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Information Provision, Organizational Constraints, and the Decision to Submit an Amicus Curiae Brief in a U.S. Supreme Court Case

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How do organized interests select the Supreme Court cases in which to file amicus curiae briefs? Starting with the assumption that organized interests pursue policy influence, I argue that an organized interest will submit amicus curiae briefs in the cases that provide the greatest opportunity for the interest to influence the content of the majority opinion. Membership-based interests, however, will also have to consider the effect of their case-selection decisions on their ability to attract and retain membership support. I test my hypotheses with data on a large sample of organized interests and their amicus curiae brief filings in the 1991-1995 Supreme Court terms. The results of this analysis provide support for my hypotheses and indicate that organized interests seek out cases in which the justices are relatively information-poor. Membership-based interests also choose cases that allow for visible and apparently "successful" participation.

The increase in organized interest involvement in the judiciary has been paralleled by a growth in the number of studies addressing the causes and implications of this involvement. While some scholars examine the effect of organized interest involvement on judicial behavior (e.g., Caldeira and Wright 1988; Epstein and Rowland 1991; Songer and Sheehan 1993; Spriggs and Wahlbeck 1997), others attempt to explain why organized interests choose to incorporate litigation into their repertoire of lobbying activities (e.g., Cortner 1968; Kobylka 1991; Olson 1990; Scheppele and Walker 1991). What this latter line of research has not done, however, is develop an explanation for how organized interests choose the specific court cases in which to participate. In the one published study that systematically investigates the case-selection decision, Tauber (1998) analyzes the decision of the NAACP's Legal Defense Fund to sponsor litigation in capital punishment cases heard in the U.S. Courts of Appeals and finds very little support for the influence of "legal" variables (e.g., whether aggravating circumstances were present or not) on the LDF's choices. While it is important to understand the litigation patterns of a high-profile organized interest such as the LDF, it is impossible to draw generalizations regarding the behavior of the organized interest population when studying only one interest. Thus, we know little about the factors that explain how organized interests select the court cases in which to participate.

Even outside of the context of the judicial branch, interest group scholars have not paid much attention to explaining how organized interests select the specific situations in which to engage in lobbying activity. Recent studies, for example, analyze the decision to lobby a specific member of Congress (e.g., Hojnacki and Kimball 1998), but generally do not systematically investigate why an interest may or may not lobby a member of Congress during one specific policy debate as opposed to another.

To begin to address this gap in the literature on the involvement of organized interests in the Courts as well as the broader body of research on interest group lobbying strategies, I develop a theoretical explanation for how organized interests select the U.S. Supreme Court cases in which to file amicus curiae briefs. Starting with the assumption that organized interests pursue policy influence, my argument is that organized interests will submit amicus curiae briefs in the Court cases that provide the greatest opportunity for the interest to influence the legal policy established in the majority opinion. This potential to influence the Court's policy outputs will depend on the extent to which the Court needs externally provided information. The second element of my argument is that membership-based organized interests (as opposed to institutional interests) will face an important constraint when selecting Court cases. Membership-based interests will have to consider whether or not the case in question allows for visible and apparently successful lobbying activity, which makes it easier to attract and retain membership support.

I test my hypotheses with data on a large sample of organized interests and their amicus curiae brief filings in U.S. Supreme Court cases from the 1991-1995 terms. These data allow me to avoid the selection bias problem encountered by prior research that focuses on a very limited set of fairly unrepresentative interest groups (such as the NAACP or ACLU) that are known, ex ante, to be frequently involved in the courts. My approach, in contrast, includes all types of

organized interests, regardless of whether they are frequent participants in the courts or not. With these data, I estimate a logit model in which the dependent variable is whether or not an organized interest submitted an amicus curiae brief in a given Court case. The results of this analysis provide support for my specific hypotheses and thus support the broader argument I make about organized interests and their lobbying strategies.

A THEORY OF CASE SELECTION

Each term, the U.S. Supreme Court hears a multitude of important cases that ultimately lead to significant policy outcomes. If an organized interest views the Court as a policy venue worth lobbying, the interest must then choose the specific case or cases in which to file an amicus curiae brief.[1] This represents an important strategic decision for an organized interest since the extent to which the interest can obtain its goals will depend upon the type of the cases in which it is involved. In addition, the decision of an organized interest to file a brief in a case is significant because these briefs may influence the nature of the legal rules established by the Court's majority opinion (Epstein and Kobylka 1992; Spriggs and Wahlbeck 1997). The question then is, how do organized interests select the cases in which to file amicus curiae briefs?[2]

To answer this question, I assume that organized interests pursue the goal of policy influence.[3] An organized interest engages in lobbying activity in order to attain governmental policies that are as close as possible to the positions held by the interest. Policy influence, however, is only likely to occur under certain conditions (Baumgartner and Leech 1998: 146), so organized interests act strategically and select the cases in which these conditions are present. Given that organized interests hope to influence policy outcomes by providing policy makers with relevant information regarding the availability and consequences of different policy alternatives (see Austen-Smith 1993; Milbrath 1963), organized interests will be more likely to participate in the cases in which information is most needed by the justices.

Furthermore, a subset of the organized interest population faces a significant constraint when making its case-selection decisions. Membership-based interests (e.g., public interest groups) will have to consider the effect of their lobbying decisions on their ability to attract and retain membership support. Organized interests that are institutional in nature (e.g., corporations) will not face this same constraint since they do not need to make membership appeals.[4] In short, all interests base their case-selection decisions on the extent to which they can expect to influence policy outcomes successfully, while membership-based interests also keep an eye on the connection between lobbying activities and maintenance of membership support.

The Conditional Nature of Policy Influence

When the U.S. Supreme Court decides a case, there are two relevant policy outcomes. First, there is the case disposition or decision on the merits, which simply affirms or reverses the lower court's decision and thus rules in favor of one litigant over the other. The second and ultimately more important outcome involves the legal policy or rule established in the Court's majority opinion. A legal rule establishes a referent for behavior by providing decisionmakers with information necessary to develop expectations about how courts will handle similar cases. While the decision on the merits affects the immediate litigants, it is the legal rule articulated in the Court's majority opinion that sets the broader policy or precedent affecting interests and institutions that are not directly involved in the litigation. Organized interests lobby the Court in an attempt to influence the content and scope of the Court's legal rules.

When Supreme Court justices are engaged in the opinion-writing process, they seek to shape legal policy in a manner congruent with their policy preferences (Epstein and Knight 1998; Maltzman, Spriggs, and Wahlbeck 2000). But, the justices do not have complete information on the ultimate effect that a legal rule will have. Indeed, justices may have a greater need than legislators for the information provided by organized interests as there is far less policy specialization at the Court than in Congress. Members of Congress can rely on committees and subcommittees to act as informed policy specialists (Krehbiel 1991) while there is no equivalent specialization on the Supreme Court.[5]

By submitting amicus curiae briefs, organized interests can provide the justices with information on the potential political, social, and legal implications of a Court ruling (Barker 1967; Epstein and Knight 1999). It is through this provision of information that organized interests can influence the policies set by the justices. There is evidence that

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[1] I define an organized interest as an organization that uses political action to achieve its ends (see Schlozman and Tierney 1986). I use the term organization in a broad sense and include, for instance, public interest groups, corporations, trade associations, unions, and state and local governments.

[2] A theoretical answer to this question could be developed either formally or informally. In general, both formal (e.g., Austen-Smith and Wright 1994; Denzau and Munger 1986) and informal (e.g., Hojnacki and Kimball 1998; Walker 1991) approaches have advanced our understanding of organized interest lobbying strategies and tactics. The hypotheses I ultimately test are derived informally. I leave it to future research to develop formal models of organized interest participation at the Court.

[3] Some scholars suggest that organizational maintenance constitutes another important goal for organized interests (Clark and Wilson 1961; Gates 1998). I argue that organizational maintenance represents a constraint, not a goal. Organizational maintenance is not ultimately an end, but a means to an end.

[4] For a detailed discussion of the distinction between institutional interests and membership-based interests, see Salisbury (1984).

[5] Research on the assignment of majority opinions indicates that there may exist a degree of policy specialization on the Court (Maltzman, Spriggs, and Wahlbeck 2000). The justices, however, have much less opportunity and incentive to specialize than members of Congress.

Court opinions incorporate the information provided by amicus curiae (Spriggs and Wahlbeck 1997) and that the arguments made by organized interests can have a real effect on the legal rules set by the Court (Epstein and Kobylka 1992). Further still, the justices themselves acknowledge the potentially important informational role played by amicus curiae briefs (Breyer 1998).

While the legal rules established by the Court can be influenced by the information and arguments provided by organized interests, it is fairly clear that organized interests do not always influence the Court's policy output.[6] Instead, this influence is likely to be conditional in nature. As strategic actors, organized interests will be most likely to lobby the Court when conditions are conducive for successful policy influence. The question then is, what are the conditions that affect the likelihood of an organized interest influencing policy?

It is likely that organized interests can expect to have a greater chance of influencing the Court's opinions when the Court is politically receptive to the positions espoused by the interest. Because political receptiveness varies only over time, as new justices are appointed, this concept cannot explain the case-selection decision within a term or small set of terms. Thus, when examining the case-selection decision, it is necessary to consider *case-specific* attributes that affect the probability of the Court incorporating the information provided by an interest. The most important case-specific factors are those associated with the information context surrounding a case.

The information and arguments provided by organized interests have a greater chance of influencing the legal rule established by the Court when the Court is operating in a relatively information-poor setting. The less relevant information that the justices have regarding the likely effects of the different legal rules that could be established in a case, the more they will need the information that can be provided by organized interests. Occasionally, the justices will invite the solicitor general to file a brief expressing the view of the executive branch. These invitations are made in the form of unsigned orders issued before organized interests can file amicus curiae briefs on the merits of the case in question.[7] Presumably, the justices invite the solicitor gen-

eral to submit an amicus brief when they need additional information about the case. These invitations should represent a significant signal to organized interests that the Court is acting in a relatively information-poor setting and may be particularly receptive to the information provided in amicus curiae briefs. This should, in turn, affect the probability of an interest filing a brief.

> H₁: *Organized interests will be more likely to submit amicus curiae briefs when the Court has invited the solicitor general to file an amicus curiae brief.*

One of the alternative sources of information for the justices are the lawyers representing the litigants involved in the case. In their briefs and during oral argument (see Johnson 2001), attorneys attempt to provide information that will help their cause. However, the Court may find itself wanting for information when the attorneys for the litigants involved in the case are ineffective in briefing and arguing the case. McGuire (1995) demonstrates the importance of attorney experience and it is likely that attorneys experienced in the nuances of Supreme Court litigation will be more effective in providing relevant information to the justices. If the attorneys representing the litigants in the case do a poor job of conveying relevant information to the justices, then the justices will be forced to rely more heavily on any amicus briefs that have been filed. Therefore, organized interests will consider the experience of the litigants' attorneys when deciding whether or not to lobby the in a given case (Wasby 1995).

> H₂: *Organized interests will be more likely to submit amicus curiae briefs when the litigants' attorneys are lacking in experience.*

The extent to which the justices need information regarding a case and the issues in dispute will depend, in part, on the characteristics of the case itself. Some cases are inherently more complicated than others and thus lead to greater levels of uncertainty regarding the likelihood that a particular legal rule will ultimately achieve the justices' desired outcome. The more complicated a case is, the more the justices will pay attention to the information provided in amicus curiae briefs. Therefore,

> H₃: *Organized interests will be more likely to submit amicus curiae briefs in complex cases.*

The Membership Constraint

While seeking policy influence, membership-based interests (as opposed to institutional interests—e.g., corporations) must also consider the effect of their lobbying activities on their ability to attract and retain membership support. There is fierce competition between membership groups over the finite set of potential members or supporters (Gates 1998). If a group that relies on members for the provision of

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[6] Studies of the effect of amicus curiae briefs on the Court's decisions on the merits yield mixed results. Some scholars find that these briefs exert a significant effect on the direction of the Court's decisions (Kearney and Merrill 2000; McGuire 1990) while others find that these briefs have no such influence (Songer and Sheehan 1993).

[7] Every invitation to the solicitor general during the 1991 to 1995 Court terms was published before the time frame in which an organized interest could file an amicus curiae brief on the merits of the case. For amici supporting the petitioner, the time frame for filing a brief on the merits starts when the Court grants certiorari. For those supporting the respondent, the time frame begins the day the petitioner's brief on the merits is filed (which occurs after the Court has granted certiorari). All but one of the requests for a brief from the solicitor general were published before cert. was granted in the case. In one instance, the request was made at the same time that cert. was granted.

necessary resources fails to maintain a certain minimal level of membership support, then it will cease existing. At a minimum, a group struggling to maintain itself will have difficulty mounting an effectual lobbying campaign and thus have a hard time achieving policy influence.

Membership-based interests attract supporters by providing them with various selective incentives. In addition to material incentives, these groups often rely on purposive incentives to garner membership support (Clark and Wilson 1961; Moe 1980; Walker 1991).[8] To provide purposive incentives, a group needs to make its members feel that the group is actively pursuing its stated policy goals and successfully influencing policy outcomes.[9] In this sense, the nature of a membership-based interest's lobbying activities determines the extent to which the interest can offer purposive incentives to current or potential members. If a membership-based interest engages in lobbying behavior that increases the level of purposive incentives it offers, then it will have greater success in maintaining or increasing membership support. Therefore, when making choices regarding lobbying activities, membership-based interests will need to take into account the likely effect of these choices on their ability to offer purposive incentives.

When a membership-based interest is choosing the Court cases in which to file an amicus brief, it can maximize the amount of purposive incentives it offers by selecting cases that allow for visible and apparently "successful" participation. Lobbying activities provide more purposive incentives for current or potential members when these activities are visible. If a membership-based interest can claim to have been involved in a Court case of which its members are aware, this will yield greater purposive incentives than involvement in a Court case unknown by its members. The more visible the lobbying effort, the more likely it is that members will know and care about it. Likewise, participation in salient cases will increase the amount of purposive incentives offered to those in the pool of potential members. Thus, participation in visible cases can increase the probability of attracting new members and retaining current members. This may explain why scholars find that some organized interests appear to seek out the high-profile "test" cases as opposed to potentially more significant, but lower-profile, enforcement cases (e.g., Halpern 1976). Because the visibility of a Court case will largely depend on the amount of media coverage given to the case, I hypothesize that:

H$_4$: *A membership-based interest will be more likely to submit an amicus curiae brief when it expects that the case will receive media coverage when the Court decides it.*

A member of an organized interest also derives purposive benefits from believing that the interest is achieving a degree of success in its lobbying campaigns. There is not a perfect correlation between an interest actually achieving policy influence and the provision of purposive incentives. It is difficult even for policy experts to identify the effect of an interest's involvement on governmental policy. Current and potential members of the organized interest will find this even more problematic and will clearly have incomplete information on the degree to which the group is actually influencing the policy process.

Due to the low levels of information that a member has about the actual policy influence exerted by an organized interest, a membership-based interest must focus on *appearing* to be successful in its policy battles. While the interest prefers to influence the legal rule being established by the Court, it is difficult to communicate this type of success. It is much easier to communicate the fact that the litigant supported by the interest won the case. The "membership constraint" leads a membership-based interest to participate in cases in which the position supported by the interest is likely to emerge victorious on the merits, regardless of any influence exerted by the interest. This type of behavior is analogous to the credit-claiming behavior that members of Congress exhibit (Mayhew 1974).

H$_5$: *A membership-based interest will be more likely to submit an amicus curiae brief in a case when it expects that its position on the merits will win.*

In summary, I am arguing that all organized interests select the cases in which to file amicus curiae briefs based, at least in part, on the likelihood of influencing relevant policy. This likelihood is at its greatest with cases in which the justices have particularly incomplete information about the available policy alternatives and their probable effects. Membership-based interests, however, face a constraint that need not concern institutional interests. In order to maintain membership support through the provision of purposive incentives, a membership-based interest will seek out cases with high levels of visibility and in which the interest's position on the merits will be supported by the Court.

DATA AND METHODS

To test my hypotheses, I randomly sampled 735 organized interests from *Washington Representatives*, regardless of whether they have been involved in litigation or not, and then compiled data on these interests and their amicus curiae brief filings at the U.S. Supreme Court.[10] This

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[8] It is important to note that purposive incentives are selective. Only members of the group can benefit from feeling that they are helping the group achieve its policy goals.

[9] Moe (1980) argues that, due to incomplete information and the strategic behavior of group leaders, rational individuals may believe that their participation in the group leads to greater policy influence than it actually does.

[10] Two of the primary organized interest listings used in prior research are *Washington Representatives* (Salisbury 1984; Schlozman and Tierney 1986) and *Washington Information Directory* (Walker 1991). For my purposes, *Washington Representatives* is preferable because the other two sources do not include businesses and other types of institutional interests.

sample includes a mix of membership-based and institutional interests such as public interest groups, trade associations, corporations, labor unions, and local governments. For 579 of these interests, I was able to gather data on whether or not they are membership-based or institutional, the issues with which they are concerned, and the positions taken on these issues.[11]

To generate some of the independent variables discussed below, I needed to use a comprehensive issue typology that would accommodate the wide set of interests represented in my sample. A slightly modified version of the issue typology introduced by Baumgartner and Jones in their Agendas Project Data Set serves this purpose well.[12] This modified typology includes 28 categories ranging, for example, from defense to crime to civil rights to agriculture.[13] For each organized interest, I coded the issue(s) of concern to the interest and the ideological direction (liberal, moderate, conservative) of the position held by the interest on each of the relevant issues.[14] For many of the organized interests in the sample, this meant content-analyzing and categorizing the position statements provided by the interests.[15] Many of the institutional interests, however, do not provide public statements regarding their

policy interests and positions, so for these interests I developed guidelines to impute the relevant issues and positions for the interest.[16]

Dependent Variable

I gathered data on the amicus curiae brief filings of these organized interests from *United States Reports*, *Briefs and Records of the United States Supreme Court*, and Lexis. With the amicus curiae data and the data on the organized interests, I compiled a dataset in which the unit of analysis is the organized interest–case dyad. There is an observation for each organized interest in my sample for each of the 469 cases orally argued before the Court from the 1991 to 1995 terms (N = 266,441).[17] With these data, I estimated a logit model in which the dependent variable equals 1 if the organized interest submitted an amicus curiae brief in a U.S. Supreme Court case and 0 otherwise.

The advantage of this research design is twofold. First, it allows me to examine both case-specific variables as well as variables that are specific to the organized interest–case dyad. Second, by including data on all 579 of the interests in my sample regardless of whether they ever filed a brief at the Court or not, I am able to avoid the selection bias problem encountered by most prior studies of organized interest involvement in the courts (e.g., Caldeira and Wright 1990).[18] The primary disadvantage of my approach is that the data are likely to be somewhat over-inclusive. There may be organized interest–case dyads in which the probability of an organized interest submitting a brief is extremely low because the disputed issue is of no relevance to the organized interest. As discussed below, I attempt to control for this over-inclusiveness by including a control variable for case relevance. Further, this over-inclusiveness provides a strong test for my hypotheses as my coefficient estimates may be deflated somewhat.

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[11] Here, I primarily relied on several sources of information. First, I collected data from a variety of publications such as *Encyclopedia of Associations* and *Public Interest Law Groups: Institutional Profiles*. Second, I consulted the materials published by the organized interests themselves (brochures, websites, etc.). Finally, I was also able to directly contact many of the interests and have them provide information that I could not obtain elsewhere.

[12] For information on Baumgartner and Jones' Agendas Project Data Set, navigate to http://depts.washington.edu/ampol/agendasproject.html.

[13] I took the 19 major topic codes outlined by Baumgartner and Jones and subdivided several of them. The resulting 28 categories are: macroeconomics, civil rights/minority issues, civil liberties, health, agriculture, labor/employment, immigration, education, environment, energy, transportation, law/crime, family issues, social welfare, community development/housing, banking/finance, domestic commerce, defense, space/science technology, communication, foreign trade, international affairs, general government operations, federalism, separation of powers, regulation of campaigns/elections, public lands/water management, and Indian affairs.

[14] I used Spaeth's (1998) guidelines for what constitutes a liberal or conservative position on these issues.

[15] To assess the reliability of my coding of the relevant issues and policy positions for an interest, I had a second coder code the issues and positions for a random sample of 25 of the interests. The rate of agreement between my coding of the issues and that of the reliability coder ranges from 88 percent to 100 percent. In order to determine the degree to which these rates of agreement compare with the agreements expected by chance, I calculated Kappa statistics (see Cohen 1960) for each issue category. For all but 2 of the 28 issue areas, Kappa is greater than .6, indicating substantial agreement between the two coders (Landis and Koch 1977). I thus conclude that my assignment of issue categories to the organized interests in my sample is sufficiently reliable.

Regarding the policy position codes, there are four possible codes for each issue area for each interest: liberal position, moderate position, conservative position, issue not relevant to the interest. Intercoder agreement again ranges from 88 percent to 100% and all but two of the Kappa statistics are greater than or equal to .6. Based on these results, it appears that these data are reliable.

[16] This imputation process was fairly straightforward. For example, the vast majority of institutional interests in my sample are businesses and these were coded as having interest in the general economic policy categories as well as any specific categories into which the business might fall (e.g., agriculture, energy, transportation, etc.). When imputing the policy positions held by institutional interests, I used a second set of coding rules. For example, businesses were coded as holding conservative positions on economic issues (see McCarty and Poole 1999; Schlozman and Tierney 1986) and cities were coded based on the policy positions specifically outlined by the National League of Cities.

[17] A handful of the organized interests in my sample were not formed until after 1991. For these interests, I include observations for all Court cases starting in the year the interest was formed and ending in the 1995 term.

[18] Of the 266,441 observations, there are only 526 instances in which the dependent variable equals one. Thus, the dependent variable is highly skewed. In order to assess the degree to which this may influence my results, I also estimated my model as a rare events logit model (see King and Zeng 2001). The rare events logit model produced estimates that are virtually indistinguishable from the results of the standard logit model. Therefore, it appears that the skewed distribution of the dependent variable is not affecting the coefficient estimates.

Independent Variables

Solicitor General Invited to File. This variable is coded as 1 if the Court invited the solicitor general to file a brief expressing the view of the executive branch, and 0 otherwise.[19]

Attorney Experience. To measure the collective Supreme Court experience of the litigants' attorneys, I use the natural log of the number of times that the lead attorneys for the litigants, combined, previously represented clients before the Supreme Court.[20] This measure is logged because it is likely that attorney experience will have a diminishing effect on the probability of an interest filing a brief. That is, I expect a change from 35 to 40 total prior cases-worth of experience to matter less than a change from 0 to 5.

Case Complexity. I utilize two separate indicators of case complexity in my model: number of legal provisions involved in the case and number of issues raised. I expect that as these measures of complexity increase, the probability of an organized interest filing a brief will also increase. Both indicators are derived from Spaeth (1998).

Media Coverage. I measured this variable as a four-point scale based on the extent to which the *New York Times* covered the Court's decision to hear the case.[21] If the case received no such coverage, this variable is coded as 0. If the decision to hear the case is mentioned in an article but is not the lead story in the article, then it is coded as 1. For cases in which the Court's decision to grant a writ of certiorari is the focus of an article, this variable equals 2. Finally, *Media Coverage* is coded as 3 if the decision to hear the case is the lead story in a front-page article. It should be safe to assume that the more coverage that a case gets simply for being placed on the Court's docket, the more coverage it will get once the Court hands down a decision. I argue that the more media coverage that a case is being given at the certiorari stage, and thus will be given at the merits stage, the more likely it is that membership-based interests will submit amicus curiae briefs. In order to test this hypothesis, I interacted the *Media Coverage* variable with a variable designating whether or not the organized interest is membership-based (*Membership-Based Interest*) and expect the estimate for this variable to be positive in direction. For estimation purposes, I also included *Media Coverage* in the model on its own.

Likelihood of Winning. To generate a measure that captures the expectation of the direction in which the Court will rule in a given case, I utilized three variables that are generally viewed as reasonable predictors of the Court's decisions on the merits and that could be observed by an organized interest that is considering filing a brief: the ideological direction of the lower court decision, the involvement of the solicitor general as a litigant, and the ideological position of the median justice on the Court.[22] Using these variables, I estimated a logit model in which the dependent variable is the ideological direction of the Court's decision.[23] I then use this model to generate the predicted linear index of the Court's likelihood of ruling in a liberal manner for each case in the dataset.[24] Negative values of this index are associated with a greater than 50 percent chance of a conservative decision while positive values represent a greater than 50 percent chance of a liberal outcome. This index equals 0 when there is an equal chance of either a conservative or liberal outcome.

If the organized interest in question holds a liberal position on the issue involved in the case, then *Likelihood of Winning* equals the predicted index described above. If the organized interest holds a conservative position, then *Likelihood of Winning* equals the reverse of this predicted linear index (i.e., – (index)). If the interest holds a moderate position on the issue or the issue is not relevant to the interest, then *Likelihood of Winning* equals 0, which is the equivalent of a .5 probability of emerging victorious. I argue that the greater the likelihood of "winning" on the merits, the more likely it is that a membership-based interest will participate in a case as amicus curiae. Therefore, I interact *Likelihood of Winning* with *Membership-Based Interest* and expect the coefficient for this variable to be positive in direction. *Likelihood of Winning* is also included separately in the model, in order to properly estimate the coefficient for the interaction term.

Membership-Based Interest. This variable is coded as 1 if the organized interest has voluntary members, and 0 otherwise. Thus, a group like the American Family Association is coded as 1 while Continental Grain Company is coded as 0.[25] I only

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[19] These data were gathered by examining the Court's orders regarding each case included in the analysis.

[20] In order to gather these data, I performed a search in Lexis to determine all the previous Supreme Court cases in which the attorney had been counsel to a litigant. I include all such instances up until, but not including, the year the case in question was decided. These data are right-censored at 20 instances of prior Court involvement per attorney. Thus, the maximum value for this variable before it is logged is 40.

[21] I could not include coverage of the Court's decision on the merits because the decision on the merits occurs well after organized interests decided whether to submit amicus curiae briefs in the case or not. For this reason, I could not employ Epstein and Segal's (2000) measure of case salience, which is simply a dummy variable denoting whether or not the case received front-page coverage in the *New York Times* when the Court decided it on the merits.

[22] The ideological direction of the lower court decision is taken from Spaeth (1998) while the involvement of the solicitor general is coded from *United States Reports.* Justice ideology is measured as the percentage of time the justice voted for the liberal outcome over his or her career in the issue area dealt with by the case in question (see Epstein et al. 1996: Table 6-2).

[23] The direction of the Court's decision is taken from Spaeth (1998). The estimated model used is:

Likelihood of a Liberal Decision = –.84*(Liberal Lower Court Decision) + .30*(Solicitor General Advocates Liberal Decision) – .67*(Solicitor General Advocates Conservative Decision) + .02*(Median Justice's Ideological Position) – .41.

[24] The predicted linear index of a logit model is simply $x\beta$.

[25] Since membership in labor unions is often not completely voluntary, unions are coded as 0. Organized interests that do not technically have "members" but actively seek contributions (e.g., Center for Community Interest) are coded as 1 because, functionally speaking, they will behave like a membership group and compete for voluntarily contributed resources.

≡ TABLE 1
LOGIT MODEL OF THE PROBABILITY OF AN ORGANIZED INTEREST SUBMITTING AN AMICUS CURIAE BRIEF IN A U.S. SUPREME COURT
CASE, 1991-1995

Independent Variable	Estimated Coefficient	Standard Error:	
		Robust	Bootstrap
Solicitor General Invited to File	.612*	.124	.166
Litigant Attorney Experience	−.085*	.036	.042
Case Complexity: Number of Legal Provisions	.145*	.066	.064
Case Complexity: Number of Issues	−.141	.211	.259
Media Coverage × Membership-Based Interest	.422*	.196	.115
Likelihood of "Winning" × Membership-Based Interest	.621*	.302	.321
Control Variables:			
Case Relevance	1.62*	.196	.130
Constitutional Case	.590*	.092	.112
Previous Court Involvement	.348*	.048	.009
Component Terms:			
Media Coverage of Case	.230†	.086	.071
Likelihood of "Winning"	−.092	.182	.199
Membership-Based Interest	.022	.490	.162
Constant	−8.01†	.451	
Number of Observations	266,441		
Log Likelihood	−2445		
Chi-Squared (Wald Test, 12 deg. of freedom)	661*		

*p ≤ .05 (one-tailed test)
†p ≤ .05 (two-tailed test, for the variables for which there is no hypothesized effect)

Note: Significance tests are based on bias-corrected confidence intervals generated by bootstrapping the model (1000 re-samplings and estimations with sample sizes of 266,441).

expect this variable to condition the effects of *Media Coverage* and *Likelihood of Winning*, but, for estimation purposes, *Membership-Based Interest* is also included separately in the model.

The model also includes three control variables. Almost certainly, an organized interest will prefer to participate in cases in which the contested issue is relevant to the interest and its agenda. I control for this effect by including *Case Relevance*, which equals 1 if a case deals with an issue that is relevant to the organized interest in question, and 0 otherwise.[26] When the Court hears a case involving the interpretation of a federal statute, its decision is at risk for being overridden by Congress (see Eskridge 1991).[27] Thus, when the Court is deciding a statutory case, it is not handing down a decision that will necessarily lead to significant, long-lasting policy change. Organized interests may therefore prefer to lobby the Court when it is deciding a constitutional case because the potential for a long-lasting policy

victory is greater. *Constitutional Case* is coded as 1 if, based on Spaeth (1998), the case dealt with a constitutional issue, and 0 otherwise. *Previous Court Involvement* is measured as the average number of amicus curiae briefs filed by the organized interest per year over the previous three years. This variable is included to control for the fact that, regardless of case-specific factors, some organized interests simply participate at the Court at a higher rate than others.

RESULTS

The results of the logit model are presented in Table 1. Since *Likelihood of Winning* consists of values predicted by another model, the conventional estimates for the standard errors of the logit coefficient estimates will not be correct and should be treated as approximations of the true standard errors (Nelson and Olson 1978). Thus, I bootstrapped the standard errors and present both the conventional robust standard errors and bootstrapped standard errors in Table 1.[28] Significance tests are based on the bias-corrected

[26] This is determined by comparing the issue(s) of concern to the interest with the issue involved in the case as determined by Spaeth (1998). To do this, I matched the 28 issues of the modified Baumgartner and Jones issue typology with Spaeth's Issue variable.

[27] Just the threat of a congressional override may constrain the set of potential legal rules that the Court might set in a statutory case (see Gely and Spiller 1992; Hansford and Damore 2000).

[28] The bootstrapped standard errors were generated with 1000 re-samplings (N = 266,441) and estimations of the logit model. Both the bootstrapped and conventional standard errors were estimated with a robust variance estimator that allows for the errors to be correlated across the

confidence intervals generated by the bootstrapping procedure, but tests based on the robust standard errors yield the same conclusions.

The chi-squared statistic of the model is statistically significant (p < .05), indicating that the inclusion of the explanatory variables yields a better-fitting model than a constant-only model. More importantly, the coefficient estimates for all but one of the variables suggested by my hypotheses are in the expected direction and are statistically significant.

I have argued that all organized interests prefer to participate in the cases in which the Court is most needful of the information that can be conveyed in amicus curiae briefs. It is in this situation that organized interests can expect to have the greatest chance of exerting influence over the legal policy established by the Court. The positive and statistically significant coefficient estimate for Solicitor General Invited to File provides evidence for my hypothesis that when the Court asks the solicitor general to file a brief presenting the position of the United States, organized interests will see this as a signal that the Court needs more information in this particular case and will thus be more likely to lobby the Court in such a case.

Based on the estimated coefficient for Litigant Attorney Experience, it also appears that organized interests are less apt to submit amicus briefs when the attorneys representing the litigants are experienced in arguing cases before the Court. Conversely, the presence of inexperienced attorneys increases the probability of organized interests lobbying the Court. This result is particularly interesting in light of McGuire's (1994) conclusion that expert lawyers are more likely to solicit organized interests to file amicus curiae briefs. My analysis indicates that, despite such solicitations, organized interests are more likely to participate as amicus curiae when the attorneys representing the litigants are less experienced and, thus, presumably have less Court expertise.[29]

I also argued that organized interests should be more likely to file briefs in complicated cases because the justices have a greater need for information in this type of case. My results here are mixed. The estimated coefficient for Case Complexity: Number of Legal Provisions conforms to my expectation, as it is positive in direction and statistically significant. The greater

the number of legal provisions at stake in a case, the more likely it is that the justices will need externally-provided information in order to create legal policy that will ultimately achieve the desired policy effect. Organized interests appear to respond to this need and are more likely to file briefs in such cases. The estimate for Case Complexity: Number of Issues is not statistically significant, however.

While the results up to this point apply to all types of organized interests, the results for the two interaction terms in the model support my argument that membership-based interests also consider the effect of their lobbying activities on their ability to maintain membership support. The estimate for Media Coverage × Membership-Based Interest is positive and significant, demonstrating that membership-based interests consider the level of media coverage that surrounds a Court case. The more the media covers the Court's decision to hear a case, the greater the probability of a membership-based interest submitting an amicus brief in the case.[30]

As evidenced by the estimate for Likelihood of "Winning" × Membership-Based Interest, membership-based interests also prefer to participate in cases in which the position they support is likely to win on the merits. Such behavior allows an interest to claim to its members that its role in the litigation may have generated the victory, increasing the provision of purposive incentives to these members.[31]

The estimates for the three control variables included in the model are worth discussing briefly. Not surprisingly, an organized interest is more likely to submit a brief when the case deals with an issue that is relevant to the interest. The estimate for Constitutional Case is positive and statistically significant, suggesting that an organized interest has a

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multiple observations associated with a given organized interest. Mooney and Duval (1993) discuss bootstrapping as an alternative method of estimating standard errors and conducting hypothesis tests. Gordon (2001) provides a substantive example of using bootstrapped standard errors when estimating a limited dependent variable model in which one the independent variables is an instrument generated by another limited dependent variable model.

[29] Using simply the raw number of prior Court cases in which the litigants' attorneys were previously involved, as opposed to the natural log of this total, also yields the same fundamental conclusion – the experience of the litigants' attorneys exerts a negative, statistically significant influence on the probability of an organized interest filing an amicus brief. Experimentation with this and other functional forms (i.e., various scales) suggests that the results for this variable are quite robust and are not sensitive to the exact specification of the variable measure.

[30] If I take Epstein and Segal's (2000) approach and dichotomize Media Coverage (i.e., code it as 1 if the decision to hear the case is the focus of a front-page article and 0 otherwise), the fundamental result remains the same—the estimated coefficient for Media Coverage × Membership-Based Interest is positive and statistically significant. If Media Coverage is measured on a three-point scale in which the middle two categories of the four-point scale are collapsed together (0 = no NYT coverage; 1 = the granting of cert. is covered but it is not the focus of a front-page article, 2 = the granting of cert. in the case was the focus of a front-page article), then, again, the estimate for the interaction term is positive and significant. Thus, the use of the four-point scale does not yield substantively different results than these two other possible specifications. I find the four-point scale preferable because it is a finer-grained measure of media coverage than these alternatives.

[31] It is possible that Likelihood of "Winning" could exert an effect regardless of whether an interest is membership-based, because the interest will want to participate in cases in which the probability of its position prevailing is close to .5. That is, interests could prefer to participate in cases in which the Court could go either way on the merits. There are two ways to test this hypothesis. First, I estimated the model with a variable consisting of the absolute value of Likelihood of "Winning," thus capturing the distance from a .5 probability of winning (since 0 on the Likelihood of "Winning" scale corresponds with a .5 probability). The coefficient estimate for this variable was statistically insignificant. Second, I estimated the model with Likelihood of "Winning" and Likelihood of "Winning" Squared. The coefficient estimates for these two variables do not indicate a curvilinear relationship between the likelihood of winning and the probability of a brief being filed. Thus, there is no empirical support for this alternative hypothesis.

≡ TABLE 2

PREDICTED PROBABILITIES OF AN ORGANIZED INTEREST SUBMITTING AN AMICUS CURIAE BRIEF IN A SUPREME COURT CASE

Independent Variable (at min. and max. values)	Probability of a Membership-Based Interest Filing a Brief	Probability of an Institutional Interest Filing a Brief
Solicitor General Invited to File		
Not requested (0)	.019	.015
Requested (1)	.034	.028
Litigant Attorney Experience		
No experience (0)	.023	.019
Highly experienced (3.7)	.017	.014
Case Complexity: Number of Legal Provisions		
Least complex (0)	.017	.014
Most complex (5)	.035	.029
Media Coverage		
No coverage (0)	.015	.015
Front-page coverage (3)	.097	.029
Likelihood of Winning		
Least likely (−1.41)	.009	.018
Most likely (1.41)	.040	.014

Note: Predicted probabilities were calculated by varying the independent variable of interest while holding other independent variables constant. See text for details.

greater probability of submitting an amicus brief in a constitutional case than in other types of cases (e.g., cases involving statutory interpretation). Finally, *Previous Court Involvement* is positively associated with probability of filing a brief in a case.

To further assess the substantive effect of the independent variables of theoretical interest on the likelihood of an organized interest filing an amicus brief in a Court case, Table 2 presents predicted probabilities generated from the model reported in Table 1. I calculated these predicted probabilities for situations in which a constitutional case deals with an issue relevant to the organized interest and the organized interest has a recent history of participation at the Court.[32] All other independent variables are held at their means while the variable of interest is moved from its minimum observed value to its maximum observed value.

The predicted probabilities displayed in the table lead to three general conclusions. First, the substantive effect sizes of all three variables related to the ability of an organized interest to affect policy by participating at the Court are quite similar. Second, *Media Coverage* clearly has the largest substantive effect on the probability of a membership-based interest filing a brief. If a case gets front-page treatment by the *New York Times* when the Court decides to hear it, a membership-based interest has a .092 probability of submitting a brief in the case, as compared to a .015 probability if the case is not discussed by the *New York Times* when the Court grants cert. The third conclusion that can be

drawn from this table is that *all* of the predicted probabilities are quite small. This result should not be too surprising given that the baseline probability of any given organized interest participating in any given Supreme Court case is naturally very small.

It is also important to point out that the predicted probability of an interest filing a brief grows considerably if several of the independent variables move in the necessary direction.[33] For example, if the case is constitutional and complex in nature (i.e., the case involves five legal provisions), the litigants' attorneys have no Court experience, and the solicitor general's input has been requested, a membership-based interest has a 5.5 percent chance of filing a brief even if the case received no coverage by the *New York Times* when it was placed on the docket. If the case did receive front-page coverage, then the likelihood of a membership-based interest submitting a brief jumps to 29.1 percent. If the position supported by the organized interest is also very likely to prevail on the merits, then the probability of the interest filing a brief increases further to 46.6 percent.

The relationship between *Media Coverage* and the probability of the two different types of organized interest submitting an amicus brief is further demonstrated in Figure 1. These probabilities are calculated in the same manner as in the paragraph above, except that *Likelihood of Winning* is

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[32] Specifically, *Case Relevance* equals one, *Constitutional Case* equals one, and *Prior Court Involvement* is set at five.

[33] The discrete changes in probability shift as the baseline probability changes because in a logit model the relationship between the independent variable and the dependent variable is fundamentally nonlinear. Independent variables will have their greatest effect when the baseline probability of an event occurring is .5 and will have the smallest effect when the baseline probability approaches 0 or 1.

≡ FIGURE 1

THE EFFECT OF MEDIA COVERAGE ON THE PROBABILITY OF AN ORGANIZED INTEREST SUBMITTING AN AMICUS CURIAE BRIEF
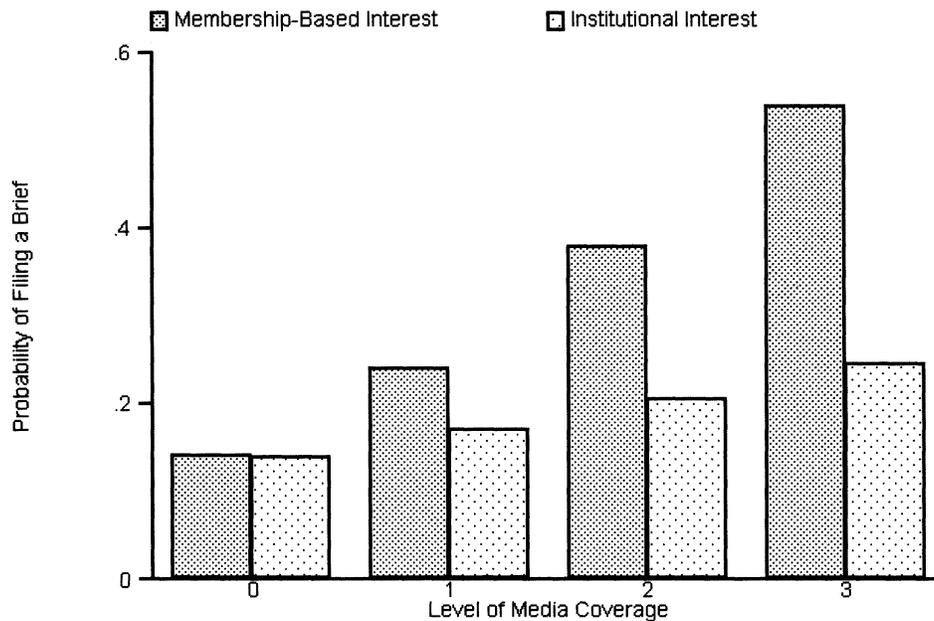
Note: Predicted probabilities were calculated by varying *Media Coverage* while holding other independent variables constant. See text for details.

returned to its mean value and *Prior Court Involvement* is set at eight. The likelihood of a membership-based interest submitting a brief is very similar to that of an institutional interest when a case has no coverage at the certiorari stage. As the amount of pre-decision media coverage increases, the probability of a membership-based interest submitting a brief increases substantially and clearly exceeds the equivalent probabilities for an institutional interest.

DISCUSSION

Despite providing contributions on a number of fronts, prior research on the involvement of organized interests at the Supreme Court has not developed a general explanation for how organized interests choose the specific cases in which they will participate. In an attempt to build on this literature, I have argued here that the decision of an organized interest to lobby the Court in a given case will depend on the extent to which the Court is operating in an information-poor context. Membership-based interests also have to consider the likely effect of participation on their ability to maintain membership support. In short, all interests select Court cases based on their desire to maximize the probability of exerting policy influence, while a subset of interests are further constrained by organizational maintenance concerns. The results of my statistical model provide evidence for this general argument and for the specific hypotheses tested.

My theory and data analysis yield several interesting implications regarding the involvement of organized inter-

ests in the courts. To start, it appears that Tauber's (1998) conclusion that the Legal Defense Fund's participation decisions in the U.S. Courts of Appeals are not systematic does not generalize to the participation decisions made by the broader organized interest population. There are, in fact, systematic elements to the decision of organized interests to submit amicus curiae briefs at the U.S. Supreme Court.

One of these systematic components involves the information context in which the justices operate when deciding a case. The amount of information regarding the availability and likely effect of potential legal policy that could be created with the decision varies across cases. Although basing their decisions on the likelihood of achieving their own policy goals, organized interests appear to play a potentially beneficial role at the Court in the sense that they are more likely to file amicus curiae briefs in the cases in which the Court is relatively information-poor. It is in the cases that are particularly complicated, involving inexperienced attorneys and in which the Court signals a need for additional information, that organized interests are most likely to provide information by submitting amicus curiae briefs. While this additional information is not necessarily beneficial to the justices and the pursuit of their own policy goals, it may act to alleviate the occasional information-poor case context.

Another implication drawn from this analysis is that scholars studying media coverage of Court cases should be aware that some organized interests seek out cases that are likely to get coverage once they are ultimately decided on the merits. Slotnick and Segal (1998), for example, conclude that the number of amicus curiae briefs filed in a

Court case is a strong predictor of television news coverage of Court's decision on the merits of the case. My results, however, suggest that membership-based interests gauge the likely coverage of a Court decision and participate in cases that received media coverage when the Court placed the case on its docket. Thus, it is not clear to what extent scholars can assume that the presence of amicus curiae briefs *causes* the media to cover a Court decision on the merits. Some organized interests will attempt to participate in cases that are going to get significant media attention.

On a similar note, scholars need to be careful when ascertaining the effect of amicus curiae briefs on the Supreme Court's decisions on the merits (e.g., Kearney and Merrill 2000). My model indicates that membership-based interests may select cases based in part on the likelihood of their position winning on the merits. As a result, membership-based interests may appear to have influenced the Court's decision on the merits, while in fact the Court's probable decision direction influenced the organized interests' choice to participate in the case. This creates a challenge for researchers attempting to estimate the actual *causal* effect of amicus curiae briefs on the decisions on the merits. The mere presence of a correlation between number of amicus curiae briefs supporting a position on the merits and the Court's decision in the case will not be sufficient to demonstrate causation.

My analysis also has implications for the broader literature on interest group lobbying strategies and tactics. Research on the determinants and effectiveness of organized interest lobbying efforts typically defines lobbying as information transmission but does not assess whether interests seek out low information situations. My results suggest that organized interests seek out situations in which policy makers have less than optimal information, relatively speaking. It is in these situations in which organized interests can expect to have the greatest probability of exerting some influence over policy outcomes.

In addition, my analysis indicates that membership-based interests behave differently than their institutional counterparts when it comes to making strategic lobbying decisions. This difference in behavior can be explained by the need of a membership-based interest to make lobbying decisions based in part on the impact of these decisions on the ability to maintain the vitality of the organization. These elements of my argument should be applicable to the lobbying decisions made by organized interests that are active in policy venues other than the courts.

REFERENCES

Austen-Smith, David. 1993. "Information and Influence: Lobbying for Agendas and Votes." *American Journal of Political Science* 37 (3): 799-833.

Austen-Smith, David, and John R. Wright. 1994. "Counteractive Lobbying." *American Journal of Political Science* 38 (1): 25-44.

Barker, Lucius J. 1967. "Third Parties in Litigation: A Systematic View of the Judicial Function." *Journal of Politics* 29 (1): 41-69.

Baumgartner, Frank R., and Beth L. Leech. 1998. *Basic Interests: The Importance of Groups in Politics and Political Science*. Princeton, NJ: Princeton University Press.

Breyer, Stephen. 1998. "The Interdependence of Science and Law." *Judicature* 82 (1): 24-27.

Caldeira, Gregory A., and John R. Wright. 1988. "Organized Interests and Agenda Setting in the U.S. Supreme Court." *American Political Science Review* 82 (4): 1109-27.

_____. 1990. "Amici Curiae before the Supreme Court: Who Participates, When, and How Much?" *Journal of Politics* 52 (3): 782-806.

Clark, Peter B., and James Q. Wilson. 1961. "Incentive Systems: A Theory of Organizations." *Administrative Science Quarterly* 6 (2): 129-66.

Cohen, Jacob. 1960. "A Coefficient of Agreement for Nominal Scales." *Educational and Psychological Measurement* 20 (1): 37-46.

Cortner, Richard C. 1968. "Strategies and Tactics of Litigants in Constitutional Cases." *Journal of Public Law* 17 (2): 287-307.

Denzau, Arthur T., and Michael C. Munger. 1986. "Legislators and Interest Groups: How Unorganized Interests Get Represented." *American Political Science Review* 80 (1): 89-106.

Epstein, Lee, and Jack Knight. 1998. *The Choices Justices Make*. Washington, D.C.: CQ Press.

_____. 1999. "Mapping Out the Strategic Terrain: The Informational Role of *Amici Curiae*." In Cornell W. Clayton and Howard Gillman, eds., *Supreme Court Decision-Making: New Institutional Approaches*. Chicago: University of Chicago Press.

Epstein, Lee, and Joseph F. Kobylka. 1992. *The Supreme Court and Legal Change: Abortion and the Death Penalty*. Chapel Hill: University of North Carolina Press.

Epstein, Lee, and C. K. Rowland. 1991. "Debunking the Myth of Interest Group Invincibility in the Courts." *American Political Science Review* 85 (1): 205-17.

Epstein, Lee, and Jeffrey A. Segal. 2000. "Measuring Issue Salience." *American Journal of Political Science* 44 (1): 66-83.

Epstein, Lee, Jeffrey A. Segal, Harold J. Spaeth, and Thomas G. Walker. 1996. *The Supreme Court Compendium: Data, Decisions, and Developments*, 2nd ed. Washington, DC: Congressional Quarterly Press.

Eskridge, William N., Jr. 1991. "Overriding Supreme Court Statutory Interpretation Decisions." *Yale Law Journal* 101 (2): 331-455.

Gates, John B. 1998. "The Motivations for Interest Group Litigation in a Changing Interest Group Environment." University of California, Davis. Photocopy.

Gely, Rafael, and Pablo T. Spiller. 1990. "A Rational Choice Theory of Supreme Court Statutory Decisions with Applications to the *State Farm* and *Grove City* Cases." *Journal of Law, Economics, and Organization* 6 (2): 263-300.

Gordon, Stacy B. 2001. "All Votes Are Not Created Equal: Campaign Contributions and Critical Votes." *Journal of Politics* 63 (1): 249-69.

Halpern, Stephen C. 1976. "Assessing the Litigative Role of ACLU Chapters." In Stephen L. Wasby, ed., *Civil Liberties: Policy and Policy Making*. Lexington, MA: Lexington Books.

Hansford, Thomas G., and David F. Damore. 2000. "Congressional Preferences, Perceptions of Threat, and Supreme Court Decision Making." *American Politics Quarterly* 28 (4): 490-510.

Hojnacki, Marie, and David C. Kimball. 1998. "Organized Interests and the Decision of Whom to Lobby in Congress." *American Political Science Review* 92 (4): 775-90.

Johnson, Timothy R. 2001. "Information, Oral Arguments, and Supreme Court Decision Making." *American Politics Research* 29 (4): 331-51.

Kearney, Joseph D., and Thomas W. Merrill. 2000. "The Influence of Amicus Curiae Briefs on the Supreme Court." *University of Pennsylvania Law Review* 148 (3): 743-855.

King, Gary, and Langche Zeng. 2001. "Logistic Regression in Rare Events Data." *Political Analysis* 9 (2): 137-63.

Kobylka, Joseph F. 1991. *The Politics of Obscenity: Group Litigation in a Time of Legal Change.* New York: Greenwood Press.

Krehbiel, Keith. 1991. *Information and Legislative Organization.* Ann Arbor: University of Michigan Press.

Landis, Richard J., and Gary G. Koch. 1977. "The Measurement of Observer Agreement for Categorical Data." *Biometrics* 33: 159-74.

Maltzman, Forrest, James F. Spriggs, II, and Paul J. Wahlbeck. 2000. *Crafting Law on the Supreme Court: The Collegial Game.* New York: Cambridge University Press.

Mayhew, David R. 1974. *Congress: The Electoral Connection.* New Haven, CT: Yale University Press.

McCarty, Nolan M., and Keith T. Poole. 1999. "An Empirical Spatial Model of Congressional Campaigns." *Political Analysis* 7: 1-30.

McGuire, Kevin T. 1990. "Obscenity, Libertarian Values, and Decision Making in the Supreme Court." *American Politics Quarterly* 18 (1): 47-67.

_____. 1994. "Amici Curiae and Strategies for Gaining Access to the Supreme Court." *Political Research Quarterly* 47 (4): 821-37.

_____. 1995. "Repeat Players in the Supreme Court: The Role of Experienced Lawyers in Litigation Success." *Journal of Politics* 57 (1): 187-96.

Milbrath, Lester W. 1963. *The Washington Lobbyists.* Chicago: Rand McNally.

Moe, Terry M. 1980. *The Organization of Interests: Incentives and the Internal Dynamics of Political Interest Groups.* Chicago: University of Chicago Press.

Mooney, Christopher, and Robert D. Duval. 1993. *Bootstrapping: A Nonparametric Approach to Statistical Inference.* Newbury Park, CA: Sage.

Nelson, Forrest, and Lawrence Olson. 1978. "Specification and Estimation of a Simultaneous-Equation Model with Limited Dependent Variables." *International Economic Review* 19 (3): 695-709.

Olson, Susan M. 1990. "Interest-Group Litigation in Federal District Court: Beyond the Political Disadvantage Theory." *Journal of Politics* 52 (3): 854-82.

Salisbury, Robert H. 1984. "Interest Representation: The Dominance of Institutions." *American Political Science Review* 78 (1): 64-76.

Scheppele, Kim Lane, and Jack L. Walker, Jr. 1991. "The Litigation Strategies of Interest Groups." In Jack L. Walker, Jr., ed., *Mobilizing Interest Groups in America.* Ann Arbor: University of Michigan Press.

Schlozman, Kay Lehman, and John T. Tierney. 1986. *Organized Interests and American Democracy.* New York: Harper & Row.

Slotnick, Elliot E., and Jennifer A. Segal. 1998. *Television News and the Supreme Court: All the News that's Fit to Air?* New York: Cambridge University Press.

Songer, Donald R., and Reginald S. Sheehan. 1993. "Interest Group Success in the Courts: Amicus Participation in the Supreme Court." *Political Research Quarterly* 46: 339-54.

Spaeth, Harold J. 1998. *United States Supreme Court Judicial Database, 1953-1996 Terms,* 8th release. Ann Arbor, MI: Inter-University Consortium for Political and Social Research Press.

Spriggs, James F., and Paul J. Wahlbeck. 1997. "Amicus Curiae and the Role of Information at the Supreme Court." *Political Research Quarterly* 50 (2): 365-86.

Tauber, Steven C. 1998. "On Behalf of the Condemned? The Impact of the NAACP Legal Defense Fund on Capital Punishment Decision Making in the U.S. Court of Appeals." *Political Research Quarterly* 51 (1): 191-219.

Walker, Jack L., Jr. 1991. *Mobilizing Interest Groups in America.* Ann Arbor: University of Michigan Press.

Wasby, Stephen L. 1995. *Race Relations Litigation in an Age of Complexity.* Charlottesville: University Press of Virginia.