

INTEREST GROUP INFLUENCE ON THE SUPREME COURT: THEORETICAL AND METHODOLOGICAL CONSIDERATIONS*

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Despite that fact that amicus curiae participation is the most common method of interest group activity in the judicial arena, there is little consensus as to whether this means of participation influences the decision making of the U.S. Supreme Court. To redress this state of affairs, this research investigates the affect of amicus briefs on the ideological direction of the Court's decisions, with particular attention given to theoretical and methodological issues that have gone unexplored in previous studies. Analyzing group influence during the 1946-1995 terms, the results provide particularly robust evidence that pressure groups are effective in shaping the Court's policy outputs. These findings therefore indicate that elite decision makers can be influenced by persuasive argumentation presented by organized interests.

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Interest groups are a mainstay in American politics. In their most quixotic form, representatives from pressure groups filled the smoky hallways of the House and Senate patiently waiting for Representatives and Senators to emerge and willingly hear from the voices of the citizenry. While pressure politics have lost much of this sense of romanticism, due in part to allegations of scandal and corruption, interest groups nonetheless remain a permanent force in Washington politics. And, despite the fact that groups are most commonly associated with the elected branches of government – be it through the financing of political campaigns, the dissemination of information to executive agencies, or the everyday lobbying of Congresspersons – groups nevertheless play a major role in judicial politics as well, particularly at the Supreme Court. By setting up test cases and sponsoring cases that others bring into the appellate stages, organized interests are a visible force in judicial politics. Although interest groups pursue the aforementioned methods with some regularity (e.g., Epstein and Rowland 1991; Wasby 1995), the predominant method of interest group participation in the courts is filing *amicus curiae* briefs (Caldeira and Wright 1988; Collins 2004). In participating as “friends of the court,” groups present jurists with legal, policy, and social scientific information aimed at the broader policy ramifications of a court’s decisions. Further, despite the fact that the name implies neutrality, *amicus* briefs are, in fact, adversarial, almost always urging the courts to endorse a particular policy outcome (Banner 2003). While *amicus* participation is a common occurrence in lower federal courts (e.g., Martinek 2005) and state courts of last resort (e.g., Songer and Kuersten 1995), the most prevalent venue for *amicus* participation is the U.S. Supreme Court. In recent terms, more than ninety percent of the Court’s cases were accompanied by *amicus* filings (Kearney and Merrill 2000).

Given the frequency with which groups participate in the Supreme Court, it should not be surprising that scholars have dedicated a great deal of research to examining whether these briefs influence the choices justices make (e.g., Collins 2004; Epstein 1993; Heberlig and Spill 2000; Ivers

and O'Connor 1987; Kearney and Merrill 2000; McGuire 1990, 1995; O'Connor and Epstein 1982, 1983, Samuels 2004; Songer and Sheehan 1993; Spriggs and Wahlbeck 1997; Vose 1955, 1959). While there is compelling evidence that amicus briefs influence the justices' decision to grant certiorari (Caldeira and Wright 1988), little is known about whether amicus briefs influence the justices' decision on the merits (McLauchlan 2005: 10; McGuire 2002: 156; Segal and Spaeth 1993: 241; Stumpf 1998: 401; Walker and Epstein 1993: 139). This confusion has manifested itself for a number of reasons.

First, many of these studies have examined only a few groups (e.g., Harper and Etherington 1953; Ivers and O'Connor 1987) or issue areas (e.g., McGuire 1990; O'Connor and Epstein 1982). While these studies may provide valuable theoretical insight into interest group impact on the Court (e.g., Vose 1955; Wasby 1995), such studies are limited in terms of generalizability beyond the foci of their attention. For example, although Hassler and O'Connor (1986) provide evidence that specific groups' amicus briefs play an important role in environmental litigation, it is unclear whether this group influence is limited to environmental law, a function of the groups being studied, or is more generally applicable to Supreme Court litigation as a whole. Second, much of this research analyzes interest group influence over a relatively short period of time (e.g., McGuire 1995, Epstein 1993). As such, these studies' findings may be an artifact of the time period under analysis and therefore limited in terms of applicability beyond the period under investigation. Third, existing research has used imprecise or incomplete measures to gauge the influence of amicus briefs on Supreme Court decision making. The most common method used to measure the impact of amicus briefs on the Court is to calculate the proportion of winning litigants with amicus briefs supporting their position (e.g., Kearney and Merrill 2000; McLauchlan 2005; Morris 1987; O'Connor and Epstein 1982; Puro 1971; Rushin and O'Connor 1987; Songer and Sheehan 1993). Typically speaking, this is simply the number of times the litigant with amicus support prevailed divided by the total number of times that

litigant participated in Court. While this measure may appear intuitively appealing, in fact, it is quite problematic. Specifically, scholars using this measure to determine the influence of amicus briefs on the Court fail to control for more established influences on judicial decision making, most notably the justices' ideological preferences (but see Songer and Sheehan 1993). As Segal and Spaeth note: "it may be possible to show that the Warren Court supported the position taken by the NAACP Legal Defense Fund, Inc. (LDF) in every desegregation case before it. But this does not necessarily mean that the Court was *influenced* by the LDF. The liberal Warren Court most likely would have supported desegregation with or without the support of the LDF. Before influence can be inferred, we must show that an actor in the Court's environment had an independent impact after controlling for other factors" (1993: 237). An alternative strategy to investigate amicus influence on the Court involves tallying citations to amicus briefs found in the justices' opinions (e.g., Behuniak-Long 1991; Epstein 1993; Harper and Etherington 1953; Hedman 1991; Kearney and Merrill 2000; Kolbert 1989; Parker 1999). However, this "blunt indicator" is not without its own problems. For example, justices may adopt arguments or respond to amicus briefs without making a direct reference to the briefs (O'Connor and Epstein 1983).¹ Finally, scholars have generally failed to address methodological concerns that implicate evaluating whether amicus briefs influence the justices. In particular, no research has investigated if amicus briefs are differently considered depending on the number of briefs filed in each case. This is a particularly serious issue given the dramatic increase in amicus participation over time. Taken as a whole, previous work has clearly resulted in a literature that grows, but does not accumulate (Baumgartner and Leech 1998). As such, it should not be surprising that only befuddlement exists as to whether amicus briefs influence the justices' decision making.

¹ In addition to the aforementioned research strategies, Collins (2004) and McGuire (1990, 1995) employ multivariate analyses to examine the influence of amicus briefs on litigation success, while Jones (1976), Epstein and Kobylka (1992), and Spriggs and Wahlbeck (1997) investigate whether the justices make use of amicus briefs in their opinions, without counting citations to the briefs.

In an attempt to remedy this state of affairs, I investigate a number of unresolved issues dealing with amicus influence in the Court. I begin by establishing that the primary motivation for participating as amicus curiae is to have the justices endorse policies favorable to the groups' interests. This is vital, as virtually all previous studies (other than those using citation counts) utilize litigation success as the dependent variable. Inasmuch as solicitude for litigation success is only a secondary concern for organized interests, these studies are plagued by the fact they analyze the wrong dependent variable. Next, I discuss why amicus participation is expected to influence the justices' decision making, building on the notion that the amici provide the justices with persuasive communication regarding the broader political implications of a case. I then present my research design and methodology, followed by the empirical results. I close with a brief conclusion section.

THE GOAL(S) OF AMICUS PARTICIPATION ON THE MERITS

Interest groups participating as amici curiae pursue policy goals. This is the fundamental assumption underlying most analyses of organized interest participation in the Court, whether it is explicitly acknowledged (e.g., Collins 2004; Epstein and Rowland 1991; Hansford 2004a, 2004b; Koshner 1998; Krislov 1963; Spriggs and Wahlbeck 1997) or simply implicit in a study's research design (e.g., Caldeira and Wright 1988; Kearney and Merrill 2000; Songer and Sheehan 1993).² At the merits stage, amici pursue their policy goals in at least two interrelated ways. First, interest groups seek to influence the outcome of the Court's decision as it immediately relates to the *parties* to litigation. In civil rights cases, this might mean attempting to secure relief for a party to litigation or supporting the government's alleged infringement on that litigant's rights. However, due to the

² The studies that make policy goals implicit do so by utilizing a dependent variable that measures the amici's influence on the Court's policy outputs. For example, Caldeira and Wright (1988) do not explicitly acknowledge that amici seek to influence the Court's selection process, but then test to determine if they do, thereby implicitly assuming that amici seek to influence the Court's certiorari decisions. Similarly, Kearney and Merrill (2000) and Songer and Sheehan (1993) do not specifically state that amici seek to influence the Court's decisions on the merits, but then test for such influence. In so doing, these authors imply that amici pursue policy goals.

very nature of the Court's jurisprudence, this goal is likely only an afterthought for organized interests. Because the Court's role is deciding primarily those cases that have substantial importance beyond the particular litigants involved – and because interest groups are surely aware of this fact (e.g., Wasby 1995; Vose 1958) – an amicus curiae is, instead, likely to argue a cause beyond the specific facts at hand in an attempt to influence the Court's decisions as it applies to other citizens who are, or will be, similarly situated as the amicus' supported litigant (e.g., Epstein and Kobylka 1992).

For example, in *Texas v. Johnson* (1989), a case involving the constitutionality of a Texas statute that made it a crime to desecrate an American flag, the amicus brief of Jasper Johns and fifteen other artists, several of whom had been previously convicted under similar flag desecration laws, focused their argument not on relieving Johnson's conviction, but instead on limiting government's ability to impose criminal penalties for artistic expression through the use of an American flag. Simply put, the amici sought to persuade the Court to include flag burning as a protected form of First Amendment expression. Conversely, amicus Legal Affairs Council, a conservative public interest law firm, argued that the flag deserves special protection due its status as a venerated object. Though these amici offered distinctly different arguments, neither focused on Johnson's conviction; instead they sought to either constitutionally protect flag burning under the First Amendment (the artists' brief) or create a constitutionally acceptable exception to otherwise protected First Amendment rights (Legal Affairs' brief).³

³ Of the three additional briefs filed in *Johnson*, none of the amici focused their arguments on relieving or upholding Johnson's conviction. The Washington Legal Foundation et al. argued that, because the anti-desecration statute regulates specific destructive conduct, and not speech, such a law is perfectly permissible as the state has a compelling interest in preventing breaches of the peace that may result from burning an American flag. The Christic Institute et al. focused its arguments on establishing that flag burning is a form of symbolic speech, requiring stringent First Amendment protection. The American Civil Liberties Union joined the Christic Institute with regard to the symbolic speech issue and also highlighted to the justices how upholding the Texas statute might affect other forms of symbolic political expression.

Similarly, in *BMW of North America v. Gore* (1995), which engaged the constitutionality of an Alabama punitive damage award of \$2 million dollars to a customer who purchased a “new” car for \$40,750.88, without knowing the car had been repainted at the cost of \$601.37, numerous amici participated for the purposes of highlighting the broader policy impacts of the case. For example, Trial Lawyer’s for Public Justice argued that the Supreme Court should not involve itself in setting limitations on punitive damage awards; to do otherwise would interfere with the ability of states to operate as laboratories of democracy, free from federal interference. Conversely, the American Tort Reform Association, joined by California Tort Reform, argued that the Court should use the case to create a precedent that firmly prohibits disproportionate damage awards. Further highlighting the fact that amici seek to shape the Court’s policy outputs are the issue-specific amicus briefs of CBS (joined by 17 other media organizations) and the Center for Claims Resolution. In those briefs, the amici urged the Supreme Court to develop more rigorous guidelines for establishing punitive damage awards in trial courts, particularly as they relate to libel and asbestos litigation, respectively.⁴ Thus, it should be clear that, even though amici curiae almost always support a particular litigant, they do not do so primarily for the immediate purpose of relieving or ensuring that litigant’s conviction (as in *Texas v. Johnson*) or relieving or affirming punitive damage awards (as in *BMW v. Gore*). Instead, they argue their positions for the primary purpose of shaping the Court’s policy output as it will affect others in similarly situated positions.

Therefore, the paramount goal of amicus participation is to influence outcome of the Court’s decision as it relates to the *policy* announced in the case (e.g., Epstein 1985; Epstein and

⁴ A total of 24 briefs were filed in *BMW*, none of which focused arguments on specifically alleviating or affirming the punitive damage award. For example, the brief of Five Legal Historians furnished the Court with a history of punitive damage awards in the United States; the Business Council of Alabama provided the Court with statistical data regarding punitive damage awards in that state (which were refuted in the brief of Alabama Trial Lawyers); the New England Council, joined by the New England Legal Foundation, argued that rigid guidelines were necessary to enhance the use of punitive damage awards for purposes of deterrence; while the Center for Claims resolution utilized its brief to distinguish the case from existing precedents.

Kobylka 1992; Wasby 1995). This differs from focusing on the outcome of a case as it relates to the litigants in that the group might attempt to establish new constitutional rights through precedential rulings or develop favorable guidelines through the Court's interpretation of statutes. *On a case-by-case basis then, the goal of organized interests is to have the justices endorse policies favorable to those groups' interests.*⁵ This follows from the notion that the central significance of the Court in American government is not the Court's individual decisions, but instead the general policies it announces through a series of decisions (e.g., Canon 1973). Through a sequence of such decisions the Court is able to directly shape the decisions of lower courts, who dispose of the vast majority of legal controversies in the U.S. (e.g., Songer, Segal, and Cameron 1994; Songer and Sheehan 1990), as well as the policies of federal agencies, who are charged with implementing the Court's decisions (e.g., Spriggs 1996). Thus, in influencing the ideological direction of the Court's policy outputs on a case-by-case basis, interest groups, in turn, indirectly influence the ideological dispositions of lower court decisions and the policies of federal agencies, thus seeing their optimal policy preferences etched into law, first, by the Supreme Court, and later via responsive lower courts and government bureaucracies. In this sense, the influence of amicus participation follows the hierarchy of the justice system in that, if groups can shape the ideological directions of the Supreme Court's decisions, and, if the ideological directions of the Supreme Court's decisions directly affect the ideological directions of lower court decisions, then interest groups are able to indirectly influence the entire justice system. This is likely one of primary reasons amicus briefs are such an everyday occurrence in the Supreme Court, but are

⁵ Related to this, interest groups also attempt to influence the rule of law announced by the Court in its opinions (e.g., Behuniak-Long 1991; Spriggs and Wahlbeck 1997). In this role, amici curiae attempt to persuade the justices to adopt, in their opinions, various interpretations of the Constitution or statutes furthered by the amici for the purposes of establishing favorable precedents for similarly situated or future litigants. While this is clearly an important consideration for amicus participants, such an analysis is beyond the scope of the project at hand.

relatively rarely filed in lower courts.⁶ Having established that the primary goal of amicus participation is to influence the Court's policy outputs, I now move onto a discussion of how amici can influence judicial decision making.⁷

AMICI INFLUENCE ON THE SUPREME COURT

Just as interest groups pursue policy goals in the judicial arena, so too do U.S. Supreme Court justices (Segal and Spaeth 1993, 2002). However, the ability of the justices to see their preferred policy preferences etched into law is inhibited by the fact that the Court is composed primarily of policy generalists. In other words, despite the fact that the justices have attained the experience and education necessary to reach the pinnacle of the judicial hierarchy, they nonetheless operate in an environment of incomplete information (Epstein and Knight 1998, 1999; Maltzman, Spriggs, and Wahlbeck 2000; Murphy 1964). Although some justices maybe considered experts in

⁶ In addition, some note that an additional goal of membership-based interests is the pursuit of organizational maintenance (e.g., Wasby 1995: 116; see also Moe 1985). The notion that organizational maintenance constitutes a goal for membership-based interest groups stems from the reality that such organizations must consider the effect of their lobbying decisions on their ability to attract and maintain membership support. Contrary to this, institutional amici (e.g., corporations) do not face this constraint in their lobbying decisions because they do not make membership appeals (e.g., Salisbury 1984). But, when analyzed in more detail, it becomes clear that organizational maintenance represents a constraint on membership-based interests or, at best, a secondary goal (e.g., Collins 2004). Such is the case because membership-based interests, identically to institutional amici, pursue policy goals (e.g., Hansford 2004a, 2004b). However, unlike institutional amici, they must consider their ability to both maintain their current base of support and attract new members in making their lobbying decisions. Should the group fail to maintain a minimal level of support, it will cease to exist. Given this, attempts to maintain and attract membership support represent a constraint that only membership-based interests face. In other words, organizational maintenance is a necessary condition for the group's survival, but not in and of itself a goal.

⁷ In addition to the theoretical reason to examine the influence of amicus briefs on the ideological direction of the Court's decisions, there exists an important methodological benefit in doing so. Namely, because judicial ideology is the most significant predictor of the Court's dispositions (Segal and Spaeth 1993, 2002), by investigating the influence of amicus briefs on the ideological direction of the Court's policy outputs, judicial attitudes can be controlled for in a much more rigorous manner than previous studies, such as Collins (2004), who controlled for ideology with a simple dummy variable indicating whether the petitioner argued a position congruent with the mean ideology of the Court. Although tapping into the concept of judicial attitudes, this method fails to account for the variability in the ideological extremism of the Court.

particular areas of public policy,⁸ the complexity and diversity of the Court's workload limits the ability of the justices to become specialists in all areas of social policy (Breyer 1998). Thus, in order to reach decisions that maximize their policy preferences and create what they believe to be efficacious law, the justices often must seek out information to realize these goals. While the briefs of the parties, along with the lower court record, certainly provide such information, these sources are generally limited in scope, focused only on the outcome of the case at hand and not the broader policy implications of a decision (Birkby and Murphy 1964; McGuire 1993). Contrary to this, amicus briefs often inform the justices of the wide-ranging implications that may result from a particular decision (Spriggs and Wahlbeck 1997; Epstein and Knight 1998, 1999). Often, information presented by the amici frames the case in a different legal perspective, provides important technical or background information, discusses the broader policy consequences of a potential decision, and remarks on norms with respect to the interpretation of precedents and legislation (Kearney and Merrill 2000: 745; Spriggs and Wahlbeck 1997: 372). In addition, amicus briefs also present the justices with statistical information regarding the likely societal impact of a decision, in the form of Brandeis briefs.⁹ As Rustad and Koenig (1992: 94) note, "[t]he most common method of introducing social science evidence to the Court is through 'non-record evidence' in amicus curiae briefs."

Insofar as the justices are interested in the societal consequences of a case, they should be especially receptive to information that speaks to these broader policy concerns. For example, as Collins (2004: 816) notes, justices who are not willing to discover issues for themselves, often seek out this information in amicus briefs. Likewise, justices not persuaded by the arguments of one of

⁸ Classic examples of expertise include Justice Thurgood Marshall, former counsel for the National Association for the Advancement of Colored People, in civil rights law and Justice Blackmun, former counsel for the Mayo Clinic, in medical law.

⁹ A Brandeis brief is a brief that stresses economic and sociological evidence, along with traditional legal theories. It is named after future justice Louis Brandeis who pioneered its use in *Muller v. Oregon* (1908).

the parties, but leaning towards endorsing the policy advanced by that party, may do so because of arguments forwarded in amicus briefs (see also Johnson, Wahlbeck, and Spriggs n.d. on this point with regard to oral argument). In this capacity, amicus briefs “play a role for justices similar to that lobbyists play for legislators: they provide information about the preferences of other actors, who are relevant to the ability of justices to attain their primary goal – to generate *efficacious* policy that is as close as possible to their ideal points. In other words, just as information permits legislators to make rational decisions, so too does it enable justices to make choices to maximize their preferences” (Epstein and Knight 1999: 215).

Justices themselves corroborate the important role amicus briefs play in providing them with relevant information regarding the policy impact of a particular decision. For example, Justice O'Connor explains that “The ‘friends’ who appear today usually file briefs calling our attention to points of law, policy considerations, or other points of view that the parties themselves have not discussed. These amicus briefs invaluablely aid our decision-making process and often influence either the result or the reasoning of our opinions” (O'Connor 1996: 9). Justice Breyer substantiates this assessment by pointing out that “[amicus] briefs play an important role in educating the judges on potentially relevant technical matters, helping make us not experts, but moderately educated lay persons, and that education helps to improve the quality of our decisions (Breyer 1998: 26; see also Douglas 1962). In addition, the fact that the Court does not limit amicus participation, despite its increasingly heavy workload, suggests the justices view these briefs as beneficial to their decision making (Caldeira and Wright 1990: 786).

Further, the notion that policy-oriented justices should be receptive to arguments made by amici fits squarely with Forston's (1975: 283) advice to appellate practitioners: “To be effective in persuading [the court], the advocate should deemphasize his own case and emphasize instead the merits of adopting his position for the benefit of the citizens who may in the future be in the same

situation as his client.” Indeed, this is exactly what amicus briefs do – offer the justices alternative and reframed legal arguments aimed at the broader social ramifications of the case, while advocating for a particular policy outcome (Spriggs and Wahlbeck 1997; Epstein and Knight 1998, 1999). Relating this to the central component of American jurisprudence, the adversarial system, it follows that the justices should act favorably toward the position most persuasively argued. Accordingly, the expectation is that, as the number of amicus briefs advocating the conservative (liberal) position increases, so too will the likelihood of observing a conservative (liberal) decision.¹⁰

MODELING THE INFLUENCE OF AMICI CURIAE

In order to determine whether the proposed hypothesis comports with reality, I examine the influence of amicus briefs on the ideological direction of the Court’s decisions, during the 1946-1995 terms in all orally-argued cases.¹¹ The data on the Court’s decisions were derived from the Spaeth (2002, 2003) judicial databases, as were most independent variables (with exceptions discussed below). The data on amicus curiae submissions come from the Kearney and Merrill (2000) amicus dataset.¹² Following standard practice (e.g., Segal, Epstein, Cameron, and Spaeth 1995), I identified relevant cases using the case citation plus split vote. The dependent variable captures the ideological

¹⁰ This hypothesis is consistent with research in social psychology (e.g., Calder, Insko, and Yandell 1974; Chaiken 1980; Insko, Lind, and LaTour 1976) and judicial decision making (e.g., Collins 2004; Johnson and Roberts 2003; Songer and Kuersten 1995; Vigilante, Hettinger, and Zorn 2001) that demonstrates that an increasing number of arguments presented to a subject positively influences persuasion.

¹¹ I excluded non-orally argued cases because, in such summary dispositions on the merits by *per curiam* opinion, no opportunity is given for either the parties or potential amici to present their arguments to the justices; instead, the justices dispose of such cases on the basis of their lower court records (Stern et al. 2002: 320).

¹² In order to determine the validity of Kearney and Merrill’s database, I performed a reliability analysis on that data. Specifically, I extracted a random sample of 155 (approximately 2.5 percent) cases from the whole dataset. Because it is unlikely that Kearney and Merrill’s database reports amicus participation in a case where no such participation occurred, I over-sampled cases with amicus participation. That is, the random sample includes 117 cases (approximately 75 percent) where Kearney and Merrill indicated amicus briefs were filed and 38 cases (approximately 25 percent) where Kearney and Merrill indicated no amicus briefs were present. Upon checking Kearney and Merrill’s data, no discrepancies were discovered between the data I collected and that data reported by Kearney and Merrill for any of the variables utilized in this project.

direction of the Supreme Court’s decision, scored 1 for a liberal decision and 0 for a conservative decision. The key independent variables, *Liberal Amicus* and *Conservative Amicus*, represent the number of liberal and conservative amicus briefs filed in each case, respectively.¹³ In order to determine the ideological direction of the amicus briefs, I used the direction of the Court’s decision (as identified in the Spaeth databases) and the litigant the amici supported (as reported by Kearney and Merrill); this allowed me to put the ideological direction of the amicus briefs on the exact same dimension as the ideological direction of the Court’s decisions (see also Johnson, Wahlbeck, and Spriggs n.d.). For example, if the Court handed down a liberal decision in favor of the petitioner and six amicus briefs were filed for the petitioner, these briefs are coded in support of the liberal position. Conversely, if the Court’s decision was conservative and in favor of the respondent and six briefs were filed in support of the respondent, these briefs are coded as conservative. A score of 0 for either of these variables represents the fact that no briefs were filed in support of either the liberal or conservative position, respectively.¹⁴

To account for other influences on judicial decision making in the Court, I include several additional variables. To control for the influence of the Solicitor General (SG) as amicus curiae (e.g., Bailey, Kamoie, and Maltzman 2005; Deen, Ignagni, and Meernik 2003; O’Connor 1983), two

¹³ The data on amicus briefs used in this analysis were collected on the basis of information provided by *U.S. Reports*, which only reports the positions of the briefs if the positions were identified in the “conclusion” section of the briefs. Because not all amici report their desired result in the “conclusion” section, this resulted in a loss of 18 percent of amicus briefs. To verify that the exclusion of these briefs would not bias the findings, I collected a random sample of 40 amicus briefs that the Reporter listed as failing to identify their preferred disposition in their conclusion section. Of these randomly sampled briefs, 20 advocated the liberal position, 19 advocated the conservative position, and 1 brief was filed for neither party. I further analyzed the types of litigant’s supported, issue areas in which they fell, terms in which they were filed, and the identity of the amici. No obvious patterns emerged. For similar results with respect to the distribution of “other” briefs as they relate to petitioners and respondents, see Collins (2004) and Kearney and Merrill (2000).

¹⁴ Auxiliary models were run using three alternative specifications to capture the influence of amicus briefs. First, I utilized a net advantage variable that was computed by subtracting the number of conservative briefs from the number of liberal briefs. Second, I utilized the log transformation of the *Liberal* and *Conservative Amicus* variables. Third, I used the square-root transformation of those variables. Substituting these specifications for the variables reported here does not substantively alter the findings (see also Collins 2004: 818).

variables are used: *SG Liberal Amicus* and *SG Conservative Amicus*. These variables are scored 1 if the SG filed an amicus brief arguing the liberal or conservative position, respectively, and 0 otherwise. The expectation is that the Court will hand down a decision in-line with the position advocated by the SG. To account for the Court's well known practice of accepting cases on appeal it seeks to reverse (Caldeira and Wright 1988; Segal and Spaeth 1993), I include a variable labeled *Lower Court Direction*, coded 1 if the decision of the lower court the Supreme Court is reviewing was liberal in direction and 0 if it was conservative. The expected sign of this variable is negative, indicating that the Court is more likely to rule in the conservative direction given that the lower court handed down a liberal decision. To control for the import of party resources in judicial decision making (Galanter 1974; Sheehan, Mishler, and Songer 1992), I utilize two variables: *Liberal Litigant Resources* and *Conservative Litigant Resources*. These are based on the status continuum of litigants adopted generally from Sheehan et al. ([1992]; see also Collins 2004). That is, I ranked litigants, according to increasing resources, as follows: poor individuals = 1, minorities = 2, individuals = 3, unions/interest groups = 4, small businesses = 5, businesses = 6, corporations = 7, local governments = 8, state governments = 9, and the federal government = 10. It is expected that the sign of the *Liberal Litigant Resources* variable will be positive, indicating that the Court is more likely to rule in the liberal direction when a high-resource litigant advocates that position. Conversely, it is expected that the *Conservative Litigant Resources* variable will be negative in direction, indicating that the Court is more likely to hand down a conservative decision when a highly-capable litigant advocates the conservative position. To capture the Court's policy preferences, I utilize the Martin and Quinn (2002) ideology score of the median justice serving on the Court for each term under analysis. These scores are based on a dynamic item response model with Bayesian inference and thus vary over time. Higher scores on this variable reflect more conservative ideologies. Accordingly,

the expected sign of this variable is negative in direction, indicating that a Court whose median member is conservative will be more likely to hand down conservative decisions.¹⁵

In addition to these standard control variables, I also include four interaction terms in the model that are intended to capture circumstances that might attenuate the influence of amicus briefs on the Court. First, some suggestive evidence indicates that justices rely more on their ideological preferences in salient cases than in relatively trivial cases (Segal 1986: 939; Spaeth and Segal 1999: 309-311; Unah and Hancock 2003). Such is said to be the case because salient cases are thought to alter the informational environment in which the justices operate (Unah and Hancock 2003). Specifically, salient cases stand out on the Court's docket and are thus accorded a disproportionate amount of attention by the justices and the public. This results in the justices asking more questions during oral argument, pressing for greater clarity on issues, and engaging in more intra-court bargaining than in non-salient cases (Unah and Hancock 2003; see also Epstein and Knight 1998: 74; Schubert, Peterson, Schubert, and Wasby 1992). Inasmuch as the justices are expected to rely more on their attitudes in salient than non-salient cases, the expectation is that the influence of amicus briefs will be attenuated in these salient cases. To investigate this possibility, I include a variable, *Case Salience*, in the model, which is interacted with the *Liberal* and *Conservative Amicus* variables. Following Brenner and Arrington (2002), the *Case Salience* variable is scored 2 if the case appeared on both the *Congressional Quarterly* list of salient decisions *and* appeared on the front page of the *New York Times* following the decision,¹⁶ 1 if the case appeared on one list (but not the other), and 0 if the case appeared on neither list. If case salience diminishes the influence of amicus briefs, the expectation is that the interaction between case salience and liberal amicus briefs will be

¹⁵ Note that I have performed alternative analyses using the median justices' Segal and Cover (1989) score in place of the Martin and Quinn (2002) score. None of the results decidedly altered.

¹⁶ The *New York Times* salience measure was collected by Epstein and Segal (2000).

negatively signed, while the interaction between case salience and conservative briefs will be positively signed.¹⁷

[FIGURE 1 ABOUT HERE]

Second, I account for the increase in amicus participation over time in two ways. As Figure 1 illustrates, the number of amicus briefs has increased dramatically over the time period under analysis. For example, during the 1946-1955 terms, amicus briefs were present in an average of 23 percent of cases; this number increased to 34 percent during the 1956-1965 terms, and jumped even further to 52 percent during the 1966 to 1975 terms. The heaviest period of amicus participation occurred during the 1990-1995 terms, where at least one amicus brief was filed in almost 90 percent of cases before the Court. Given this striking increase in the number of briefs filed, it is plausible that the justices view briefs differently in cases attracting a large number of briefs. This is probable because, in cases attracting a large number of briefs, the briefs are likely to repeat themselves, thus diminishing the overall import of the persuasion in the briefs (Collins 2004; Spriggs and Wahlbeck 1997). Indeed, as one Supreme Court law clerk put it, “Sometimes there were one or two amicus briefs, sometimes there were dozens; you would give more attention to the briefs if there were fewer” (quoted in Lynch 2004: 45). To account for this possibility, I include a variable, *Amicus Proportion*, in the model, which is interacted with the *Liberal* and *Conservative Amicus* variables. This variable represents the proportion of briefs, per term, accounted for in the case. Thus, cases with extraordinarily high levels of amicus participation, such as *Webster v. Reproductive Health Services* (1989; 78 briefs) and *Regents of the University of California v. Bakke* (1978; 54 briefs) are differently treated by these interaction terms. If the influence of amicus briefs is attenuated in cases with relatively large

¹⁷ When the *New York Times* and *Congressional Quarterly* measures are used as dummy variables in independent models, the results do not substantively differ from those reported here. In addition, I also ran an alternative model that interacted the salience measure with the variables representing the Solicitor General’s amicus participation in a case. Neither of those interaction terms achieved statistical significance.

numbers of amicus briefs, the expected sign of the interaction term between the proportion of briefs and liberal amicus briefs is negative in direction, while the expected sign between the proportion of briefs and conservative amicus briefs is positive in direction.

To further capture any remaining effects of the drastic increase in amicus participation over time, and to account for the fact the data is in time-series-cross-section format with a dichotomous dependent variable, I include a dummy variable for each Supreme Court term save one, and estimate the model using probit, as suggested by Beck, Katz, and Tucker (1998). In so doing, the model is able to account for any temporal dependence between observations (cases). In addition to dependence that may be attributed to amicus briefs, other sources include alterations in the Court's agenda (Pacelle 1991), the changing membership of the Court (Segal and Spaeth 1993), as well as factors exogenous to the Court, such as the make up of executive and legislative branches (Epstein and Knight 1998).¹⁸

ANALYSIS

[TABLE 1 ABOUT HERE]

Table 1 reports the results of the probit models that estimate the influence of amicus curiae briefs on the ideological direction of the Court's decisions. Model I excludes the interaction terms and the constituent variables that are not hypothesized to have a directional influence on the Court's decisions. Model II reports the results from the case salience interactions only, while model III reports the coefficients from the amicus proportion interactions only. Model IV reports the

¹⁸ An alternative model was run excluding the term-specific dummy variables. Although the substantive findings remained virtually identical, a likelihood ratio test for the inclusion of the term-specific dummy variables uncovered strong evidence of temporal dependence ($\chi^2 = 102.74$, significant at $< .001$).

parameter estimates from the model with all interactive terms and constituent variables.¹⁹ Beginning with model diagnostics, it is clear that neither case salience nor the proportion of amicus briefs accounted for in the case diminish the overall influence of amicus briefs. This is evidenced by the insignificance of the likelihood ratio tests for these interaction terms, which compare the log-likelihood of the models including the interaction effects to the log-likelihood values of the constrained (non-interactive) model: none of the interaction terms contribute to the overall explanatory powers of the model.²⁰ Further, when the technique proposed by Norton, Wang, and Ai (2004) is applied to calculate the parameter estimates and standard errors of these interaction terms, additional evidence is provided to support these findings: none of the interaction terms achieve statistical significance at any conventional levels.²¹ In addition, one can observe the overall predictive capabilities of the models to reach this conclusion in a less rigorous manner: all of the models correctly predict roughly 65 percent of votes, for a percent reduction in error of about 27 percent. Given this, accompanied by the fact there is no theoretical reason to keep the *Amicus Proportion* and *Case Salience* variables in the model, the remaining interpretation of the results is based on Model I.²² To more lucidly illustrate the substantive implications of the results, I rely on a

¹⁹ The purpose of presenting the four model specifications is to establish whether certain interaction terms achieve statistical significance, independent of other interaction terms, given the high amount of collinearity in Model IV (e.g., Brambor, Clark, and Golder n.d.).

²⁰ I also examined whether the influence of amicus briefs is enhanced in particularly complex cases by interacting the case complexity measure developed by Maltzman, Spriggs, and Wahlbeck (2000: 46) with the amicus variables. Those interaction terms failed to achieve statistical significance, thus indicating that amicus briefs are not especially effective in legally complex cases, as compared to relatively routine cases.

²¹ It is necessary to apply the Norton, Wang, and Ai (2004) computation (or a similar technique) to establish the values of the parameter estimates of the interaction terms (and their standard errors) as the interpretation of an interaction term in a maximum likelihood model differs from that of a linear model in several important regards (e.g., Brambor, Clark, and Golder n.d.; Norton, Wang, and Ai 2004).

²² A likelihood ratio test that excludes the *Amicus Proportion* variable indicates that this variable does not contribute to the predictive power of the model. Interestingly, the same test on the *Case Salience* variable indicates that it should be included in the model. As mentioned above, there is no theoretical reason to

discussion of changes in predicted probabilities for variables of interest, while holding all other variables at their mean or modal values

As Table 1 makes clear, amicus briefs play a significant role in shaping the ideological direction of the Court's decisions. When the number of liberal briefs increases from 1 to 3 (approximately one standard deviation above the mean), the Court is five percent more likely to

support the contention that case salience would lead the Court towards a liberal disposition. Rather, I believe a plausible explanation for this result is a function of an endogeneity problem that relates to why cases appear on the front page of the *New York Times* and the *Congressional Quarterly* list. Namely, cases are more likely to make these lists if they were decided in a liberal direction. In other words, salient issues do not induce the justices towards deciding cases in the liberal direction. Rather, liberal decisions lead the editors of the *Times* and contributors to *Congressional Quarterly* to conclude – at least in part – that cases are salient. An investigation of the ideological direction of cases on these lists provides partial corroboration for this notion. Of the cases that appeared on both the front page of the *Times* and on the *Congressional Quarterly* list, 59 percent were decided in the liberal direction; of the cases that appeared on one list (but not the other), 58 percent were decided in the liberal direction; of the cases that appeared on neither list, 50.6 percent were decided in the liberal direction. While it appears that this result stems partially from the fact that the highest proportion of salient cases (after accounting for the number of cases disposed of by each chief justice's court) were handed down by the Warren Court (almost 19 percent of the Warren Court's cases are coded as salient, compared to 10 percent for Vinson, 14 percent for Burger, and 17 percent for Rehnquist), when the ideological direction of the cases is considered in light the salience variable for each chief justice's court, further support is provided for the possibility of bias in these measures.

Case Salience and Chief Justice Courts

Salience at:	0	1	2
<u>Vinson</u>			
Liberal	329 (48.7)	34 (57.6)	8 (47)
Conservative	347 (51.3)	25 (42.3)	9 (53)
<u>Warren</u>			
Liberal	935 (63.6)	193 (71.7)	60 (83.3)
Conservative	534 (36.4)	77 (28.3)	12 (17.7)
<u>Burger</u>			
Liberal	927 (44.4)	131 (51.8)	49 (50.5)
Conservative	1162 (55.6)	122 (48.2)	48 (49.5)
<u>Rehnquist</u>			
Liberal	441 (45.9)	57 (42.2)	32 (50)
Conservative	520 (54.1)	78 (57.8)	32 (50)

Numbers in parentheses indicate within column percentages for each chief justice's court.

As the table reported above reveals, with only two exceptions (Vinson Court when salience equals two, Rehnquist Court when salience equals one), more cases coded as salient were decided in the liberal direction, as compared to non-salient cases. At a minimum, these findings suggest the need for further investigation into the possibility of bias in the *New York Times* and *Congressional Quarterly* salience measures.

hand down a liberal decision.²³ Conversely, when the number of conservative amicus briefs increases from 1 to 3 (approximately one standard deviation above the mean), the Court is three percent more likely to rule in the conservative direction.²⁴ Given this, while there is a statistically significant influence of amicus briefs on the ideological direction of the Court's decisions, the substantive effect of only a few briefs is somewhat marginal. However, when a case is accompanied by lopsided amicus participation – in that a large number of briefs are filed supporting only one ideological position – the influence of the briefs is rather dramatic. For example, when ten briefs are filed in support of the liberal position and no briefs are filed supporting the conservative position, the Court is almost 25 percent more likely decide a case liberally, relative to a case in which a single amicus brief is filed for each outcome. This is a particularly significant finding, given that disparities between amicus briefs advocating for different outcomes has increased quite dramatically over time. For example, during the Vinson Court, the average disparity between liberal and conservative briefs was only 0.37 compared to 1.72 in the Rehnquist Court era. The substantively significant impact of a large number of amicus briefs urging a particular disposition likely offers partial leverage over decisions such as the affirmative action case of *Grutter v. Bollinger* (2003) in which the conservative Rehnquist Court handed down a liberal decision on a significant issue of public policy; in *Grutter*,

²³ I have also investigated whether the influence of amicus briefs diminished over time by examining the relative impact of the briefs holding specific terms constant. In short, there was no evidence that an attenuation effect occurs over time. For example, when the number of liberal briefs increases from 1 to 3 during the 1950 term, the change in predicted probability is 5.1 percent; during the 1970 term it is 5.1 percent; and for the 1990 term it is 5.2 percent. As an alternative means to determine whether the influence of amicus briefs attenuated over time, I also ran a model that interacted the amicus variables with a counter variable, scored such that 1 = 1946, 2 = 1947, etc. Neither of those interaction terms achieved statistical significance.

²⁴ Thus, it appears that liberal amicus briefs are slightly more influential than conservative briefs and, in point of fact, this is confirmed by a statistical test for this difference. Although it is not exactly clear why this disparity exists, one possible explanation is that, because liberal organizations have been participating longer in the Court than their conservative counterparts (e.g., Epstein 1985), this might tap into their more extensive experience. In other words, because liberal groups have been active in Supreme Court litigation longer than conservative groups, it is possible that they have more expertise, and this difference might be indirectly captured in the model.

more than 70 amicus briefs were filed supporting the liberal position, compared to only 15 for the conservative side of the debate.²⁵

Also note that all of the control variables are signed in the correct direction and achieve statistical significance. First, these results indicate strong support for the important role amicus briefs filed by Solicitors General play in the Court. When the SG argues a liberal position, the Court is 18 percent more likely to hand down a liberal decision; conversely, when the SG advocates for the conservative position, the likelihood of observing conservative disposition increases by 17 percent. The results also indicate that, as a litigant moves up the resource continuum reported above, the Court is increasingly likely to support that litigant's position. For example, compared to an individual litigant, when a state government argues the conservative position, this results in a 12 percent increase in the probability of observing a conservative decision. Further, the results reveal that, when the Supreme Court is reviewing a liberal decision, the Court is 18 percent more likely to render a conservative decision than when the Court is reviewing a conservative decision by a lower court, thus providing additional support for the Court's practice of taking cases on appeal in order to reverse the lower courts' decisions. Finally, observe the strong role of ideology in the justices' decision making. For example, compared to the heyday of the liberal Warren Court (1967, median Martin and Quinn score = -.843), the most conservative Rehnquist Court (1988, median Martin and Quinn score = 1.007) is 40 percent more likely to decide a case in the conservative direction, thus providing robust support for the notion that ideology ranks as among the most important influences on the Court's decision making.

[FIGURE 2 ABOUT HERE]

²⁵ Of course, it is important to note that in 2003, the Court also handed down its decision in *Gratz v. Bollinger*, striking down the University of Michigan's undergraduate affirmative action policy for not providing the individualized review of each applicant Justice Powell contemplated in *Regents of the University of California v. Bakke* (1978).

Although the results in Table 1 reveal strong support for the influence of amicus briefs on the ideological direction of the Court's decision making, a plausible counterargument, largely ignored in the literature (but see Collins 2004; Hansford 2004b), can be made that the findings are an artifact of an endogeneity issue surrounding interest group motivations for filing amicus briefs in the Court. Namely, it is reasonable to expect that organized interests might file amicus briefs in cases they are predisposed towards "winning," in order to appear influential to their members and patrons (but without actually influencing the Court's decision making). In other words, interest groups may not influence the ideological direction of the Court's decisions, but rather the ideological direction of the Court's (likely) decision might influence groups' decisions to participate. I evaluate this possibility in two manners. First, Figure 2 reports the average number of amicus briefs filed for the liberal and conservative positions, during the 1946-1995 terms. If amici take cues from the ideological makeup of the Court's decisions, we would expect to see an increase in the number of liberal briefs (and decrease in the number of conservative briefs) filed as the Court moved out of the Vinson era (1946-1952) and into the liberal Warren Court era (1953-1968). Immediately following Warren's tenure as chief, we would expect to see an increase in the number of conservative briefs (and a decrease in the number of liberal briefs) throughout the conservative Burger (1969-1985) and Rehnquist Courts (1986-1995). As Figure 2 reveals, this expectation does not comport with reality. The levels of conservative and liberal amicus participation effectively matched one another for virtually all terms under analysis. In fact, the overall correlation between the average number of liberal and conservative briefs is an astonishing 0.97. Thus, rather than providing evidence for endogeneity, Figure 2 provides strong support that both liberal and conservative interests find a voice in the Court.

[TABLE 2 ABOUT HERE]

An alternative, and more rigorous, method for investigating the possibility of endogeneity is to examine factors that shape the number of briefs filed at the Court in each case. To do this, I have regressed the variables reported in Table 1 (excluding the variables related to amicus participation),²⁶ on a dependent variable that captures the net difference in the number of liberal and conservative amicus briefs.²⁷ If groups file in cases they are likely to “win,” it is expected that the number of liberal briefs will outnumber conservative briefs when 1) the Court is more liberal; 2) the lower court handed down a conservative decision; 3) the liberal litigant ranks highly on the resource continuum; and 4) the conservative litigant ranks relatively low on that continuum. As Table 2 reveals, there is no evidence of endogeneity with regard to the influence of amicus briefs on the Court. First, note that both the ideology and the lower court direction variables fail to achieve statistical significance,

²⁶ While the variables representing the Solicitor General’s (SG) participation as amicus clearly influence the Court’s decision making (and thus a group’s evaluation of a likely victory), they are excluded from the model for two reasons (see also Collins 2004; Hansford 2004b). First, Hansford (2004b) provides evidence that Supreme Court invitations to the SG to file as amicus signal to interest groups that the Court is operating in an information-poor environment with respect to a particular case, and this increases the likelihood of an organization filing a brief in its own right. As such, it is not necessarily that groups participate in cases in which the SG files as amicus in order to appear victorious, but instead take the SG’s participation as a sign the Court will value the information contained in their own briefs. Second, in cases in which the SG participates as amicus without an invitation from the Court, it is very likely that these cases are likely to be judged by interest groups as being salient and/or complex (Bailey, Kamoie, and Maltzman 2005) thus increasing the likelihood of having interest group involvement (Hansford 2004b). For example, of the cases that reached the front page of the *New York Times* following the Court’s disposition (excluding those in which the SG was a litigant), the SG filed an amicus brief in 37 percent. If we accept the *Times* measure as an appropriate surrogate for case salience, this suggests that, like the SG, pressure groups are also more likely to file in politically salient cases and, as such, it is not the SG’s participation that motivates groups to file, but instead the salience of the case in general. When the SG variables are included in the model (and the dependent variable is adjusted to remove the SG’s amicus briefs), the results indicate that liberal briefs outnumber conservative briefs when the SG files a liberal amicus brief (and the opposite when the SG files a conservative amicus brief). Though statistically significant, the effect of an amicus brief filed by the SG increases the difference in liberal and conservative briefs by less than one-third of a brief, thus providing further support that endogeneity is unproblematic in this analysis.

²⁷ I also examined alternative specifications that 1) used the ratio of liberal and conservative briefs as the dependent variable in a regression model; 2) used a count of the number of liberal and conservative briefs filed per case in separate OLS, ordered logit, and poisson models; 3) utilized the aforementioned tests in a model that included only cases in which at least one amicus brief was filed; and 4) performed Granger causality tests with respect to the change in the number of liberal and conservative amicus briefs filed per term and the median ideology of the Court. All of those results are consistent with the findings reported above.

thus providing no support for the contention that liberal briefs outnumber conservative briefs when the median justice on the Court is liberal or when the lower court handed down a conservative decision. Further, examinations of the confidence intervals surrounding the model's predictions lend additional support for these findings as the confidence intervals straddle zero (Gill 1999). Second, the coefficients for both the liberal and conservative resource variables are statistically significant and signed in the wrong direction. This indicates that, counter to what one would expect if groups filed in cases they were likely to "win," liberal briefs outnumber conservative briefs when the liberal litigant ranks relatively low on the continuum and the conservative litigant ranks relatively high on this continuum; in both circumstances the liberal position is *less* likely to prevail. Given the above analyses, I can reasonably conclude that the robust support for the influence of amicus on the Court's decision making is not a function of an endogeneity issue with respect to the motivations for participating as amici curiae (see also Collins 2004), but instead reflects the important role organized interests play in Supreme Court decision making.

DISCUSSION

This analysis makes a notable contribution to the literatures on judicial decision making and interest group politics in several important regards. First, by explicitly investigating both theoretical and methodological issues that implicate examining the influence of amicus briefs in the Court, this research provides particularly rigorous evidence that elite decision makers can be influenced by persuasive argumentation presented to them by organized interests. Further, by working within a relatively established theoretical framework, examining the influence of amici over a long period of time, and by paying close attention to the context of pressure group involvement in the Court, this research is noteworthy in that it is consistent with characteristics Baumgartner and Leech (1998) posit are desirable for adding to the accumulation of knowledge regarding the effectiveness of

pressure groups in American politics. Given that so much confusion has manifested itself with regard to the influence of amici in the Courts, this is an especially important contribution. Finally, and with particular regard to the study of judicial politics and behavior, this research reveals that decision making on the Supreme Court is more than a function of the justices' attitudes and values. While it is clear that judicial attitudes are an exceptionally strong predictor of Supreme Court decision making, factors unrelated to this also structure judicial choice. As such, increased attention as to the importance of variables related to how norms and other methods of persuasion shape the justices' decision making will surely benefit our understanding of the choices justices make.

Inclusive of this research, it is now clear that organized interests play an important role in shaping both the Court's agenda setting decisions (Caldeira and Wright 1988) and the ideological direction of cases disposed of on the merits. What is less clear, however, is how organized interests influence the rule of law espoused in the Court's opinions. While there are a number of analyses that examine whether the Court cites amicus briefs in its opinions, little attention has been paid to investigating how argumentation presented to the justices in amicus briefs relates to the development of legal rules and precedents (but see Epstein and Kobylka 1992; Samuels 2004). Further, little is known about the actions of interests groups *following* the Court's decisions. Inasmuch as organized interests are surely concerned about the implementation (or non-implementation) of judicial decisions, surprisingly scant attention has been paid to this organizational role (but see Handler 1978; Kobylka 1991; O'Connor 1980; Scheingold 1974; Stewart and Sheffield 1987). Redirecting our analysis to how groups shape legal rules and reinvigorating the study of pressure groups and implementation will surely aid in our understanding of the considerable roles organized interests play in judicial politics.

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Figure 1. Percentage of U.S. Supreme Court Cases with Amicus Curiae Participation, 1946-1995 Terms



Figure 2. Average Number of Amicus Curiae Briefs Advocating the Liberal and Conservative Positions, 1946-1995 Terms

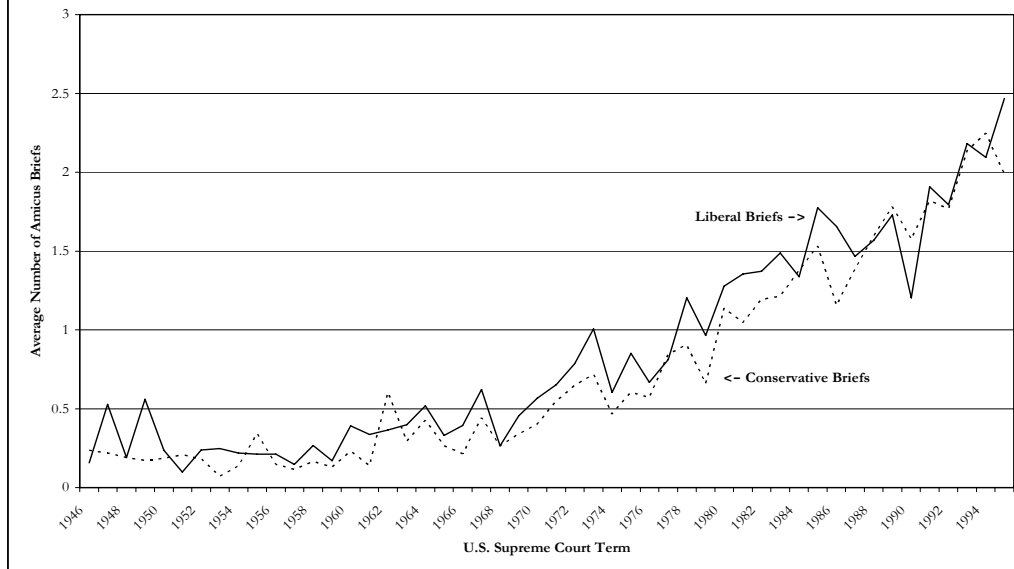


Table 1. The Influence of Amicus Curiae Briefs on the U.S. Supreme Court, 1946-1995 Terms

VARIABLE	MODEL I	MODEL II	MODEL III	MODEL IV
Liberal Amicus	.065*** (.012)	.068*** (.016)	.078*** (.017)	.078*** (.019)
Conservative Amicus	-.041*** (.012)	-.038** (.015)	-.039* (.017)	-.036* (.018)
SG Liberal	.462*** (.070)	.448*** (.071)	.471*** (.071)	.469*** (.071)
SG Conservative	-.473*** (.076)	-.481*** (.076)	-.468*** (.076)	-.467*** (.076)
Liberal Resources	.041*** (.007)	.042*** (.007)	.041*** (.007)	.042*** (.007)
Conservative Resources	-.053*** (.007)	-.055*** (.007)	-.053*** (.008)	-.056*** (.008)
Lower Court Direction	-.517*** (.035)	-.513*** (.035)	-.519*** (.035)	-.512*** (.035)
Ideology	-.577*** (.051)	-.564*** (.151)	-.579*** (.150)	-.566*** (.151)
Constant	.414*** (.122)	.403*** (.122)	.421*** (.122)	.416*** (.122)
Case Salience		.177*** (.044)		.206*** (.047)
Liberal Amicus*Case Salience		-.018 (.015)		-.022 (.016)
Conservative Amicus*Case Salience		-.013 (.016)		-.023 (.017)
Amicus Proportion			-3.76 (2.81)	-7.36** (3.04)
Liberal Amicus*Amicus Proportion			-.177 (.548)	.425 (.650)
Conservative Amicus*Amicus Proportion			.259 (.458)	.673 (.516)
Likelihood Ratio Tests (distributed by χ^2)				
<u>Excluding</u>				
Liberal Amicus*Case Salience		1.43 [.23]		1.80 [.18]
Conservative Amicus*Case Salience		0.63 [.42]		1.91 [.17]
Liberal Amicus*Amicus Proportion			0.10 [.75]	0.45 [.50]
Conservative Amicus*Amicus Proportion			0.32 [.57]	1.70 [.19]
N	6,162	6,162	6,162	6,162
χ^2	834.6***	851.1***	836.9***	857.2***
Percent Correctly Predicted	64.8	65.0	65.0	64.8
Percent Reduction in Error	26.8	27.3	27.2	26.9
Numbers in parenthesis indicate standard errors. * p < .05; ** p < .01; *** p < .001 (one-tailed). Numbers in brackets indicate significance levels for likelihood ratio tests. All models include 49 temporal dummy variables (results not shown).				

Table 2. Endogeneity Analysis: The Effect of Independent Variables in Table 1 on the Difference in Liberal and Conservative Amicus Curiae Briefs

VARIABLE	COEFFICIENT	95% CONFIDENCE INTERVAL
Ideology	-.152 (.195)	(-.536: .231)
Lower Court Direction	-.007 (.046)	(-.098: .083)
Liberal Resources	-.046** (.009)	(-.064: -.029)
Conservative Resources	.020* (.010)	(.0003: .039)
N	6,162	
R²	0.0171	
Numbers in parenthesis indicate standard errors. * p < .05; ** p < .001. Model includes 49 temporal dummy variables (results not shown).		