

## Language Complexity and The Supreme Court Decision to Grant Certiorari

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April 25th, 2019

### **Abstract**

During each term, 6,000-8,000 cases are submitted to the Supreme Court seeking certiorari; a mere 1% of these petitions are granted to be orally argued before the Court. Amicus curiae briefs are often filed along with a case brief in hopes of improving the chances of receiving a favorable cert decision. Existing literature explains that briefs of quality are viewed more favorably by the justices and their clerks, along with briefs submitted by influential groups. The literature does not provide an explanation for the elements included in certain briefs that establish this level of quality, focusing instead on the names of those filing them. Therefore, I describe the influential language, brief length, and complexity included that influences the Court's decision to grant or deny cert. To do so, I created measures of language complexity, collecting the average word length of words included in amicus briefs, the substantive number of pages, and evaluated these variables in regards to specific interest groups. My findings mirror those in the literature. The number of amicus briefs submitted to the Court influence decisions made at the cert stage, however there is little variation in the length of words included in briefs that were either denied or granted. The same holds true when controlling for word length per type of amicus as well.

## **Introduction**

A variety of repeat players appear before the Court as amici, voicing their opinions regarding pending cases. Many of the parties capable of filing amicus briefs have a variety of resources at their disposal to draft impressive briefs, whether they be in favor of a case receiving cert or opposed to it being heard by the nations highest court. However, the filing of amicus briefs is not solely limited to groups of nationally recognized prestige. In *Johnson v. Alabama* (582 U.S.1 (2017)), Anthony Graves, a death row exoneree submitted an amicus curiae brief on behalf of Johnson. Graves argued in favor of the court granting cert, his brief was the only one presented at the cert stage, and the case was granted certiorari. However, there is little literature or research to determine what the justices and their clerks look for in amicus curiae briefs apart from the name of the interest group or individual who may be filing it. While it is difficult to determine how the smallest, and least public branch of government makes its choices, there are resources available to hypothesize what those with the privilege of deciding which cases will be heard before the Court may value.

Throughout a lengthy data collection process, utilization of text analysis software, and the results of a probit regression, I have gained a deeper understanding of what may create a brief of quality, thus influencing the justices and clerks participating in the cert pool. In this thesis, the implications of language complexity presented in amicus curiae briefs will be evaluated. Language complexity based upon the group submitting a brief will also be considered in an attempt to determine if those of greater status submit briefs of better quality than do those without similar reputations. In taking such measures, I aim to describe the qualities those charged with reading amicus curiae briefs may value and base their decisions upon.

While the Supreme Court and its process regarding certiorari is commonly unknown, the concept of amicus curiae provides the public with a position of influence for the nation's highest court. The repeat players frequently crafting briefs that draw the eye of justices are not alone in their efforts to receive cert. Briefs may often be submitted *in forma pauperis* for those seeking the Court's review, but lacking the funds to take the proper methods to do so. Interests of amicus may also be submitted by foreign governments with a vested interest in case. In *Donziger v. Chevron Corporation* (582 U.S. 2 (2017)), the Republic of Ecuador drafted a brief asking the Court to grant cert. While the case was denied, those representing the Republic of Ecuador were provided a rare opportunity to present their opinion regarding a case. Allowing groups and individuals to act as friends of the Court, showcasing their own interests and opinions regarding a case and its parties, creates a novel opportunity and provides for public opinion to play a role in the country's most exclusive branch of government.

### **Literature Review**

A decision to grant certiorari is not based on a case's substance alone, many cases are accompanied by a series of amicus curiae, meaning "friend of the Court," briefs (Epstein and Walker 2019). These briefs may be submitted in favor of a case being granted or denied, yet they are typically written by those with a vested interest in a case. Whether they are arguing for or against the Court's decision to grant cert, briefs serve as cues to the justices when submitted at the cert stage, signaling an interest an individual or group may have by taking the necessary steps to both finance and submit a brief (Epstein and Walker 2019). In 1988, it was estimated that the average cost for the submission of one individual brief remained between \$15,000 and 20,000 (Caldeira and Wright 1988). Interest groups frequently display "vigorous, extensive" efforts

when invested in a specific case that has the potential of coming before the Court for review (Caldeira and Wright 1988).

While most cases arrive at the Court on appeal, many underlying factors are present when deciding whether or not to grant certiorari, allowing the justices to hear a case and provide an opinion. However, the justices themselves typically are not the individuals initially reviewing a case asking for cert. Justices may participate in the certiorari pool system, allowing their clerks to read case briefs submitted and all attached documents, including amicus curiae briefs.

Therefore, the clerks act as gatekeepers to the Court itself. In 2018, all of the justices except Alito and Gorsuch relied on the cert pool to grant certiorari (Epstein and Walker 2019). After the clerks read the briefs, they then write “pool memos”, providing their justices with a summarized version of briefs, allowing for the creation of a “discuss list” which the justices then rely upon to grant or deny cert to a specific case (Epstein and Walker 2019). During cert pool discussions, cases that are deemed considerable are added to the discuss list, based upon the issues presented that the Court may offer a remedy to, and the arguments offered in the briefs. Those that participate in the cert pool assist in the collaborative effort of deeming a case as cert worthy, however in order to grant or deny cert to 8,000 different cases, there may be signals that those taking the first glance at a brief may look for. With so many documents to sort through, clerks may resort to heuristics, such as prestige and language complexity to help make their decisions.

Despite the existing literature describing the amicus process, what deems a case as “cert-worthy” is still debated (Black and Schoenherr 2019). As cases and their accompanying briefs are submitted to the Supreme Court for writs of certiorari, there are factors within a brief that may increase the likelihood that a case is granted cert including who is submitting the brief and the level of quality it presents. Box-Steffensmeier, Christenson, and Hitt 2013 discuss the factors

affecting a brief's quality and the importance of the individuals or group filing it, including repeat players and the office of the Solicitor General. It has also been proposed that the number of briefs in support of or against a case receiving certiorari acts as signal to the Court, allowing amicus to act as an agenda setting tool.

Apart from settling lower court disputes and decisions based on justice ideology, the name of a brief filer may also play a role at the cert stage, allowing for the reputation of groups to influence cert decisions. The Solicitor General represents the interest of the United States government in legal matters, therefore establishing their office as the voice of the executive branch (Black and Owens, 2012). The Office of the Solicitor General is the most frequent Court litigant, appearing in amicus curiae briefs, playing a role in case outcomes, and influencing judicial opinion writing (Black and Owens 2012). Briefs filed on behalf of the United States serve as a signal to the Court the heightened importance of a specific case, whether the Solicitor General is arguing for or against the granting of certiorari.

Others have looked beyond the number of briefs included with a case or the filing party in an attempt to explain the gatekeeping features the justices and their clerks may apply when selecting cases for certiorari. Bruhl and Feldman (2017) propose the implementation of plagiarism detection software in order to identify briefs containing overlapping arguments. Based upon the concept presented by Box-Steffensmeier, Christenson, and Hitt (2013), amicus briefs must offer information separate from what has already been presented by the parties in a case. Amicus actors must provide a unique perspective in their briefs, allowing those acting as gatekeepers to gain a new perspective in regards to a case petitioning for cert. Therefore, Bruhl and Feldman suggest that plagiarism detection software may detect briefs that repeat past arguments when compared to past briefs, failing to produce quality information and their own

opinion about a case and its actors. In implementing a focus on the arguments included in briefs rather than the sheer volume of them, Bruhl and Feldman offer a new perspective, manipulating software in order to identify quality arguments. However, they define quality arguments only as those that may not have been offered in the past. While fresh arguments are not necessarily less complex or of quality, they give no further indicators as to what a cert-worthy brief includes.

The influence of the Solicitor General, interest group reputation, and the number of amicus briefs accompanying a case all must be included and evaluated in determining a petition's cert-worthiness. In considering the powerful individuals and interests they have the ability to represent, both interest groups and the OSG are able to sway the opinion of the Court based on their reputation alone. Although, the exact indicators of a cert-worthy case may remain unknown, the literature acknowledges that each of these influences cannot be overlooked when acting as amici.

## **Theory**

I look to explain the Court's decision at the cert stage based upon the briefs submitted with a case. Specifically, I propose a theory to explain the likelihood of a case receiving cert based on the language complexity presented in the amicus curiae briefs filed in support of a case. After reading a variety of literature regarding amicus briefs and the Court's decision-making process, it was my understanding that groups and briefs of "better" stature were viewed differently and more likely to receive cert. These briefs viewed more favorably by the Court were deemed as being of greater quality, however, a measure determining what "quality" consists of was lacking in the existing literature. Therefore, my initial hypothesis proposes that the language presented in amicus briefs, particularly complex language, would increase the chances of a case receiving certiorari at the Supreme Court level.

While it is inevitable that groups of such status would have the educational and career-based experience to draft briefs of quality, the literature fails to mention the elements that create a brief of quality. It is acknowledged that valuable briefs must present compelling arguments, introducing new information not originally included in a petition for certiorari, the language and arguments included are not discussed. It has not been determined which if any, words or phrases the clerks participating in the cert pool deem as more articulate than others. Specifically, language complexity as a whole has been excluded from the system of determining quality amicus briefs.

An amicus brief must present two key factors in order to play an influential role on a justice. First, it must be attractive enough to gain judicial attention, earning itself a closer look, and second, it must contain quality information differentiating from the arguments previously provided by the litigants (Box-Steffensmeier, Christenson, and Hitt 2013). However, the literature implies that quality briefs attracting the attention of the justices are only written by groups of status who are often repeat players at the Supreme Court level. Justices are influenced by counsel experience, indicating again that those with greater status amongst the Court are viewed differently than those lacking in reputation (Box-Steffensmeier, Christenson, and Hitt 2013, 451). Essentially, the literature articulates that at the certiorari stage, the “who” may matter much more to those selecting cases to hear than the “what” presented in the briefs.

Not all briefs are viewed equally if they are even initially read by the clerks (Box-Steffensmeier, Christenson, and Hitt 2013). Instead, briefs are considered based upon their credibility to provide influential information and prior reputation with the justices, therefore groups with recognizable names are more likely to be identified as credible sources than those filing a brief for the first time. Groups with greater credibility and esteem are also better able to

rally groups with similar interests. Often, groups will gather to co-sign a brief, thus signaling to the Court the importance of a case, submitting a case with eighteen signatures, such as Alabama and 17 other states in *Markle Interests, LLC v. United States Fish and Wildlife Service* (586 U.S. 1 (2018)), rather than just one of an influential group.

Throughought the existing literature, several legitimate, articulated arguments detailing the elements included in quality briefs, and the status of those frequently writing them, detailing that those who sign the briefs prior to submission are viewed differently than how many signatures a brief may have at the time of its submission (Box-Steffensmeier, Christenson, and Hitt 2013). Thus, the signature itself is able to act as an indicator to the justices, allowing them to specifically view who has a specific interest in a case. However, it is mentioned that the clerks have said that a multitude of briefs are “poorly written”, and lacking informative qualities. Therefore, raising the question, what particular qualities allow for a brief to be well written? Are the clerks basing their decision to deem a case and its briefs as cert-worthy on the name of the group submitting them, or the actual arguments presented within a brief? The literature leans towards the former, emphasizing the impact of influential groups with well-known reputations amongst the justices, rather than the substance of the briefs they often file.

Politically motivated interest groups also submit a substantial number of amicus briefs to the Court during the cert stage. While private law firms may have an interest in submitting amici, they do not have many of the vast resources available to large interest groups (Black and Schoenherr 2019). Completing an amicus curiae brief requires a significant amount of time and funding, which private interest groups are more likely to have at their disposal in hopes of seeing their supported case gain cert. Those with an established past of advocating for cases to the Court, thus making a name for themselves amongst the justices, often see a preferred outcome



when submitting amicus briefs, truly acting as a *friend* of the Court (Box-Steffensmeier, Christenson, and Hitt 2013). However, those with more experience in submitting briefs to the Court also have a greater understanding of how to draft a brief of substantial quality, which plays a greater role than the sheer number of briefs submitted for a case (Box-Steffensmeier, Christenson, and Hitt 2013).

While the existing literature does provide a thorough explanation as to the variables that may create briefs of quality from the OSG, there is a lack of potential measures for these briefs. Instead, Box-Steffensmeier, Christenson, and Hitt (2013) base the potential of quality on previous factors those drafting briefs for the OSG are already equipped with. While an individual's education, legal experience, and clerkships certainly play a role, there has been little research based upon what the briefs themselves present to those initially reading them during the cert pool. They have not been evaluated for language complexity, rather the name of 'Solicitor General', appears to be read with greater intensity than an individual brief and the language included in the arguments being presented.

The title of Solicitor General alone holds significant weight, regardless of the quality of briefs their office may submit, due to the prestigious office they are charged with representing. However, a brief may have a greater impact when the filer is viewed as an expert in their respective field by the justices (Box-Steffensmeier, Christenson, and Hitt 2013). With regard to the Solicitor's General Office, there is no greater legal expert to compare it to other than those already serving as Supreme Court justices, a path which those who have previously served in the office have taken, including current justice Elena Kagan. Even esteemed interest groups do not have the same vast resources nor reputation that the Solicitor's General office is able to boast. "Better counsel creates better briefs," and those serving the interest of the Solicitor General are

not selected lightly (Box-Steffensmeier, Christenson, and Hitt 2013, 446). The attorneys employed on behalf of the office are experienced, typically hailing from Ivy League law schools, and many have previous clerkship experience; therefore, standing in the shoes of those who typically act as gatekeepers at the cert stage. Those representing the Solicitor General essentially have a greater sense of what creates a brief of substantial quality, based on previous experiences.

In seeking to measure language complexity, the current literature available suggests that longer words have a greater impact on a readers brain function than to shorter words (Hauk and Pullvermuller 2004). It is suggested that shorter words have an effect when appearing more frequently, producing a significant brain response when occurring frequently. As opposed to shorter words, those including more letters were more likely to display a stronger brain response at an earlier point in the study conducted by Hauk and Pullvermuller. Longer words were not required to be included frequently in order to evoke such a response, instead their presence alone was able to do so. Considering the existing research regarding word length, I decided to create a measure of language complexity within my research design, in order to determine if the longer words included in amicus briefs are having a similar impact on those initially reading them at the certiorari stage. Based on the literature, longer words may provide a signal to the justices of an overall briefs complexity and quality, particularly in those submitted by well-qualified groups.

Again, this leads me to hypothesize that the language complexity included in amicus curiae briefs impacts the Court's decision to grant or deny certiorari. Thus, briefs of greater quality would contain more complex language, resulting in cert being granted when compared to those with less complex language. Based upon the literature and my hypothesis, briefs submitted by the Solicitor's General Office, other varying repeat players, and groups deemed as "influential" would produce briefs of heightened complexity.

## **Data and Methods**

Due to the volume of cases the Court is presented with each term, it is my theory that the language presented in amicus briefs may act as signals to the justices and their clerks. Complex language acts as an indicator of quality to the reader. In gathering amicus briefs submitted to the Court in favor of or against a case receiving certiorari, it was my intention to test my original hypothesis by evaluating word length and the most used words in briefs in order to determine whether language complexity plays a role in granting cert. Having read briefs previously, I had an idea of their subject matter and format, however, it was a struggle to gather them, as there is no set database of amicus briefs submitted. In order to test the given hypothesis, a total of 160 amicus curiae briefs included in cases that were both granted and denied certiorari were collected from the 2011-2018 terms of the Court.

After collecting case, docket numbers indicating a specific case would then be entered into the SCOTUSblog website's docket search function, where all cases submitted to the Supreme Court are indexed along with accompanying briefs. For cases that had been granted, all amicus briefs included prior to granting certiorari were gathered, as opposed to cases denied cert, where all briefs submitted were instead collected. In an effort to evaluate amicus curiae briefs, Andrew Hamm, a SCOTUSblog employee, provided assistance, offering the necessary steps to take in order to locate briefs, specifically those in cases denied cert.

Following the completion of data collection, case numbers, names, the number of briefs submitted with a case, the number of briefs in favor of granting cert and those arguing against it, the name of the agency submitting briefs, and whether or not they wanted the case at hand to be granted, or denied were all included in a Microsoft Excel Spreadsheet. Then, the number of substantive words per brief, number of pages including the table of contents and authorities, and

the substantive number of pages were also included, after removing their tables of contents and authorities in Adobe Acrobat.

Using NVivo 12, I was able to upload the set of substantive briefs to a processing system that compiled individual word length of all words included in briefs supporting cases that had been both denied and granted. Using word length, I averaged the approximate word length of denied briefs in comparison to briefs granted. Following this initial analysis, the one-hundred, two hundred, and three hundred most used words in each individual brief included in my data set were also also evaluated. In doing so, the length of words included in briefs submitted by certain interest groups allowed for a separate categorization. To do so, a specific interest group rating was designed, assigning each category of a group a number of one through seven. One indicated that the agency was of federal government interest, two applied to state government groups, three indicated a political interest, four was assigned to legal interest groups, five meant an agency was of a religious interest, six applied to career-specific interests, and seven categorized individual people submitting amicus briefs.

By taking these steps, I sought to systematically analyze the complexity of words included in amicus briefs based upon the amount of letters included per word. In order to only evaluate words of substance, it was necessary to remove all words included in the tables of contents and authorities, accounting only for the words presented in the arguments themselves. To compare and contrast the language complexity and brief quality of briefs by group, it was imperative to assign each interest group a categorical indicator. During the research stage, the implemented steps allowed for a transitional, step-by-step process in analyzing the collected data.

In creating a measure to evaluate the average word lengths provided by Nvivo, it was my intention to compare the variation displayed within the results in order to evaluate the language of briefs. However, I wanted the research design to remain consistent with the literature, including the language complexity of specific groups filing amicus briefs as well. In creating this design, I believed that the results would display higher average word lengths for briefs included in cases that were granted, thus deeming them as more complex and of greater quality. Also, it was my hypothesis that briefs submitted by prominent groups would produce greater average word lengths, particularly in their briefs supporting cases that did receive cert. Following the completion of the proposed research design, I expected the results of the regression to reflect the aspects of my hypothesis, displaying lesser average word lengths for briefs accompanying cases that had been denied, and more complex language included in cases the Court chose to grant certiorari to. As described in the existing literature concerning word length, it can be further theorized that the length of words included in briefs may provide signals to those considering it for cert based on their brains response to the language presented.

In evaluating the existing literature regarding amicus curiae briefs, Box-Steffensmeier, Christenson, and Hitt (2013) argue that those with greater name status as an organization are likely to have a greater influence with the justices at the cert stage. Therefore, it was imperative to create the aforementioned rating in order to compare the brief complexity of interest groups submitting briefs in the cases gathered. Due to the resources many of these agencies have at their disposal, including prior educational and career experience, theorizing that their briefs would be of greater quality and often more likely to receive certiorari. To gain an accurate representation of influential groups to those with less recognizable names, I compiled a variety of interests, ranging from political to religious, in order to contrast complexity and ensuring the inclusion of

nationally recognized organizations, such as the American Bar Association, and smaller, specific interests, including Public Knowledge, et. al.

### **Analysis**

Table 1 presents the results of a probit regression predicting the likelihood certiorari was granted as a function of case-level and brief-level variables. The standard errors were clustered by docket to account for similarities among briefs in a given case. The results largely comport with the literature. The more briefs filed arguing for cert to be granted, the greater the likelihood it will be. Similarly, the more groups agitating for cert to be denied, the greater the likelihood of a grant. This fits with the literature's claims that any filings, regardless of direction, indicate the importance of the cases and should boost the likelihood cert is granted. Interestingly, as the overall number of briefs filed increases, the likelihood of cert being granted decreases. Beyond sheer counts of briefs, none of the content or group type variables have a significant effect on the likelihood of a grant. However, the model only explains 9% of the variation in cases receiving cert, thus missing a lot of variation in the cert decision.

Table 1: Probit Regression of the Likelihood of Granting Cert

|                                     | Coefficient | (Std. Err.) | p-value |
|-------------------------------------|-------------|-------------|---------|
| <i>Case-Level</i>                   |             |             |         |
| Total Briefs                        | -4.398*     | (0.435)     | 0.000   |
| # Briefs in Favor                   | 4.463*      | (0.400)     | 0.000   |
| # Briefs in Opposition              | 4.789*      | (0.687)     | 0.000   |
| <i>Brief-Level</i>                  |             |             |         |
| Direction                           | 0.844       | (0.790)     | 0.286   |
| Word Count                          | 0.000       | (0.000)     | 0.648   |
| 100 Words                           | 0.401       | (0.367)     | 0.275   |
| Total Pages                         | -0.015      | (0.035)     | 0.677   |
| <i>Group Submitting<sup>+</sup></i> |             |             |         |
| State Agency                        | -0.025      | (0.865)     | 0.977   |
| Political IG                        | -0.779      | (0.889)     | 0.381   |
| Legal IG                            | -0.541      | (0.866)     | 0.532   |
| Religious IG                        | -1.014      | (1.106)     | 0.359   |
| Career IG                           | -0.471      | (0.900)     | 0.600   |
| Individual                          | -0.094      | (1.077)     | 0.930   |
| Constant                            | -3.516      | (2.512)     | 0.162   |

N=154 briefs in 51 cases; LL = -96.47

<sup>+</sup>SG is omitted category

To explain this variation, I turn to the content of the briefs themselves. Words of greater length are often those of greater complexity, allowing for the hypothesis that briefs of better quality would include longer words, creating complex sentences and phrases. Also, brief length was accounted for in including the substantive number of pages per brief. As shown in Table 2, briefs included in cases that were denied had a slight variation in word length than those included in cases that had been granted cert. However, briefs in cases that were denied cert included 38.43 fewer total words than those in cases that had received cert. In comparing the top 100, 100-200, and 300 words, there was a consistent .03 difference between briefs accompanying granted cases as opposed to those supporting denied case. Briefs included in cases granted cert contained .03 more letters per word on average than those supporting cases denied cert.

Table 2: Summary Statistics by Certiorari Status

|                                     | Overall | Cases Denied | Cases Granted |
|-------------------------------------|---------|--------------|---------------|
| Average number of words             | 5000.18 | 4982.17      | 5020.60       |
| Average of top 100 words            | 6.78    | 6.76         | 6.81          |
| Average of 100-200 words            | 6.85    | 6.83         | 6.87          |
| Average of top 300 words            | 6.77    | 6.77         | 6.78          |
| Average number of substantive pages | 21      | 20.91        | 21.11         |

Based upon the existing literature, interest groups that frequently submit amicus briefs, and are therefore well known amongst the Court are more likely to receive cert than those without similar reputations. Both the U.S. Solicitor’s Genral Office and high-status political interest groups file briefs at greater rates, due to the abundant resources at their disposal to do so (Box-Steffensmeier, Christenson, and Hitt 2013). To measure the frequency with which such groups submit briefs, and the language complexity within them, I categorized the groups submitting briefs in my dataset into seven categories, including federal interest, state interest, political interest, religious interest, career-specific interest, and the interest of an individual person in order to compare the language complexity of their briefs. However, as displayed in the results in Table 3, many of the averages presented for average word length per group remains similar, with little variation among amici. It was surprising to see larger averages in word length in briefs submitted by career specific interest groups, as it was expected the the Office of The Solicitor General would offer the most complex language in its briefs of all groups included in the design.



Table 3: Summary Statistics by Group

|                                     | Foreign Gov't | State   | Legal   | Political | Religious | Career  | Individual | SG      |
|-------------------------------------|---------------|---------|---------|-----------|-----------|---------|------------|---------|
| Average number of words             | 6248          | 3510.11 | 5011.79 | 5580.45   | 7282.67   | 4493.75 | 3733.88    | 5967.11 |
| Average of top 100 words            | 6.77          | 6.68    | 6.80    | 6.76      | 6.79      | 6.84    | 6.85       | 6.70    |
| Average of 100-200 words            | 6.84          | 6.75    | 6.88    | 6.81      | 6.60      | 6.93    | 6.77       | 6.71    |
| Average of top 300 words            | 7.00          | 6.77    | 6.82    | 6.71      | 6.75      | 6.82    | 6.63       | 6.66    |
| Average number of substantive pages | 25.00         | 17.11   | 21.33   | 22.81     | 27.67     | 19.36   | 16.50      | 22.44   |

Table 4 evaluates the success of different groups based upon the literature proposed by Calderia and Wright suggesting that the number of briefs plays a greater role than the substance of briefs. Success is defined as the group achieving their desired outcome. In the data collected, the Solicitor's General Office submitted a total of ten amicus curiae briefs, the cases including these briefs were successful in receiving certiorari seven times, therefore reflecting the arguments offered in the literature that the OSG plays a highly influential role. While the average number of words presented per brief by the OSG were not substantially different than the averages of varying interest groups, the data presented in Table 4 allows for the suggestion that the Solicitor General acting as amicus does play a role in the decision to grant cert. If the language of OSG briefs is not implying that cert should be granted, there are other evident signals included that do so. In understanding the prestige of the Solicitors General's briefs, the results displayed in Tables 3 and 4 may allow for an explanation of the OSG's influence based on their reputation alone. When compared to the rates of success of other agencies submitting

briefs, the OSG and legal interests remain highly successful, receiving cert for over half of the briefs included. Thus indicating that they consistently present quality briefs including novel information to the Court, along with the influence of the offices status amongst the justices. However, briefs submitted by those categorized as political interests received cert twenty-two times out of the fifty nine total briefs submitting, suggesting a deeper look into the reputations of the groups receiving cert.

**Table 4: Summary Group Involvement**

| Type of Amicus     | Number of Unsuccessful Briefs | Number of Successful Briefs | Total Number of Briefs |
|--------------------|-------------------------------|-----------------------------|------------------------|
| Foreign Government | 1                             | 0                           | 1                      |
| State Agency       | 2                             | 7                           | 9                      |
| Political IG       | 30                            | 22                          | 52                     |
| Legal IG           | 23                            | 19                          | 42                     |
| Religious IG       | 1                             | 2                           | 3                      |
| Career IG          | 18                            | 18                          | 36                     |
| Individual         | 5                             | 3                           | 8                      |
| SG                 | 3                             | 7                           | 10                     |
| <b>Total</b>       | <b>83</b>                     | <b>78</b>                   | <b>161</b>             |

\*Success is defined as congruence between group position and case outcome

### **Conclusion and Discussion**

The analysis of my research design did not display a significant impact on the Court at the cert stage. While the results of the probit regression found the language complexity of the briefs included unlikely to play a role in the Court’s decision to grant cert, it was interesting to view the proposed literature match the findings regarding the number of briefs accompanying a case. While the substantive language presented does not determine the Court’s decision regarding certiorari, the number of briefs filed along with a case were shown to be statistically significant in impacting the Court. Based upon these results, I fail to reject the null hypothesis considering the effect of language complexity on brief quality.

In evaluating the results of the probit regression, it is disappointing to view a lack of statistical significance presented in the parameters of my hypothesis. However, the results presented remain as predictions; it is difficult to determine the exact elements a reader may seek in a brief without personal knowledge of the individual assigned to read it. Separate from the ideological or public concerns a case may present, clerks and their justices may have their own “quality scale” to evaluate briefs with. Although, it is difficult to determine whether or not they search for specific qualities within a brief due to the Court’s continued insulation and private nature as opposed to the other branches. Also, in considering the interest groups included in my data set and research design, justices may have personal feelings regarding a group that could potentially play a role in how a brief is viewed at the cert stage.

Despite my hypothesis being disproved by the results of my research design and the probit regression, my research was able to provide a unique perspective about the Supreme Court and the amicus curiae briefs it so frequently receives. While there is previous research evaluating amici and the general quality of briefs, there is a lack of individual designs including language complexity and what it may add to a brief. Due to a lack of prior research detailing language complexity in relation to the Supreme Court, theorizing this thesis was a challenge. However, in doing so I was able to create a database containing elements of language complexity in amicus curiae briefs. While averaging this data and analyzing the results, it provided me with an understanding of the difficulties those drafting briefs may face in doing so, as it is no small task; both financially and intellectually.

During the months spent conducting this research, I evaluated novel concepts that may be of future use to those in the political science field seeking to perform similar designs. The results displayed may not have been favorable to my own thesis, but they may aid in a public

understanding of the influences that are present at the certiorari stage, both to the justices and their clerks. As a result, I am hopeful that my research design and its analysis may be relied upon in the future by those with inquiries about the Supreme Court, how it tends to function, and in answering the common question; what is an amicus curiae brief?

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