:14 29:20 34:19 48:19 opening ^[1] 48:14 operate ^[1] 34:25 opinion ^[1] 45:1 opinions ^[1] 44:15 opportunity ^[1] 13:21 option ^[5] 10:1,7,8,12,13 options ^[3] 10:1,10 24:8 oral ^[7] 1:12 2:3,6,11 3:7 18:22 31:5 order ^[6] 10:5,6 26:18 35:7,9 40:21 ordered ^[1] 52:2 originally ^[2] 16:15 61:20 other ^[26] 8:18 9:4,18 11:2 15:7,14,14 16:24 21:2 23:16 27:3,4,7 28:18 38:4 47:24 48:8 52:21 53:10,24 58:1,7,9,13 60:17,23 ought ^[1] 42:12 out ^[14] 4:19 7:7 12:1 15:18 22:24 23:21 31:11 36:13 42:17,20 50:20 52:5 54:23 61:2 out-of-state ^[8] 3:19 19:15 20:7,20 22:17 33:15,21 49:6 out-of-town ^[1] 5:3 outweigh ^[1] 57:20 over ^[13] 16:7,18 18:15 25:16 34:16,21 36:16 38:25 41:6,7 46:20 47:7 48:25 overnight ^[1] 16:17 overrule ^[4] 29:15 33:2 46:6 58:20 overruled ^[3] 14:11,15 50:17 overrules ^[1] 19:7 overruling ^[4] 21:21 30:4 33:9 51:3 overturn ^[7] 12:9,20 17:4 44:22 45:8 47:14 51:12 overturning ^[2] 4:13 45:11 overturns ^[1] 50:2 owe ^[1] 56:16 own ^[4] 4:16 19:17 46:21 53:22</p> <hr/> <p style="text-align: center;">P</p> <hr/> <p>PAGE ^[1] 2:3 paid ^[2] 32:14 53:8 papers ^[1] 48:1 part ^[9] 18:5 25:9 29:10 33:4 35:20 36:25 40:9 59:7 60:10 participants ^[2] 34:6 55:11 particular ^[6] 8:12 21:16 22:18 30:24 35:6 42:12 particularly ^[1] 28:7 particulars ^[1] 50:4 passed ^[1] 40:16 past ^[1] 21:7 pause ^[1] 10:22 pay ^[3] 47:19 59:4,6 paying ^[3] 3:25 26:10 53:14 payments ^[1] 40:4</p>	<p>peaked ^[1] 17:9 penalty ^[2] 32:12 61:13 Pennsylvania ^[1] 41:11 people ^[2] 30:25 53:13 per ^[1] 40:1 perceived ^[1] 13:20 percent ^[4] 17:22 36:9 49:1,3 perfect ^[1] 32:18 performed ^[1] 47:23 perhaps ^[2] 9:23 47:6 period ^[3] 20:1 50:22,25 person ^[2] 9:7 48:22 perspective ^[2] 23:17 55:6 pervasive ^[1] 21:3 Petitioner ^[9] 1:4,19,23 2:5,10,16 3:8 18:24 56:13 phrase ^[1] 20:11 physical ^[15] 8:8 9:6,13 16:2 17:11 20:9,11,25 22:18 24:14,15 27:22 46:24 48:1 59:14 picture ^[1] 50:10 Pierre ^[1] 1:18 Pike ^[9] 5:1,23,23 8:22 14:17 56:24 57:8,13 58:12 Pike-type ^[1] 29:21 place ^[12] 4:5,8 5:12,16 7:23 9:20 17:19 19:8 51:4,20 56:20,24 placed ^[1] 59:20 places ^[1] 27:6 placing ^[1] 5:2 players ^[2] 42:18,21 playing ^[2] 3:18,25 please ^[4] 3:10 18:16 19:1 31:8 plus ^[1] 46:18 point ^[10] 4:19 11:20 13:14 18:9 19:5 28:5 36:20 42:17 58:11 61:2 pointed ^[6] 31:11 42:20 50:20 52:5 60:18,23 pointing ^[1] 36:13 points ^[1] 19:3 Policy ^[1] 51:10 population ^[2] 41:8,9 populations ^[1] 41:7 position ^[6] 22:7,7 27:18 29:6 30:3 41:20 possibility ^[3] 25:25 26:1 29:20 possibly ^[1] 27:19 potential ^[1] 25:14 power ^[3] 13:15 43:13 45:6 powerful ^[1] 44:8 practical ^[2] 15:20 26:20 precedent ^[3] 12:1 21:21 44:22 precedents ^[1] 4:13 preceding ^[1] 51:1 precisely ^[1] 57:13 preferable ^[1] 10:11 preferred ^[1] 24:13 prerequisite ^[1] 25:2 presence ^[14] 8:8 9:7,13 16:2 17:11 20:11,16,25 21:3 24:14 27:22 29:13 36:7 59:14 present ^[2] 27:13 52:2 presented ^[3] 33:11 40:12 49:25 preserve ^[1] 25:25</p>
---	--	--	--

<p>prevent ^[1] 16:25 preventing ^[1] 25:17 previously ^[2] 21:11 44:7 price ^[2] 3:19 6:20 principal ^[1] 34:3 principle ^[1] 21:1 prior ^[2] 21:8,21 private ^[1] 31:20 probably ^[2] 10:25 52:10 problem ^[17] 3:22 14:1 17:9,15 18:7,10 26:6 30:6 32:3,3 33:5,9 47:12,20 50:19 58:5 61:5 problems ^[2] 10:9 29:19 process ^[2] 7:18 46:24 processing ^[1] 40:4 produce ^[1] 46:7 products ^[4] 40:6 46:14,16 55:12 professors ^[1] 31:21 profit ^[3] 26:24 27:1 55:18 profits ^[1] 32:23 program ^[4] 5:5 7:14,15,16 programs ^[2] 7:6,6 project ^[2] 41:4,5 prominent ^[1] 11:3 promise ^[1] 48:17 proposition ^[1] 20:6 prospect ^[1] 30:4 prospective ^[8] 16:23 29:22 30:4,8,18 52:9,11,13 prospectively ^[2] 33:2 61:1 protect ^[2] 59:18 60:2 protections ^[1] 56:25 proven ^[1] 43:3 provide ^[1] 38:14 providers ^[1] 38:14 provides ^[1] 56:24 publicly ^[1] 51:11 purchases ^[1] 39:15 purely ^[2] 52:9,13 pushes ^[1] 26:25 put ^[8] 5:11,11 6:16,20,24 9:20 15:25 55:5 puts ^[1] 25:11 putting ^[1] 25:24</p>	<p style="text-align: center;">R</p> <p>radar ^[1] 11:1 raise ^[2] 25:20 49:22 raised ^[2] 29:18 44:25 raising ^[1] 26:2 range ^[2] 23:22 24:7 rapidity ^[1] 51:7 rapidly ^[1] 17:23 rate ^[5] 18:1 25:3 36:8 40:1 46:12 rates ^[1] 34:10 rather ^[5] 17:16 29:14 33:25 43:11 51:16 reach ^[1] 37:14 read ^[4] 15:5,6,7 54:10 reading ^[1] 25:10 real ^[5] 38:9,16 39:19 46:11 49:7 really ^[12] 7:11 9:12 12:13 14:18 15:20 21:12 25:10 27:4 32:3,3 50:5,9 reason ^[10] 10:12,21 12:19,24 13:1 15:4 23:15 45:5 51:13 59:12 reasonable ^[3] 14:22 27:14 60:4 REBUTTAL ^[2] 2:14 56:12 recognized ^[2] 9:5 43:12 recommend ^[1] 32:6 record ^[5] 33:6,10 46:22 59:11,12 refused ^[1] 41:9 regard ^[1] 39:12 regarding ^[1] 31:13 regime ^[4] 28:18 38:19,23 39:2 regimes ^[1] 28:2 regulatory ^[2] 23:1 58:13 rejecting ^[1] 21:15 relay ^[1] 42:16 reliance ^[7] 45:7 52:2,3,17,21 53:25 54:1 relief ^[1] 30:25 relies ^[1] 35:6 rely ^[1] 31:15 remainder ^[1] 18:17 remaining ^[1] 56:11 remains ^[1] 18:14 remember ^[1] 6:4 remit ^[2] 61:10,24 remittance ^[3] 7:22 9:24 59:5 remote ^[6] 3:19 40:2 48:20,20 61:9,21 rendered ^[1] 11:23 report ^[4] 26:9 37:25 40:19,25 reporting ^[9] 9:21 14:3 39:9,13,15 55:21 56:1 57:5 59:10 reports ^[2] 37:19 47:1 representative ^[2] 59:22 60:25 Representatives ^[1] 45:16 representing ^[1] 45:24 require ^[7] 10:6 14:8 36:19 40:1,3,5 47:25 required ^[3] 10:5 25:1 36:6 requirement ^[7] 9:22 20:11,25 24:16 39:9,13 59:10 requirements ^[4] 34:11 55:21 56:1 57:6 requires ^[2] 39:14 53:1</p>	<p>resale ^[1] 47:24 reserve ^[1] 18:17 reset ^[1] 58:21 residents ^[1] 39:16 resolution ^[2] 43:5 50:16 resolve ^[1] 37:2 respect ^[8] 8:17 10:3,4 24:10 29:13 48:5 56:20,22 Respondents ^[4] 1:7,25 2:13 31:6 Respondents' ^[2] 16:6,8 response ^[1] 12:25 responses ^[1] 31:10 responsibilities ^[1] 14:16 responsibility ^[2] 44:18 61:12 responsible ^[1] 44:14 responsive ^[1] 36:11 result ^[1] 45:12 retail ^[1] 14:8 retailer ^[6] 20:7 22:17,22,25 36:20 46:25 retailer's ^[1] 20:20 retailers ^[19] 13:25 14:2,9 19:15,17 25:14 26:10 28:3,15 34:25 35:2 36:4,5,8,13 46:14 47:9 49:6,17 retention ^[1] 46:22 retroactive ^[6] 4:18,21 10:3 29:7,17 60:19 retroactively ^[3] 16:21 30:23 60:9 retroactivity ^[7] 15:21 16:19 17:1 30:5 52:22 60:7 61:5 revenue ^[3] 13:22 31:14 57:19 revenues ^[3] 3:14 15:13 32:1 rife ^[1] 46:15 righted ^[1] 21:18 rightful ^[1] 54:1 ROBERTS ^[18] 3:3 8:15 9:3 17:6 18:3,18,21 22:1 29:1,4 31:2 42:5 52:16,20 53:2,10 56:8 62:2 Roebuck ^[1] 37:6 role ^[4] 20:15 21:3 30:11,19 rough ^[1] 21:6 rule ^[9] 9:9 20:19 23:18 24:13 30:23,23 43:21 46:20 56:17 ruled ^[1] 44:5 rules ^[4] 30:9 35:4 45:17 54:3 ruling ^[2] 28:2 52:13 Rushmore ^[1] 9:17</p>	<p>53:5 57:9 says ^[6] 10:19 13:6 16:2 28:9 30:14 32:17 scale ^[2] 7:8 8:5 Scalia's ^[2] 51:25 54:4 scheme ^[6] 4:5,7,10,11 10:8 27:14 schemes ^[2] 9:19 19:14 scratches ^[1] 46:13 screen ^[1] 11:1 Sears ^[1] 37:6 Second ^[3] 3:16 19:22 20:4 see ^[3] 12:13 33:18 37:12 seek ^[1] 50:15 seem ^[1] 35:10 seemed ^[1] 21:17 seems ^[5] 11:5 13:24 32:6 38:8 57:23 sell ^[5] 25:16 27:24 33:20 37:4 48:16 seller ^[6] 5:3 33:15 37:3,17 39:21 61:9 sellers ^[8] 3:19 6:25 7:20 33:19 48:20 55:10 59:18 61:22 selling ^[3] 22:18 25:15 55:12 sells ^[1] 37:3 Senators ^[1] 13:5 sense ^[4] 17:9 30:9,18 36:1 sensible ^[1] 57:23 sensitive ^[1] 25:12 sent ^[1] 60:25 seriously ^[1] 27:4 set ^[8] 4:16 5:10 6:7,9 14:19,20 57:12 60:10 sets ^[1] 60:3 settled ^[1] 44:6 settlement ^[1] 20:3 several ^[1] 59:25 shipped ^[1] 33:16 shipping ^[1] 22:19 shop ^[2] 33:21,21 shorthand ^[2] 21:1,23 shortly ^[1] 40:14 shouldn't ^[1] 44:17 show ^[2] 16:12,13 shown ^[1] 8:10 side ^[7] 25:11 27:4,7 56:22 57:25 60:17,23 sides ^[1] 14:10 signal ^[4] 41:21 58:16,19,19 signed ^[1] 61:3 significance ^[1] 17:18 significant ^[5] 3:11 4:17 36:2 60:15 61:14 significantly ^[1] 17:1 silver ^[1] 46:10 simple ^[1] 9:23 simplification ^[1] 42:22 simplify ^[1] 40:21 simply ^[8] 16:17 21:22 29:14,20 38:25 39:14 47:22 61:24 since ^[1] 51:19 single ^[4] 22:23 34:4 39:14 50:2 situation ^[8] 8:11 11:14 13:2 53:23 54:2 58:7,23 59:20</p>
<p style="text-align: center;">Q</p> <p>qualified ^[1] 30:21 question ^[17] 4:21 6:9 11:18 15:18 23:5 25:6 26:16 29:7 34:24 35:13 36:16 38:9 52:22 56:17 57:2 58:16 59:11 questions ^[12] 4:13,22 5:5,9 15:1,2 16:4 31:10 37:13 43:16,24 56:6 Quill ^[57] 3:12,18,22 4:15 6:18,21,24 8:7 10:2,15 11:21 14:5,10,15,19 17:4,19 19:7 20:5,5,12,14 23:18 29:11,14 30:5 33:9 34:14,18 38:13 40:15 43:8,11,12,17,23,25 44:23 45:9,11 46:6 47:12,14 50:2,16 51:3,12,20 52:1,25 54:5 58:20,24 59:13,15,18 60:2 Quill.com ^[1] 16:11 quite ^[2] 34:23 53:23</p>	<p style="text-align: center;">S</p> <p>safe ^[1] 4:8 sale ^[9] 6:12 9:17 27:24 36:18,20 50:2 57:4,9,15 saler ^[1] 37:17 sales ^[34] 3:13,25 6:2,4,7 7:5,6,14,21 8:13 10:4,6 20:8,17 26:11,19,24 27:25 32:7 34:9 38:18,19,24 39:1 40:2 41:4 46:19 54:15,17 55:13,16,17 58:9 59:21 salesperson ^[1] 9:15 same ^[7] 12:6 22:23 33:22 35:13 47:15 50:13 55:20 saw ^[1] 51:5 saying ^[6] 21:2 29:11 41:19 47:12</p>		

Official

<p>six ^[1] 15:20 sky ^[2] 56:18 58:15 small ^[26] 3:16 6:16,17,19 7:3 8:20 22:4 25:15,18 26:17 32:22 35:9 45:19 48:11,22 49:1,3,5,14 54:11, 13,24,25 59:18 61:20,23 smaller ^[1] 50:5 software ^[11] 7:23 32:18,25 38:3 46:7,9,15 47:23 48:2,4,5 sold ^[1] 5:8 Solicitor ^[2] 1:20 54:20 solution ^[5] 14:1 19:10 39:25 45: 12 48:2 solutions ^[1] 24:9 solve ^[2] 48:4,8 somebody ^[1] 10:19 someone ^[1] 7:4 Sometimes ^[4] 11:12 21:8,11 51: 7 sorry ^[6] 3:21 7:25 22:25 42:5 52: 19 57:3 SOTOMAYOR ^[22] 3:21 4:3,4,10 5:14,20 6:2,8,14,23 7:12,25 19:24 41:18 42:4 50:20 54:9 57:3,8 60: 16,21,22 Sounds ^[2] 9:1,1 source ^[2] 54:10 55:2 SOUTH ^[23] 1:3,17,18 3:5 6:6 9:16 14:22 15:16 16:21 24:25 27:5,8, 11 28:19,20 32:8 40:13 45:17,19 46:2 54:16 55:16 60:3 sovereignty ^[1] 35:19 speaking ^[1] 57:15 speaks ^[1] 39:24 special ^[5] 9:9 13:2 33:8 51:4,18 specially ^[1] 12:25 specific ^[1] 60:4 specifically ^[1] 15:25 specter ^[1] 25:12 sportswear ^[1] 40:6 spreadsheet ^[1] 39:15 spur ^[1] 11:13 stalemate ^[1] 51:16 stand ^[2] 13:23 20:6 standard ^[9] 16:1,1 35:23 40:5 44: 4 51:21,24 53:1 54:7 standards ^[1] 21:20 standing ^[2] 44:6 53:22 stare ^[12] 19:3,22 33:7 44:3,4,12 45:6 51:19 52:4 53:3,17,21 start ^[1] 19:2 starts ^[1] 38:6 state ^[55] 4:8 8:2 9:19 10:5,16 14: 20 16:12 20:8,9,17,21 21:5 22:19, 19,24 23:2 24:16,21 25:2 26:11, 19 27:8,25 28:10,18 32:11 35:24 36:1,19 39:17 40:1,12 44:10 46:2 48:3,14,19,21,23 51:9,11 56:1 57: 5,16,19,21 58:13,25 59:3,4,22 60: 12,24 61:3,23 state's ^[2] 28:8 59:23 stated ^[2] 43:21 51:11 statement ^[3] 21:16 43:1 45:15 STATES ^[59] 1:1,14,22 2:8 3:13 4:</p>	<p>20 5:6 7:21 8:1,3 10:2 13:15,24 14:4,7,11,15 15:13 16:10,20,24 17:12,13,25 18:6,23 19:12,18 22: 8 26:25 27:15 28:2 31:14 35:18 36:18 37:4 38:13 40:12,20,23,25 41:2,3,6,7,10,14 44:11 46:17,18 47:2,25 49:21 50:15 51:13 60:8, 17,18 61:16 states' ^[3] 19:16,17 60:9 statute ^[8] 14:4,20 21:16 24:24 28: 20,20 58:25 60:3 statutes ^[5] 10:17 12:7 13:14 14:3 21:11 statutory ^[2] 4:5 11:17 steps ^[2] 21:20 41:14 STEWART ^[20] 1:20 2:7 18:21,22, 25 20:4 22:1,11 23:4,8 24:6,21 26: 7,13 27:20 29:9,23,25 30:7 49:25 still ^[4] 6:9 8:13 12:16 36:11 stopped ^[2] 13:7 28:4 stopping ^[1] 26:1 store ^[4] 36:21 48:14,19,21 stores ^[1] 7:1 strange ^[1] 42:11 Streamlined ^[2] 41:4 59:4 Street ^[2] 3:17 6:19 striking ^[2] 10:16 58:24 strong ^[2] 27:18 44:15 struck ^[1] 14:24 structures ^[1] 45:21 study ^[2] 31:17,20 stuff ^[1] 32:4 subject ^[4] 22:24 23:1 33:24 35:24 subjecting ^[1] 22:21 submit ^[1] 58:17 submitted ^[2] 62:4,6 substance ^[1] 21:24 substantial ^[5] 5:19 26:20 29:19 33:12 48:10 suddenly ^[1] 57:24 sue ^[1] 32:14 suffering ^[2] 48:21,23 sufficient ^[5] 21:4 22:21 24:22 25: 4,6 suggest ^[1] 17:17 suggested ^[2] 36:18 54:19 suggesting ^[3] 43:10,18 47:6 suggestion ^[2] 17:8 44:16 suited ^[1] 43:14 summarized ^[1] 20:19 summary ^[3] 59:15,15,16 supplier ^[1] 38:17 support ^[4] 1:23 2:9 18:24 33:11 SUPREME ^[3] 1:1,13 45:17 surface ^[1] 46:13 surmount ^[1] 11:6 sustained ^[1] 30:1 sustaining ^[1] 27:1 switched ^[1] 16:18 system ^[9] 38:3,5 40:24 41:1,3,5 46:5 47:10 58:13 Systemax ^[1] 16:15 systems ^[1] 40:21</p>	<p style="text-align: center;">T</p> <p>tax ^[46] 3:13,25 5:5,17 7:6,21 8:14 9:24 10:7 13:20 14:9 20:8,17 22: 22 25:2 28:1,8 32:7 33:16,22,24 34:9 35:24 36:5 38:15,20 39:1 40: 16,21 41:4,16 42:21 45:21 46:13, 19,21 50:4 51:10,22 55:16 56:20 57:21 58:7,9 59:4 61:24 taxability ^[1] 34:11 taxation ^[4] 14:5 28:9 29:6 41:6 taxed ^[1] 10:6 taxes ^[10] 18:11 26:11,19,24 29:18, 21 38:18 50:12 53:8,14 taxing ^[3] 20:21 59:23 60:1 taxpayer ^[1] 38:16 tells ^[1] 39:5 Tennessee ^[1] 31:21 term ^[3] 20:24 22:9 54:4 terms ^[4] 17:6,7 18:11 51:2 territorial ^[2] 35:19,25 test ^[7] 5:24 27:12 44:16,17,24 57: 23 58:3 testify ^[2] 26:4,5 Texas ^[1] 41:11 themselves ^[1] 17:11 there's ^[23] 5:4 7:17 8:1,11,11 9: 17 12:16 22:15 23:9 28:22 32:19 33:6 35:22 39:11 44:5 46:5 47:11 48:2 51:12,20 57:15,15 60:6 therefore ^[2] 12:24 22:5 they've ^[3] 5:8 42:7 53:5 third ^[1] 56:17 Thirty-eight ^[1] 60:9 though ^[3] 28:5 30:22 34:24 thousands ^[3] 32:22,22 51:22 three ^[5] 13:5 15:1 16:4 26:8 61:10 three-year ^[1] 50:22 title ^[1] 22:20 today ^[5] 11:11 34:16 35:11 51:5,6 tools ^[1] 45:22 top ^[1] 36:8 tottering ^[1] 27:16 tough ^[1] 15:20 toward ^[1] 36:14 track ^[1] 5:8 transaction ^[1] 55:6 transactions ^[6] 7:9 8:6 46:23 55: 4,7 60:5 transfer ^[1] 22:20 traveling ^[1] 9:15 treat ^[3] 12:5,6 13:2 treated ^[2] 33:22 61:21 treating ^[1] 12:24 trigger ^[3] 8:13 9:14 59:23 triggers ^[2] 59:24,25 true ^[3] 55:20 58:8 61:5 truly ^[2] 59:17 61:18 try ^[2] 14:5 32:10 trying ^[2] 23:21 33:7 Tuesday ^[1] 1:10 tune ^[1] 44:18 turned ^[1] 22:23 turning ^[1] 45:11</p>	<p>turns ^[1] 12:1 two ^[10] 3:11 10:1,10 15:1 19:2 26: 7 31:20 41:1 45:10 50:22 two-thirds ^[2] 41:6,8 type ^[1] 7:18 types ^[1] 30:25</p> <p style="text-align: center;">U</p> <p>unanswered ^[1] 4:12 uncertain ^[1] 31:1 unconstitutional ^[1] 14:23 under ^[6] 4:24,25 22:6,7 45:25 58: 13 understand ^[5] 8:16 29:11 35:8 43:8,23 understanding ^[1] 52:25 understood ^[2] 20:6 54:3 uniform ^[2] 40:5 41:5 UNITED ^[9] 1:1,13,22 2:8 18:23 36: 17 40:12 44:11 49:21 University ^[1] 31:21 unless ^[2] 20:8 28:3 unlevel ^[1] 3:17 unthinking ^[1] 21:18 until ^[5] 20:2 30:16 39:10,10 57:24 up ^[10] 11:25 25:11 30:16 32:23 38: 4 41:5 46:12 58:16 59:6,11 updated ^[1] 31:23 uses ^[2] 5:24 46:24 using ^[4] 5:7,15 22:4 35:25</p> <p style="text-align: center;">V</p> <p>value ^[3] 39:24 44:6 55:13 variant ^[1] 28:19 variety ^[1] 19:20 various ^[4] 26:25 28:6 47:2 55:1 varying ^[4] 34:10,10,10,11 versus ^[3] 3:5 38:18,19 view ^[8] 13:11,13 18:9 22:11 27:23 29:9,14 52:14 virtually ^[1] 25:16 visit ^[1] 9:16 voluntarily ^[1] 37:11</p> <p style="text-align: center;">W</p> <p>wants ^[3] 24:1,3 33:20 warehouse ^[3] 8:11 9:15 59:21 warehoused ^[1] 8:12 warrant ^[1] 40:22 wary ^[1] 21:15 Washington ^[2] 1:9,21 way ^[10] 4:2 9:11 11:9 12:6 14:6 21:2 22:23 37:10 42:9 61:11 WAYFAIR ^[3] 1:6 3:5 16:9 ways ^[2] 24:5 25:24 website ^[4] 32:5 48:16 49:2,4 welcome ^[2] 41:24 42:22 whatever ^[5] 10:2 19:6,10 42:10 55:17 wheels ^[1] 42:3 Whereupon ^[1] 62:5 whether ^[13] 13:11,12 19:6,7,8 21: 20 24:25 28:8 29:7 30:25 33:20 38:23 58:3 who's ^[1] 33:3</p>
--	--	--	---

Official

whole ^[3] 5:10 50:10 54:2
wide ^[1] 23:22
wider ^[1] 19:19
wildly ^[1] 15:12
will ^[15] 4:13 8:13 11:13 14:2,15
 19:19 20:2,2 24:24 48:9,12 49:4,
 16 60:13 61:4
willing ^[1] 12:20
wisdom ^[1] 19:3
wish ^[2] 15:2,3
within ^[11] 14:5 19:16 20:9 22:18
 24:16,21 25:2 40:24 41:1 48:14,
 19
without ^[1] 45:22
wondered ^[1] 38:22
word ^[3] 12:18 21:9 54:7
words ^[3] 8:18 23:16 53:11
work ^[1] 58:23
work-arounds ^[1] 17:13
world ^[1] 39:19
worries ^[1] 26:6
worse ^[1] 27:17
worsened ^[1] 34:21
worth ^[1] 55:17
wrought ^[1] 5:9

Y

year ^[5] 30:14 39:8,11 54:15 55:9
years ^[11] 5:12 10:14,21 13:3 16:8
 18:15 21:7 40:24 41:1 42:10 61:
 10
yield ^[1] 39:20
York ^[1] 41:10