

A Fresh Perspective: Legal Team Gender Composition and Brief Quality at the Supreme Court

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Abstract

Public debates rage over the importance of diversity. In attempts to inform such discourse, political scientists generally focus on individual-level characteristics. This approach ignores that small groups lie at the heart of governmental and societal work. Drawing from research on business and management stressing group composition is consequential for outcomes, we explore how the presence of higher proportions of female attorneys in explicit roles on litigation teams at the U.S. Supreme Court impacts written advocacy in briefs and their role in judicial decision-making. We find higher rates of female participation increase the volume, readability, and strategic nature of the information contained in briefs. However, these advantages don't result in significant advantages in the Supreme Court outcomes, raising issues of gender bias. Overall, our findings have implications for a wide range of governmental groups and types of advocacy in numerous political contexts.

Keywords

Supreme Court, litigation teams, briefs, attorneys, gender, workgroups

In 1869, Myra Bradwell passed the Illinois bar exam but the state supreme court refused to admit her because of her sex.¹ On appeal, the U.S. Supreme Court ruled against Bradwell. Justice Joseph Bradley's concurrence, based in prevailing gender norms of the time (e.g., Norgren 2013), argued the "timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life" including practicing law.² In short, Bradley viewed law as an inherently masculine domain unsuitable for women. Bradwell's experience underscores the difficulties women in law and politics faced in the nineteenth century (e.g., Rhode 1994). Today, women continue to face a double bind (Gleason and Smart 2023); entering stereotypically masculine spaces, they must often be twice as good as their male counterparts to be considered half as good (Anzia and Berry 2011). Though women are often met with skepticism in these spaces, sex diversity in workgroups often results in higher quality work products than those produced by more (traditional) male teams (e.g., Ouni et al. 2022; Page 2008; Yang et al. 2022).

While increased diversity leads to substantively different outcomes and decision-making calculi under some conditions (Page 2008), most studies focus on *individual* level traits (e.g., Songer et al. 1994). For instance, is a

jurist or attorney female (Collins et al. 2010; Szmer et al. 2010)? While individual action is at the heart of judicial behavior, political decisions and outcomes are rarely the product of just one actor. Both opinions and legal briefs, key work products at the Supreme Court, are collaborative (e.g., Maltzman et al. 2000; Szmer et al. 2021). Work from business and management stresses small groups, whether formal or informal, often produce the most innovative results (Page 2008). Intuitively the presence of women in public positions on a legal team, despite Justice Bradley's protestations, should lead to higher quality briefs which improve law normatively and substantively.

Scholars extensively explore sex's impact on opinion writing, including how author identity shapes others'

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behaviors (e.g., [Leonard and Ross 2020](#); [Tillman and Hinkle 2018](#)). Yet, relatively little work explores sex's impact on brief writing. This is unfortunate because briefs are among the most consequential collaborative endeavors at the Court. Briefs are the primary way attorneys communicate arguments to the Court. Moreover, since justices are legal generalists deciding a wide array of issues beyond their expertise, they routinely draw on briefs, often verbatim ([Corley 2008](#); [Szmer and Ginn 2014](#)). Existing work on gender and briefs notes marked disparity. Legal teams tend to be male dominated ([Szmer et al. 2021](#))³ and privilege masculine forms of communication ([Gleason et al. 2019](#)). Drawing across disciplines, we argue increased proportions of female attorneys in detectable roles on litigation teams makes briefs "better" through multiple mechanisms. First, diverse workgroups exhibit a wider range of skills, broader perspectives, and are a conducive space for full participation (e.g., [Edmondson 1999](#); [Haire and Moyer 2015](#); [Page 2008](#)). Moreover, since Supreme Court litigation is complex ([Dworkin 1986](#)), team diversity should impact both information quality and its utilization (e.g., [Ali et al. 2011](#); [Page 2017](#); [Xie et al. 2020](#)). Second, female lawyers might outperform males because they often must be better qualified to enter prestigious spaces ([Anzia and Berry 2011](#)).

Through computational text analysis of party briefs filed at the Supreme Court from the 1984–2015 terms, we find overtly gender-diverse teams write briefs that should, theoretically, be more persuasive (e.g., [Hazelton and Hinkle 2022](#)). Briefs with diverse listed authors contain more information, are more readable, and include more citations targeted to the median justice than disproportionately male teams. Yet, we find no evidence gender-diverse teams produce more influential briefs; this bespeaks gender norms' persistence in the legal profession (e.g., [Gleason and Smart 2023](#)). Given similarities between Supreme Court litigation and other types of argumentation, like legislative lobbying ([Collins 2008](#); [Epstein and Knight 1999](#)), our results advance understanding of the impact of women's presence in workgroups on policy advocacy broadly.

We proceed in several steps. First, we develop our theory of attorney workgroup gender composition and briefing based on work across fields. We then utilize research on sex differences in decision-making. Subsequently, we employ a multifaceted approach to ask whether litigation teams with a higher proportion of female attorneys write briefs with more information, clearer and more accessible language, and more strategic behavior. Finally, we examine whether briefs written by such teams are more influential in shaping justices' opinions.

Gender and Workgroups

When women enter traditionally masculine domains, outcomes often shift in meaningful ways (e.g., [Anzia and Berry 2011](#)). While questions of diversity have important implications (e.g., [Campbell and Wohlbrecht 2006](#); [Pitkin 1967](#)), its impact often turns on conceptualization. Many studies focus on individual demographic differences, such as whether women behave differently than men in particular settings (e.g., [Barnes and Cassese 2017](#); [Fox and Lawless 2014](#); [Oshri et al. 2023](#)). In the judicial context, diversity matters under some conditions (see generally [Haire and Moyer 2015](#)); men and women bring different decision-making calculi to particular issue areas (e.g., [Moyer et al. 2021](#); [Songer et al. 1994](#)). To illustrate, female federal appellate ([Boyd et al. 2010](#)) and trial court ([Boyd 2016](#)) judges are more likely to side with claimants alleging sex discrimination than men.⁴

Other work notes women's presence in groups shapes individual actor behavior (e.g., [Best et al. 2019](#); [Karpowitz and Mendelberg 2014](#); [Osborn 2012](#); [Thames and Williams 2013](#)). For example, female judges on panels influence their male colleagues' decisions under some conditions ([Boyd et al. 2010](#)). Other work notes substantive differences in women's behavior as they move from token to critical mass in an institution ([Kanter 1977](#)). Then women take on a different voice distinct from men ([Collins et al. 2010](#); [Scheurer 2014](#)) and behavior meaningfully changes ([Kaheny et al. 2011](#); [Szmer et al. 2015](#)).

Existing work focuses on how group composition influences individual group members' behavior. Yet, lawyers, judges, and other policy actors often produce group-level outputs, like legal briefs. Little is known about how group composition influences group-level outputs. Below, we first explain how actors in the policymaking process, especially judges and lawyers, typically work in small groups. We next explore how group outputs vary in quality and influence. Then we discuss existing attorney gender research. Across institutions a great deal of work is performed by smaller workgroups, including committees and staffs ([Davidson et al. 2019](#)). In the judiciary, judges typically work in chambers with clerks ([Bowie et al. 2014](#)).⁵ Additionally, workgroups are not the exclusive province of governmental actors; non-governmental actors attempting to influence policy also utilize workgroups ([Hojnacki and Kimball 1999](#); [Kreiss 2009](#)), including litigants' legal teams arguing at the Court.

The main thrust of appellate advocacy occurs in written briefs ([Corley 2008](#)), typically crafted by multiple attorneys working in teams ([Hazelton and Hinkle 2022](#)). Briefs are pivotal because they are justices' key source of information in crafting opinions ([Feldman 2017](#)). Jurists

often extol the importance of well-written briefs (Michel 1998) and stress many cases are effectively decided on them (Rehnquist 2001). Indeed, well-crafted brief content is often incorporated directly into opinions (Corley 2008).

Given the Court's opinions bind lower courts and constrain other legal and political actors' actions (Hansford and Spriggs 2006; Maltzman et al. 2000), the stakes in brief writing are high. Consequently, litigation teams are strategic. This is evidenced by efforts to frame briefs persuasively (Wedeking 2010) and strategically citing the median justice to curry favor (Hazelton and Hinkle 2022). Workgroups may even reach out to amicus brief teams to maximize repetition (e.g., Hazelton and Hinkle 2022; Spriggs and Wahlbeck 1997). All of these efforts can increase the probability the Court's majority opinion borrows its language (Collins et al. 2015; Corley 2008) and of winning. Moreover, brief quality and influence are, to some degree, correlated with the team's characteristics, like the number of former clerks and prior litigation experience (Hazelton and Hinkle 2022).

There is also evidence justices' brief evaluation is gendered. Gleason et al. (2019) examine how justices incorporate language from briefs into majority opinions conditional on the counsel of record's sex. They find male, but not female, justices utilize gender norms to evaluate briefs. More simply, briefs are more successful when they "read" like the gender normative stereotype of how the counsel of record "should" communicate. This poses few problems for men; attorneys and men are supposed to be assertive. Women, however, are expected to be conciliatory and interpersonally warm (Eagly and Carli 2007; Schneider and Bos 2019). This forces female attorneys, and their briefs, into a delicate double bind where they must balance competing gender and professional norms (Rhode 1994). Critically, perhaps in an effort to downplay the salience of difference (Kanter 1977), female attorneys use more masculine language than men (Gleason et al. 2017).⁶

Other work suggests the concentration of women on the bench influences female attorney success: U.S. Supreme Court justices are less likely to side with female oral advocates (Szmer et al. 2010), federal appellate judges are not influenced by attorney gender (Szmer et al. 2013), and Canadian Supreme Court justices tend to side with parties represented by more women (Kaheny et al. 2011). During the periods examined by these studies, the U.S. Supreme Court had the smallest proportion of female jurists, followed by the Courts of Appeals. Canada's Supreme Court was the most gender diverse. In other words, perhaps gender-diverse courts are more receptive to women's legal arguments. This suggests the composition of judicial, and by analogy, attorney workgroups, potentially influences legal development.

The Kaheny et al. (2011) Canadian Supreme Court study also stands out from prior attorney gender research because they examined the gender composition of the entire litigation team as opposed to a singular advocate's sex (e.g., Counsel of Record representing the party (Gleason et al. 2019; Patton and Smith 2020; Szmer et al. 2010)). This distinction is important because teams of attorneys typically draft appellate briefs. Building on their approach, we explore how the gender composition of U.S. Supreme Court brief writing teams influences both the quality of the brief and the outcome. Before moving to those tests, however, next we examine several literatures to develop theoretical expectations for the relationship between *visible* group gender composition and brief quality.

The Mechanisms Behind the Benefits of Diverse Workgroups

Work from business, management, and political science explores how gender-diverse groups produce desirable outcomes. These explanations fall into four broad categories: consequences of the "Jill Robinson" effect, diversity leading to both wider ranges of skill sets and broader perspectives, and enhancing intra-group communication to facilitate the expression of more perspectives. First, while stereotypes often cast women as less competent than men and women obtain worse outcomes in certain circumstances, women often produce higher quality work products than men in politics generally and law specifically (Moyer et al. 2021). This is unsurprising given women are often viewed as outsiders and presumed to be incompetent when entering male dominated spaces (Karpowitz et al. 2024). When women face such entry barriers, the "Jill Robinson" effect suggests they have to be more qualified and work harder to be considered half as good. In practice, women typically outperform their male peers (Anzia and Berry 2011; Lazarus and Steigerwalt 2018). In the judiciary, female jurists write longer opinions raising more points of law (Moyer et al. 2021) and female state supreme court chief justices are better at engineering consensus (Leonard and Ross 2020).

Second, variation in characteristics such as gender leads to diverse competencies and skills. A team with wider ranges of skill sets performs tasks better. This is particularly true when their work involves cognitively complex sets of interrelated tasks (Page 2008, 2017; Tasheva and Hillman 2019), such as writing Supreme Court briefs. Logically, a group of attorneys with more varied skill sets can produce a better brief. For example, one might be exceptionally good at discussing precedent, while another can clearly and concisely present relevant social science or technical discussions. As in other

professions, different skill sets and perspectives likely correlate with gender (Haire and Moyer 2015; Page 2017). For example, mixed-gender authorship teams generate more novel and impactful papers (Henderson and Herring 2013; Yang et al. 2022).

Third, group diversity brings a greater number of perspectives. Corporations with gender-diverse boards of directors perform better financially because of diverse cognitive frameworks, more perspectives, and “strategic orientations/variety of knowledge” (Ouni et al. 2022). In other words, diversity increases the firm’s intellectual capital. This wealth of perspective may also explain findings that diversity leads to greater innovation (Dai et al. 2019; Wu et al. 2022; Xie et al. 2020) and more nuanced “better quality” work products (e.g., Leonard and Ross 2020). Indeed the presence of women can change the perspectives of male colleagues (Boyd et al. 2010). This is especially useful for Supreme Court advocacy, which requires appealing to a broad audience.

The fourth mechanism by which workgroups benefit from diversity is within-team dynamics and how group members communicate. Wide ranging perspectives will not necessarily benefit groups if members are unwilling to discuss their perspective with the group for fear of criticism or rejection. Outside of political science, psychological safety, defined broadly as “a shared belief held by members of a team that the team is safe for interpersonal risk taking” (Edmondson 1999, 350), enhances group creativity by encouraging individuals to propose and communicate new ideas or challenge existing assumptions and processes (Carmeli et al. 2009; Huang and Liu 2022). People tend to be less hostile, more generous, and more sensitive when interacting with gender-diverse groups (Tang et al. 2021).

In political science, increased presence of women in deliberative bodies, along with female leadership, enhances overall participation and influence by women in groups (Karpowitz et al. 2024). Though this depends on culture and the rules governing the process (Karpowitz and Mendelberg 2014). For example, while male legislators are generally more likely to interrupt their women colleagues (Miller and Sutherland 2023), this tendency decreases as the proportion of women in the group increases (Mendelberg et al. 2014). Increased gender diversity also encourages members to embrace broader legislative agendas (Atkinson 2020).

For all the benefits diversity brings to group tasks, diversity matters less in rote, isolated, or simple tasks. Across multiple contexts, groups working on non-routine tasks involving high levels of cognition and multiple interdependent, coordinated activities are the most likely to benefit from increased diversity (Ali et al. 2011; Page 2017; Xie et al. 2020). Brief writing fits these criteria, particularly at the Supreme Court. Given the Court’s

discretionary docket, the issues before it are novel, so brief writers are not able to “cut and paste” boilerplate text the way they might if they were constructing a will. Indeed, because the Court is at the top of the judicial hierarchy it most often considers what Dworkin (1986) calls “hard cases”: those in which the legal analysis is particularly unclear. Finally, the tasks of discussing precedent, presenting facts, framing issues, structuring, and organizing legal arguments are interrelated. Thus, these are precisely the cases where diverse workgroups should have the most utility. We now apply these insights to Supreme Court briefs.

Expectations for Attorney Workgroup Output and Impact

We theorize litigation teams’ gender composition influences the briefs they produce and justices’ subsequent decisions. We anticipate the effects of female attorneys’ presence on briefing teams flows from a combination of the likelihood they are highly skilled, the fact they tend to bring greater diversity to traditionally male spaces, and their potential influence on male colleagues.⁷

Not all attorneys who help create a brief are necessarily listed on the document (e.g., Goodman 2023; Lerman 2000).⁸ In some instances, firms only list some litigation team members. However, those attorneys listed convey important information regarding the team collectively. Having one’s name appear on a Supreme Court brief is prestigious and career-enhancing (see Fisk 2006, 51; Goodman 2023, 352–56). Thus, listed attorneys tend to have more power and prestige than those excluded (see Goodman 2023, 326–31; Lerman 2000, 468–70).⁹ While inclusion on the brief creates accountability and liability for problems within a brief (e.g., Fischer 2003), attorneys are generally willing to bear oversight costs based on the reputational benefits and control it affords (see Fisk 2006, 52). We now elaborate our expectations.

There are several reasons a higher concentration of visible women on litigation teams should have a positive effect. Due to the “Jill Robinson” effect, female attorneys who are acknowledged briefing team members are likely to be even more competent than their male colleagues (see Anzia and Berry 2011). Their presence may broaden their male colleagues’ perspectives (Boyd et al. 2010). More gender-diverse legal teams have a wider range of skills, bring broader perspectives, and create collaborative spaces conducive to full participation. Finally, their task is nuanced and cognitively complex.

What constitutes brief quality? Here, we rely on three dimensions conceptualized by Hazelton and Hinkle (2022): quantity of information, clarity of presentation, and strategic citations.¹⁰ All three elements can be driven

by the highlighted causal mechanisms: greater individual skill and a group with more skill sets and perspectives represented that collaborates in a psychosocially safe space is in a position to generate briefs that are more informative, clearly written, and positioned to curry favor with the justice who may cast the pivotal vote. Consequently, we hypothesize the presence of female litigators affects the output of attorney workgroups in the following ways:

Hypothesis 1. *Briefs written by attorney teams with higher proportions of women will tend to contain more information.*

Hypothesis 2. *Briefs written by attorney teams with higher proportions of women will tend to be more readable.*

Hypothesis 3. *Briefs written by attorney teams with higher proportions of women will tend to include more strategic citations.*

It is important to recall a brief's overall goal is not to provide the Court with information or exhaustively present on a given area of law; it is to shape legal development in a way beneficial to the team's client. There is evidence higher quality briefs are better able to influence Supreme Court majority opinion content (Hazelton and Hinkle 2022). It then follows that, to the extent teams with higher proportions of female attorneys produce higher quality briefs, their briefs should be more influential. We conceptualize influence using the concept developed by Hazelton and Hinkle (2022): textual similarity between the Court's opinion and the brief. This leads to our fourth hypothesis:

Hypothesis 4. *Supreme Court majority opinions are more similar to briefs written by attorney teams with higher proportions of women.*

Research Design

We investigate the influence of legal team gender composition on Supreme Court litigation using party briefs in all merits cases at the Supreme Court from 1984 to 2015. Our unit of analysis is the legal team signing a brief.¹¹ This results in 6,050 observations. Teamwork is the norm, 90% of briefs are signed by at least two attorneys. At least one female attorney was involved for 3,192 briefs (53%). Multiple female attorneys signed 1,276 briefs (21%) and 78 legal teams included 5 or more women (1.2%).

Via quantitative textual analysis, we consider four important aspects of the brief: the amount of information, how clearly it is drafted, the number of strategic citations to the median justice, and the brief's similarity to the majority opinion. These four metrics constitute our dependent

variables. Since objectively measuring brief quality is complex, we now discuss how we construct each.

Quantity of Information

More information should lead to more chances for success (Hazelton 2022). Consequently, our first outcome variable measures the *Quantity of Information* in the brief. We calculate this factor variable via four metrics: the number of words, the number of unique words, total citations, and the number of unique citations.¹² A Scree plot analysis indicates this is a unidimensional concept, which we can collapse into a single measure. Based on the continuous nature of the variable and its range from below -3 to above 6, we use ordinary least squares regression analysis. We now discuss the components of *Quantity of Information*.

The first indicator of the amount of information is the number of words. Word counts are intuitive and frequently used. However, there is one important caveat: word limits. During the time frame of our dataset, Supreme Court Rule 33 limited litigant briefs to 15,000 words.¹³ Fortunately, there is remarkable variability in the data; more than one-fourth of briefs exceed the limit. Our second metric captures information breadth. Two briefs containing the same number of words may still vary in overall information presented. One may discuss several ideas or present multiple arguments; another may tightly focus on one topic. Generally, discussing a broad set of concepts requires a larger vocabulary, while more narrowly drawn documents re-use a smaller set of words. Therefore, our second metric of the quantity of information is each brief's vocabulary, that is, the number of unique words used.

Crafting briefs involves an important specific type of information—citations to precedent. References to Supreme Court precedent are particularly important in persuading the Court. As a result, two briefs of the same length and vocabulary size may still be materially different if one contains more citations to previous decisions. As with words, both the overall number of citations and the number of unique cases cited shed important light on the amount of information a brief contains. Consequently, our third and fourth metrics are the total number of citations to Supreme Court precedent and the number of unique precedents cited.¹⁴

Brief Clarity

Our second outcome variable is brief clarity. While justices surely understand high-level writing, grade level is a useful indicator of textual complexity. A variety of measures summarizing the level of education needed to understand a document have been used to demonstrate

simpler writing is often more effective (Black et al. 2016; Feldman 2016; Hazelton and Hinkle 2022; Nelson and Hinkle 2018). Justices also highlight the importance of clarity and accessibility in briefs (Garner 2010). We look at the simplicity and clarity of briefs using the Flesch–Kincaid formula to calculate each brief’s *Grade Level* (Flesch 1948; Nelson and Hinkle 2018). As the proportion of women on legal teams increases, we expect writing will be simpler and clearer; registering a lower reading grade level.

Citations to the Median Justice

Our third outcome variable captures how strategic legal teams are when crafting briefs. Experts on Supreme Court litigation note the importance of appealing to the potential swing vote. As a result, strategic advocates may craft arguments to persuade the median justice (McGuire et al. 2007).¹⁵ There is evidence that such “love letters” to median justices increase the probability of winning (Hazelton and Hinkle 2022). Therefore, we count the number of citations to precedents authored by the median justice in the relevant term to see whether more diverse legal teams generate more *Strategic Citations*. This count variable is over-dispersed, with a mean of 3.9 and a standard deviation of 6, so we employ a negative binomial model (Hurwitz and Lanier 2003).

Similarity to Opinion

The final outcome variable, *Similarity to Opinion*, captures textual similarity between the legal team’s brief and the Court’s majority opinion by calculating the cosine similarity score between those two documents. Cosine similarity scores are normalized sums of term frequency-inverse document frequency (tf-idf) scores of all words from both documents. It is calculated based on the number of times the word appears in the immediate document and is inversely weighted based on the number of other briefs and opinions in which the word appeared (Hazelton 2022). The scores are bounded between 0 and 1; more similar texts receive higher scores. Based on the outcome variable structure, we use fractional logistic regression. We cluster standard errors on the case in all models to account for interdependence amongst observations.

Explanatory Variables

Building on Hazelton and Hinkle (2022), our explanatory and control variables for all four models fall into two categories: first, attorney and litigant characteristics and, second, features of the litigation environment. Our final model also accounts for a third category: brief attributes. We begin our investigation of the relationship between

legal team gender composition and the quality and impact of briefs by considering characteristics of the attorneys and their clients. In order to focus on the influence of the legal teams’ demographics on drafting briefs, we must capture this element and account for other important characteristics of the attorneys and litigants.

We quantify legal team gender composition by calculating the proportion of female attorneys on the team.¹⁶ This metric broadly tracks workgroup diversity because only 5% of the briefs in our dataset were drafted by female-majority teams. *Proportion Female* is based on the attorneys who sign each brief because that is the publicly available data.

There is evidence attribution in legal writing is biased regarding gender (see Goodman 2023). The absence of women’s names on a brief doesn’t mean they did not help prepare the brief. However, the inclusion of women as visible authors indicates they are generally acknowledged in the workgroup. It also shows the existence of potential mentorship for other women within the briefing team (see Rhode 2012, 1454–7; Wald 2009, 132–4). Additionally, it suggests women’s perspectives were included in high-level, final decision-making regarding brief content and managing contributions from others (see Goodman 2023).¹⁷ In short, while using signing attorneys’ names may not perfectly reflect the nature of the workgroup, there are good reasons to expect it is an effective measure.

To control for a number of important aspects of attorney experience and status of legal teams, we include a factor variable capturing attorney resources and experience present on the briefing team. *Attorney Resources and Experience* is calculated with the principle-factor method for the log number of attorneys on the brief, the log of the maximum number of prior appearances before the Court on the team, the total number of prior Supreme Court clerks on the team, and the total number of past Solicitors General participating. We account separately for whether the current Solicitor General is on the legal team. Party resources and experience influence the types of attorneys hired (e.g., Galanter 1974; Hazelton and Hinkle 2022). Thus, we include the *Log Number of Cosigners* and *Log Max Filer Experience*. These numbers reflect the number of parties jointly filing a brief and their previous experience in Supreme Court litigation.

Next, we consider the litigation environment in which the case occurs. Because the Supreme Court tends to reverse, we include a binary measure for whether the legal team files on behalf of the *Petitioner’s Side*. We also control for the *Ideological Alignment* of the brief to the median (and, thus, majority) of the Court.¹⁸ The logged length of the lower court opinion, *Log Word Count LC*

Opinion, indicates case complexity. An indicator variable for whether all lower court judges hearing the case agreed on the same outcome, *Unanimous Below*, reflects legal uncertainty.¹⁹ We note case salience using a non-post hoc measure, a binary variable capturing if there was *Amicus Activity in Lower Court* proceedings. Finally, important factors such as the makeup of the Court and the supply of highly-trained female attorneys changes with time. We control for the *Term* to account for this.

Our fourth model also requires controlling for brief content because we are examining the impact of briefs. Therefore, we utilize our previous outcome variables, *Quantity of Information*, *Grade Level*, and *Strategic Citations*. Additionally, we include *Similarity to Lower Court Opinion*, measured using cosine similarity, to control for the influence of lower court opinions on majority opinions. We also note the scope of briefing via the *Number of Briefs*. Since oral arguments occur after briefs are written, but before the majority opinion, this last model also includes a control reflecting how intensely justices questioned a party's side relative to their opponent. Specifically, *Net Oral Argument Questions to Side* is the number of questions posed to a side minus the number directed to the other side.²⁰ Positive values indicate receiving more questions,

generally regarded as a bad omen (Epstein et al. 2010). Therefore, we expect larger values will be associated with briefs less similar to the majority opinion. Descriptive statistics for all our variables are presented in Table 1.

Results and Discussion

Nature of Briefs

We begin our analysis by examining our three hypotheses concerning how gender composition shapes the way teams craft briefs. Figure 1 shows our model of *Quantity of Information* and provides evidence of the expected patterns. *Proportion Female* is statistically significant in the hypothesized direction.²¹ Figure 2 depicting the substantive effect size for the amount of information in a brief by showing the predicted outcome across the range of possible values for *Proportion Female*. The predicted *Quantity of Information* ranges from 0.83 for all-male legal teams to 0.89 for balanced teams with an equal number of men and women. The predicted *Quantity of Information* goes up to 0.96 for all-female teams, but this is imprecise due to data scarcity in this range. To put this into perspective, the outcome ranges from -3.4 to 6.1 and

Table 1. Descriptive Statistics.

Continuous	Min	25%	50%	75%	Max
Quantity of information	−3.41	0.21	0.83	1.46	6.14
Flesch Kincaid grade level	9.86	13.74	14.73	15.99	24.74
Strategic citations	0	0	2	5	58
Similarity to opinion	0.00	0.58	0.65	0.72	0.89
Proportion female	0.00	0.00	0.12	0.33	1.00
Attorney resources and experience	−1.17	−0.62	0.01	0.85	4.66
Log # of cosigners	0.69	0.69	0.69	0.69	2.83
Log max filer experience	0.00	0.00	0.00	1.39	7.72
Ideological alignment	−1.26	−0.76	−0.04	0.76	1.26
Log word count LC opinion	0.69	8.04	8.64	9.20	12.01
Term	1984	1989	1996	2005	2015
Similarity to lower court opinion	0.01	0.49	0.60	0.68	0.90
# of briefs	1	5	7	12	161
Net oral argument questions to side	−102	−15	0	15	102
Binary	0	1			
Current SG	86.7%	13.3%			
Petitioner's side	50.9%	49.1%			
Unanimous below	63.8%	36.2%			
Amicus activity in lower court	73.7%	26.3%			
Observations	6,050				

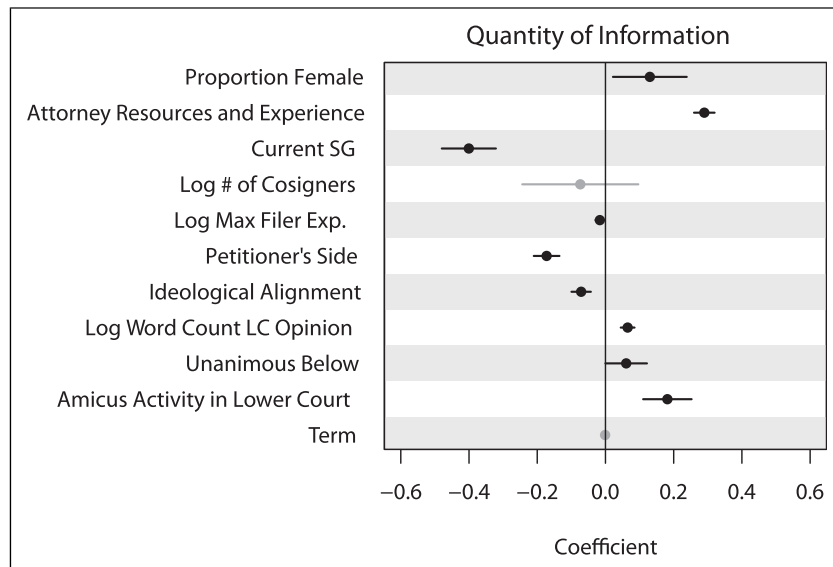


Figure 1. Quantity of information: Regression estimates (and associated 95% confidence intervals) of the effect of legal team gender composition and a range of control variables on the overall quantity of information in a litigant's brief. Estimates and confidence intervals in gray (instead of black) indicate that the confidence interval includes zero. Full regression estimates are available [Table A.1](#) in Appendix A.

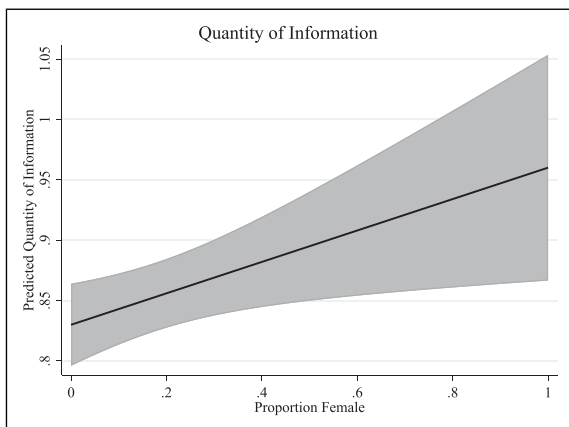


Figure 2. Predicted *Quantity of Information* in a brief over the range of *Proportion Female*.

has a standard deviation of 0.95. While modest, it is consistent with previous findings that workgroup diversity often has an impact on information in complex tasks (e.g., [Ali et al. 2011](#); [Page 2017](#); [Xie et al. 2020](#)).

Next, [Figure 3](#) considers the grade level at which legal teams draft briefs. As expected, *Proportion Female* has a statistically significant negative effect on language complexity. But what about the substantive size of this effect? [Figure 4](#) illustrates all-male legal teams write at an estimated grade level of 15.0 compared to 14.9 for evenly split teams (14.8 for all-female teams). These decreases, a fraction of a grade level, are small but statistically

significant. Moreover, it is difficult to know how even a subtle shift in the presentation of material may ultimately be important.²² Incorporating more visible women onto legal teams increases brief clarity; even a bit is an important new finding as we examine an until now unexplored topic.

[Figure 5](#) shows strategic citations to the median justice. Once again, our hypothesis is supported. Legal teams with more women utilize more strategic citations. In terms of substantive effects, [Figure 6](#) illustrates all-male legal teams generate a predicted 3.8 strategic citations compared to 4.1 such cites when the team is split evenly and 4.5 strategic citations for all-female teams. This increase of about a third of a citation appears small in absolute terms. However, the median number of strategic citations is only two, and 35% of briefs contain no strategic citations.²³ Considering the relatively low level of usage of strategic citations, the fact that evenly gender-balanced legal teams write briefs with 0.3 more strategic citations than all-male teams is notable. This is consistent with previous work in corporate contexts finding gender diverse boards of directors are associated with more strategic orientations ([Ouni et al. 2022](#)).

Overall, how do the results conform with our theoretical expectations? We hypothesize brief teams with a greater proportion of female attorneys produce higher quality briefs. Our results consistently support our expectations. Specifically, as the proportion of women increases, teams produce briefs that include higher levels of three dimensions of quality—the amount of information, clarity of presentation, and strategic cites to the swing justice. While we cannot

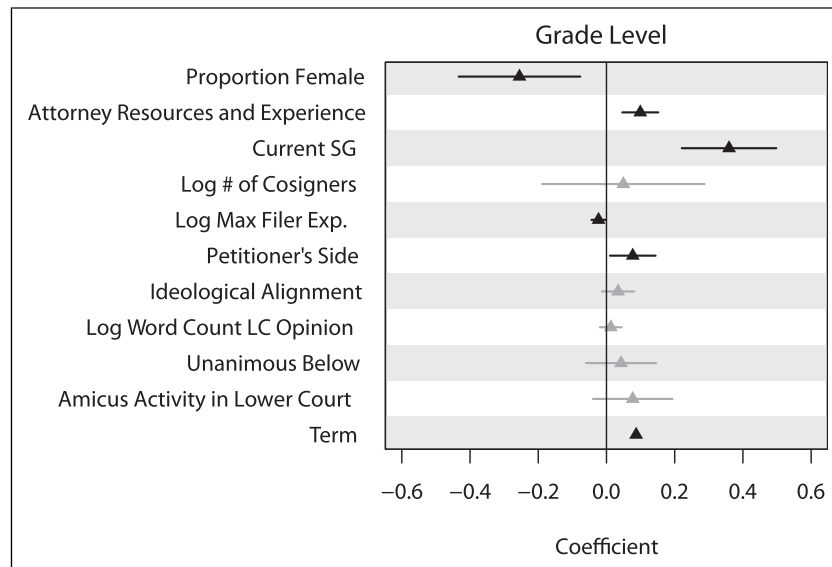


Figure 3. Grade Level: Regression estimates (and associated 95% confidence intervals) of the effect of legal team gender composition and a range of control variables on the grade level of the brief. Estimates and confidence intervals in gray (instead of black) indicate that the confidence interval includes zero. Full regression estimates are available [Table A.1](#) in Appendix A.

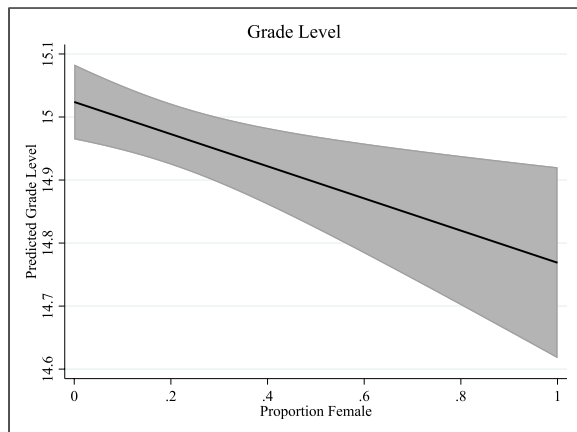


Figure 4. Predicted Grade Level in a brief over the range of *Proportion Female*.

identify a specific causal mechanisms, we posit this could result from enhanced communication among group members, more creativity, broader skill sets, wider perspectives, and the tendency for women to be more qualified.

Impact of Briefs

We now examine the similarity between briefs and majority opinions. These results are presented in [Figure 7](#). We hypothesize briefs written by teams with higher proportions of women might directly affect the

majority opinion due to the nuanced ways women, or diversity more generally, lead to more effective work products. While the effect of *Proportion Female* is positive, as expected, it does not reach statistical significance. Briefs with greater quantities of information have significantly greater similarity to the opinion, and gender diversity increases the quantity of information in a brief. However, follow-up analysis reveals little indication that *Proportion Female* has an indirect effect. The predicted *Similarity to Opinion* for a gender-balanced team is 0.647, compared with 0.641 for an all-male team. This difference of 0.006 is not statistically significant ($p = .11$). Furthermore, when the variables related to brief quality are excluded from the model, gender composition is still not statistically significant.²⁴

Teams with larger shares of women write better briefs, but this does not influence the content of the opinion of the Court. Why might that be? An answer may lie in existing attorney gender studies. Scholars find situations in which certain justices appear to devalue arguments made by women under some conditions ([Gleason et al. 2019](#); [Szmer et al. 2010](#)). While the presence of women appears to result in crafting higher quality briefs, gender stereotypes may reduce the overall effectiveness of these briefs (e.g., [Patton and Smith 2020](#)). This dovetails with recent studies finding women and racial minority federal appellate judges craft opinions that are less likely to

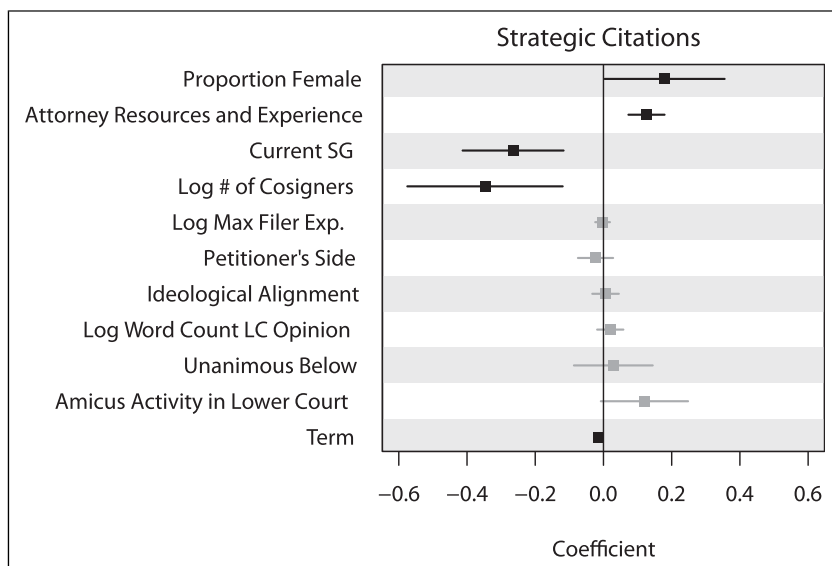


Figure 5. Strategic Citations: Regression estimates (and associated 95% confidence intervals) of the effect of legal team gender composition and a range of control variables on the number of strategic citations. Estimates and confidence intervals in gray (instead of black) indicate that the confidence interval includes zero. Full regression estimates are available [Table A.1](#) in Appendix A.

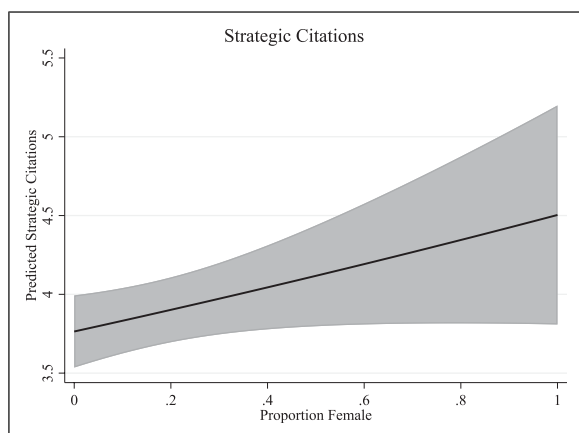


Figure 6. Predicted *Strategic Citations* in a brief over the range of *Proportion Female*.

be cited even though they contain more extensive legal justifications (Moyer et al. 2021; Szmer et al. 2024).

Control Variables

Our control variables reveal interesting patterns. Legal teams with more attorneys and greater experience at the Supreme Court write briefs with more information and more strategic citations. They also write briefs with

greater syntactic complexity, as does the Solicitor General. However, the Solicitor General submits briefs with less information and fewer strategic citations. This may be because they can rely on the strength of their institutional position to execute a unique strategy (Bird, 2022), or because they have more in-depth knowledge allowing them to operate in nuanced ways our measures do not capture.

Filers also impact brief content, although not in obvious ways. Briefs with more cosigners include fewer strategic citations, and briefs by more experienced filers have less information, but are more clearly written. The litigation environment matters too, mostly for the amount of information. Briefs from petitioners and those ideologically aligned with the Court have less information. More complex and salient cases generate briefs with more information, as do cases where all lower court judges agreed on the outcome. Interestingly, briefs are becoming more complex and using fewer strategic citations over time.²⁵

Other factors shape the similarity between a brief and the opinion. Briefs more similar to the lower court opinion are more similar to the majority opinion. Increasing the overall number of briefs decreases similarity to any particular brief. The Court's opinion looks less like briefs from the side receiving more questions at oral argument. Both briefs from legal teams with considerable resources and experience and those from the Solicitor General are more similar to the opinion. Petitioner briefs bear greater resemblance to the

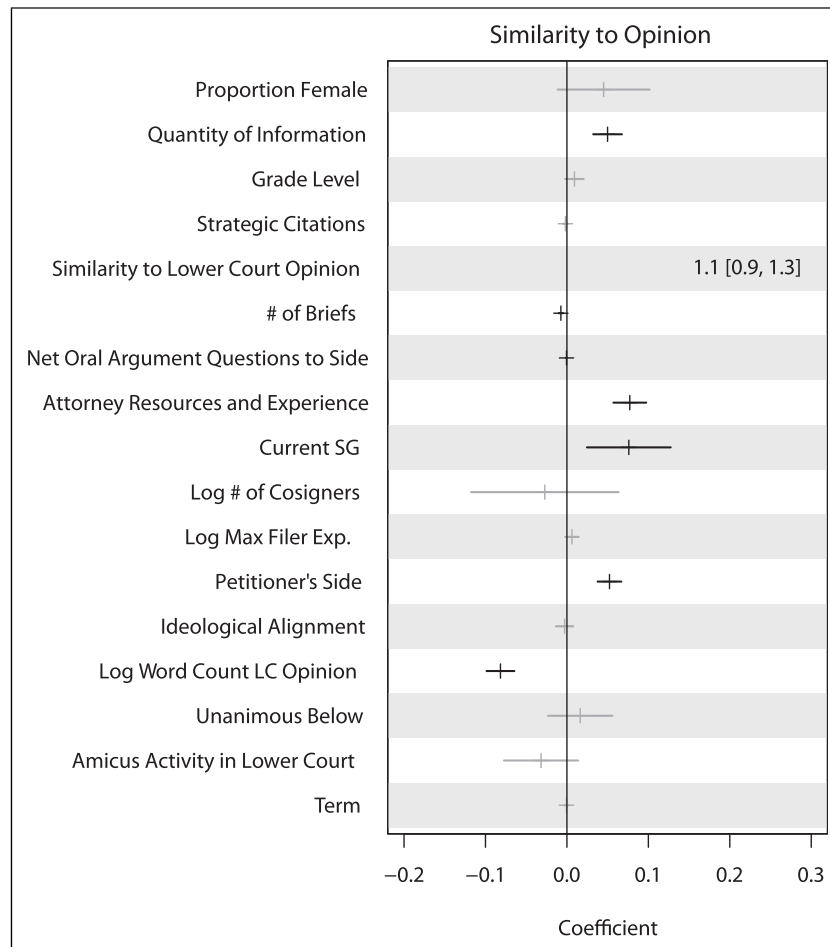


Figure 7. Similarity to Opinion: Regression estimates (and associated 95% confidence intervals) of the effect of legal team gender composition and a range of control variables on the cosine similarity between a brief and the majority opinion. Estimates and confidence intervals in gray (instead of black) indicate that the confidence interval includes zero. Full regression estimates are available [Table A.2](#) in Appendix A.

opinion. Finally, more complex cases have less similarity between the Court's majority opinion and each brief.

Conclusions

Building on theories developed to explain the influence of diversity and the presence of women in task-oriented workgroups in more traditional employment settings, we advance our understanding of how legal team gender composition influences the Court. Specifically, brief-writing teams with greater proportions of women write higher quality briefs. However, those briefs are no more likely to influence the Court's decision. Our research moves the study of gender beyond the characteristics of a single actor to a more encompassing team-level approach.

Most importantly, our research has implications for studying diversity and women's participation beyond appellate litigation. Few prior studies apply theories from the extensive diversity and task group literature to political institutions. Critically, appellate litigation teams are not the only task-oriented workgroups influencing public policy. Small groups across all levels of U.S. government and beyond play important roles in policy making. Future researchers should treat our results as a starting point for examining how group composition affects the processes and effectiveness of groups in various contexts.

Our study is not without its limitations. While our brief quality and effectiveness measures reflect disciplinary standards, they do not directly measure some important dimensions, like soundness of legal analysis. We also focus on one aspect of demographic variation—gender. We do this partly for practical reasons—other attorney

characteristics, like race and ethnicity, are difficult to determine across many cases. But given the theoretical importance of intersectionality, we hope future research examines multiple aspects of demographic balance simultaneously (Reingold et al. 2020). Given measurement limitations, this might work best in other contexts, like legislative subcommittees. Another potential limitation is our focus on revealed authors. We encourage future qualitative case studies exploring the dynamics of revealed and hidden attorneys.

As discussed above, the broader diversity task group literature explores characteristics beyond demographics that could affect process and performance. Much of this research focuses on experiential diversity, which often has more of a positive influence on performance than studies focused on identity (Page 2017). Given most of the attorney effects literature examines individuals' experiential characteristics (e.g., prior litigation experience), we suggest future studies integrate some of these theories to test whether the experiential diversity of a brief writing team affects brief quality and influence. Similarly, studies of other workgroups in the policymaking process should incorporate experiential diversity into their studies of effectiveness.

Future studies should also incorporate different research designs to explore the micro-foundations of group composition on processes and performance. For example, observational studies of local government meetings could test whether diverse groups produce more novel information. They could use recently developed methods (Boussalis et al. 2021; Dietrich et al. 2018) to examine emotional tone and nonverbal communication in government. Similarly, experimental designs could simulate legislative subcommittees or bureaucratic workgroups, using both diversity and types of tasks as treatments.

While laying groundwork for future research, this study contributes to the literature in three ways. First, we introduce expectations about how group composition influences outputs and outcomes. Second, we use the conceptualization of the proportion of women on a legal team to capture both overall representation and group diversity. Third, we consider the influence of gender composition on the complex task of written advocacy, a type of work that is essential in government and society. We do this at one of the most salient and consequential policy-making venues, the Supreme Court, thus significantly advancing an important strain of political science research.

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Data Availability Statement

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Supplemental Material

Supplemental material for this article is available online.

Notes

1. Sex and gender are distinct concepts (McDermott and Hatemi 2011). We consider aspects of both sex and gender and use the terms interchangeably because the nature of our data makes it difficult to distinguish between them.
2. *Bradwell v. Illinois*, 83 U.S. 130 (1873).
3. We use the attorneys identified on briefs to assess team gender composition. As elaborated below, not all attorneys working on briefs are listed. But those who are reveal meaningful information regarding key roles on the team. Additionally, our approach improves on prior measurements utilizing counsel of record (e.g., Gleason et al. 2019). Appendix B contains elaboration and robustness checks.
4. This might be limited to female judges socialized during the trailblazer generation (Moyer and Haire 2015) and conditional on experience and caseload (Vallbé and Ramírez-Folch 2023).
5. This is more pronounced on appellate courts where judges work in panels (e.g., Haire and Moyer 2015; Martinek 2010).

6. Gender norms also shape evaluations and behavior at oral arguments (Gleason and Smart 2023; Patton and Smith 2017, 2020; Gleason 2024, 2020; Szmer et al. 2010; Szmer et al. 2013).
7. Based on the nature of our data, it should be noted that we, like many other scholars, cannot differentiate between these explanations; though theory would indicate all may be at play.
8. Each brief has at least one attorney who acts as the counsel of record per Supreme Court Rule 9. Many briefs list additional attorneys within or across firms.
9. Being listed is not inherently synonymous with leadership; practices vary regarding who is listed. Work focusing on the attorney of record (e.g. Gleason et al. 2019) provides a clearer assessment of gender and leadership. However, our approach provides far more information about litigation work groups.
10. We discuss operational definitions in greater detail below.
11. Appendix B further discusses the issue of visible attorneys.
12. We log total words and unique words before creating the combined metric.
13. The Supreme Court reduced the word limit for main party briefs in 2019. The historical Supreme Court Rules with limits applicable to our data are available at <https://www.supremecourt.gov/ctrules/scannedrules.aspx> (last accessed July 19, 2024).
14. Citations were extracted from briefs using regular expressions.
15. This may be less useful in issue areas like bankruptcy that do not directly implicate ideology in the traditional way. However, in the aggregate, we expect the median justice will often be advocates' best guess for who the swing vote is.
16. Appendix B further discusses ways to quantify the distribution of gender within legal teams. Several alternative specifications lead to very similar conclusions.
17. Goodman (2023)'s analysis of patent applications indicates women do not replicate men's over-attribution practices after gaining seniority.
18. To construct this variable we use the *decisionDirection* variable from the Supreme Court Database. We drop the less than 1% of cases coded as neither conservative nor liberal.
19. This variable equals one if there was no dissent in the lower appellate court and it affirmed the trial court. Of course, there might still be uncertainty in cases where all lower court judges agreed; this is necessarily a rough approximation.
20. We obtained this data from Epstein et al. (2013) for 1984 to 2007 and from Gleason (2020) for 2008 to 2015. These sources do not have data for some of our cases.
21. All discussions of statistical significance are at the $\alpha < 0.05$ level.
22. Overall, briefs range from a grade level of 9.9 up to 24.7 (with a standard deviation of 1.8).
23. While some briefs utilize double-digit strategic citations, that is relatively rare: 77% of briefs use 5 or fewer, and only 13% use 10 or more.
24. This analysis is presented in Table A.2 in Appendix A.
25. These interesting trends suggest directions for future research. Increased complexity may be a byproduct of the Supreme Court Bar's increasingly elite and closed nature; more insular groups typically use more specialized language (Trudgill 2011). Reduced strategic citations may reflect the declining number of opinions the Court issues- fewer available opinions reduce potential strategic citations. Neither of these explanations should affect our findings as they are as likely to affect homogeneous as heterogeneous teams.

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