Amici Curiae Campaign Contibutions and Appellant Success in State Supreme Courts

Ryan J. Rebe
William Paterson University

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Abstract

Amici curiae play a role in elected state courts similar to special interest lobbyists. They signal to judges the importance of a case to outside interests and educate judges on the issues in the case. However, scholars have mostly ignored the way in which amici influence judges through campaign contributions. As the costs of judicial campaigns continue to rise in some states, it is important to examine how amici curiae campaign contributions influence decisions. In order to address this question, I constructed an original dataset of amici filings and campaign contributions to elected judges. The results indicate that an appellant's probability of success increases significantly when amici supporting the appellant contributed to judges in the previous election. This result holds in states that utilize partisan ballots to select their judges and states that utilize nonpartisan ballots.

In 2005, the State of Alabama sued over seventy drug manufacturers alleging they purposefully inflated average wholesale drug prices and acquisition costs in order to receive higher reimbursements from the state's Medicaid department. Sandoz, Inc., was one of the drug manufacturers. The state claimed the reported drug prices were far greater than the actual prices charged to hospitals or pharmacies. Furthermore, the defendants allegedly failed to disclose rebates and discounts that lowered the actual sales prices. In the trial involving Sandoz, the jury awarded approximately $28M in compensatory damages and $50M in punitive damages. Sandoz appealed to the Alabama Supreme Court. In 2012, the Alabama Supreme Court reversed the $78M verdict and entered judgment for Sandoz (Moylan 2012).

The Alabama Supreme Court's decision to overturn such a large jury verdict and enter a judgment for the defendant is unusual enough, but what makes it even more unusual is the large amount of campaign contributions by one of the amicus curiae on the case—the Business Council of Alabama (BCA). The BCA filed its amicus curiae brief on behalf of the defendant, Sandoz, Inc. Since its founding in 1985, the BCA claims it has worked hard to improve the business climate in Alabama and is the state's most powerful and effective advocate for business at the Alabama Legislature and in the U.S. Congress. Thus, BCA is a lobbying group for corporate defendants. In their previous elections, the BCA contributed $300,000 to Judge Stuart, $45,000 to Judge Woodall, $275,000 to Judge Shaw, $420,000 to Judge Wise, $865,000 to Judge Bolin, and $145,000 to Judge Murdock, for a total of $2,050,000 to these six Alabama Supreme Court judges (National Institute on Money in State Politics 2012).

Moreover, this case does not appear to be an anomaly. In *Ex Parte Capstone Building Corp.* (2012), a worker sued a contractor alleging its wantonness caused his injuries. The trial court ruled for the contractor, claiming the suit was time-barred. Relying on a 2004 Alabama

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Supreme Court decision, the Alabama Court of Civil Appeals reversed the trial court and ruled

the case was not time-barred because it was governed by a six-year statute of limitations. The

contractor appealed to the Alabama Supreme Court, and the BCA filed an amicus brief on behalf

of the contractor (which the Court cited multiple times in its decision). The Alabama Supreme

Court reversed its 2004 decision and held the case was time-barred, but declined to impose its

rule retroactively (i.e. the new rule would begin with the *Ex Parte Capstone* case). Thus, the

Court ignored its own precedent and issued an ad hoc decision applying to this particular case.

These examples highlight one of the dangers that money in judicial elections poses to the

fair administration of justice—the influence of amici curiae campaign contributions. In English

common law, the amicus curiae ("friend of the court") originated as a servant of the court (Kaye

1989). Its role was to prevent the court from making any legal or factual errors (Simpson and

Vasaly 2004). However, in the United States, it has "become a means of advocacy for interest

groups, private individuals, and business concerns that are nothing more than extensions of the

parties; they are friends of the litigants rather than of the courts" (Simpson and Vasaly 2004, 3).

Since the common law tradition of limiting the case to the parties to the dispute excludes non-

parties from directly participating in the case, the amicus brief has become the vehicle for

addressing the broader interests to a dispute (Krislov 1963). Consequently, amici curiae today

play a role in the judiciary similar to the role lobbyists play in the legislature. They provide

judges with information about the broader policy implications of a case and how other actors will

be affected by the court's decision (Caldeira and Wright 1988; Collins 2004; Munford 1999). As

interest groups have become more involved in the judiciary, these lobbying efforts have

increased substantially in recent decades (Kearney and Merrill 2000). Since the 1970s, outside

interests have been filing amicus briefs with increasing frequency at both the state and federal

levels due to an increase in the number of advocacy groups and the growing recognition by these groups that judicial decisions have implications that extend beyond the particular parties to the case (Wohl 1996).

Furthermore, the scope of litigation activity at the state level has expanded to incorporate a wider range of interests (Epstein 1994). Decisions during the Burger Court years are directly responsible for encouraging an increase in the amount of litigation at the state level, especially in the area of civil liberties (Tarr and Porter 1982). "In a series of cases, the Court revitalized the 'equitable abstention' doctrine as a barrier to removal from state to federal courts, discouraged federal injunctive relief against the enforcement of state law, instituted limits on federal *habeas corpus* relief, and imposed stricter standing limitations for raising claims in federal courts" (Tarr and Porter 1982, 923). This trend resulted in state courts hearing more cases involving individual rights and relying on interpretations of their own state's laws (Epstein 1994).

These lobbying efforts raise obvious concerns about the impartiality of elected judges who rely on support from interest groups to win reelection. This support may come in the form of an endorsement or campaign contributions and expenditures. This is why money has become the most controversial aspect of judicial elections (Bonneau 2012). Many court reformers believe that contributions from special interests pose a threat to the public's faith in fair and impartial courts (Skaggs et al. 2011), and there is evidence these concerns are not without merit. The findings from this study suggest elected judges may be influenced by amici campaign

Amici Curiae and Strategic Decision Making

There is a growing body of research indicating the judiciary is undergoing a political transformation (Geyh 2016). This transformation is due in large part to the influx of money into judicial elections. In some jurisdictions, judicial elections have become "slick, professionalized

affairs featuring high-dollar campaigns, expensive television advertising, and increasing influence from parties and interest groups" (Arbour and McKenzie 2010, 150), and the average cost of campaigning is increasing nationwide. Over the last two decades, twenty out of the twenty-two states with competitive elections have shattered their previous fundraising records (Skaggs et al. 2011), and in some states, the cost of running a judicial race is comparable to congressional races (Geyh 2003).

The idea that judges are susceptible to extralegal influences is not a new phenomenon (Brace and Hall 1997; Cann and Wilhelm 2011; Hall 1992; Hall 1995; Langer 2002) and several studies link campaign contributions to case outcomes (Kang and Shepherd 2011; McCall 2003; Shepherd 2009; Waltenburg and Lopeman 2000; Ware 1999). McCall (2003) studied the influence of campaign contributions on Texas Supreme Court justices in cases involving large corporations sued for breach of contract or unfair business practices (McCall 2003). She expected the conservative judges on the Texas Supreme Court to favor defendants in these cases, so she focused on contributions from plaintiffs in the cases in which the judges ruled for the plaintiffs. She was able to establish a loose causal relationship between contributions and decisions in these types of cases.

Similarly, Shepherd (2009) found that state supreme court judges vote in ways intended to attract money from interest groups in states with partisan competitive elections. Kang and Shepherd (2011) investigated contributions from business groups to judicial campaigns in state supreme court races and concluded that "…every dollar of contributions from business groups is associated with increases in the probability that elected judges will decide for business litigants" (Kang and Shepherd 2011, 73). While this relationship exists in their partisan sample, campaign contributions did not appear to influence the votes of judges elected under nonpartisan elections.

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Nevertheless, these prior studies do not focus specifically on the way campaign contributors lobby judges through the use of amicus briefs. As amici participation has increased in recent decades, so has interest in studying the effects on decision making (Epstein 1993; Epstein and Knight 1999; Kearney and Merrill 2000). Studies at the U.S. Supreme Court level suggest that amici participation does not have an effect on success (Songer and Sheehan 1993; Epstein and Rowland 1991). The argument is that the increase in the volume of amicus briefs to the U.S. Supreme Court may have actually decreased their effectiveness (Colker and Scott 2002). That is, amicus briefs have become so commonplace they are basically meaningless (Colker and Scott 2002).

On the other hand, amicus briefs may be more influential than previously realized (Ennis 1984). Recent research finds amicus briefs are successful when they impart valuable new information (Comparato 2003; Kearney and Merrill 2000). According to Spriggs and Wahlbeck (1997), more than 65 percent of the amicus briefs filed in the U.S. Supreme Court during their 1992 term contained information not found in the briefs of either party.

Flango, Bross, and Corbally (2006) believe amici play a similar role in state courts, although there is wide variation between states. In their surveys of state appellate judges, they find that amicus briefs play a strong role in state appellate courts by reducing the amount of research judges have to do, providing information the parties may not have discussed, and by presenting the broader implications of the case to groups not party to the suit. Thus, amicus briefs are important sources of information for judges about the broader policy implications of their decisions. Songer and Kuersten's (1995) study of the success of amici participants in three southern state supreme courts (Georgia, South Carolina, and North Carolina) reaches a similar conclusion. They look at simple won/loss ratios, their success in "matched pairs," and the

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relationship between amicus support and the success of litigants in state courts. They find that amici participation is significantly related to the likelihood of success of the supported litigants, regardless of whether the amici support the appellant or the respondent.

Comparato's (2003) study of the effects of amicus briefs on the decisions from seven state courts sheds light on how interest group activity can alter the strategic behavior of state judges depending on the institutional context. He contends that judges are more likely to rely on public policy related arguments in states where they face reelection, while issues concerning the preferences of governors and legislators are more important in appointment states.

As these examples demonstrate, most of the studies on this topic have been conducted at the U.S. Supreme Court level or on a small number of states. I seek to extend the study of amici curiae participation to a wider and more diverse set of states and to include an analysis comparing the success of amici in states with partisan and nonpartisan ballots. I also want to examine the effects campaign contributions from amici participants have on judicial decisions. While contributions from attorneys have been studied extensively, there is very little research on the effects of contributions from the amici participants in a case.

Amici Support in an Electoral Context

The institutional context in which judges operate is central to the account of judicial decisions. Federal judges with life tenure will seek to maximize policy preferences, whereas judges running for office will seek to maximize their chances for reelection (Epstein and Knight 1998). This point refers to the role that interest groups play in shaping judicial outcomes. Interest groups may exert external pressures on state judges to a degree not apparent at the federal level (Hall and Brace 1999; Songer and Kuersten 1995). Elected judges avoid antagonizing interest groups by not making decisions which conflict with their preferences. This

is what makes amici valuable allies for appellants seeking to overturn a lower court's ruling. Based on this argument, I seek to test the following hypotheses:

H₁: As the campaign contribution differential between the amici supporting the appellant and the amici supporting the respondent increases, the probability of a vote for the appellant increases.

Campaign spending in state supreme court elections has increased steadily since 1990 in real dollars (Bonneau 2007). However, there is still some debate about whether campaign contributors receive favorable treatment from judges (Bonneau 2012). While this issue has been studied from the standpoint of attorney contributors, there is very little research on contributions from amici curiae. Based on prior research showing that judges adjust their rulings to attract votes and campaign money from interest groups (Shepherd 2009), I expect campaign contributions from amici supporting the appellant to increase the likelihood of a vote for the appellant. Judges often vote strategically to minimize electoral opposition (Hall and Brace 1999), and they need support from interest groups to win reelection. Since judges are motivated by self-interest, they may act contrary to their own preferences when faced with the possibility of sanctions from the electorate (Hall 1992).

H₂: Amici support is more likely to affect votes in states that hold partisan judicial elections than in states that hold nonpartisan judicial elections.

There is a common belief among judicial reformers that partisan ballots make judges more susceptible to political pressure from campaign contributors. Judicial contests in partisan states are not necessarily more expensive or contentious than nonpartisan races (Arbour and McKenzie 2011), but candidates in partisan states are more dependent on party supporters for campaign funds. In nonpartisan states, candidates spend more from their own coffers in order to

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get information to voters (Bonneau and Hall 2009; Rock and Baum 2010). The argument is that

this gives judicial candidates in these states more independence from contributors.

Consequently, if this argument is correct, amici support should have a greater impact in partisan

states.

Research Design

Data

Table 1. Descriptive Statistics for Amici Contributions Data, 2012

State	# of Obs.	Region	Term(yrs.)	Selection Method	# of Judges
Washington	980	Northwest	6	Nonpartisan	9
Ohio	728	Midwest	6	Semi-partisan	7
Texas	612	Southwest	6	Partisan	9
Pennsylvania	455	Northeast	10	Partisan/Retention	7
Minnesota	413	Midwest	6	Nonpartisan	7
Wisconsin	287	Midwest	10	Nonpartisan	7
Illinois	245	Midwest	10	Partisan/Retention	7
Georgia	182	Southeast	6	Nonpartisan	7
Alabama	171	Southeast	6	Partisan	9
Oregon	119	Northwest	6	Nonpartisan	7
Kentucky	112	Southeast	8	Nonpartisan	7
North Carolina	98	Southeast	8	Nonpartisan	7
Nevada	77	West	6	Nonpartisan	7
Montana	63	Northwest	8	Nonpartisan	7
Michigan	42	Midwest	8	Semi-partisan	7
Mississippi	36	Southeast	8	Nonpartisan	9
West Virginia	35	Southeast	12	Partisan	5
Louisiana	28	Southeast	10	Partisan	7
New Mexico	25	Southwest	8	Partisan/Retention	5
North Dakota	15	Northwest	10	Nonpartisan	5
Arkansas	7	Southeast	8	Nonpartisan	7
TCCA[*]	0	Southwest	6	Partisan	9
Idaho	0	Northwest	6	Nonpartisan	5

[*]Texas Court of Criminal Appeals

I collected data on every published case with at least one amicus curiae filing in 2012 in

every state supreme court with some form of contested election—a total of 293 cases from 23

courts. Table 1 describes the states and the number of observations from each state. Each

observation represents a vote by a judge on a case with an amicus filing and is a fairly good

representation of the amount of amici participation in each state. The amount of amici activity

does not appear to be connected to a particular selection system, since the top four states (Washington, Ohio, Texas, and Pennsylvania) maintain different selection systems.

There are a total of thirteen states that hold nonpartisan judicial elections, and ten states that hold partisan judicial elections. I have grouped the semi-partisan and partisan/retention states in with the partisan sample. Semi-partisan states like Ohio and Michigan hold a partisan primary and a nonpartisan general election. Partisan/retention states like Pennsylvania and Illinois hold a partisan election, and then reelection is by retention. Since this dataset does not include retention elections, these states logically belong in the partisan sample. I included Ohio and Michigan in the partisan sample because the campaign contributions data cover the entire election cycle, so the primaries are included.

The campaign contributions data were obtained from the National Institute on Money in State Politics. The Institute receives its data from the state disclosure agencies with which candidates file their campaign finance reports. They collect the data for all state-level candidates in primary and general elections and enter it into a dataset. The data are then organized by state and election year. I identified the amicus participant in each case and then matched them to the campaign finance reports for the candidates after sorting the donors alphabetically.

Table 2 provides a breakdown of the percentage of amici participants and campaign contributions by category. As the table indicates, business groups make up the largest category, accounting for approximately 24 percent of the total participants and approximately 61 percent of the total contributions. The second largest percentage of contributions comes from unions at just 14 percent, indicating that a disproportionate share of the contributions comes from business groups. Notably, government and legal entities are the second and third most active groups of participants, but they make up only a small percentage of the contributions. These percentages

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are a good indicator of the growing encroachment of business interests into the judiciary relative

to other groups and their efforts to influence the courts through campaign dollars.

Table 2. Percentage of Amici Participants and Contributions by Category, 2012

Category	Participants (%)	Contributions (%)
Business	23.71	60.56
Government	18.97	3.29
Legal	14.02	6.57
Civil Liberties	10.72	0
Individuals	6.60	1.41
Education/Children	5.36	.05
Unions	4.95	13.62
Universities/Professors	2.89	0
Seniors/Disabilities	2.06	2.35
Victims Advocacy	2.06	0
Legislators	1.65	.05
Good Government	1.65	0
Farmers	1.24	11.27
Religious	1.03	0
Environmental	.08	0
Republican	.06	0
Native American	.06	0
Property Owners	.04	0
Consumer Protection	.02	0
Social Justice	.02	0
Tobacco	.02	0

Dependent Variable

The dependent variable is coded 1 if the judge voted with the appellant and 0 if the judge

voted with the respondent. An appellant vote is one in which the judge votes to reverse the

lower court's decision, while a vote for the respondent affirms the lower court's decision.

Independent Variables

The first independent variable, labeled *Amici Campaign Contributions*, represents the

campaign contribution differential between the amici supporting the appellant and the amici

supporting the respondent. This variable is based on the total contributions from amici curiae to

each judge in their previous election. The second independent variable, *Amici Support*, is coded

1 if the amici participant supported the appellant and 0 if the amici supported the respondent.

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The third independent variable, *Amici Participants*, represents the total number of amici
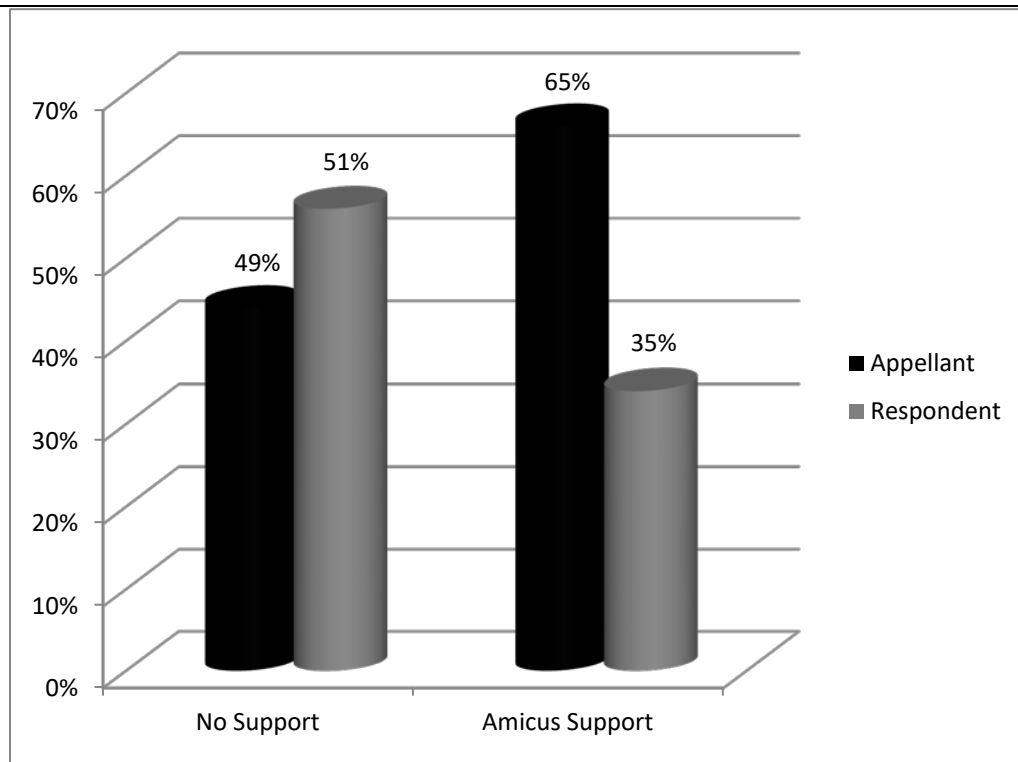
participating in each case.

Figure 1. The Effect of Amici Support on the % of Votes for Appellant

A simple crosstabs analysis highlights the dramatic effect amici support has on an

appellant's chances of winning. As Figure 1 demonstrates, judges in this sample voted with the

appellant 49 percent of the time when the appellant did not receive amici support. However, the

percentage increases to 65 percent with amici support in the form of letters or case briefs.

Control Variables

In order to account for other factors that explain votes for the appellant, I included eleven

control variables. The first is a dummy variable for civil and criminal cases to control for case

type. Criminal appeals are usually filed by defendants (rather than the state), and logically

judges are more likely to accept a defendant's case for review when they intend to reverse the

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lower court's decision. The second control variable is for ballot type. It is important to determine whether the relationship between amici contributions and votes is dependent on selection method. The third is the type of representation the appellant received. Law firms bring more resources to bear on a case and may be more selective about the types of clients they represent on appeal. Therefore, appellants represented by law firms should have a higher rate of success. The fourth is for unanimous decisions versus those with at least one dissenting vote. This control variable is necessary to ensure the relationship between amici contributions and votes is not simply a reflection of consensus on the courts. The next four variables control for whether the state or a business was an appellant or respondent in the case, since the state has a higher winning percentage on appeal than other litigants in this sample, and pro-business judges are likely biased toward business litigants. Finally, I added three judge-specific control variables—political party, whether the judge was elected or appointed, and whether the judge is a senior or freshman judge. Table 1A in the Appendix provides a description of each variable.

Estimation Method

This is a cross-sectional study with a sample of state supreme court cases from a single year. Since the dependent variable is dichotomous, I utilized logit regression with clustered robust standard errors in order to account for within-group correlations that may result in biased standard errors. Diagnostics for multi-collinearity and omitted variable bias did not indicate problems with collinearity or model specification. The results of the regression are presented in Table 3. In order to compare the partisan and nonpartisan samples, I graphed the marginal effects for both samples in Figure 4. The marginal effects represent the partial difference in the probability of y given a one unit change in x.

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Results

Figure 2 presents the total campaign contributions to judges selected through nonpartisan elections from donors participating as amici curiae. There are five states with $0 contributions (Arkansas, Georgia, Idaho, North Dakota, and Oregon). The highest total is from Wisconsin, which had $30,750 in contributions. The total amount was $82,353 with a median of $900 for the whole sample.
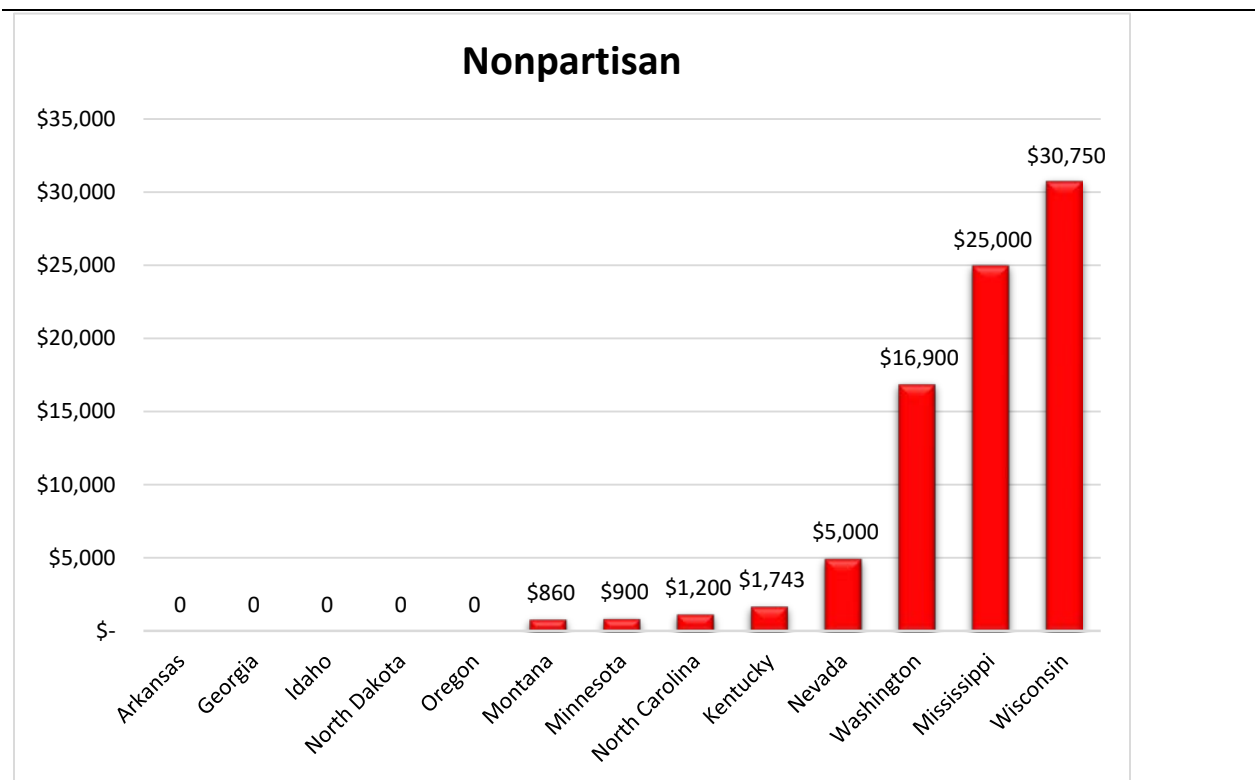

Figure 2. Amici Campaign Contributions (Nonpartisan Sample), 2012

Figure 3 presents the total campaign contributions to the sample of judges selected through partisan elections. There is only one state with no contributions (New Mexico). The Texas Court of Criminal Appeals (TCCA) also has no contributions, but the civil Texas Supreme Court has the second highest total in the entire study (Texas is the only state in the study with two supreme courts). The State of Alabama appears to be an outlier, with a total of $3,269,079

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in contributions (Alabama is the only court in the sample with a total over $300,000). The total

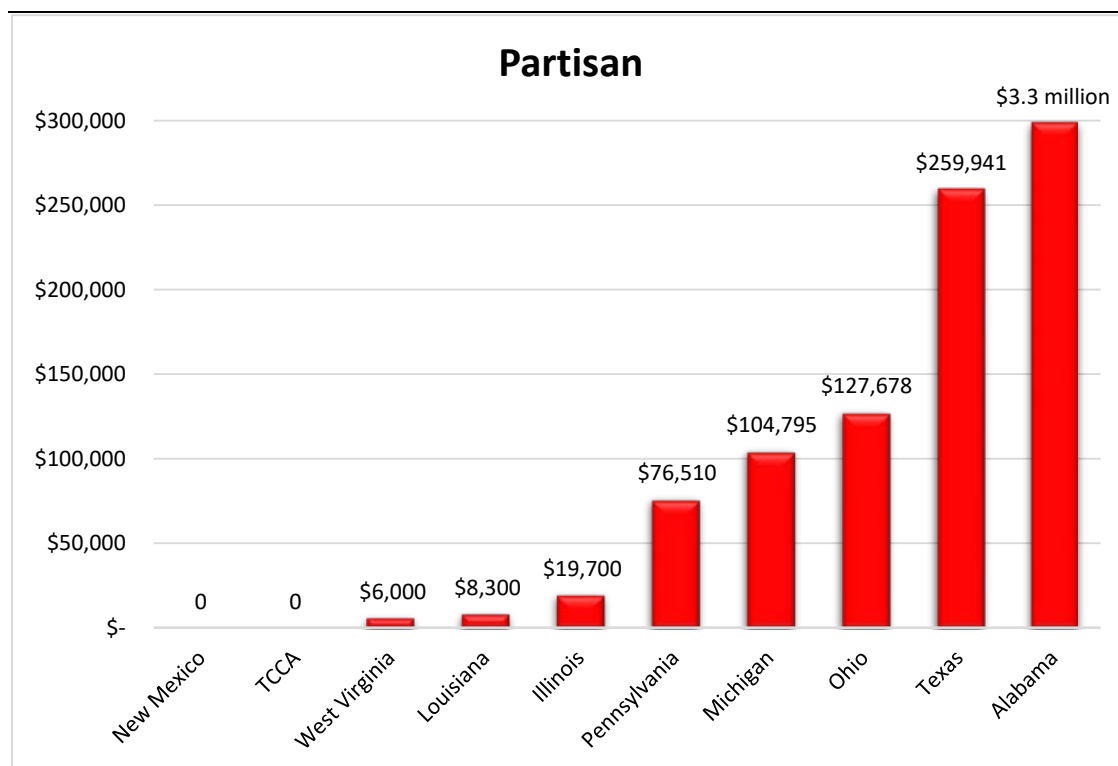amount of contributions was $3,872,003 with a median of $48,105 for the partisan sample.

Figure 3. Amici Campaign Contributions (Partisan Sample), 2012

As these results indicate, there is far less spending by amici donors in the nonpartisan

sample. Even if we remove Alabama as an outlier, the partisan total is $602,924 with a median

of $19,700, compared to $82,353 and a median of $900 in the nonpartisan sample. The partisan

sample has more than seven times the amount of contributions despite having three fewer states.

Ten out of the thirteen nonpartisan sates had $5,000 or less in total contributions, and as already

noted, there are five nonpartisan states with $0 in amici contributions compared to only one

partisan state.

The campaign contribution totals are only one part of the story. It is important to

determine whether judges are actually voting with their amici contibutors. I ran a logistic

regression to test the relationship between amici campaign contributions and judicial votes while

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controlling for other explanatory variables. The regression results are presented in Table 3. Although interpreting logit coefficients is difficult, the findings are consistent with other methods of analysis, such as plotting the marginal effects. The coefficient for *Amici Campaign Contributions* (0.0001) represents the rate of change in the log-odds of y given a one dollar increase in the contribution differential between amici supporting the appellant and amici supporting the respondent. This coefficient is positive and statistically significant at the <0.05 level, indicating that there is a positive relationship between contributions and votes. This is evidence of a link between judges and their donors who participate as amici curiae and provides support for the first hypothesis.

Table 3. Votes for Appellant in State Supreme Courts, 2012
(Logit Regression with Clustered Robust Standard Errors)

Independent Variables	Coefficient	SE	P-value
Amici Campaign Contributions	.0001*	.0001	.034
Amici Support	.4586***	.0904	.000
Amici Participants	.1382***	.0353	.000
Civil Cases	-.8525***	.2379	.000
Ballot Type	.7498***	.1690	.000
Represented by Law Firm	.3537**	.1276	.006
Unanimous Decision	.2867*	.1188	.016
Respondent-State	-.9919***	.2385	.000
Appellant-State	-.5854*	.2342	.012
Respondent-Business	-.0277	.1975	.888
Appellant-Business	-.1629	.1699	.338
Judge's Political Party	.2810	.1784	.115
Elected Judges	-.1974	.2746	.472
Senior Judges	-.1305	.1202	.278
Intercept	.0288	.3368	.932
Observations	4349		
Wald χ^2	177.40***		

***p < .001, **p < .01, *p < .05 (two tailed)

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The coefficients for the next two independent variables provide further support for this connection. The coefficient for *Amici Support* (0.4586) is positive and highly significant at the <0.001 level, which means judges are much more likely to vote for the appellant when the appellant receives amici support. Importantly, this variable does not distinguish amici by type, and thus, this is not an indicator of ideological congruence—amici support simply increases an appellant's chances of winning. The coefficient for *Amici Participants* (0.1382) is also positive and significant at the <0.001 level, indicating that as the number of amici in the case increases, the probability of a vote for the appellant also increases. Taken together, the coefficients for the three main independent variables of interest provide strong support for a relationship between judges in this sample and groups participating as amici curiae in cases before them.[1]

For interpretation purposes, Figure 4 plots the marginal effects for a change in the contribution differential in both the partisan and nonpartisan samples. As the graph indicates, contributions from amici dramatically increase the probability of a vote for the appellant in both samples. While the probabilities are higher overall in the partisan sample at almost every plot point, the two graph lines follow a similar path. When the contribution differential is -$10,000, the probability of a vote for the appellant is 0.22 in the nonpartisan sample and 0.44 in the partisan sample. Both of these probabilities are statistically significant. This means the judges are more likely to vote against the appellant when the amici on the respondent's side contribute more to the judges. However, when the contribution differential switches to $10,000 (the appellant's side contributes more), the probabilities increase to 0.74 in the nonpartisan sample and .89 in the partisan sample. These are increases of 0.52 and 0.45 respectively. This is evidence that judges in this study voted overwhelmingly with their amici contributors, regardless of selection method.
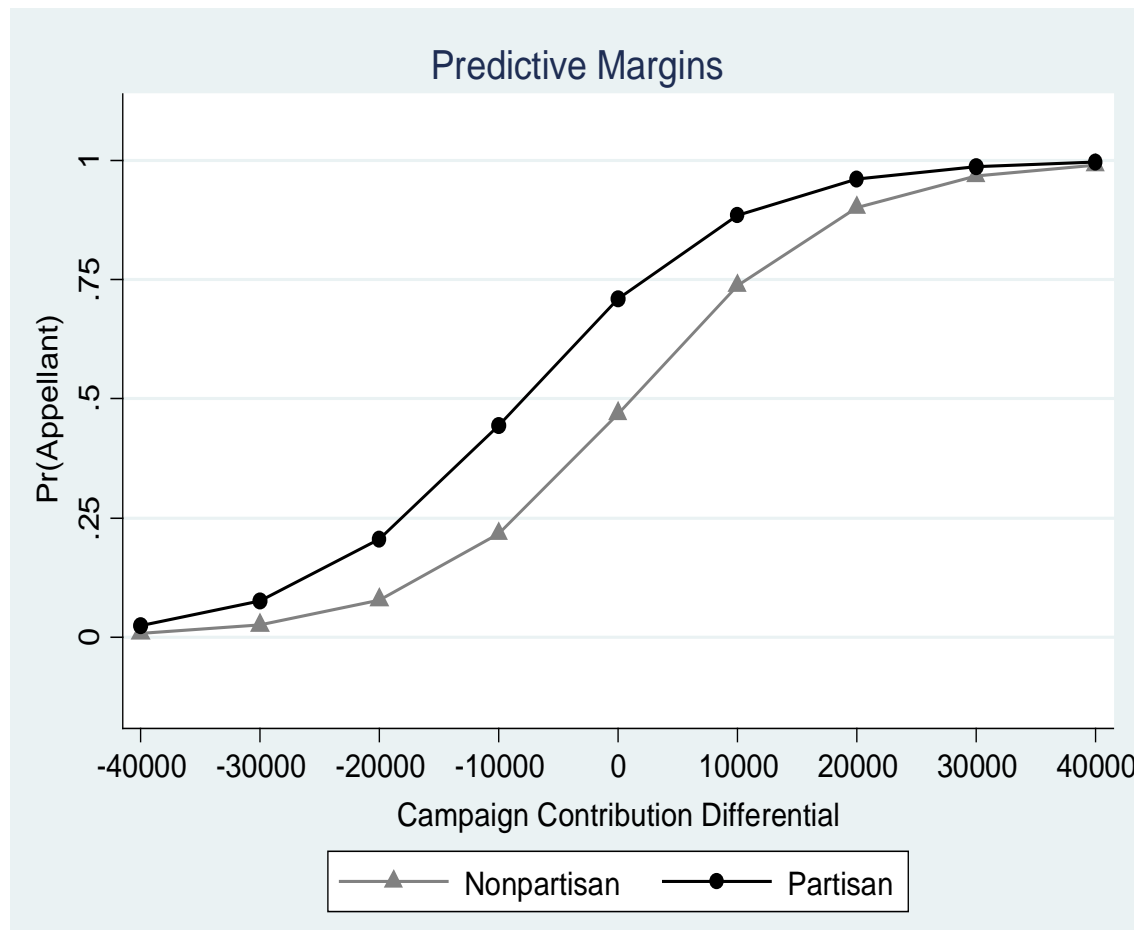
Figure 4. Marginal Effects (y = Vote for Appellant)

While amici participation is the focus of this study, there are several other significant

results worth noting. As expected, judges are more likely to vote with an appellant in criminal

cases. This most likely reflects a propensity by supreme court judges to accept criminal cases for

review when they disagree with the lower court's decision. Additionally, judges in the partisan

sample vote with the appellant more often than judges in the nonpartisan sample, which suggests

that partisan judges are more activist when it comes to overturning lower courts than their

nonpartisan counterparts. Not surprisingly, representation by a law firm increases an appellant's

probability of success considerably. Law firms are probably more selective about the types of

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clients they represent and can bring more resources to bear on an appellate case. Unanimous decisions tend to favor appellants, which conversely means that a divided court is more likely to affirm the lower court's decision. Finally, the state has a high rate of success when it is the respondent, but not when it is the appellant. Taken together, these results highlight a few significant predictors of appellant success beyond the legal arguments in the case.

Discussion and Conclusion

The main conclusion from this study is that state supreme court judges vote consistently with amici curiae campaign contributors, regardless of selection method. Importantly, this finding is independent of the total number of amici supporting the appellant, which suggests the relationship between campaign contributors and elected judges extends beyond mere ideological congruence. Judges vote with campaign contributors at a higher rate than other amici curiae. Consistent with the first hypothesis, an appellant's probability of success increases significantly when the contribution differential between the amici supporting the appellant and the amici supporting the respondent increases.

The results for the second hypothesis are less conclusive. While the marginal effects in the partisan sample are higher at every point along the differential, the overall effect appears to be slightly larger in the nonpartisan sample. Therefore, I cannot conclude that judges are more likely to vote with campaign contributors in partisan states. In fact, the opposite appears to be true. However, there is still reason for concern in the partisan states due to the large amount of contributions from amici participants. The partisan sample had seven times the amount of campaign contributions as the nonpartisan sample.

Overall, the findings from this study indicate that amici may play a bigger role in judicial decision-making at the state level than previously thought. The sheer amount of campaign

contributions suggests their influence goes beyond providing useful legal, scientific, or technical

knowledge on a subject or signaling to judges the importance of a case to outside interests

(Collins 2004; Flango, Bross, and Corbally 2006). Amici participation may be a way for special

interests to apply direct pressure to judges to whom they donated in the previous election. This

has become the judicial equivalent of lobbying; it reminds elected judges of the campaign

supporters who placed them on the bench, and the risk they run if they decide to vote against

these supporters. This is one of the dangers money in judicial elections poses to the fair

administration of justice.

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Appendix

Table 1A. Variable Descriptions

Variable	Variable Description
Dependent Variable	
Votes for Appellant	1 is a vote for the appellant, 0 is a vote for the respondent
Independent Variables	
Amici Campaign Contributions	Total campaign contributions by the amici supporting the appellant minus the total campaign contributions by the amici supporting the respondent
Amici Support	1 if the amici supported the appellant, 0 if the amici supported the respondent
Amici Participants	Total number of amici participating in each case
Controls	
Civil Case	1 if civil case, 0 if criminal case
Ballot Type	1 if partisan ballot, 0 if nonpartisan ballot
Represented by Law Firm	1 if the appellant was represented by a law firm, 0 otherwise
Unanimous Decision	1 if unanimous decision, 0 if not unanimous
Respondent-State	1 if the respondent was the state, 0 otherwise
Appellant-State	1 if the appellant was the state, 0 otherwise
Respondent-Business	1 if the respondent was a business, 0 otherwise
Appellant-Business	1 if the appellant was a business, 0 otherwise
Judge's Political Party	1 if Republican, 0 if Democrat
Elected Judges	1 if elected, 0 if appointed
Senior Judges	1 if senior judge, 0 if freshman judge

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[1] I conducted an auxiliary analysis excluding the three partisan/retention states (Illinois, New Mexico, and Pennsylvania) and the two semi-partisan states (Michigan and Ohio) in order to see if the results would hold, given that there is some disagreement about how to group these states. The first two independent variables—Amici Campaign Contributions and Amici Support—remain statistically significant at the <.05 and <.01 levels, respectively. However, the third independent variable—Amici Participants—is no longer significant.