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The Fight for the Latino Vote

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After RBG

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BY DAVID KAPLAN, STEVE FRIESS

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OBI ON A BIKE
Actor Ewan McGregor (right), a.k.a. *Star Wars*'s Obi-Wan Kenobi, hops on a Harley for his new series (p. 48). Also in the issue: the battle for the Latino vote (p. 10)

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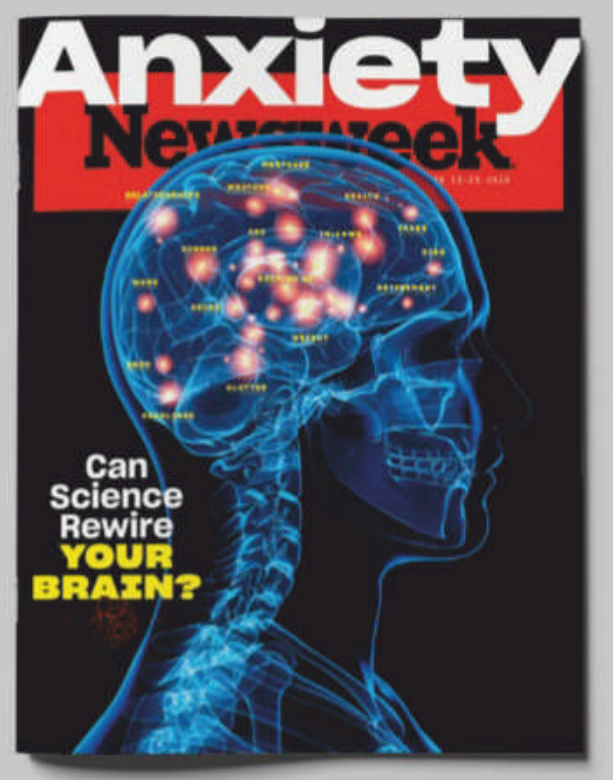
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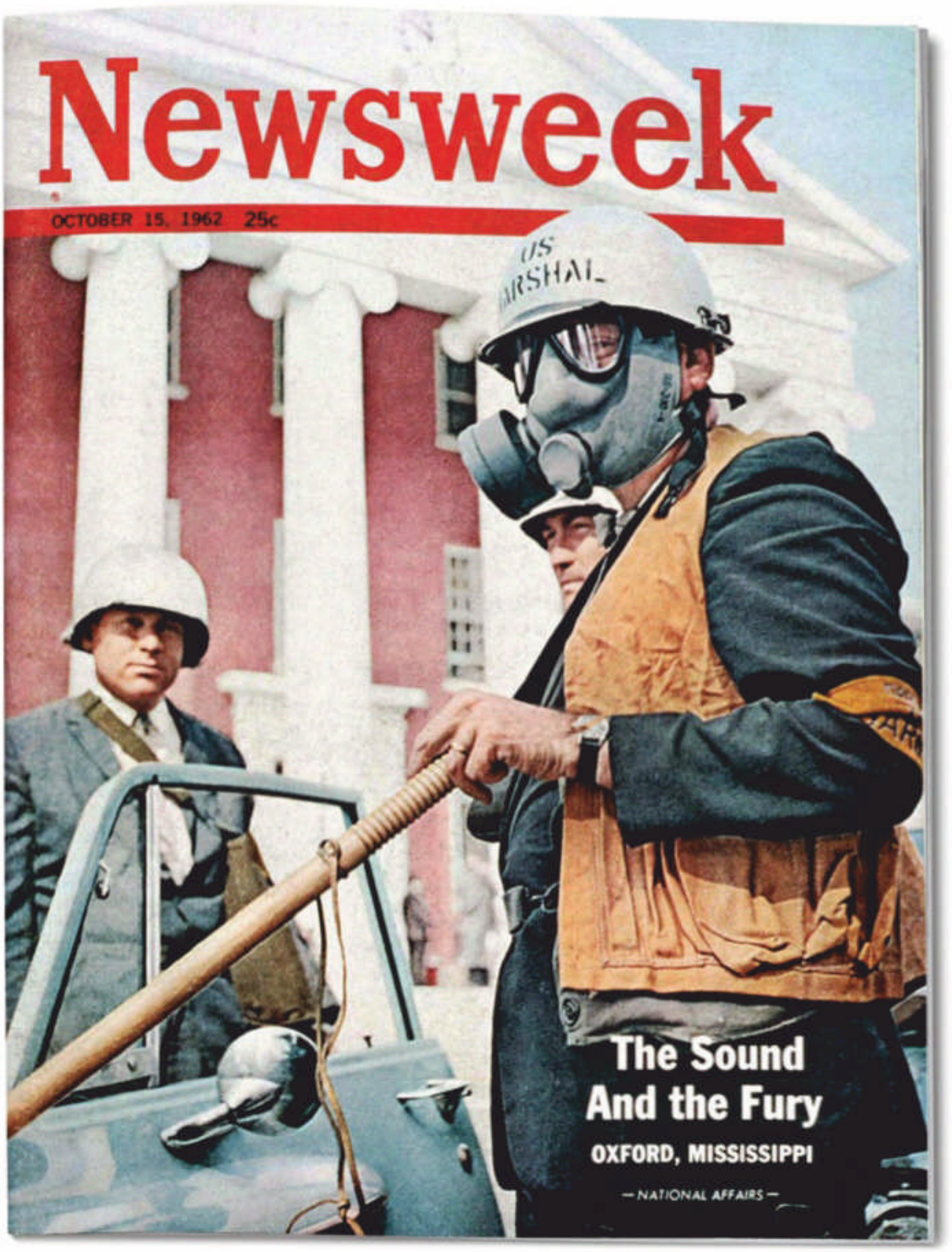
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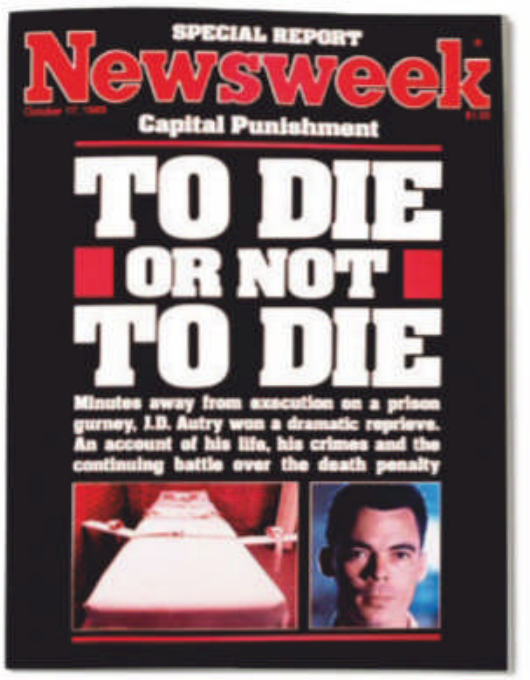
Newsweek wrote that federal marshals arrived at the University of Mississippi to maintain order as the school integrated in "an almost unbelievable turnback of history;" U.S. troops had occupied the same town in 1862. Just hours after James Meredith, the school's first Black student, arrived on campus, "students fired the opening barrage of the battle of Ole Miss—spit first, then lighted cigarettes, then pebbles, then rocks." This year, federal troops have also been deployed to quell racial unrest, though the troops have been sent to protect federal buildings from demonstrators for equality, not the reverse.





1977

"Women are the subject of a batch of new movies," said *Newsweek*, highlighting a supposed "new deal for women in films, in which they'll no longer be satellites to men but suns and stars in their own light." Yet in the biggest movies of the year in 2019, women still accounted for only 37 percent of major roles.



1983

J.D. Autry's life was spared from execution "31 minutes before its appointed end," reported *Newsweek*, as Associate Justice Byron White decided "that a last measure of fairness was more important than haste." In 2019, the U.S. was one of only 20 countries that carried out the death penalty, according to data from Amnesty International.

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DENVER

Dissent

Sheree Barbour with other protesters on September 23 showing their disapproval of the grand jury decision in the Breonna Taylor case. The death of Taylor, who was shot and killed by officers executing a search warrant in Louisville, has sparked protests across the country. The grand jury decision indicted one former Louisville police detective on three counts of wanton endangerment, but no officer was directly charged in connection to Taylor's death.

MICHAEL CIAGLO

NETANYA, ISRAEL

The Ritual

On September 24, a group of Ultra-Orthodox Jewish men perform the "Tashlich" ritual in the coastal city of Netanya during which "sins are cast into the water to the fish." The ceremony is performed before the Day of Atonement, or Yom Kippur, the most important day in the Jewish calendar, which this year will start at sunset on September 27.

→ JACK GUEZ

BANGKOK

Reformers

Anti-government protesters hold their mobile phones aloft as they take part in a pro-democracy rally in Bangkok on September 19. Tens of thousands of pro-democracy demonstrators joined together at Thailand's royal palace in a huge rally calling for Prime Minister Prayut Chan-O-Cha to step down—and also demanding reforms to the country's monarchy.

→ LILLIAN SUWANRUMPHA

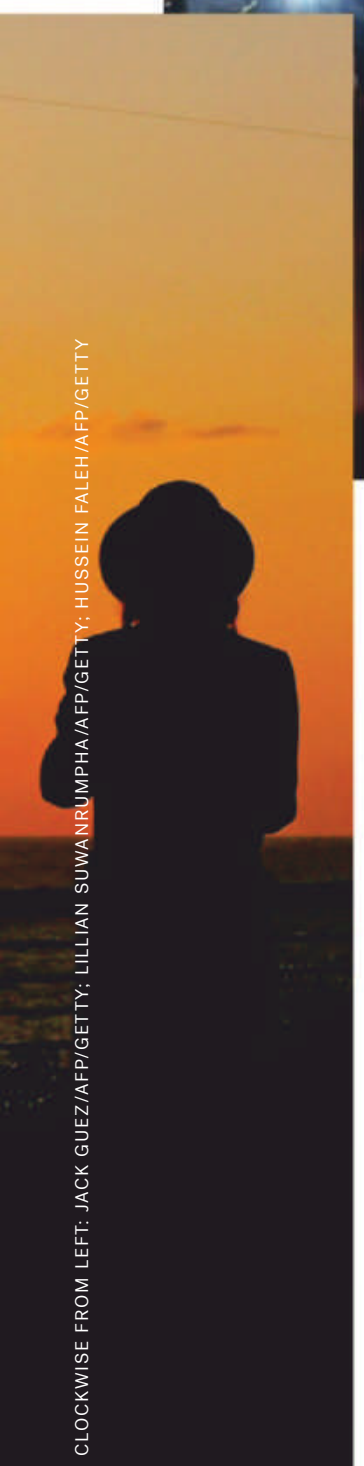
CHIBAYISH, IRAQ

Revival

A boy grabs the horns of a cow by the marshes of the southern district of Chibayish in Dhi Qar province, about 120 kilometres northwest of the southern city of Basra, on September 23. Iraq's southern marshes are blossoming thanks to a wave of eco-tourists picnicking and paddling down their replenished river bends.

→ HUSSEIN FALEH









CLOCKWISE FROM LEFT: JACK GUEZ/AFP/GETTY; LILLIAN SUWANRUMPHA/AFP/GETTY; HUSSEIN FALEH/AFP/GETTY



WHAT IT TAKES
Biden needs a big enough margin to take critical states like Florida and Arizona.

ELECTION 2020

The Fight for the Latino Vote

Can Trump snatch enough support to swing the election?



BIDEN BY: DAVID LIENEMANN/THE WHITE HOUSE/GETTY

THE DEMOCRATIC NOMINEE RIDES DISCONTENT with Donald Trump to lead in national polls, drawing support from two-thirds of Latino voters.

That's the story of Hillary Clinton, who looked set to win four years ago—until she didn't.

To the mounting terror of Democrats, it's also the situation Joe Biden finds himself in as polls tighten in the sprint to November 3. The Biden campaign—looking to upend the electoral map by winning states like Arizona, Georgia or Texas—publicly waved away concern about the state of the Latino vote for months. But on September 13th, senior advisor Symone Sanders acknowledged the campaign "has work to do" with the community.

That work accelerated at the end of August and into September, with efforts that are now partially fueled by its $365 million August fundraising windfall, *Newsweek* has learned. During one meeting on September 1, the campaign's senior Latino staff—including deputy campaign manager Julie Chavez Rodriguez, senior advisor Cristobal Alex, pollster Matt Barreto, and consultant Adrian Saenz—met with the analytics team to discuss expanding the universe of Latino voters being targeted by the campaign, according to sources with knowledge of the meetings.

The campaign has been dogged by concerns that it wasn't prioritizing Latino voters or doing enough to court them, fears centering on the perennial battleground state of Florida. The issue is not whether Biden will win the Latino vote—Democrats always have in modern presidential elections—but whether his campaign will perform well enough to win critical states like Florida and Arizona or crushingly fall short yet again.

Biden has faced subpar polling compared to Clinton with Latino voters in Florida, notably in Miami-Dade, where Democrats often look to run up the score. He also faces charges, aided by disinformation campaigns on social networks and messaging apps, that he is a socialist: anathema to many Latinos who came from socialist Latin American countries.

These voters could decide who will be the next president. Latinos are set to become the largest racial or ethnic group in the 2020 electorate, with a record 32 million eligible voters comprising 13.3 percent of the electorate, according to Pew Research Center. Since 2000, the share of Latino eligible voters has increased 80 percent—and this cycle, their outsized presence is felt most in battlegrounds like Florida, Arizona, Nevada and Texas (only one

BY

ADRIAN CARRASQUILLO

@Carrasquillo

Photo-illustration by GLUEKIT

of which, Nevada, went for Clinton four years ago). An August poll by Latino Decisions of 1,842 Hispanic adults found that nearly two-thirds, 64 percent, of registered Latino voters said they had not heard from either campaign or party.

Coming off a bruising primary season, Biden was slow to ramp up his paid media investment in Latinos before doing so this summer in seven states: Arizona, Florida, Pennsylvania, Nevada, North Carolina, Minnesota and Texas, as part of what his campaign calls an "eight figure" Latino voter program. After being outspent on Spanish-language television and radio into the early summer, the Biden campaign outspent Trump $3,523,985 to 2,032,405 from June 23 to September 7, according to a media tracking report used by Democrats. The messaging of those ads, targeted to Latinos, has been that Trump has botched the coronovirus response and has both targeted and failed the Latino community, and that Biden is a trustworthy man of faith.

The campaign says Biden's financial investment in reaching Latinos is "historic" but declines to provide specific dollar figures. The campaign has hired and elevated Latino staffers, including a slate of Obama alums, into key leadership roles. Rodriguez, the newly promoted deputy campaign manager and granddaughter of civil rights icon Cesar Chavez, was brought on this spring to grow the ranks of senior Latino staffers within the campaign, like senior advisor Cristobal Alex, an early campaign hire and liaison to many of the Latino leaders reaching out to the campaign.

"The Latino vote is core to our path to victory, which is why we are focused on mobilizing Latino voters and showing them Joe Biden's solutions for our community," Rodriguez told *Newsweek*. "We have hired directors focusing on turning out the Latino vote in every major battleground state and expanded our Latino paid media program to include North Carolina, Minnesota and Nevada."

Donald Trump doesn't need to win the Latino vote—he needs only to expand his support marginally. Trump campaign senior advisor Jason Miller predicted on a call with reporters on September 1 that the president will garner 40 percent of Hispanic support, which itself would be a figure not seen by a Republican presidential nominee since George W. Bush ran for the office in 2004.

The softness of Biden's support among Latinos worries Democrats. An NBC News/*Wall Street Journal*/Telemundo poll conducted September 13 to 16 showed Biden at 62 percent Latino support, with Trump at 26 percent. Biden is up by only 28 points in an average of live interview polls, a September 15 analysis by CNN shows, while Clinton was up 37 percent in an average of final pre-election polls.

Pew Research Center has found in the past that about three in 10 Latino voters are conservative, so Trump's 28 percent support in 2016 was not terribly shocking—but election day support in the mid-thirties, as his campaign believes he can attain, would be unexpected for a president who has been described as anti-immigrant and anti-Latino by his opponents. Bush, widely considered the gold standard for "compassionate conservative" outreach to Hispanics, attained 35 percent support in 2000 and 40 percent in 2004.

Latinos are set to become the largest racial or ethnic group in the 2020 electorate, with a record 32 million eligible voters.

In addition to being battered economically, Latinos have been disproportionately affected by the pandemic in terms of infections and death rates. A Pew Research Center survey in September found that the number of Latino registered voters who cited the virus as a "very important" election issue was 10 percentage points higher than U.S. adults overall. But the outbreak has not created a mass movement of Latinos away from the president. Polls don't show the big margins that Obama won in 2012 when he received 71 percent of Latino support versus 27 percent for Mitt Romney. Biden's numbers also haven't shown the support his party garnered from Latino voters in 2018, when they backed Democratic candidates over Republicans, 69 percent to 29 percent.

So why isn't Biden's support among Latinos higher?

"I think the Latino community has been so devastated economically, and in terms of their health, that there hasn't been much else on people's minds in the immediate moment," Representative Joaquin Castro told *Newsweek*. "I'm confident that Latino voter turnout will break records in 2020 and that Joe Biden will do very well with the Latino community."

Says Kristian Ramos, a Latino vote expert in Washington: "It's simply not true to say Latinos don't support Joe Biden...There is wide support. But the bigger question is, are they being reached out to? They have to be wooed and they have to be turned out."

Biden has been warned about the campaign's failure to connect with Latino voters. This spring former



CLOCKWISE FROM TOP: JOE SOHM/VISIONS OF AMERICA/UNIVERSAL IMAGES GROUP/GETTY; JOSHUA YOSPYN/FOR THE WASHINGTON POST/GETTY; BEN HASTY/MEDIANEWS GROUP/READING EAGLE/GETTY







THEN AND NOW Clinton drew strong Latino support—and still lost. Now, COVID is ravaging the community and Voto Latino founder Maria Teresa Kumar (below) fears the impact of "disinformation."

Senate Minority Leader Harry Reid of Nevada reached out to the former veep, says a source with knowledge of the call, and several Nevada elected officials, including Senator Catherine Cortez-Masto, the first Latina to serve in the U.S. Senate, expressed concern about Latino outreach, two sources close to her team said.

The Latino community is a diverse one, encompassing voters of different ethnicities, immigration background and language preference. Biden may garner more support from Latinos in the southwest, where they are predominantly Mexican-American, but still needs to improve his support among other ethnicities. While Cuban-Americans are a small portion of the Latino electorate nationally, the traditionally conservative bloc plays an outsized role in Florida—a key swing state. Puerto Ricans, long seen as Democratic stalwarts, turned out at a lower rate than Cubans in 2016 and 2018, and their propensity to register with no party affiliation makes the outlook in the state murky.

The Latino community comprises 20 percent of the Florida electorate. Former New York City Mayor Mike Bloomberg has pledged $100 million to support Biden in Florida with Latinos as the "centerpiece," after recent polls showed the former vice president underperforming compared to Clinton in populous Miami-Dade county and among Hispanics. A September Bendixen & Amandi/*Miami Herald* poll showed that while Obama beat Romney by 24 points in Miami-Dade county in 2012, and Clinton beat Trump 63 percent to 34 percent, Biden was beating Trump by only 17 points, 55 percent to 38 percent. Lackluster performance in the county with the most Democratic voters in the state is an ominous sign.

Latino Biden supporters in Florida have an additional challenge apart from traditional get-out-the-vote tasks: countering disinformation on the airwaves and social media. "Our challenge continues to be a lot of disinformation that is happening in Florida targeting the Latino community," says Maria Teresa Kumar, the founder of Voto Latino. She told *Newsweek* that she's seen interviews over the last year of Latinos in Florida who are "parroting" Trump ads. "They have to figure out how to disarm that disinformation," she said of the Biden team.

"I'm worried about it in Florida," says Jose Parra, a former senior advisor to Harry Reid, of Latino investment. "I've heard that we're bleeding voters in Miami-Dade and we're getting hammered on the airwaves in Hispanic media."

That disinformation comes on traditional media like Spanish-language radio stations and also on WhatsApp, Facebook and YouTube, where Latino voters whose families came from Cuba and Venezuela have been repeatedly told that Biden is a socialist in the mold of Fidel Castro or Hugo Chavez. "If you don't believe that the socialism attacks against Democrats work in places like Florida, just ask Governor

Andrew Gillum and Senator Bill Nelson," says Florida pollster Fernand Amandi about the two Democrats at the top of the ticket in 2018.

Amandi, who was the top consultant for Obama's Latino voter polling during both campaigns, and whose firm conducted the *Miami Herald* poll, said Democrats dismiss the potency of the word "socialism" at their peril. "Those candidacies should have been successful in a massive blue wave year for Democrats, but were tripped up by overperformance by the Republicans with Hispanic voters that used the 'socialism' attack as one of the centerpieces of opposition."

While the Trump campaign doesn't need to prioritize Hispanics in the same way Biden does, the president's team is not ceding the voting bloc. The campaign says it held 45,000 grassroots events in English and Spanish, as well as a "Day of Action Against Socialism" MAGA meet-up "to discuss horrors of socialism and phone bank into Latino communities." It also has 16 field offices targeting Latinos in Arizona, Florida, Nevada and Texas.

The campaign said it has held dozens of Zoom MAGA meet-ups to discuss the July White House Executive Order on the Hispanic Prosperity Initiative in states like Florida, Nevada and Texas. The goal of Trump's executive order, unveiled at the White House with fanfare among Hispanic Republican Leaders, is to "improve access by Hispanic-Americans to educational and economic opportunities."

The Trump campaign offers digital events such as a weekly Latinos for Trump women's meeting every Wednesday, which includes attendees watching *The Right View,* a YouTube show with Lara Trump, Kimberly Guilfoyle and Mercedes Schlapp. And the campaign says it registered dozens of voters at events in Florida, Arizona, Nevada, Wisconsin and Pennsylvania, while collecting items to be donated to food banks—evidence that the Trump campaign recognizes the ways the community has suffered this year. On September 14, Trump sat in on a Latinos for Trump roundtable in Phoenix, Arizona, of nearly a dozen community members talking about their American dream.

Steve Cortes, a Trump campaign senior advisor, told *Newsweek* that even if Latino voters don't support Trump, they can still be persuaded not to go to the polls for Biden. "I don't know that we can win over a lot of those Hispanic Bernie [Sanders] supporters but we can convince them not to vote for Biden," Cortes said. "They're not enthusiastic and Biden's not winning them over. I would rather win them over, but we'll take the half-win of them not voting for Biden."

The Biden campaign has tried outlining Latino-specific policy plans. A 2018 report by Stanford University revealed that the number of Hispanic small businesses grew 34 percent over the last decade, and the Biden campaign has included in its plans an injection of capital to small businesses of more than $50 billion "in additional public-private venture capital to Latino entrepreneurs and other entrepreneurs of color." It also highlighted its support of a $15 minimum wage, a push for a Smithsonian National American Latino Museum and appointments of Latinos in a future Biden administration.

But the Clinton campaign surpassed the Biden Latino operation in how much it used Latino and Spanish-language media to spread the message. A source close to the Biden campaign said staffers have tried to get Biden on Spanish-language television like Univision and Telemundo more often, only to have the idea nixed by other staffers. The campaign may fear having Biden get boxed in by questions on immigration, where he is quick to defend Obama's aggressive deportation policies.

Biden did not grant an interview to influential Univision host Jorge Ramos until a week before the Nevada caucuses. He did sit down with Telemundo's Jose Diaz-Balart, a veteran Cuban-American anchor from Florida, on September 15. Biden used the opportunity to say Trump is treating Puerto Ricans like "second-class citizens," and the University of Puerto Rico "should get the same kind of assistance that historically black colleges and minority universities get."



JOE RAEDLE/GETTY



Representative Ruben Gallego, a Biden surrogate, said Hispanics, including young Latinos, are activated like never before. "There was apprehension at the beginning, as the primary wrapped up, because the Biden campaign hadn't ramped up yet," he said. "But there's no way you can say they're not investing enough money in Arizona and Florida now."

The Biden campaign is appealing directly to young Latinos, using a song from gender-bending, reggaeton and Latin trap superstar Bad Bunny in an anti-Trump ad. The song, which translates to "But Not Anymore," gives voice to Latinos who may have supported Trump in the past. The Trump campaign followed with its own Bad Bunny ad, but fans of the artist know he has blasted Trump.

"His voice is very supportive of causes I support like LGBTQ rights and fighting political corruption in Puerto Rico," Joel Maysonet, director of Latino paid media for the Biden campaign, told *Newsweek*. "That's why I thought it made sense even though it looked unconventional to have Joe Biden and Bad Bunny."

Democrats dismiss the potency of the word "socialism" at their own peril.

MEMORIES OF FIDEL
Cuban-Americans, who tend to vote conservative, play an outsized role in Florida.

While pollsters this cycle say there are fewer undecided voters than in 2016, the campaign believes undecided Latino voters will break for the former vice president in November. "It's a culture—whether campaign culture or the culture of Latino voters—that they're generally responsive later in the cycle," a source close to the campaign said.

One addition the Biden campaign made at the end of July was bringing on Saenz to coordinate direct mail campaigns. EquisLabs' Stephanie Valencia, who worked with Saenz, said that in addition to his work for Obama, he has run campaigns in New Mexico, Texas and Florida and "understands the diversity and nuance of the Latino electorate." Saenz is said to be working on a massive direct mail campaign now.

In this final phase, the effort to reach Latino voters is being fueled by a newly cash-flush operation. While the campaign won't release specific budgets, the "spending numbers would blow people away—how much we're spending on TV, radio, and digital," a source close to the campaign said. The spending leads to more data, which unlocks the ability to do micro-targeted digital outreach, like pieces targeting men, immigrants or people under the age of 30, a source close to the campaign said.

"You want to hit people when they're paying attention," a campaign source said. "It's like showing a trailer two years before the movie. Instead, you want to ramp up before the premiere day."

A FITTING GOODBYE
As controversy swirled around her successor, Justice Ruth Bader Ginsburg lay in repose in a flag-draped coffin on the steps of the Supreme Court on September 23. Later, the coffin was moved to the Capitol, where RBG became the first woman to lie in state.

Shameless political gamesmanship will ultimately be **GOOD FOR OUR COUNTRY** and the Court itself. Here's why.

BY **David A. Kaplan**

IT'S TIME TO THE COU



ANDREW CABALLERO-REYNOLDS/AFP/GETTY

O PACK URT—AGAIN



THE REPUBLICAN HIJACKING OF the Supreme Court may actually turn out to be a good thing, but not for the reason you think. First there will have to be a war over packing the Court that will leave the institution bloodied and diminished—and that's not altogether bad, either. The battlefield will be not constitutional law but game theory. The salvation for the Court—for both conservatives and liberals in the long run—will not be this or that justice, or even the chief justice who at least for a few more weeks will be the ideologically swing justice. Instead, look to Anatol Rapoport and Robert Axelrod.

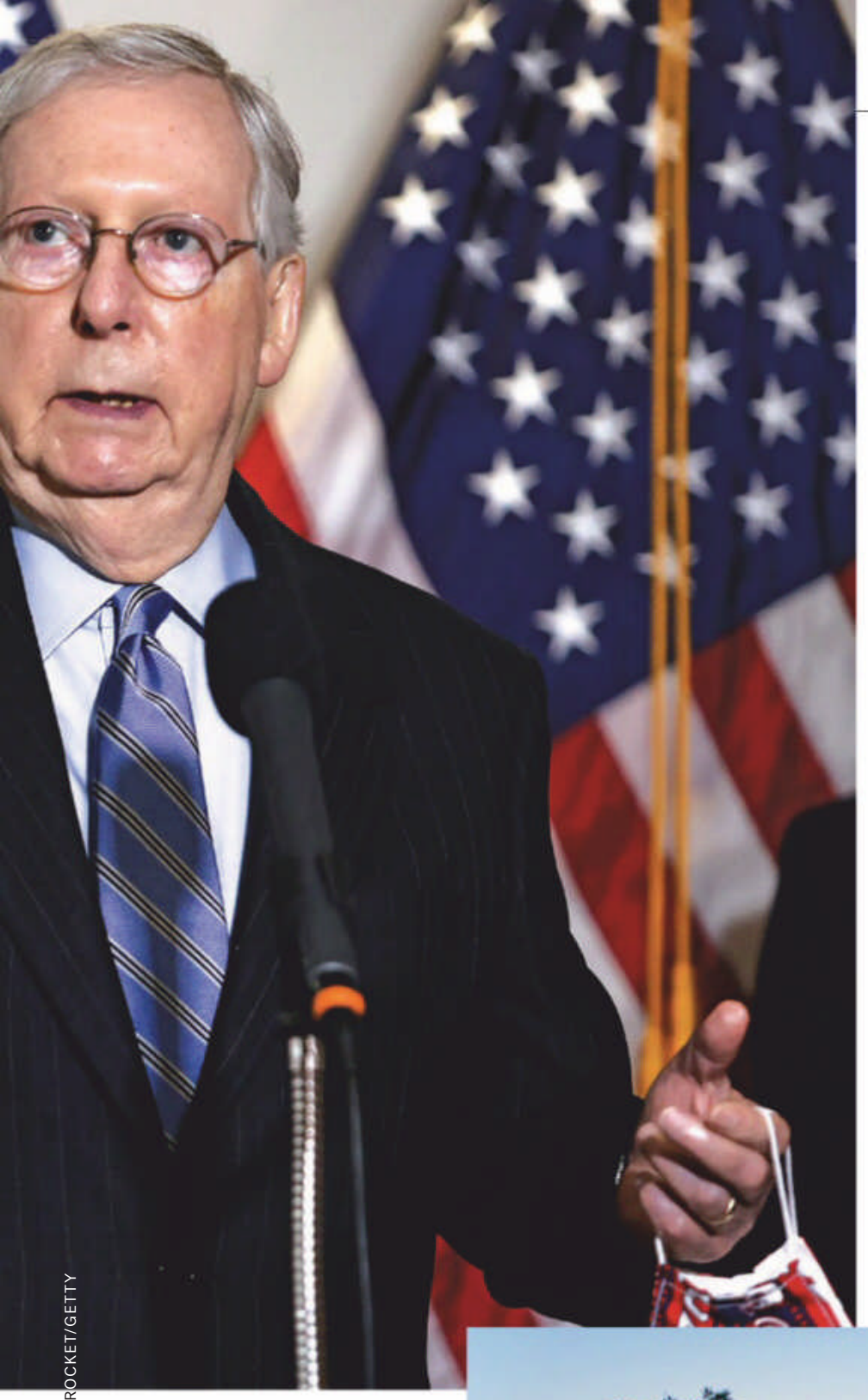
Forty years ago, Axelrod, a political scientist at the University of Michigan, organized a computer tournament involving the Prisoner's Dilemma. Rapoport, a University of Toronto professor, signed up. The game-theory experiment worked like this: Two accomplices—let's call them Mitch and Don—are arrested and separately interrogated. Each can remain silent, or implicate the other. If either Mitch or Don betrays but the other stays silent, the betrayer goes free and the mute gets a harsh sentence. If each betrays, both get a short sentence. If both stay silent, each goes free. Rapoport demonstrated that the best strategy was the unintuitive, exquisitely simple tit-for-tat. You keep quiet the first time you play, but then copy whatever your opponent did just before. So, initially, the other guy gets the chance to cooperate, but thereafter you're a sucker if you don't adjust.

Joe Biden and Senate Democrats could learn from the game. They've spent careers trying to cooperate with Republicans, even as the Republicans have proven to be unwilling partners. In this real-life version of the Prisoner's Dilemma, Biden and the Democrats keep expecting the other guy to behave differently—despite all evidence the other guy has learned that cooperation doesn't pay. At long last, when it comes to the Supreme Court, it's time to invoke tit-for-tat. Not chiefly because it will feel good to stick it to Republicans, but because it ultimately will work to the benefit of the Court.



Let's review how the GOP commandeered the Court. Four years ago, within hours of the death of Justice Antonin Scalia at a hunting lodge in West Texas, Senate Majority Leader Mitch McConnell made an audacious announcement. He wouldn't allow consideration of any nominee of President Barack Obama to replace Scalia. "This vacancy should not be filled until we have a new president," McConnell said, in the middle of his Caribbean vacation. This was a gambit to un-pack the Court—to leave unfilled a vacancy during a Democratic presidency. McConnell's stance was consistent with his pledge early on in Obama's tenure to subvert the president at every turn. There wasn't a precedent for leaving a Court seat open that long. In February 1988, for example, Anthony Kennedy was confirmed by a Democratic Senate during the final year of Ronald Reagan's presidency. And if Mitt Romney had won the White House in 2012, it's inconceivable that McConnell would have held up a Court nomination in the twilight of a Republican administration. But in 2016 the GOP controlled the Senate and virtually all Republicans refused even to meet with Obama's nominee, the widely admired centrist judge, Merrick Garland. The Scalia seat remained unfilled, until newly elected Donald Trump named Neil Gorsuch to it.

Even so, Biden, during this presidential campaign, has yet to fully take on McConnell and Senate obstructionists. Now, with



CLOCKWISE FROM LEFT: BETTMANN/GETTY; ALEX WONG/GETTY; ERIK MCGREGOR/LIGHTROCKET/GETTY

GEARING UP FOR A FIGHT
Republican Senate Majority Leader Mitch McConnell (above) has pledged to quickly push through a successor to Ginsburg (seen in a 1977 portrait at left), before a new president can take office. That's despite his objections to hastily replacing the late Justice Antonin Scalia in 2016, the last year of Barack Obama's administration. At an RBG memorial in New York City's Washington Square Park (right), attendees made their feelings about that approach clear.

the death of Ruth Bader Ginsburg and the GOP embrace of Trump's decision to ram a Court replacement through by Election Day—despite McConnell's previous not-until-we-have-a new-president rationale—Biden should promise to pack the Court beyond its current nine if he wins the presidency and if Democrats retake the Senate. The first presidential debate would be a bold place for Biden to announce it.

Contrary to popular belief, it doesn't take a constitutional amendment to change the Court's size. The Constitution mandates only the creation of a court and says its members shall "hold their offices during good behavior," which has been taken to mean for life. That's why there's consensus it would take a constitutional amendment to institute term limits for justices. But the text of Article III doesn't contemplate any specific number of seats on the Court. Text, as any card-carrying conservative will tell you, is the holy grail of interpreting the Constitution. So, changing the number requires only an act of Congress—easily accomplished if Democrats control the White House, the House and the Senate. Adding seats (or decreasing them by attrition) came to have a bad name after President Franklin Roosevelt proposed it in 1937. But Court-packing is neither ahistorical nor despotic. Indeed, Congress has changed the number of seats seven times—and those actions represent the best, truest control over the Court that citizens can exercise.

FDR's plan was hardly an abject loser. Infuriated that so much





New Deal legislation had been declared unconstitutional by the Court, he proposed to expand its roster, adding one seat for each justice over 70½ (with a cap at six more justices). The plan was widely panned, but nobody knows what might have become of it. That's because the Court soon began to uphold the kind of laws it had previously been striking down. One justice, Owen Roberts, reversed course. This was the so-called "switch in time that saved nine," (though there's no conclusive evidence he did so because he felt intimidated by any of FDR's denunciations that went back several years). FDR also prevailed without Court-packing because he quickly got to replace a recalcitrant conservative, Willis Van Devanter, with Hugo Black. In office until his death in 1945, FDR ended up getting to fill all but one of the nine seats on the Court.

There's nothing magical about nine. Yes, the Court has had that since 1869, but in the first century of the Republic the number yo-yoed repeatedly—from six to five to six to seven to nine to 10 to seven and then, in 1869, to nine. The presidents supporting such changes included John Adams, Thomas Jefferson, Andrew Jackson and a constitutionalist named Abraham Lincoln—not a radical among them. Their reasons could be overtly political. In the middle of the Civil War, the Republican Congress wanted to give Lincoln an extra seat. Only a few years later, legislators wanted to prevent his non-Republican successor Andrew Johnson from getting any. After Ulysses S. Grant became president, the headcount went up to nine. Say what you will about such partisanship, but not only is it not anti-democratic, it's just the opposite. It is the exercise of entirely unremarkable democratic prerogatives that the Constitution makes available. At the end of the day, as Larry Kramer, the former dean of Stanford Law School points out, "The Supreme Court doesn't get the last word. We the people do." Why would we want otherwise?

There are plenty of good arguments against Court-packing. Some were made in 1937. Undeniably, packing the Court would further politicize the institution. It would extinguish any notion about the "rule of law," confirming that the Court is little different than the other branches of government. Court-packing would also raise the specter of a judicial arms race between successive Democratic and Republican administrations. The Court would become subject to ongoing manipulation, a seesaw based solely on politics—"not unlike Argentina under Juan Perón or Venezuela under Hugo Chávez," as two Harvard professors wrote in their 2018 bestseller, *How Democracies Die*. Biden has bought that brief. During a primary debate last year, he said, "We add three justices. Next time around, we lose control, they add three justices."

Alas, such arguments assume all parties are behaving in good faith. They're not. Once that prisoner demonstrates he won't play by cooperative rules, you can't either. Even on the matter of manipulating judicial headcounts, Republicans have been unconstrained by notions of consistency. Several times in recent Democratic administrations, various GOP members of Congress have proposed "reverse-packing" lower federal courts. For example, an Arkansas congressman named Tom Cotton, in his pre-Senate days, introduced a bill to cut the number of judges on the influential federal appeals courts in Washington. Cotton said he aimed to save the taxpayer millions. Wouldn't you know it, though: He proposed the bill while Obama was president and there were vacancies on that court.

Although Court-packing would demolish a norm that has lasted 150 years, what the Republican Senate did to Garland and is set to do after Ginsburg's death, is norm-shattering, too. If a Ginsburg replacement goes through before Election Day—or, in the case of a Democratic triumph, before Inauguration Day—packing the Court (along with eliminating the filibuster for legislation, which it would require) is the only rational response. It's



FROM LEFT: HULTON ARCHIVE/GETTY/GETTY; NICHOLAS KAMM/AFP/GETTY PHOTO/BLOOMBERG/GETTY; ANDREW HARNIK/AP PHOTO

A NUMBERS GAME

Just because the number of Justices on the Supreme Court has held at nine for the past 151 years doesn't mean it's always been this way. For the first 80 years of the Republic, the number of judges on the nation's highest court actually fluctuated up and down quite a bit.

6

1789





UPS AND DOWNS
FDR (left) sought to expand the Court to protect New Deal laws. During the Obama years, Republican Tom Cotton (below) tried to cut the number of federal appeals judges. In 2016, Court nominee Merrick Garland (right) never made it past the starting gate.

IT'S TIME to invoke tit-for-tat
Not chiefly because it will feel good
TO STICK IT TO REPUBLICANS,
but because itultimately will
work to the benefit of the Court.

measured and proportional. And it would give Republicans the opportunity to sue for peace someday—after the Court roster is increased. Remember, the Axelrod experiment began with cooperation. It's only after cooperation failed that tit-for-tat became the correct strategy.

You can admire Democrats for resisting a turn to the political Dark Side. You can admire them for not being as good as Republicans at being bad. But at a certain point—Garland and Ginsburg and what more is on the way?—the propensity amounts to stupidity. Sometimes fighting fire with fire is the only way, until each side recognizes the flames will consume them all. Eventually, we can hope the combatants understand that bilateral disarmament is the only way to endure—and that we return to an era when rigid ideology isn't the benchmark for Court nominations. Maybe both sides would figure it out in a few years, or maybe in 50.

To pack the Court successfully, given the 6-to-3 majority that conservatives will likely soon hold, Biden and a Democratic majority in the Senate would have to add four seats to create a presumptive 7-to-6 liberal majority. Fine candidates abound. Garland's too old, tempting as it might be to put him on the Court. But the other three judges that Obama interviewed in 2016—50-year-old Ketanji Brown Jackson, and 53-year-olds Sri Srinivasan and Paul Watford—are good choices. So, too, would be Leondra Kruger, 44, of the California Supreme Court. Republicans would be powerless to stop any of it. Of course, down the road, when Republicans retook power, they could add two seats

Continued on page 25

5	6	7	9	10	7	9
1801	1802	1807	1837	1863	1866	1869

SOURCE: FEDERAL JUDICIAL CENTER

TACKLE AND BLOCK

Packing the Supreme Court isn't the Democrats' only option for overcoming a conservative majority. *by* JACOB JARVIS

→ **If President Donald Trump succeeds in appointing a** successor to the late Justice Ruth Bader Ginsburg before the election—or, if he loses, in a lame-duck session—how might Democrats try to overcome the resulting clear conservative majority on the high court?

Much of the focus so far has centered on the possibility of expanding the bench to add liberal justices—an option dependent on Democrats winning not just the presidency in November but also control of Congress. Packing the court, though, is just one strategy that Democrats might try to counter a judicial imbalance that works against them. Here are four other methods party leaders might employ.

The 15 Justices Plan

Similar to packing the bench in some respects, this proposal would expand the number of justices with an even split in terms of partisan affiliation.

Former Democratic presidential hopeful Pete Buttigieg put forward such a plan during the primaries, suggesting the court could be expanded to 15 members with the aim of restoring some political neutrality to it. The 15 would be made up of five conservative, five liberal and five non-political justices, with the latter group being chosen by the first 10.

Rotate Judges

Another suggestion that emerged during the Democratic primaries, this one via Vermont Senator Bernie Sanders, would be to rotate the justices. "That brings in new blood into the Supreme Court," he said.

The method in which justices would be rotated is unclear, though it would likely be a complex process with those moving down from the courts needing to be cooperative and those moving up likely needing to be nominated and voted in also.

Term Limits

Proposals to limit the terms of Supreme Court justices have been put forward in the past, with the suggestion of an 18-year tenure followed by service on a lower federal court.

"Lifelong appointments for justices are resulting in increasingly longer terms, with significant implications for the politicization of the court," wrote Maggie Jo Buchanan, the director of legal progress at the Center for American Progress, in a piece arguing the case earlier this year. "Creating term limits for justices would establish regularity in vacancies and help to avoid an escalation of the negative outcomes linked to justices' ever-longer lifetime tenures."

Disempowering the Court

Some legal scholars advocate taking some power away from the Supreme Court—moving certain cases out of its jurisdiction, for example, or requiring a supermajority decision to strike down laws. At present, it only requires a five to four simple majority.

"These reforms take power away from the Court, redirecting it to the political branches," said Ryan Doerfler, of University of Chicago Law School and Samuel Moyn of Yale University in an article earlier this year for the *California Law Review*. "While such reforms would not guarantee advances in social democracy, they would ensure that the battle for such advances takes place in the democratic arena."

CLIMATE CHANGE
Back in 2009, Ginsburg received a warm welcome from both sides of the aisle as she arrived to hear Obama speak at a joint session of Congress. In 2020, a bitter partisan fight is brewing over the late Justice's replacement on the Supreme Court.

PABLO MARTINEZ MONSIVAIS/GETTY



"My mother told me two things constantly. One was to be a lady, and the other was to be independent.

—FROM HER 2012 BOOK, *MY OWN WORDS*

"WHEN I'M SOMETIMES ASKED, 'WHEN WILL THERE BE ENOUGH [WOMEN ON THE SUPREME COURT]?' I SAY, 'WHEN THERE ARE NINE.'

—Speech at the 10th Circuit Bench & Bar Conference in 2012

RBG: IN HER OWN WORDS

From feminism to the value of a good dissent, the late Justice Ruth Bader Ginsburg had an opinion about nearly everthing. Here, in remembrance, are six quotes that helped to define her and solidify her late-life image as a cultural rock star.

Compiled by JEANINE MARIE RUSSAW

"THE GREATEST MENACE TO FREEDOM IS AN INERT PEOPLE. PUBLIC DISCUSSION IS A POLITICAL DUTY AND THIS SHOULD BE A FUNDAMENTAL PRINCIPLE OF THE AMERICAN GOVERNMENT."

—From her 2012 book, My Own Words





"DISSENTS SPEAK TO A FUTURE AGE."

—2002 interview with NPR's Nina Totenberg

"WHAT GREATER DEFEAT COULD WE SUFFER THAN TO COME TO RESEMBLE THE FORCES WE OPPOSE IN THEIR DISRESPECT FOR HUMAN DIGNITY?"

—From her 2012 book, My Own Words

"I WASN'T 100% SOBER."

—ON "NODDING OFF" DURING PRESIDENT BARACK OBAMA'S STATE OF THE UNION ADDRESS IN 2015

Continued from page 21

of their own, for an 8-to-7 majority. And so it would go: Pack, counter-pack. In time, the justices might have to double up in their chambers and swap their custom chairs on the bench for squashed rows brought in from Spirit Airlines. So be it.

No matter how sweet the taste, retribution obviously isn't sustainable as a governing principle for the Court. Partisan though many of its high-profile rulings frequently seem—too often you can predict the outcome of a case simply by lining up the justices appointed by Republican presidents on one side and their Democratic counterparts on the other—the Court derives legitimacy from the veneer of neutrality. But when its members come to be viewed as mere proxies for the partisans who put them there, the whole premise of an independent institution evaporates. Why have unelected, unaccountable deities issuing counter-to-popular-will thunderbolts from the Marble Temple on One First Street in D.C., if those justices seem to do no more than the bidding of their political patrons?

Chief Justice John Roberts, for one, appears to appreciate the problem. While he's a resolute political conservative, he values the institution's reputation. It's why he issued his extraordinary rebuke of the president in late 2018 after Trump railed again about the federal judiciary. "We do not have Obama judges or Trump judges, Bush judges or Clinton judges," the chief justice responded in a statement. Trouble is, that's largely what we already have. Four key rulings in recent years were all decided on straight party lines: Heller, in 2008, manufacturing an individual's right to bear arms under the Second Amendment; Citizens United, in 2010, unleashing big money into campaigns; Shelby County, in 2013, gutting the Voting Rights Act of 1965; and Rucho, in 2019, concluding that partisan gerrymandering was constitutionally fine-and-dandy. The Senate thievery of Scalia's seat in 2016 and now the power grab on Ginsburg's only underscore the current reality. Donald Trump's lists of possible Supreme Court nominees contain many highly credentialed lawyers. That makes them qualified to serve, crow their supporters. But Ivy League degrees miss the point. These prospective justices are on a list because the president expects them to vote a particular way on big cases. Reasoning, logic, history, precedent and the other traditional tools of constitutional interpretation? They're for chumps.

All that Court-packing would do is add the next logical beat to the politicization of the Court. The enrobed justices have been exposed for what they too often are—captives of policy predilections and the partisan muck that nominations to the Court have become. We the people lose trust. But here's the upside. Maybe we stop going to the Supreme Court every time we want divisive social and political issues resolved. Maybe an enfeebled Court more regularly defers to Congress and gives leeway to states to settle matters—saving its imprimatur only for special cases like Brown v. Board of Education. Maybe we wisely realize that America relies far too heavily on the Court. Maybe the faith we lose in the Court is replaced by the faith that we can still govern ourselves. That's not a liberal thing. That's not a conservative thing. It's a renewed commitment to sovereignty based on the will of the people.

→ **David A. Kaplan,** *the legal affairs editor of* NEWSWEEK *in the 1990s, is the author* THE MOST DANGEROUS BRANCH: INSIDE THE SUPREME COURT IN THE AGE OF TRUMP. *His other books include* THE ACCIDENTAL PRESIDENT, *about the tied 2000 presidential election and the perils of Bush v. Gore. He currently teaches journalism and law at NYU and the City University of New York (CUNY).*



DON V. JOHN
In 2018, Chief Justice John Roberts famously rebuked Trump for his views of the federal judiciary saying, "We do not have Obama judges or Trump judges, Bush judges or Clinton judges."

CLOCKWISE FROM BOTTOM LEFT: ALLISON SHELLEY/GETTY; KEVORK DJANSEZIAN/GETTY; BROOKS KRAFT LLC/CORBIS/GETTY; MARK WILSON/GETTY



THE OFFICIAL RBG
On the twentieth anniversary of her appointment to the bench in 2013, Ginsburg posed in the East conference room of the Supreme Court. Her often elaborate lace collars became part of her trademark.

NIKKI KAHN/THE WASHINGTON POST/GETTY

THE CONSERVATIVE LEGACY OF RBG

The liberal justice's secret to forging alliances across the aisle, says a former law clerk: finding and valuing common ground. *by* DAVID M. SCHIZER

With the passing of Ruth Bader Ginsburg, we have lost one of our nation's greatest legal minds. While she obviously was much beloved on the political left, we should not forget key aspects of her legacy that also resonated powerfully on the other side of the aisle, including her commitment to meritocracy, family, incremental change and the rule of law. I speak from personal experience, as a conservative who served as her law clerk during the October 1994 term—and stayed in close touch with her ever since.

RBG's friendship with conservative Justice Antonin Scalia, who passed away in 2016, was perplexing to some commentators but made perfect sense to both justices. In part, their friendship sprang from the admiration each felt for the other's considerable talents, as well as from their shared love of opera. But their friendship was grounded also in common values.

This may surprise those who know "notorious RBG" from social media and popular culture. But these are unreliable sources, especially about someone whose own knowledge of popular culture did not extend much beyond Verdi and Mozart. On the rare occasions when RBG went to a movie, she often brought a flashlight and used the time to catch up on paperwork. I doubt she ever watched *Saturday Night Live* before it began including affectionate parodies of her. As I told RBG not long ago, if someone had asked me 25 years ago who—among all the people I knew—was *least likely* to become a popular culture icon, she would have been my choice, hands down.

But if you had asked me who exemplified the value of meritocracy—of letting people compete and show what they can do—RBG also would have been my pick. As a champion for women's rights, she showed that everyone deserved to be judged on their merits. The Declaration of Independence promised us all the right to "the pursuit of happiness"—to develop our talents and pursue our dreams. RBG urged the nation to honor this commitment to women, as well as to men. Success should be based on ability, not biology.

RBG knew firsthand the frustration of not being judged on merit. Even though she was at the top of her law school class, no one would hire her after graduation in 1959. She would joke that as a woman, a mother and a Jew, she was a triple threat.

In a conversation over a decade ago, she repeated to me the explanation one law firm gave for not extending an offer: "We already have a woman." RBG's late husband, Marty Ginsburg, who was himself a leading tax lawyer, chimed in. "You owe them a lot, Ruth," he quipped. "If not for them, you would now be a partner at a law firm."

Along with the virtues of meritocracy and competition, RBG believed in family, a commitment also shared by conservative thinkers. Her devotion to her own family was obvious. During law school, she nursed Marty through a bout with cancer, while also caring for their daughter and keeping up with classes. RBG's devotion to Marty and their children and grandchildren never dimmed.

As a feminist, RBG never urged anyone to put their careers before their children. Rather, she wanted fathers to join mothers in bearing the burdens of childrearing. RBG believed this division of labor would be better not only for mothers and children, but also for fathers. Indeed, to reinforce this point, RBG always asked about *my* family whenever we spoke. When I served as dean of her alma mater, Columbia Law School, her first question was always about my children. Only then would she ask about the school. I got the message, and my life has been richer for it.

In seeking to change attitudes, RBG understood the importance of proceeding incrementally—a quality that also should resonate with conservatives. As an advocate, she realized that one way to convey the evils of gender discrimination to (male) judges was to bring cases involving discrimination against men. She regularly won those cases.

In four decades of service on the bench, RBG left the world of advocacy behind, cherishing the impartiality of a well-functioning judiciary. She worked tirelessly to produce opinions that were clear and concise. "Get it right and keep it tight" was her mantra with law clerks. The reasoning had to be scrupulously accurate and honest. It was wrong to "knock chess pieces off the table"—her phrase for not taking account of counterarguments. Like her friend Nino Scalia, she was committed to parsing the relevant authorities and following the law.

I do not mean to minimize her differences with conservatives—whether in interpretive philosophy or in her votes in some high-profile cases. But RBG herself felt that these differences were overemphasized. In countless speeches at law schools and bar associations, she observed that very few Supreme Court cases were decided by a vote of five to four, while a great many were unanimous.

RBG knew the value of finding common ground with colleagues. Whether in the majority or in dissent, she was unfailingly courteous. Even as she pressed her argument vigorously, she focused on the merits, without making the disagreement personal. RBG recognized that even if they disagreed today, they were sure to agree in another case tomorrow.

In other words, along with her many other gifts, RBG knew how to make her case forcefully, but collegially. Sadly, this is becoming a lost art in our increasingly polarized time. For so many reasons, all of us would do well to follow her example. She would be proud for that lesson to be a core part of her legacy.

→ **David M. Schizer** *is dean emeritus of Columbia Law School.*

WHO WOULD BIDEN PICK?

Legal experts weigh in on the likely Supreme Court nominees under a Democratic president. One thing's for sure: Barriers will be broken. *by* STEVE FRIESS



There wasn't a ton of mystery around President Donald Trump's third Supreme Court pick because he has been releasing lists of potential nominees since before he was elected. Yet if Senate Democrats somehow secure the chance to nominate a replacement for Ruth Bader Ginsburg—or if a President Joe Biden has future chances to appoint justices—his potential choices are less obvious because he has declined to say who's on his short list.

All Biden has indicated on the record so far is a desire to appoint the first Black woman to the high court. But if Democrats make good on a threat to add justices to the high court in the event that they capture the Senate and White House in November, Biden could have an unusual opportunity to break other Supreme Court barriers on race, ethnicity and identity, too.

Who would he choose? While Biden won't offer a pre-election list—Trump's decision name potential candidates during the 2016 campaign broke with tradition—a half-dozen legal eagles interviewed by *Newsweek* offered some highly educated guesses.

→ The Leading Contenders

Two names surface repeatedly as top options for a Black female nominee: California Supreme Court Justice Leondra Kruger, 44, and Federal District Judge Ketanji Brown Jackson, 50. Jackson was on the short list in 2016 when President Barack Obama selected Judge Merrick Garland in 2016 to replace the late Justice Antonin Scalia. Kruger served in both Presidents George W. Bush's and Obama's solicitor general office—the legal team that represents the White House—and argued 12 cases before the Supreme Court in that role.

Michigan State University law professor Frank Ravitch says both Kruger and Brown Jackson would likely have been appointed to federal appellate courts if they hadn't had their progress blocked by Senator Mitch McConnell, the Republican leader. Kruger is a Yale Law graduate and former clerk to Associate Justice John Paul Stevens; Jackson went to Harvard Law and clerked for Associate Justice Stephen Breyer. "If Republicans hold the Senate and Biden takes office, his best pick is Kruger," Ravitch says. "She's the least highly partisan pick."

Political science professor Justin Crowe of Williams College agrees. "Both are accomplished, well-liked African-American women who are of the right age, in their late 40s to mid-50s," he says. "Their profiles, in terms of checking off the boxes of experience and education, look exactly like the profiles of justices have for the last 40 years. What's different is their experiences, their backgrounds."

Indeed, all of the current Supreme Court justices earned their law degrees at either Harvard or Yale. "It's a kind of a pipeline and the Democrats and Republicans are alike in this," Crowe says. "They come out of law school, clerk for Supreme Court judges, then work in an administration or a law school or are tapped to join the federal judiciary. From there, your conduct and opinions make you thought to be articulate and erudite and eloquent and generally in line with the politics and positions of the president that's nominating you."

→ Less Traditional Candidates

In addition to those women and their more traditional high-court pedigrees, Biden also could draw from academia and politics, experts say. Justice Elena Kagan, for instance, had been a solicitor general and Harvard Law dean but never a judge before Obama tapped her in 2010. In that vein, Ravitch says, New York University law professor Melissa Murray is a name "you hear a lot in academic circles."

Murray, who is in her mid-40s, is a Yale Law graduate who clerked for Associate Justice Sonia Sotomayor when Sotomayor was a federal appellate judge and, perhaps a first for a SCOTUS prospect, hosts the popular podcast *Strict Scrutiny*, about the Supreme Court. "She's got extremely strong academic heft and she's just freaking brilliant," Ravitch says.

Among Black women politicians, the names of Georgia gubernatorial also-ran Stacy Abrams, Atlanta Mayor Keisha Lance Bottoms and New York Attorney General Letitia James are sometimes bandied about. The last Supreme Court pick with a background in elective politics, though, was Sandra Day O'Connor, a one-time Arizona state legislator, so the idea is popular in the speculation parlor game but seems remote in real life to most experts. Says Indiana Law Professor Steve Sanders, "The strong



"THE CONVENTIONAL WISDOM IS TO APPOINT SOMEONE YOUNGER WHO CAN REMAIN ON THE COURT AS LONG AS POSSIBLE."

CHIP SOMODEVILLA/GETTY

precedent is you're looking for someone who's been on a federal court of appeals or had a significant academic career."

→ History-Making Possibilities

Should Biden wish to make other historic picks, there are plenty of barrier-breaking prospects given that, of the 112 Supreme Court justices in U.S. history, only two have been Black (both men), one is Hispanic, four have been women and eight have been non-Christians (all Jewish). "If Biden were looking to expand the diversity of the Supreme Court in other ways, such as appointing an Asian-American, a Hispanic man or a member of the LGBTQ+ community, there are a number of strong choices," says Paul Collins, law professor at University of Massachusetts at Amherst.

One prospect, New York University Law professor Kenji Yoshino, 51, fits two categories —Asian and openly gay. Yoshino is a Yale Law graduate and prolific author whose writings have heavily influenced the legal arguments regarding LGBTQ rights.

Other LGBTQ possibilities include Todd Hughes, 53, a federal appellate judge and Duke Law graduate; Cornell Law graduate Allison Nathan, 48, and Yale Law graduate Paul Oetken, 54, both federal judges in the Southern District of New York; and Pamela Karlan, 61, a Stanford Law professor and former deputy assistant attorney general under Obama.

Karlan, a Yale Law graduate and clerk for Justice Harry Blackmun, is "every progressive's dream candidate," Sanders says. Yet she may be seen as both too partisan— she testified in favor of the Trump impeachment in the House—and too old. "One of Pamela's charms is she's outspoken and sharp-witted and has undoubtedly said plenty of things over the years that would get her in trouble," Sanders says.

Age is a key consideration. All of the current justices were 55 or under when appointed. "The conventional wisdom is to appoint someone younger who can remain on the court as long as possible," Sanders says.

Other oft-mentioned candidates of Asian descent include Yale Law grad Goodwin Liu, 49, a justice on the California Supreme Court; Sri Srinivasan, 53, the chief judge of the U.S. Court of Appeals for the District of Columbia who went to Stanford Law; UCLA Law graduate Jacqueline Nguyen, 55, a federal appellate judge in the 9th Circuit; and Lucy Koh, 52, a federal judge in the Northern District of California and Harvard Law graduate. Koh's husband, California Supreme Court Justice Mariano-Florentino Cuellar, 48, is the most frequently-cited prospect to be the first Hispanic man nominated by a Democrat. He went to Yale Law.

→ The Argument for Staying Mum

Most observers in academia praise Biden's choice not to release a list of prospects, something no president or major-party nominee had ever done before Trump. "People have made arguments that the effect of the Trump list makes it so that all of these people on the list are now auditioning for the seat and there's posturing to try to look better to the president," Crowe says. "If you find that unseemly or that it calls into question the objectivity of a judge and why he or she is doing something, then not putting people in an on-deck circle takes that away."

What's more, Ravitch is uncomfortable even with Biden's announcement that he'd pick a Black woman. In 1980, President Ronald Reagan said he'd pick the first female justice if elected, and some criticized that eventual appointee, O'Connor, as benefiting from tokenism.

"There's a lot of incredibly qualified people who deserve to be nominated because they're just remarkably qualified people," he says. "My fear is that it will allow people to undermine nominees who really are qualified to be on the Supreme Court. Kruger is a very different justice than Brown Jackson is. Telegraphing this is going to lead to people seeing them as the African-American female justice rather than seeing them as brilliant jurists. I would want him to do it, but I wish he hadn't telegraphed it."

→ **Steve Friess** *is a* NEWSWEEK *contributor based in Ann Arbor, Michigan.*

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09

DIGITAL VISION/GETTY

LIKE VIRTUALLY EVERY OTHER ASPECT OF OUR LIVES—

work, school, shopping, leisure, you name it—the pandemic is changing the way Americans bank. And those changes, in turn, are creating a new set of challenges and opportunities when it comes to picking the bank that best suits our needs.

For one thing, we have a newfound need and affection for savings accounts, evidenced by a more-than-doubling of the personal savings rate over the past several months, as the idea of building a solid emergency fund morphed from being an aspiration to an economic imperative. "The savings growth has been record-breaking," says Ken Tumin, founder of the bank comparison site DepositAccounts.com. But it's tougher than ever to find a suitable account to house those savings—one that doesn't actually cost you money after factoring in fees, given that the average savings rate is now near zero.

Meanwhile, lockdown mode is pushing many of us to finally embrace online banking in a major way. Traffic at local banks is down substantially compared to last year, with about half of customers who previously relied on physical branches and ATMs saying they've increased their use of mobile apps and 35 percent making more use of their bank's website, according to consultants Kearney. Experts believe the shift is likely to stick. "Once you get used to the technology and how easy and convenient it is to bank this way, it's hard to go back," says Tumin.

Customer service is also becoming a more important consideration, as complaints about financial services providers have surged, up 50 percent from March through July vs. the same time period in 2019, according U.S. PIRG. "The record level of consumer complaints is a blaring red light signaling the huge challenges consumers are facing during the COVID-19 pandemic," says Gideon Weissman of Frontier Group.

To help you navigate this new financial landscape, *Newsweek* has partnered with LendingTree, the financial services comparison site, for our first Best Banks rankings. From a universe of more than 2,500 FDIC-insured institutions, we assessed U.S. banks and the savings and checking accounts they offer based on 55 factors to come up with a best-in-class option in 18 categories. (Find the rankings online at newsweek.com/bb-2021.) One or more of these winning bank may be the perfect choice for your family.

→ **Diane Harris,** *Deputy Editor in Chief*



Methodology

To identify America's Best Banks, LendingTree in consultation with *Newsweek* culled candidates from among more than 2,500 FDIC-insured financial institutions. LendingTree then applied filters to narrow the candidates in each category, based on the most salient features for each bank type or account; LendingTree supplied the data and made recommendations for a proprietary scoring system developed by *Newsweek*, based on the most important factors for each type of bank or account. Data sources included DepositAccounts.com, info published by each bank, FDIC reports, CFPB complaints and mobile app reviews.

All together, 55 factors were assessed, including various fees, current and historical interest rates, account terms, customer service features and mobile app scores. For state winners, the best big bank needed to have at least one branch per 100,000 residents and $10 billion in assets; the best small bank had to have less than $10 billion in assets and be among the five banks with the most branches in the state. A bank couldn't have more than one branch to be considered for best online bank. For best customer service, a bank had to have responded to at least 97 percent of complaints filed with the CFPB in a timely fashion to be considered. To be considered for best online savings or online checking accounts, a bank had to have fewer than 100 branches; banks needed more than 100 branches to win for either the best checking or best savings account award. (For the full methodology, go to newsweek.com/bb-2021.)

Newsweek exercised final editorial judgment when selecting winners. Current interest rate information is accurate as of September 24, 2020 and represents the highest rate a customer could earn, if all qualifications are met. The complete data set was last updated by LendingTree on September 10, 2020.

THE BEST BIG BANK IN EVERY STATE

We looked for banks with a broad local footprint—you don't want to have to go too far out of your way when you need a branch or an ATM—that offer a winning combination of low fees, competitive interest rates and a broad array of services, including a variety of loans and a high-performing mobile app.

STATE	BANK	NO. OF BRANCHES
ALABAMA	PNC Bank	56
ALASKA	Wells Fargo	43
ARIZONA	Bank of America	129
ARKANSAS	U.S. Bank	35
CALIFORNIA	U.S. Bank	560
COLORADO	U.S. Bank	133
CONNECTICUT	People's United Bank	169
DELAWARE	Wilmington Savings Fund Society	32
DISTRICT OF COLUMBIA	Citibank	16
FLORIDA	Bank of America	506
GEORGIA	Bank of America	157
HAWAII	First Hawaiian Bank	53
IDAHO	Washington Federal Bank	24
ILLINOIS	U.S. Bank	190
INDIANA	First Merchants Bank	92
IOWA	U.S. Bank	82
KANSAS	U.S. Bank	34
KENTUCKY	U.S. Bank	115
LOUISIANA	Capital One	92
MAINE	People's United Bank	17
MARYLAND	Bank of America	141
MASSACHUSETTS	Eastern Bank	83
MICHIGAN	Huntington Bank	282
MINNESOTA	U.S. Bank	132
MISSISSIPPI	Renasant Bank	62
MISSOURI	U.S. Bank	206
MONTANA	U.S. Bank	21
NEBRASKA	U.S. Bank	48
NEVADA	U.S. Bank	79
NEW HAMPSHIRE	People's United Bank	25
NEW JERSEY	Investors Bank	109
NEW MEXICO	Washington Federal Bank	23
NEW YORK	Citibank	227
NORTH CAROLINA	Bank of America	132
NORTH DAKOTA	Bremer Bank	14
OHIO	U.S. Bank	238

STATE	BANK	NO. OF BRANCHES
OKLAHOMA	MidFirst Bank	49
OREGON	Washington Federal Bank	46
PENNSYLVANIA	PNC Bank	338
RHODE ISLAND	Bank of America	28
SOUTH CAROLINA	Bank of America	77
SOUTH DAKOTA	Wells Fargo	39
TENNESSEE	U.S. Bank	89
TEXAS	Bank of America	355
UTAH	JPMorgan Chase	49
VERMONT	People's United Bank	38
VIRGINIA	Bank of America	119
WASHINGTON	Washington Federal Bank	81
WEST VIRGINIA	WesBanco	44
WISCONSIN	U.S. Bank	116
WYOMING	U.S. Bank	14
PUERTO RICO	Banco Popular	160



BEST BIG BANK
(OVERALL WINNER)

With interest rates near zero and the pandemic pushing people to do more of their banking online, a great bank needs to deliver competitive rates, low or easily-waived fees and a superior mobile app. The best-in-class choice also has to offer good customer service, the option to visit a local branch and a variety of financial products, including loans. The winner here delivers on all counts.

CITIBANK

NUMBER OF BRANCHES:

700

TIMELY RESPONSE TO COMPLAINTS:

100%

RECENT TOP SAVINGS RATE:

0.9%

FEE-FREE ATMS:

65,000+

MOBILE APP SCORE (1 TO 5 SCALE):

4.78



Icon illustrations by ILYA LIREN



Best Online Savings Account

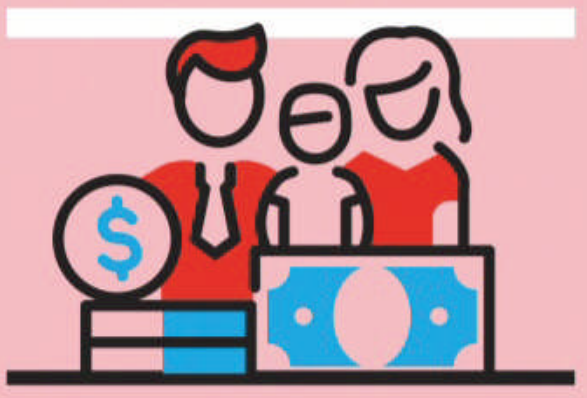
The pandemic has sparked a big jump in the personal savings rate and online savings accounts—which offer higher-than-average interest rates, accessibility and safety—are a good choice for emergency funds. To identify a winner, *Newsweek* prioritized a combination of consistently high rates, low fees and an outstanding digital customer experience.

▸ VARO BANK

Varo Savings Account

Recent interest rate: **2.8% up to $10,000, then 0.81%**

Minimum to open account: **$0**



Best Savings Account for Kids

Young customers shouldn't be penalized for having only modest sums to deposit. They're kids, after all. For this category, only special accounts for those under 18 were considered; priority factors included a low minimum to open the account, no or low fees and a decent interest rate to keep young savers motivated.

▸ CAPITAL ONE

Kids Savings Account

Recent savings rate: **0.5%**

Minimum to open/monthly fee: **$0**

GETTY



BEST SAVINGS ACCOUNT

Just over half of bank customers prefer using branch services some of the time to a digital-only experience, J.D. Power reports—but you'll sacrifice some yield to get this. To rise to the top in this category, a bank needed to have at least 100 branches, consistently above-average savings rates and low fees.

▸ HSBC

Direct Savings Account

RECENT INTEREST RATE: 0.5%

MONTHLY MAINTENANCE FEE: $0

Photograph by IAN ROSS PETTIGREW



BEST CUSTOMER SERVICE

Complaints about banks have risen sharply during the pandemic—precisely when customers need good service the most. Banks with the fewest problems reported to the Consumer Financial Protection Bureau, a timely response rate, a helpful mobile app and a variety of dedicated customer service lines rose to the top of our list.

Commerce Bank

COMPLAINTS WITH TIMELY RESPONSE: **100%**

MOBILE APP SCORE: **4.7**



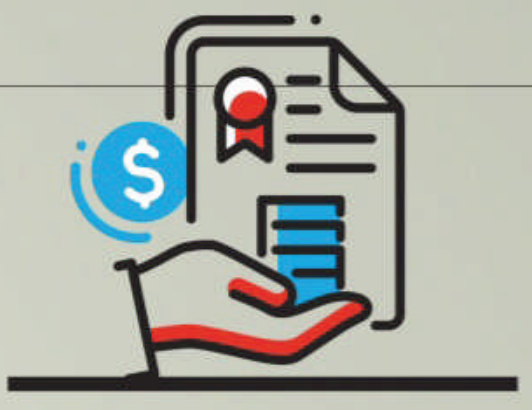




Best Regional Bank

The winner took the top spot in more big-bank state rankings than any other financial institution in the database, dominating in the Midwest and Western regions.

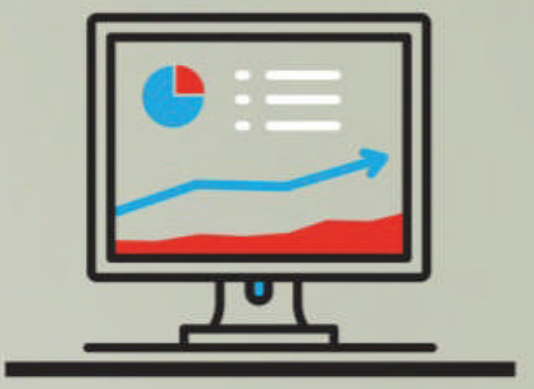
- **U.S. BANK**
  Number of state wins: **16**
  Mobile app score: **4.75**



Best Certificates of Deposit

These timed savings accounts offer higher interest rates for leaving your money untouched for a set period, so how much you earn was the most important consideration. Factors such as penalties for withdrawing your money before the end of the term and the minimum amount needed to open the account were also weighed.

- **LIVE OAK BANK**
  Six-Month CD
  Recent rate: **0.6%**
  12-month average rate: **1.52%**
- **PRIMARY BANK**
  12-Month CD
  Recent rate: **0.95%**
  12-month average rate: **1.52%**



Best Online Bank

With lower overhead than brick-and-mortar institutions, banks that operate primarily online typically offer higher rates, plus lower fees. Lately the rate advantage has shrunk, making low fees more critical, along with great customer service and a killer mobile app.

- **DISCOVER**
  Recent checking rate: **1% on up to $3,000 in debit purchases a month**
  Mobile app score: **4.79**

C.J. BURTON/GETTY

THE BEST SMALL BANK IN EVERY STATE

Sometimes smaller can be better, with more personalized service and a perk or two that bigger banks don't offer. Each of these small bank winners is among the five institutions with the most branches in its home state and sports comparatively low fees, competitive yields and a good mobile app.

STATE	BANK	NO. OF BRANCHES
ALABAMA	Bryant Bank	16
ALASKA	Mt. McKinley Bank	5
ARIZONA	Commerce Bank of Arizona	4
ARKANSAS	Bank of England	6
CALIFORNIA	Mechanics Bank	146
COLORADO	NBH Bank	48
CONNECTICUT	Newtown Savings Bank	15
DELAWARE	The Bank of Delmarva	4
DISTRICT OF COLUMBIA	City First Bank of D.C.	1
FLORIDA	First Federal Bank	23
GEORGIA	Queensborough National Bank & Trust Company	23
HAWAII	Territorial Savings Bank	29
IDAHO	Bank of Idaho	10
ILLINOIS	First Mid Bank & Trust	58
INDIANA	German American Bank	50
IOWA	Fidelity Bank & Trust	30
KANSAS	Community National Bank & Trust	25
KENTUCKY	Stock Yards Bank & Trust Company	29
LOUISIANA	First Guaranty Bank	27
MAINE	Machias Savings Bank	16
MARYLAND	Shore United Bank	17
MASSACHUSETTS	East Boston Savings Bank	41
MICHIGAN	ChoiceOne Bank	27
MINNESOTA	Merchants Bank, National Association	21
MISSISSIPPI	The Citizens National Bank of Meridian	24
MISSOURI	Southern Bank	37
MONTANA	TrailWest Bank	14
NEBRASKA	Security First Bank	22
NEVADA	Valley Bank of Nevada	2
NEW HAMPSHIRE	Mascoma Bank	15
NEW JERSEY	1st Constitution Bank	27
NEW MEXICO	First American Bank	15
NEW YORK	The First National Bank of Long Island	52
NORTH CAROLINA	HomeTrust Bank	20
NORTH DAKOTA	Dakota Community Bank & Trust	11

OHIO	
Park National Bank	105
OKLAHOMA	
First United Bank and Trust Company	31
OREGON	
First Federal Savings and Loan Association of McMinnville	8
PENNSYLVANIA	
Bryn Mawr Trust	32
RHODE ISLAND	
Centreville Bank	8
SOUTH CAROLINA	
First Palmetto Bank	23
SOUTH DAKOTA	
First Dakota National Bank	18
TENNESSEE	
Reliant Bank	27
TEXAS	
First Financial Bank, National Association	78
UTAH	
Cache Valley Bank	16
VERMONT	
Union Bank	14
VIRGINIA	
Carter Bank & Trust	75
WASHINGTON	
Heritage Bank	55
WEST VIRGINIA	
Union Bank, Inc.	8
WISCONSIN	
Nicolet National Bank	38
WYOMING	
Central Bank and Trust	5



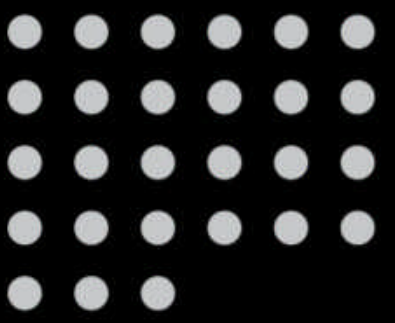
BEST SMALL BANK (TIE)

A hometown bank that offers the personalized feel of local branch service while delivering competitive rates and mobile banking performance on par with larger national banks can be a great choice for many customers. Add in low fees and a variety of financial products, including loans, and you have a small-bank winner.

FIRST GUARANTY BANK

(LOUISIANA)

NUMBER OF BRANCHES: 27



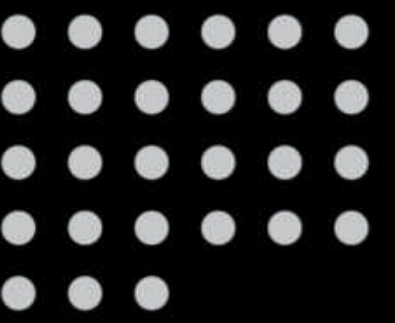
MOBILE APP SCORE (1 TO 5 SCALE):

4.75

1ST CONSTITUTION BANK

(NEW JERSEY)

NUMBER OF BRANCHES: 27



MOBILE APP SCORE (1 TO 5 SCALE):

4.61

BEST CHECKING ACCOUNT

Brick-and-mortar banks typically pay zero or next-to-nothing on checking accounts; since they're most often used for everyday cash and bill-paying, that may not matter much—as long as you're not actually losing money due to high fees. That's why low fees (service, ATM, overdraft) were the top consideration in this category for banks with more than 100 branches.



CENTENNIAL BANK

Freedom Checking

MONTHLY MAINTENANCE FEE:
$5, WAIVED WITH E-STATEMENTS

ATM FEES: **REIMBURSEMENTS OFFERED**



GETTY



Best High-Yield Checking Account

When the category is all about high rates, a winner has to deliver a stellar payout; interest-rate factors made up two-thirds of the total score for these accounts and only those offering rates above 1 percent were considered. Fees for things like ATM use and overdrafts were also weighed.

FIRST SECURITY BANK & TRUST

Kasasa Cash

Recent interest rate: **2.01% up to $50,000**

Monthly service fees: **$0**



Best Online Checking Account

A big advantage of many online checking accounts: no monthly maintenance fees or charges for using out-of-network ATMs. That was a minimum requirement for our winner, along with a well-regarded mobile app and a high interest rate—but you will have to meet direct-deposit and debit-card purchase requirements to earn that top yield.

FIRST SECURITY BANK & TRUST

Kasasa Cash

Recent interest rate: **2.01% up to $50,000**

Mobile app score: **4.72**

Photograph by JOHN SCOTT



Best Traditional Checking Account

Some bank customers prefer to go old school for checking; they want branch access, physical checks and paper statements and don't want to be forced to bank or pay bills online to receive top rates and avoid fees. The winner offers all that, plus free checks and ATM reimbursements, if you're over age 50.

CENTENNIAL BANK
Diamond Checking

Minimum to open account: **$100**

Monthly service charge: **$0**



Best Free Checking Account

Fee avoidance was the top consideration for this category. Only banks that do not charge a monthly maintenance or service fee were considered; other fees made up 40 percent of the score. A low minimum to open the account and a competitive yield were also key factors.

BAY STATE SAVINGS BANK
Free Kasasa Cash

Recent interest rate: **2.01%, up to $20,000**

ATM fees: **unlimited reimbursement**



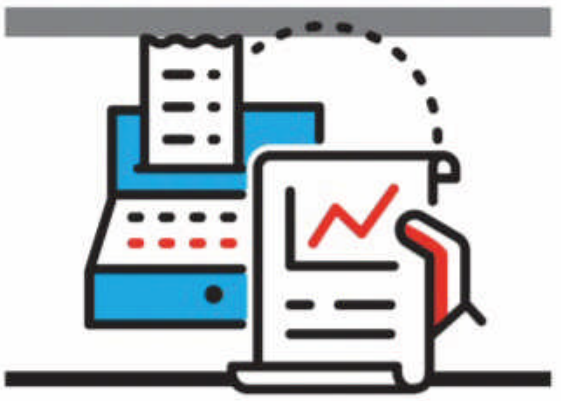
Best Checking Account for College Students

College students need features that suit their age and lifestyle, including no or low ATM charges because they tend to use more out-of-network machines; low fees if they occasionally trip up and overdraw the account; and low minimums to open the account and avoid monthly charges. A good mobile app also helps.

AXOS BANK
Essential Checking

Minimum to open/monthly fee: **$0**

ATM fees: **unlimited reimbursement**



Best Small Business Checking Account

Business owners need a good blend of solid interest rates and low fees to avoid eating into their profits, especially since many small business owners may not have a lot of cash on hand at the moment thanks to the pandemic. The winner offers no monthly fee, unlimited transactions and $10 in ATM fee reimbursements each month.

FIRST INTERNET BANK
Small Business Checking

Recent interest rate: **0.5%**

Minimum to earn interest: **$10,000**




AMERICA'S
BEST
BANKS
2021
Newsweek
POWERED BY
LendingTree

UNCHARTED

Accidentally Wes Anderson Around the World

You know it when you see it. Films such as *The Grand Budapest Hotel, The Darjeeling Limited* and *Moonrise Kingdom* all seem to look at life through a similar whimsical, nostalgic, pastel-hued lens. From a growing fan base of a million followers on Instagram, a new whimsical photobook—*Accidentally Wes Anderson (AWA)*—celebrates the beloved filmmaker's signature quirky aesthetic with a collection of 200 images from around the world of real-life places that look like scenes straight out of one of Anderson's films—all captured by a community of his fans. "There is always something you can't really put your finger on, but you know it fits perfectly when you see it," says Wally Koval, the curator and author of *AWA*. "The other equally important piece is the story behind the facade—that is where things get really interesting and without that, it is not complete." —*Kathleen Rellihan*



WHITE CYCLONE
KUWANA, JAPAN
It's difficult to forget the edge-of-your-seat toboggan chase scene from *The Grand Budapest Hotel* peering up at Japan's White Cyclone. We imagine you'll be going a lot slower on Japan's oldest wooden coaster, which is rare in a country with strong regulations on tree felling. This coaster was made with enough timber to build nearly a thousand homes (location on following page)..

@PAULHILLER

Photograph by PAUL HILLER



01 Post Office
Wrangell, Alaska

While it appears to be straight out of Anderson's mind, this scene is no film set. Located on the northern tip of an Alaskan island, Wrangell is home to 3,000 people who love visiting their painted post office—also a necessity, as in these parts there's no home mail delivery.



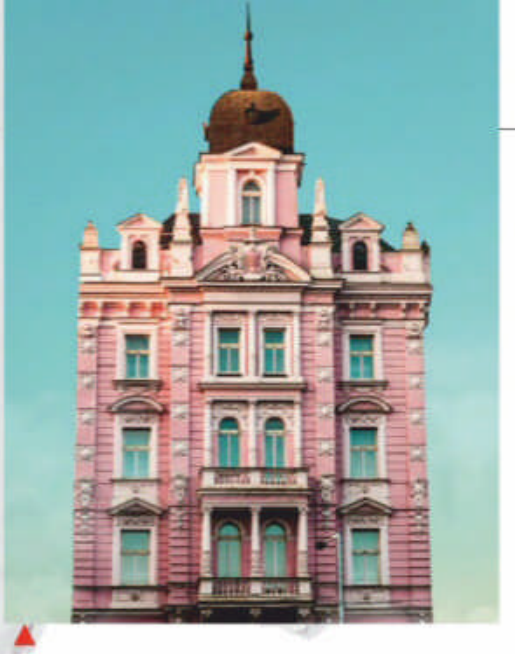
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2



02 Roberts Cottages
Oceanside, California

Pinks of the past are part of the visual language that Anderson uses to tell his stories in film. This palm-tree lined stretch of rental bungalows evokes the nascent California days when a seaside town enticed visitors with the promise, "Come to Oceanside, where life is worth living."



05 Hotel Opera
Prague, Czech Republic

You can't book a room in the "Grand Budapest Hotel," a WWII-era Eastern European grand dame from Anderson's imagination, but you can stay in this close look-alike hotel in Prague. In the "New Town" quarter of Prague, Hotel Opera's Bohemian Neo-Renaissance facade still welcomes real-life guests today in all its pink-hued glory.

4



04 Ascensor da Bica
Lisbon, Portugal

While none of Anderson's movies take place in Lisbon, it is no surprise why this city is reminiscent of the filmmaker's work, as it feels like a nod to another time. There are three funicular railway cars still used in Lisbon that sit along a backdrop of pastel-colored homes and cobblestone streets that could have been taken from a shot in his films.

3

03 La Casa Mínima
Buenos Aires, Argentina

Anderson's signature touch of humor and strangeness is evoked in this, the most narrow house in Buenos Aires. At just over 8-feet wide and 40-feet deep, you'll have to think creatively to see how anyone could live here. Guided tours of the miniature home are offered, but as *AWA* says, "Though worth the visit, it's safe to assume it will not be a prolonged one."



01: @HEATH_TRAVELS; 02: @PAULFUENTES; 03: @ANDRES.GORI; 04: @JACKSPICERADAMS; 05: @VALENTINA_JACKS

06 Green Point Lighthouse
Cape Town, South Africa
In Anderson's ode to getting lost, *Moonrise Kingdom*, a red-and-white lighthouse stands on the fictional island of New Penzance. You'll spot a similar striped one on South Africa's Cape Town coast; it remains the oldest operational lighthouse in the country.

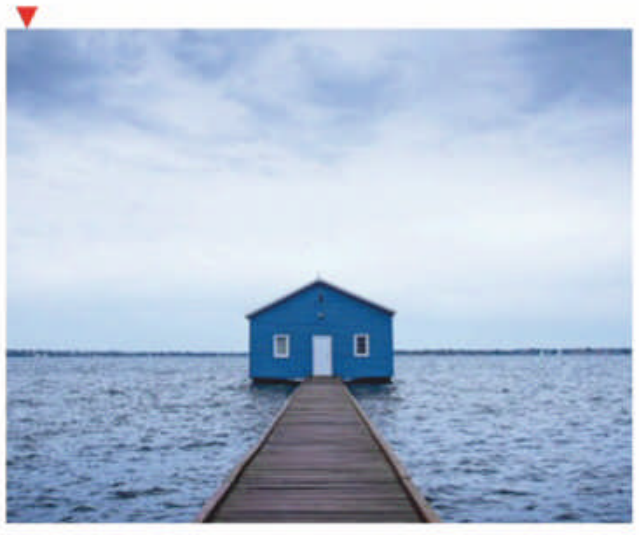


07 Amer Fort
Rajasthan, India
A country that's known for its pops of color and intricate details, India was one of the main characters in *The Darjeeling Limited*, shot mostly in Rajasthan, where this real-life scene was also captured. This royal place and military stronghold built in 1592 holds unexpected wonders inside such as a kaleidoscope of cut glass in a Hall of Mirrors.



08 White Cyclone
Kuwana, Japan
(see previous spread)

09 Crawley Edge Boatshed
Perth, Western Australia
This *The Life Aquatic*–inspired blue boatshed is stranger-than-fiction: It's become the most photographed travel attraction in Perth, with so many selfie-obsessed queuing tourists that in 2019, the city decided to spend $400,000 on a solar-powered toilet facility to serve them.



10 Wharf Shed
Glenorchy, New Zealand
Glenorchy is an adventurer's paradise, and its landscapes feature in non-Anderson films such as the *Lord of Rings* trilogy and *Narnia*. But this red shack that tells visitors they've made it is more reminiscent of some of your favorite Anderson scenes with its backdrop of snow-capped mountains and a touch of nostalgia.





ACCIDENTALLY WES ANDERSON
By Wally Koval, with a forward by the filmmaker. The book features photos of idiosyncratic places reminiscent of Anderson's movies.

06: @LOOSE_IMPEDIMENT; 07: @CHRSSCHLKX; 09: @_JAMESWONG; 10: @FRIIIDABERG

PARTING SHOT

Ewan McGregor

EWAN MCGREGOR RIDING AN ELECTRIC HARLEY INTO THE FUTURE IS EXACTLY what 2020 needs. From his breakthrough role in *Trainspotting* to playing *Star Wars*' legendary Obi-Wan Kenobi, McGregor has won over legions of fans. Now he's playing himself, back on a bike with his best friend Charley Boorman in *Long Way Up*, the third series in their epic motorcycle saga around the world: "I've forged a relationship with Charley that I don't have with anyone else." A lot has changed since the first *Long Way* series in 2004; now they're focused on reducing their carbon footprint by riding prototype electric Harley-Davidsons. Harleys are known for their distinctive growl, but with these bikes the two roll into town quietly, asking locals, "Mind if we plug in?" The Scottish actor is swarmed by fans in a few spots, but mostly it's only him and Charley on the road filming each other from cameras mounted on their crash helmets. Two old friends riding through otherworldly landscapes on custom electric Harleys—maybe there is a bit of star power involved. But the journey is fueled by an even stronger force—friendship.



"It's unplanned and unscripted, and whatever happens happens."

What's the inspiration behind taking the *Long Way* around the world on motorcycles?
I read this book by Ted Simon. In the '70s, he decided to go around the world and write about it. He wasn't a biker, but he decided the best way to do it would be on a motorbike. He spent four years riding around the world and wrote a beautiful book about it called *Jupiter's Travels*. It's sort of like our shows in that it's not bike obsessive. It's about the world and his experience traveling the world.

Why do you think now—during a pandemic when travel has been stalled for many—is a good time for *Long Way Up* to come out?
Hopefully, it's a pleasure for people to live vicariously through our eyes; after six months or more of being stuck and not being able to travel, that might be a bit of a relief. The nature of our trips is that people feel like they come along with us. It's very immediate. It's unplanned and unscripted, and whatever happens happens.

Beyond a mental escape, what do you hope *Long Way Up* inspires?
Hopefully, it might inspire people to go and explore themselves. We have a certain way of life in America, Europe and Great Britain, and people in the rest of the world have very different ways of life. That's the beauty of the human experience: that we all live in different ways. We experienced that when we traveled and we bring it home with us. *—Kathleen Rellihan*

ERIK TANNER/CONTOUR/GETTY

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