

The Influence of Interest Groups as Amicus Curiae on Justice Votes in the U.S.
Supreme Court

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ABSTRACT

Amicus curiae participation by interest groups has greatly increased over the past few decades in the Supreme Court despite a limited understanding of their influence. Previous literature has suggested that at the U.S. Supreme Court level, interest groups as amici are no more likely to get justices' votes in a liberal or conservative direction than when no amicus brief is provided. Some literature, however, suggests that there are certain types of cases in which amicus briefs may be influential, such as in constitutional, statutory, and civil rights cases. By conducting several comparisons of the means tests for the number of justice votes in a certain ideological direction with and without an amicus brief, this paper investigates the influence of briefs on justice votes in civil rights and economic cases. The findings support the previous literature that suggests briefs are no more likely to be related to an increased number of votes in the direction of the brief, but finds that civil rights cases may be positively affected by amicus briefs while economic cases are negatively affected. This thesis concludes by explaining that the content of the briefs submitted should change in order to be more effective or that interest groups should use their efforts in other avenues to impact policy.

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GENERAL AUDIENCE ABSTRACT

Interest groups attempt to shape policy in many ways, one of which is by participating as amicus curiae, or “friend of the court” in court cases where they can submit a brief to the court on behalf of a party. The briefs often include valuable information not provided by the party’s counsel as well as social, economic, and political implications of a decision. At the U.S. Supreme Court level, the amount of participation by interest groups as amici has greatly increased over the past few decades, despite limited understanding of their influence. There is a dispute in the previous literature on this topic as some scholars suggest that amicus briefs are not influential, and some suggest that there are certain kinds of cases in which these briefs may be more influential than in others. By controlling for several factors and comparing the means of the number of votes in cases with and without amicus briefs, this thesis investigates the influence of amici on justice votes in civil rights and economic cases. The findings support the previous literature that suggests briefs are no more likely to be related to an increased number of votes in the direction of the brief, but that amicus briefs may have a positive effect in civil rights cases and a negative effect in economic cases. This thesis concludes by explaining that the content of the briefs submitted should change in order to be more effective or that interest groups should use their efforts in other avenues to impact policy.

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Chapter I: Introduction

How much of an impact do interest groups actually have in court? More specifically, are there certain types of cases in which interest group involvement is more successful? Interest groups get involved in court cases in numerous ways, including litigant sponsorship, financial support, and by submission of amicus curiae briefs. An amicus brief is submitted by a “friend of the court” in an attempt to influence the justices by providing extra information about the case, possible implications, and opinions. The use of amicus curiae briefs by interest groups is particularly interesting because the number of cases with amicus briefs submitted to the U.S. Supreme Court over the past few decades has increased significantly from only 23% in the 1950’s to over 80% in the 1980’s and 1990’s (Rathbone 2013). However, it is unclear just how influential those briefs may be. Furthermore, it is unclear if there are certain types of cases in which the Court may be more influenced by outside information. This study will focus on the U.S. Supreme Court and the influence of amicus briefs on decision on the merits cases, rather than granting cert.

This is an important topic to study for several reasons. The number of amici submitted to the U.S. Supreme Court over the past few decades has significantly increased even though their influence has yet to be fully understood. U.S. Supreme Court justices have been known to say that amicus briefs are influential in their decision-making, such as Justice Stevens and Justice O’Connor (Collins 2008), but scholars have found varying evidence that sometimes shows no systematic evidence influence (Collins 2008). Further research in this area could shed new light on the decision making process of justices and how their decisions are influenced. If it is determined that these briefs are

not influential, interest groups could save a significant amount of time, money on research, and paying attorneys to write these briefs and find different ways to influence the Court. This paper examines 74 Supreme Court decisions between 1981 and 2000 in civil rights and economic cases to estimate the possible impact of amicus briefs on the direction of justices' votes. Ultimately, I find that amicus briefs are associated with the overall outcome in civil rights cases but not when looking at justice votes. I also find a negative, but statistically insignificant relationship between briefs and the decisions of justices in economic cases.

This thesis precedes as follows. I first present the two main research questions for this project (1) *is interest group involvement through the submission of amicus curiae influential in shaping the outcome of Supreme Court justice decisions* and (2) *are there certain kinds of cases in which interest groups have more influence over Supreme Court decisions than others?* I then explain the three hypotheses for this study. Chapter III reviews past literature on the influence of amicus curiae and highlight the varying conclusions in the field. Chapter IV presents the design of the study and describes the methodology. Chapter V presents, analyzes, and discusses the results. Chapter VI concludes with reflections on the possible limitations of this project and possible directions for future research on the influence of amicus curiae in the judicial system of the United States.

Chapter II: Research Question

The first question this study examines is whether interest group involvement through the submission of amicus curiae briefs is in fact influential in shaping the outcomes of U.S. Supreme Court cases. It is reasonable to suspect that briefs might influence judicial decisions because the legal authority writing the brief, especially ones with expertise in the area, may take into account economic, social or other implications that hadn't fully occurred to the justices. Additionally, because an interest group would presumably represent a larger population that may be more affected by the decision, justices may be more inclined to examine the specific economic and social conditions of those citizens and adopt the preferred outcome of the interest group.

Interest groups have an incentive to try to persuade justices to act in accordance with their interests to get the desired outcome in the case and to retain the support and funding from their members and maintain legitimacy.¹ Filing briefs is a way for groups to show members that they are actively pursuing their objectives.

Another reason that interest groups use amicus briefs is to influence the content of the Court's opinion. Even if the overall outcome of the decision is not exactly what the group advocated for, the information it provided could be useful in narrowing or broadening the opinion in their favor. Amicus briefs are known to be influential because when the Court decides in favor of the preferred outcome of the

¹ An interest group for the purpose of this thesis is defined as an organized group of people or entities that take political action to reach their objectives. This is the definition used by Paul Collins (2008), the author of the dataset that is used for the study.

interest group and this is different than the predicted decision without a brief, the language and information provided in the amicus brief is often cited in the written opinions of justices (Liptak 2014). The Becket Fund, for example, boasts on their website that their amicus briefs are cited in the opinions of several Supreme Court cases, including a 2005 case in which Justice O'Connor cited the Becket Fund's amicus brief, which describes the effect that overuse of eminent domain would have on churches and religious organizations. They also cite a 2009 case in which Justice Alito used reasoning that was similar to the brief submitted (The Becket Fund 2016). The website includes a list of 11 cases in which the group submitted a brief and the Court ruled in favor of the party it supported.

In 2015, justices cited nongovernmental amicus briefs in about five percent of the cases with amicus briefs submitted (Franze and Anderson 2015)

Despite the impression given by interest groups that their briefs are influential, several studies have found little to no evidence that interest group amicus briefs are influential (Epstein and Rowland, 1991). This information, however, is quite dated and interest groups have in fact increased the amount of briefs submitted, therefore new research is needed on this topic.

The submission of amicus briefs by interest group in the U.S. Supreme Court has significantly increased throughout the 1980's and 1990's. About 3,000 cases were heard in the Supreme Court between 1981 through 2000. Of those cases, 610 were economic issues and 566 were civil rights issues. In economic cases, about 18% of cases had no brief submissions for either litigants, but this steadily declined and by 2000 only 7% of cases had no brief submissions by interest groups. The

number of economic cases with briefs submitted for only one party also decreased during these years, while the number of cases with briefs submitted for both sides steadily increased from 49% in 1981 to 71% in 2000. A similar trend is seen in civil rights cases with a steady decrease in cases where no briefs are submitted by groups and an increase in cases where briefs are submitted for both parties. There was a dramatic increase in briefs submitted for both sides in civil rights cases during the mid-1990's where 93% of cases had briefs for both parties. The proportion of briefs then decreased to 55% by 2000, but this was still greater than the 45% in 1981. (Collins 2008, See Appendix A)

These trends suggest that interest groups increasingly saw amicus briefs as influential throughout these years, either on the content of Court opinions, outcome of cases, or in gaining or retaining membership. One explanation for the increase in brief submissions may be that the number or the scale of groups increased as marketing for membership grew and people became more aware of issues and group involvement. Another reason may have been that justices, such as Justice Stevens and Justice O'Connor as stated earlier, indicated that they did look at briefs and consider the information in them so groups submitted more briefs in hopes of influencing decisions. Also, the number of cases for both civil rights and economic issues decreased from 1981 to 2000, with 55 civil rights cases in 1981 and 22 in 2000 and 51 economic cases in 1981 and 14 in 2000. Fewer cases may have made it easier for groups to submit briefs in a higher percentage of cases and provide extensive information to the justices since there were fewer cases.

Several cases used for this study in which there were no briefs for either side

involved either the federal or a state government. In many of these cases the Solicitor General submitted a brief on behalf of the government. This could mean that interest groups feel their arguments may be overshadowed or valued less than the Solicitor General, who signals the justices to the ideas and concerns of the administration and is considered a legal expert. This might imply that when the government is involved, interest groups are less likely to submit briefs because they feel that their briefs may be less influential than in cases where the litigant was a nongovernmental actor.

The second question is whether there are certain kinds of cases (civil, economic, constitutional, etc...) that interest groups have more of an influence over the Supreme Court decisions.

The statistical association tested in this thesis can be interpreted as influence rather than coincidence because justices accept and acknowledge briefs and often cite them in their opinions. Influence of briefs can be seen in many ways. For example, an indicator of influence is a greater number of votes by justices in line with the ideology of the brief than in cases where no brief is present or by the number of justices who vote against their own perceived ideology and in line with the brief. Influence of a brief could also be determined by the content of the Court's opinion if language or information from the amicus brief is included.

If it is determined that there are certain kinds of cases at the Supreme Court in which group support has some kind of impact in, then groups could improve their reputations as policy shapers in Court. This may also be beneficial for lawyers if they are considering reaching out to a group or accepting help from one if it may

help their case, which could lead to further studies about the American legal system and the influence of interest group involvement.

Guided by the research questions above, I present three hypotheses to be tested:

H1: In civil rights cases, having interest group assistance in the form of amicus briefs will be associated with a greater proportion of victories than those with no interest group assistance.

H2: Amicus briefs will be more influential in civil rights cases than they will in economic cases.

H3: Even when ideologically aligned with the likely majority of justices on the issue, it is still more beneficial for an interest group to file an amicus brief than to not file one.

People must follow the law even if they believe it to be unjust and therefore need a way to influence the law outside of trusting representatives and lobbying, which can be costly and time-consuming. This may be the quicker way to change law because the Court can deem laws unconstitutional and thus influence a policy quicker and less broadly than going through another branch may be, as this was the case with many civil rights laws in the past. Furthermore, justices have an incentive to hear from interest groups because amicus briefs often provide additional information about broader policy implications on a much wider range of society. Litigants often lack resources to provide extensive information about the broader implications of a decision and attorneys are sometimes constrained by time when orally arguing a case so they may not be able to provide as much of this type of

information as may be necessary to make the most complete argument. Interest groups can use their many resources to provide additional information on behalf of a litigant in order to attempt to shape decisions.

For example, a 1998 civil rights case included an amicus brief submitted by the American Civil Liberties Union. This case, *James B. Hunt et al. v. Martin Cromartie, et al.*, involved a voting rights issue about the constitutionality of majority-minority nonwhite districts. The ACLU submitted an amicus brief asking the court to reverse the lower court's decision. It described information such as the results of previous redistricting efforts and described the legal and political confusion that had been caused based on the decisions of the lower court on this issue. It provided an extensive list of authorities for the Supreme Court to consider, many of which were in addition to the ones already used by the counsel of the appellants. This information may be valuable to justices because it provides additional legal authority for them to consider, previous conditions on the issue at hand, and implications based on the lower courts decisions as well as possible implications of the justices own decisions.

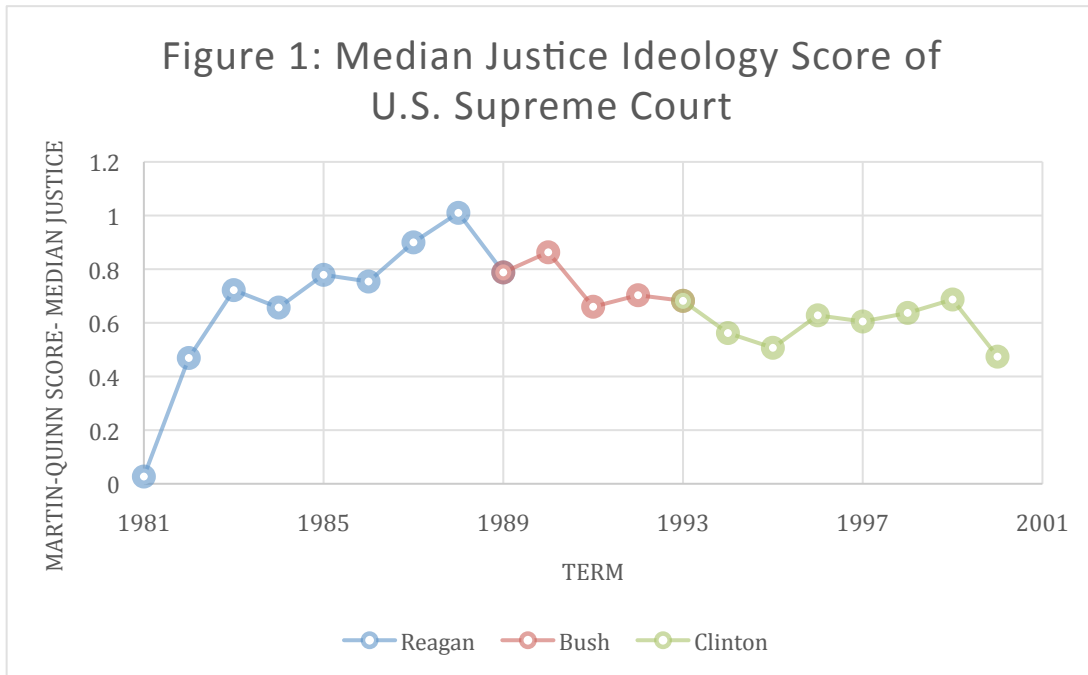
Justices also consider who writes the brief and interest groups carefully choose authors to signal to the justices that the information provided is credible and will be considered more seriously by the justices (Liptak 2016). Expert lawyers, for example, are trusted as valuable and credible sources in amicus briefs because of their legal reasoning expertise and knowledge and understanding of the law. Groups such as the ACLU craft their arguments based on points they want justices to hear and who they want to convey their message in the clearest and credible manner. In a

2010 civil rights case, ten civil rights leaders submitted an amicus brief in which they used personal experiences, historical facts, and literature to argue for one party in the case (Liptak 2011). Such information could be useful to justices because it provides societal facts from well-known leaders that the attorneys may not have been able to provide in the case brief. Ultimately, the amicus brief was criticized for incorrectly citing facts from the case, showing that judges do take into consideration the accuracy of the information provided and its credibility.

Voting based on additional information provided by groups about broader implications on society and citizens may also help to protect the legitimacy of the Court. People do not vote for justices but do vote for officials in the other branches of government who can influence the Court's decisions. If justices are seen to take into account the opinions and concerns of others rather than just their own, this may be beneficial in maintaining the legitimacy of such a prominent institution.

It would be expected that liberal justices would be more receptive to an amicus brief that suggests a vote in a liberal direction than more conservative justices. Likewise, conservative briefs are expected to be more readily received and voted with when there are more conservative justices on the Court than liberal. If liberal briefs show more influence in a group of conservative justices through more liberal votes than if there was no brief, this would be a great indicator of the interest group's success. Figure 1 shows the ideology of the median justice in the Court for each term based on Martin-Quinn scores (See Appendix B). Negative values represent a more liberal ideology and positive values represent a more conservative ideology (Martin and Quinn 2002). As shown below, the Court grows more

conservative during the Reagan administration, and then steadily grows more liberal during the Bush and Clinton administrations, with a slight movement towards more conservative and then back in the other direction during Clinton's presidency. This change over time is due to not only to justices leaving and joining the Court, but also takes into account each justice's changing ideology over time.



Chapter III: Review of Literature

Since the 1990's, the question of the impact that interest groups have in the Supreme Court has been the focus of several studies (e.g. Epstein and Rowland (1991), Collins and Martinek (2014), Kearney and Merrill (2000), Songer and Kuersten (1995), and Songer and Sheehan (1993)). The conclusions of these studies have varied; some found that interest group support in the form of amicus briefs had some impact on litigant's success in court in certain types of cases (Songer and Sheehan, 1993), while other studies indicated that the number of briefs had a greater impact than the type of case (Kearney and Merrill, 2000). Each study had many different factors that led to such varied results. For example, some studies focused on the litigants involved rather than on the content of the brief submitted (Songer and Sheehan 1993, Songer Kuersten and Keheny 2000). Another study focused on the quantity of briefs submitted rather than the brief content but did account for ideologies of justices (Kearney and Merrill 2000). Also, authors focus only on state supreme courts (Songer and Kuersten 1995), which may have very different results from studies done on the U.S. Supreme Court because of the lack of life tenure of most state judges and their need to have public support. The lack of consensus and varying methodologies of studies leaves much room for further research.

Amicus Briefs by the Solicitor General

Several studies have also been conducted on topics similar to interest group amicus brief influence such as the influence of briefs submitted by the Solicitor General and the influence of briefs at the stage of granting certiorari (Collins 2007). Most authors agree that briefs by the Solicitor General are in fact very influential and have a high success rate in the Supreme Court (Collins 2007, Segal 1988). One study found that

Supreme Court justices are 18% more likely to hand down a liberal decision when the Solicitor General has submitted a liberal brief and 17% more likely to hand down a conservative decision when the Solicitor General submits a conservative brief (Collins 2007), thus echoing the findings of previous scholars on the topic (e.g. Segal 1988). In terms of granting cert, many authors agree that when interest groups submit briefs to the Supreme Court, justices are more likely to grant cert in the case that the group is advocating for than when no briefs are submitted (Caldeira and Wright 1988, Collins 2007).

Furthermore, it has been suggested that Solicitor Generals are not only influential because of their expertise or experience before the Supreme Court, but also for political reasons. For example, one study found that justices are more likely to vote with the amicus submitted by the Solicitor General if he is ideologically aligned with the preferences of each justice. The study also found that justices are less suspicious of arguments presented by the Solicitor General if they are advocating for a position that is inconsistent with the ideological predisposition of the executive branch (Bailey, Kamoie, Maltzman 2004). This study suggests that the Solicitor General's position in a brief may signal the opinion of the administration and therefore give justices a clue as to how the law should be framed in their decision. This may be beneficial for understanding the influence of interest groups as well based on ideology and signaling the opinion of the public.

Influence of Interest Group Amicus Briefs by Matching

The seminal study for the topic of amicus brief influence on the merits is “Debunking the Myth of Interest Group Invincibility in the Courts” in which Epstein and

Rowland address the common perception that interest groups are almost always successful when they get involved in court cases (Epstein and Rowland, 1991). Epstein and Rowland used a precision matching method in which they placed 40 cases into matched pairs: one case where one of the litigants was sponsored by a group and another with very similar case facts and the same Supreme Court justices but with no group sponsorship. The cases were also divided into categories based on legal emphasis (constitutional v. nonconstitutional questions) (Epstein and Rowland, 1991). They found that groups and nongroups (such as the Solicitor General and other entities besides interest groups that submitted amicus briefs) in these cases were almost equally as successful in gaining the votes of the majority of justices in the case. Furthermore, the authors determined that nongroups and national interest groups were equally successful, and both more successful than local and ad hoc groups. One interesting finding of the study was that interest groups did have more success in cases involving constitutional issues than cases involving nonconstitutional issues (Epstein and Rowland, 1991). This research showed that judges are more likely to rely on their own ideologies and interpretation of law than on interest group involvement and input, which provides more understanding about how judicial decision-making happens.

In “Interest Group Success in the Courts: Amicus Participation in the Supreme Court”, Songer and Sheehan (1993) looked further into the issue examined by Epstein and Rowland by examining the involvement of groups by submission of amicus curiae briefs rather than direct litigant sponsorship. After Epstein and Rowland reported that interest group involvement did not seem to make a significant impact, Songer and Sheehan wanted to find out why groups still invested so much time and money in

providing amicus curiae briefs. Similar to the Epstein and Rowland study, the authors paired cases involving similar issues where one case presented an amicus brief by a group and the other did not.

Similar to previous studies, this study found that amicus briefs did not have a significant impact on successfully gaining the majority of justice votes (Songer and Sheehan, 1993). It found that litigants who were not backed by briefs submitted by groups were just as successful as those who were. This study did, however, find something very interesting: civil liberties and rights cases were positively affected by briefs from groups; litigants supported by briefs were more successful than those who were not, yet in criminal and economic cases there was no difference between success rates (Songer and Sheehan, 1993). The authors do not explore why this might be so but rather suggest that the type of litigant in the case is more influential on a decision rather than the type of case, thus leaving room for further research.

Amicus Briefs by Interest Groups at the State Court Level

The findings in “The Success of Amici in State Supreme Courts” by Songer and Kuersten (1995) differ from those in the previous two studies. The Epstein and Rowland study and Songer and Sheehan study both found that interest group involvement did not have a statistically significant impact on success rate in the U.S. Supreme Court. This study did find that briefs submitted by groups do have a significant impact at the state level, which may account for the different findings. Furthermore, groups submitting briefs have more impact on success of the supported litigants than business or government submitted briefs.

In a similar study done by the same authors, the same method of choosing cases was used in the same states (North and South Carolina and Georgia); however, in this study, the authors look at the characteristics of the litigants involved which most previous studies had not looked at this aspect. They looked at cases in which repeat litigants with a lot of financial resources (like corporations or governments) went against individuals with no support from interest groups. They then looked at individuals with support from interest groups to see if group involvement (in the form of *amicus curiae*) had an impact on the success of the individuals (Songer, Kuersten, and Keheny, 2000). When individuals were not supported by a group and went against a repeat litigant, they had little success. When supported by a group, though, individuals were much more successful than businesses, governments, and unsupported individuals (Songer, Kuersten, and Keheny, 2000).

This is an important study with significant results because it shows that group involvement can compensate for lack of resources when individuals go against opponents with a lot of resources or repeat litigants with more experience (Songer, Kuersten, and Keheny, 2000). It also suggests that the characteristics of the litigants that group support may be significant and not just the ideas of the group that is providing the brief or the number of briefs submitted. This is different than previous work that found group involvement had no significant impact on success, suggesting that the previous literature that found this did not consider the identity of the litigants involved. This seems like an important factor that should be considered especially between different types of cases because the types of litigants may have an impact on the outcome of the case with or without group support.

Impact of Quantity of Amicus Briefs

A different approach in addressing this question is to consider if the number of briefs submitted has an impact on the outcome of the case. In “Judges and Friends: The Influence of Amici Curiae on U.S. Court of Appeals Judges,” Collins and Martinek (2014) look at the amount of briefs submitted by groups as well as the ideology of the judges to see if there is a relation between success and the submission of more briefs. The authors here found that moderate and conservative judges were more likely to vote on the side with an increased number of briefs when the briefs were both liberal and conservative, but liberal judges did not appear to be swayed by the amicus curiae briefs (Collins and Martinek, 2014). This study does not address the content of the briefs nor does it compare cases with similar facts to determine if their findings are the same in cases where one side has briefs and the other does not or where both sides have supporting briefs.

Kearney and Merrill in “The Influence of Amicus Curiae Briefs on the Supreme Court” also consider judges’ ideologies in comparison to the ideas of the groups that submit briefs (Kearney and Merrill, 2000). They look at cases in which there were major disparities in the number of briefs submitted for one side and none for the other to see if the quantity of briefs had an impact on success (Kearney and Merrill, 2000). The key finding in this study was that petitioners were more likely to be successful when supported by only one or two briefs and the respondents were not supported by any; when the number of briefs was three or more, petitioners were actually less successful. (Kearney and Merrill, 2000).

Paul M. Collins discussed a similar topic in “Lobbyists before the U.S. Supreme Court” (2007). Collins determined that the Court was 25% more likely to vote in the ideological direction of the amici submitted when ten briefs were submitted for one party and none for the other (Collins 2007). He did, however, find that the marginal impact of the briefs diminished as more briefs are filed for either side. Another topic discussed was whether interest groups choose cases to submit briefs when the ideology of the Court was aligned with their own and whether they had a higher likelihood of success. Collins found no support for this but rather found that groups do influence the ideological direction of the decision of the Court.

Another study researched this topic a bit further. A recent book titled “Friends of the Supreme Court” (Collins 2008) addresses the influence of amici on the Supreme Court using several variables including the number of briefs and the ideologies of justices, thus joining methods from the previous literature. The three main foci are the influence of amicus briefs on the ideological direction of justices votes, the effect of the briefs on justice voting consistency, and the influence of the briefs on a justice’s decision to join an opinion or write a separate one. Collins used many more control variables than previous studies and also was able to create a study that was able to work within both the legal and attitudinal models which also sets it aside from previous literature.

The results of this study included that justices were influenced by briefs submitted by interest groups regardless of the ideology of the justice, that amicus briefs led to more variability in a justices voting patterns, and that the number of separate opinions written increased over the years as the number of amicus brief submissions from interest groups increased (Collins 2008). Collins suggests here that the influence of amicus briefs is that

they can educate justices and persuade them to take a certain position, but they may also create uncertainty and influence justices to vote in ways that may be inconsistent with their ideological preferences or previous decisions (Collins 2008). The goal of this book was to gather more generalizable findings rather than focusing on certain types of interest groups or issue areas as previous literature had done. It does not address the findings of other literature that suggests that there are certain kinds of cases in which groups are more influential than others.

All of these studies show that there is still a lot of debate and unresolved issues on the influence of amicus briefs. Some studies have found that interest group involvement is not a good predictor of a litigant's success, while others found the opposite and that in some cases it is a strong predictor of success. Still other studies have found that the number of amicus curiae briefs submitted were associated with an increase in litigant success, while others found that this is true but only to a certain extent and that too many briefs may actually indicate a negative effect on success. Although many of these studies have similar research designs (precision matching), they all use different independent variables and some of the same dependent variables. It would be beneficial to do a study that combines aspects of all of these studies to account for possibilities of interest group success (or lack thereof).

The studies reviewed here also suggest that groups are more effective in certain types of cases as sponsorship than in others. Multiple studies suggest that group involvement may help in constitutional cases and in civil liberties cases, but do not follow up with an analysis of why this may be so. Therefore, this also leaves room for further research in this area.

Chapter IV: Methodology

The design for this study is similar to that used in previous studies about interest groups in court cases. Precision matching (Epstein and Rowland 1991) is used to match cases on similar issues heard by the same justices into pairs of cases to compare the number of justices who vote in line with the brief submitted and the final vote. Data were collected from the Supreme Court Database, datasets from Paul Collins (Collins, 2008), Joseph Kearny, and Thomas Merrill (Kearny and Merrill, 2000), and the United State Court Record website. These provide extensive information about court cases including issue, case facts, justices, final vote, and involved parties as well as the published opinion of the court. The main dataset that I use provides the issue at hand, how many amicus curiae briefs were submitted by interest groups, the outcome of the case, the Court, the justices who voted on each case, and the ideological direction of the briefs, justices, and decisions as assessed by the dataset provided by Collins as well as Segal-Cover scores. I analyzed all cases within the years 1981 through 2000 in order to have a large number of cases to choose from and to add to the previous research in this area that was conducted based on previous years.

Matching was done by first separating the cases by civil rights or economic as labeled in the Collins dataset. Next, the issues of civil rights and economic separated the cases. Cases were then separated by presidential administration. Cases were then separated by justices- a new category was created each time a justice left or a new justice joined the court. This was done to ensure that the ideologies of the deciding justices are consistent across the pair of cases so that differing ideologies

are not a factor in deciding the case. Cases in which a justice chose not to participate were also excluded. Cases with the same issue decided by the same panel of justices were paired so that one case has one or more interest groups that provided a brief for only one party and the other case in the pair had no interest group support for either side. The independent variable here, interest group involvement, can vary in the number of briefs submitted for one side, but only cases where only one side has support were chosen, regardless of number of briefs.

The cases were then compared to determine if the lower courts decision was affirmed or reversed and the direction of the decision (liberal or conservative). Next, the number of justice votes in line with the suggestions of the brief was counted for both the case with the submitted brief and its matched case. Then, it was determined if the side with amicus support from an interest group was successful if there were more votes in line with those briefs. The votes of the justices were compared with the ideology of each justice deciding in the case. Martin-Quinn scores were used to assess the ideology of the Court based on the median justice involved in each case to assess the direction of the decision compared to the ideology of the justices and the Court overall.

It is expected that the direction of the decision would match with the ideology of the majority of the justices in each case, but this study also examines if there are more votes that are less in line with the justices' ideologies if interest groups get involved. The dependent variable is the number of justice votes in line with the amicus briefs. If more justice voted in favor of the direction of the brief submitted, briefs would likely be influential if there were significantly fewer votes in

that same direction in the matched case with no brief submitted. If in civil rights cases, the side with group support consistently wins more than in cases with no brief support, this will support the first hypothesis. Furthermore, if this holds true for civil rights cases more consistently than in economic cases, this will support the second hypothesis.

Additionally, it is important to look at both the number of justice votes and the overall outcome of the case. Interest groups probably care more about case outcomes than vote counts. Therefore, it is reasonable to suspect that interest groups might target just one or two justices who could sway the Court's decision. If, in fact, they are more concerned with the case outcome than justice votes, we might see a different result when we look at case outcomes than we do when we look at judge votes.

To test the third hypothesis, the ideology of the amici will be compared to the ideologies of the justices in each case as well as the direction of the votes of those justices. If cases in which briefs were filed on the same ideological side as the court had more votes in line with the direction of the briefs than in the case in which no briefs were filed, this would support the hypothesis that it is beneficial to submit amicus briefs even when the likely majority of justices would vote in that direction anyway.

Cases were chosen only from the Supreme Court level because of the accessibility of published opinions. In order to determine how much influence groups have, the dependent variable will be whether the litigant that the group favors wins and how many justices vote in line with the briefs. If the side with

interest group briefs consistently has more justice votes in its favor compared with sides with no interest group involvement, this will be an indicator that the group involvement had some impact. An analysis was then conducted to determine if sides with interest group support consistently have more justice votes in their favor than with sides with no support in civil rights cases versus economic law cases. If sides with interest group support consistently receive more justice votes in civil rights cases more than in economic law cases, the second hypothesis will be supported. If the brief submitted is in line with the expected majority of justice votes, the third hypothesis will be supported if there is a statistically significant difference between the number of majority votes in that direction in favor of the litigant with the brief.

In order to test for significance, a student t-test will be used to compare the means of the sets of data created by the precision matching system. For the first hypothesis, the mean number of votes with an amicus brief will be compared to the mean number of votes in the same direction but with no brief between the matched pairs in civil rights cases. This will then be done for economic cases. For both civil and economic cases, the odds ratio will be calculated to see if there is an association between the number of votes in a specific direction and the presence of a brief in that same direction. Calculating the confidence intervals will test the statistical significance for these odds ratios. To test for the third hypothesis, a student t-test will be used to compare the means for cases in which the brief submitted was already in the same ideological direction of the likely majority of the justices based on Segal-Cover scores.

Chapter V: Results and Discussion

Civil Rights Analysis

In order to test for the influence of amicus briefs in civil rights cases, the cases were paired based on common justices, presidential term, issue, and briefs for civil rights cases, resulting in nineteen matched pairs. The first method of analysis was to determine the number of votes in line with the ideological direction of the brief submitted for one case and then the matched case with no brief submitted. The mean number of votes in line with the brief direction was then calculated.

Table 1 shows that for the civil rights cases between 1981 and 2000 that were able to be matched, an average of 5.2 justices voted in line with the amicus brief submitted as opposed to an average of 4.5 votes in that same ideological direction when no brief was submitted. Performing a one-tailed two sample independent t-Test with an alpha of .05, as shown below, tested the significance of these values for the null hypothesis for the first part of this study, which would state that amicus briefs submitted.

Table 1: Civil Rights Student t-test	Brief	No Brief
Mean	5.2	4.5
Std	3.0	1.8
Observations	19	19
df	36	
t Stat	0.855	
P(T<=t) one-tail	0.199	

As the table indicates, there is no statistically significant difference between the means. Thus, there is not reject the null hypothesis. There is a positive relationship between briefs and the number of votes in its direction, but because

there is a small N, it cannot be determined that there is a statistically significant influence on the number of justice votes in the same ideological direction as the amicus brief submitted in civil rights cases.

Although there is not enough evidence to reject the null hypothesis, the difference in means coupled with the low p-value and the small N problem suggests that having a brief has the potential to influence votes. This is important because the difference of just one or two votes could change the overall decision of the court by changing the majority of justice votes in a single direction. Based on the observed interval, a higher N value could potentially prove statistical significance.

Examining the number of times that interest group involvement resulted in a successful litigant while its matched case resulted in the opposite outcome echoes these conclusions. This only happened in 26% of civil rights cases. The majority of cases, almost 69%, resulted in a similar number of justice votes in line with the suggested brief direction for the matched pairs regardless of the presence of an amicus brief.

I then calculated the odds ratio to further determine if there was an association between the likelihood of the justices to vote in a direction and a brief in that same direction being present (see Table 2).

Table 2	Civil Rights Odds Ratio	Group 1	Group 2
		Written Brief	No Written Brief
Event	Majority was in brief direction	11 57.9%	5 26.3%
No event	Majority was not in brief direction	8 42.1%	14 73.7%
	Totals	19 100%	19 100%
	ODDS RATIO	3.85	
	Confidence Interval	(.1.27, 11.66)	

This shows that in civil rights cases, it is 3.85 times more likely to have a majority vote with a brief in the same direction than without one. Based on the confidence interval, we can determine that this is statistically significant. Furthermore, the confidence interval indicates that it is possible to be up to 11 times more likely to have a majority vote when a brief in that same direction is submitted. A t-test was conducted to test the statistical significance of the difference in means between cases with a majority in the direction with the brief in cases with a brief and without, shown in Table 3.

Table 3: Civil Rights Difference of Means t-Test	Brief	No Brief
Mean	0.579	0.263
std	0.507	0.452
Observations	19	19
df	36	
t Stat	2.025	
P(T<=t) one-tail	0.025	

Table 3 compares the proportions from the odds ratio (Table 2). Based on the p-value from this analysis, there is a statistically significant difference between these proportions. This shows that there is a statistically significant difference in the overall decision of the court when an amicus brief is involved and when one is not. This is an important result because interest groups can see that even though there may not be a statistically significant difference in the number of votes it receives in its favor, the majority of justices are still more likely than not to vote in its favor when an amicus brief is submitted in civil rights cases.

Economic Analysis

For the second hypothesis, I tested to see if amicus briefs influenced the justices in economic cases using the same method used to test significance in civil rights cases. The number of justice votes in each case in line with the direction of the brief submitted for each matched pair in the 18 economic matches used are shown in Table 4.

Table 4: Economic Student t-test	Brief	No Brief
Mean	5.3	6.0
Std	4.0	2.9
Observations	18	18
df	34	
t Stat	-0.576	
P(T<=t) two-tail	0.568	

Table 4 shows that on average, when a brief is present 5.3 justices vote in line with that brief, but there is an average of 6 votes in that same direction even when a brief is not present. This seems to indicate that justices were very slightly less likely to vote in the suggested direction of the interest group when an amicus

brief was present. A student t-test was used to test the significance of these values since the average number of votes between cases with a brief and no brief were already in the opposite direction of what was predicted.

Based on the values from Table 4, there is not enough evidence to show that amicus briefs in economic cases are associated with justices voting in the direction the brief supports. I calculated the confidence interval on the mean difference with a 95% level of confidence for economic cases. The resulting confidence interval is (-2.61, 1.28). Currently, there is not enough evidence to prove statistical significance. However, the confidence interval does show that having a brief in economic cases could increase the number of votes by up to one, or decrease the number of votes up to two. This is important because the confidence interval is heavier on the left side, meaning that with a bigger N value, there is a possibility for proving statistical significance, but with a negative effect from a brief. I also calculated the odds ratio for economic cases as I did for civil rights cases with a 90% confidence, as shown in Table 5.

Table 5	Economic Odds Ratio	Group 1 Written Brief	Group 2 No Written Brief
Event	Majority was in brief direction	10 55.6%	14 77.8%
No event	Majority was not in brief direction	8 44.4%	4 28.6%
	Totals	18 100%	18 100%
	ODDS RATIO	0.36	
	Confidence Interval	(.03, 3.72)	

In economic cases, it was actually more likely that the majority of justices voted in the suggested direction of the amicus brief when no brief was present. More cases would need to be analyzed to get a more conclusive result. Table 6 shows a comparison of the means for cases with a majority vote in line with the direction of the brief for economic cases with a brief and without one.

Table 6: Economic Difference of Means t-Test		
	Brief	No Brief
Mean	0.556	0.778
std	0.511	0.428
Observations	18	18
df	34	
t Stat	-1.414	
P(T<=t) one-tail	0.083	

Table 6 compares the proportions from the odds ratio in Table 5. These results show that there is not enough evidence to reject the null hypothesis.

By examining all of the matched economic cases, interest group involvement resulted in a successful litigant while the matched case resulted in an opposite decision in only one percent of economic cases. The decision of the Court was the same regardless of amicus brief presence in about 84% of all economic matches included here. This is much lower success rate than in civil rights cases, but this does not mean that interest group involvement influences the votes of the justices more in civil rights cases compared to economic cases since neither had statistically significant influence. It does show that amicus briefs in economic cases have some negative impact on both justice votes and the overall outcome of the case while in civil rights cases there is a positive effect, which may reach statistical significance with more data.

Although neither civil rights nor economic cases had enough evidence to show a statistically significant influence of briefs on justice votes or on the outcome of cases, based on the p-value, economic cases showed greater certainty that the mean difference calculated would be found given the null hypothesis was true. Furthermore, briefs in economic cases were shown to have a negative effect on justice votes and on the overall outcome of cases. Also, based on the confidence intervals for both issues, the interval for civil rights cases was smaller than in economic cases at 2.82 and 3.89 respectively. This seems to be in line with the results of previous studies, which suggested that amicus briefs in civil rights cases may be more influential than in economic cases but there was not enough evidence to neither support this nor explain it.

Briefs in Line With the Likely Majority of Justices

In order to test the third hypothesis, I compared the mean votes in line with the suggested brief direction in cases with briefs in the same direction as the likely majority of the justices with the mean votes in their matched pair. I did this to see if there was a statistically significant difference between those means to determine if it was more beneficial for an interest group to submit a brief even when the majority of justices would likely vote in that direction anyway. There were twenty matched pairs used for this part of the analysis. When the average ideology score of justices was about .5 (according to their Segal-Cover scores), I took cases in which a liberal brief was submitted since this was the most liberal Court out of the years used. The more conservative Court had average ideology scores of .30-.36 so I used cases in

which conservative briefs were submitted for these years. Table 7 shows the result of the t-test conducted to test the significance of the differences of means.

Table 7: t-Test for H3	Brief	No Brief
Mean	5.0	5.1
Std.	3.7	2.4
Median	6	4
Observations	20	20
df	38	
t Stat	-0.154	
P(T<=t) one-tail	0.439	

Table 7 shows that when the ideology of the likely majority of justices was already in line with the brief submitted, an average of 5.0 justices vote in that direction when a brief was submitted and an average of 5.1 justices vote in that direction when no brief was submitted. There was not enough evidence to prove statistical significance between these means. There seems to be no statistically significant influence even when the majority of justices was likely going to vote in the direction of the brief submitted based on their ideologies. Once again, this is a very small number of observations so a wider range of decisions to choose from would be needed to further test this. Even when separating the cases by civil rights and economic cases (see Tables 8 and 9), there is not enough evidence to prove a statistically significant influence of briefs when ideologically aligned with the likely majority of the Court.

Table 8: Civil Rights t-Test	Brief	No Brief
Mean	5.5	4.3
Std.	3.1	1.8
Median	7	4
Observations	13	13
df	24	
t Stat	1.177	
P(T<=t) one-tail	0.125	

Table 9: Economic t-Test	Brief	No Brief
Mean	4.0	6.6
Std.	4.7	2.8
Median	1	7
Observations	7	7
df	12	
t Stat	-1.243	
P(T<=t) one-tail	0.119	

Table 8 shows that even though there is not enough evidence to prove statistical significance, there is a positive difference in the mean number of votes in the direction of a brief when a brief is present than when it is not in civil rights cases, suggesting that with more data a statistically significant difference may be found. Table 9 shows a negative influence of amicus briefs in economic cases; more justices appear to vote against the direction of the brief when one is submitted but in the in the opposite direction when one is not.

Summary

Based on the analysis, the evidence did not support the first hypothesis. There was no significant difference in the number of justice votes in the suggested direction in an amicus brief for liberal or conservative briefs than when no brief was submitted. The lack of statistical significance was found by both a t-test and a calculated odds ratio and confidence intervals. There was an indication in the odds ratio test that briefs were associated with a majority vote in that direction 3.85 times more when present than when there was no brief. Also, based on the confidence interval conducted for the t-test in Table 1, the presence of an amicus brief could result in up to two more justice votes than when no brief was submitted,

which could change the majority in the decision. This seems to go along with previous research that determined that, in general, amicus briefs submitted by interest groups did not indicate influence but in civil rights cases there was some influence.

There was not enough evidence to support the second hypothesis as well. Like in civil rights cases, there was not enough evidence to show a statistically significant influence of amicus briefs in economic cases. Furthermore, based on the t-test and odds ratio, there seems to be a negative effect of having an amicus brief in economic cases. More justices seem to vote in line with the brief when there is no brief present but in the opposite direction when one was submitted.

Likewise, the third hypothesis was unsupported by the evidence. There was not enough evidence to prove a statistically significant difference between the number of votes in line with the brief when a brief was present and when it was not when that brief was in line with the likely majority of the Court. However, as with the previous analyses, justice votes in line with the brief in civil rights cases appear to increase with the presence of a brief and in votes in economic cases appear to be negatively affected by the presence of a brief.

Chapter VI: Conclusion

In response to the debate in previous literature and the increased amount of amicus briefs submitted to the Supreme Court over the past several decades, the purpose of this project was to determine if amicus briefs appear to be influential in shaping the voting outcome in Supreme Court cases and if there were certain types of cases in which these briefs were more influential than others. The precision matching method used was similar to that of other studies on the same topic, but I believe that I controlled for more variables than other studies did.

This research shows that on average, the number liberal (or conservative) votes in civil rights cases were almost the same when a liberal (or conservative) amicus brief was submitted by an interest group as it was when no brief was submitted. There was a significant influence of briefs on the outcome of the cases in civil rights cases, but not in economic cases. This suggests that interest groups submit briefs to influence a small number of justices in order to change the majority in a case rather than influence all votes.

Based on this analysis, it may be beneficial for interest groups to spend fewer efforts on submitting amicus briefs or to change the information they put in those briefs in economic cases. In civil rights cases, even though the association between number of justice votes when a brief was present and when one was not did not have enough evidence to prove statistically significant, there was a statistically significant influence of briefs on the overall outcome of the case.

This is not to say that briefs are not influential in other ways. Since the number of briefs submitted to the Court by interest groups has increased even more

after the year 2000 (Franze and Anderson 2015), it would be necessary to study the briefs and cases that follow the dates of this study to see if the arguments presented in more recent briefs are similar or have changed the kind of information provided. Also, this analysis did not include the content of the Court's opinions to determine if the briefs were cited or if information from the briefs was mentioned.

A major limitation of this study is that it is hard to account for all factors that may go into a decision such as shifts in public opinion, economic conditions, and the parties controlling the other branches of government. It was assumed here that the briefs submitted do incorporate additional information about outside factors such as economic conditions and implications as well as identifying shifts in public opinion. By controlling for justices voting in each case and their ideology, president, and issue, some doubt concerning the ideology of the Court and presidential administration was eliminated, although it would be almost impossible to account for every political condition.

Another limitation of this study is the small sample size. Because so many variables were controlled for, it was hard to find a large number of cases that would match and there were no economic cases for the years 1993 through 2000 because of this. Future research on this topic could incorporate more recent years to remedy this problem.

This project added to the previous research by performing similar tests but controlled for more variables and found similar results, which further validates the previous findings that amicus briefs in general are not indicators of success in the Supreme Court. The indications that they may have some success in civil rights cases

leaves room for further research on this topic with a larger number of cases and more recent information.

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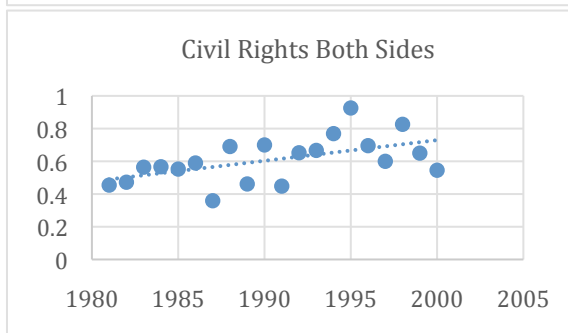
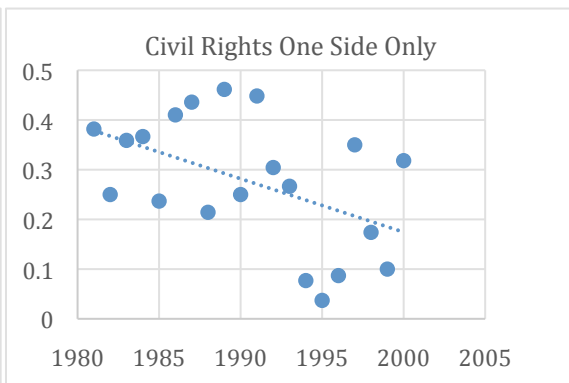
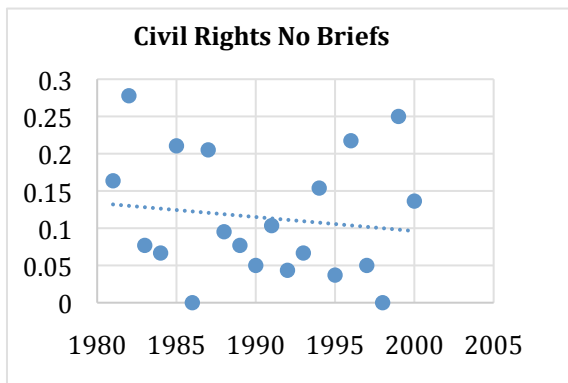
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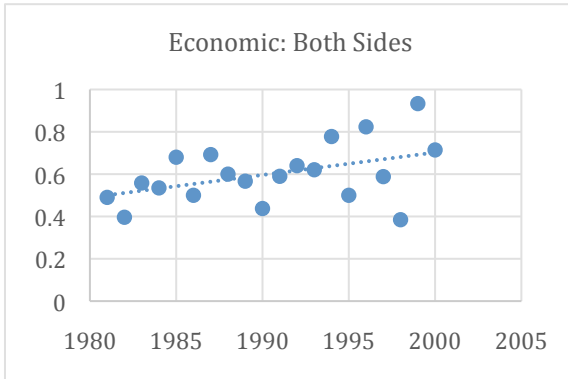
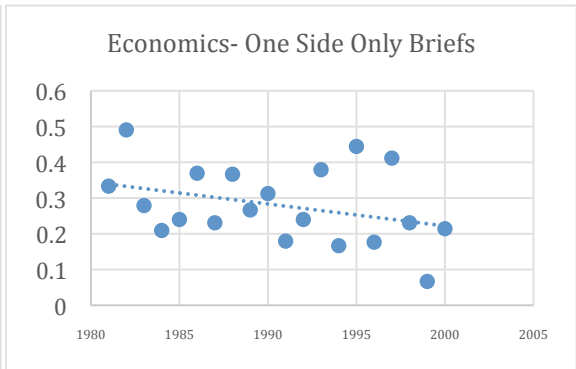
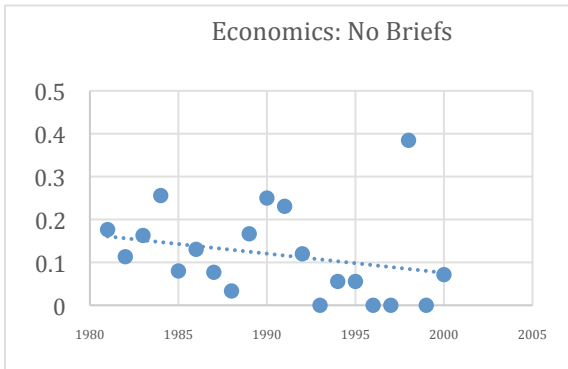
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Appendix A: Trends in Amicus Brief Submission from 1981-2000

Civil Rights							
Year	Total Cases	Cases with No Briefs	% of Total Cases	Briefs for one side	% of Total Cases	Briefs for Both Sides	% of Total Cases
1981	55	9	16%	21	38%	25	1%
1982	36	10	28%	9	25%	17	2%
1983	39	3	8%	14	36%	22	2%
1984	30	2	7%	11	37%	17	1%
1985	38	8	21%	9	24%	21	2%
1986	39	0	0%	16	41%	23	2%
1987	39	8	21%	17	44%	14	2%
1988	42	4	10%	9	21%	29	2%
1989	13	1	8%	6	46%	6	4%
1990	20	1	5%	5	25%	14	3%
1991	29	3	10%	13	45%	13	2%
1992	23	1	4%	7	30%	15	2%
1993	15	1	7%	4	27%	10	1%
1994	13	2	15%	1	8%	10	0%
1995	27	1	4%	1	4%	25	0%
1996	23	5	22%	2	9%	16	2%
1997	20	1	5%	7	35%	12	1%
1998	23	0	0%	4	17%	19	1%
1999	20	5	25%	2	10%	13	2%
2000	22	3	14%	7	32%	12	55%



Economic							
Year	Total Cases	Cases with No Briefs	% of Total Cases	Briefs for one side	% of Total Cases	Briefs for Both Sides	% of Total Cases
1981	51	9	18%	17	33%	25	49%
1982	53	6	11%	26	49%	21	40%
1983	43	7	16%	12	28%	24	56%
1984	43	11	26%	9	21%	23	53%
1985	25	2	8%	6	24%	17	68%
1986	46	6	13%	17	37%	23	50%
1987	39	3	8%	9	23%	27	69%
1988	30	1	3%	11	37%	18	60%
1989	30	5	17%	8	27%	17	57%
1990	32	8	25%	10	31%	14	44%
1991	39	9	23%	7	18%	23	59%
1992	25	3	12%	6	24%	16	64%
1993	29	0	0%	11	38%	18	62%
1994	18	1	6%	3	17%	14	78%
1995	18	1	6%	8	44%	9	50%
1996	17	0	0%	3	18%	14	82%
1997	17	0	0%	7	41%	10	59%
1998	26	10	38%	6	23%	10	38%
1999	15	0	0%	1	7%	14	93%
2000	14	1	7%	3	21%	10	71%



Appendix B: Martin-Quinn Scores of Court Ideology Based on Median Justice

Year	Median Justice Score
1981	0.027
1982	0.469
1983	0.722
1984	0.657
1985	0.779
1986	0.754
1987	0.9
1988	1.01
1989	0.788
1990	0.863
1991	0.66
1992	0.703
1993	0.682
1994	0.562
1995	0.507
1996	0.628
1997	0.605
1998	0.637
1999	0.687
2000	0.474