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Quality of State Attorneys' Oral Arguments in Supreme Court Litigation

Kaylee Johnson
Utah State University

QUALITY OF STATE ATTORNEYS' ORAL ARGUMENTS IN SUPREME COURT LITIGATION

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Kaylee Johnson

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Approved:

Thesis/Project Advisor Greg Goelzhauser	**Committee Member** Damon Cann
Department Honors Advisor Veronica Ward	**Director of Honors Program** Kristine Miller

UTAH STATE UNIVERSITY
Logan, UT

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Abstract

In my thesis, I evaluate the conventional wisdom that attorneys representing state governments performed poorly in oral arguments before the Supreme Court. This led the National Association of Attorneys General in 1982 to create the Supreme Court Clearinghouse Project. The project was implemented in an effort to improve the quality of states' efforts before the Court. Pulling from Justice Blackmun's ratings of attorneys in oral arguments, I conduct a quantitative analysis to determine whether such efforts actually led to an improvement in states' performance in Supreme Court litigation. I take the 1,142 cases in which states were involved from 1970-1993 and record Justice Blackmun's ratings of all state attorneys. I employ general data on oral argument quality to then compare with Blackmun's ratings of state attorneys specifically. I then compare the average performance of state attorneys before and after the Clearinghouse Project was implemented in 1982. The evidence suggests that state attorneys, as predicted, perform poorly in comparison to the general average of all attorney scores, but that there was not any improvement in the quality of oral arguments following 1982. The results indicate an important shift in the way we evaluate 1) state attorneys' oral argument performance before the Court, 2) the importance of those oral arguments to state success before the Supreme Court, and 3) the effectiveness of the efforts to improve that performance.

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Introduction

Each year, the Supreme Court selects a limited docket of the cases it will hear for the term. Of the 71 cases the Supreme Court has agreed to hear in the 2014-2015 term, state governments directly appear as parties in 13 of those (American Bar Association). State governments interact with the United States Supreme Court quite frequently (Schwarzer 1992; Tarr 1996). The most substantial of these interactions is state governments' appearance as participants in cases before the Supreme Court. This involvement can range from amicus curiae briefs, to certiorari and merit briefs, to oral arguments (Goelzhauser & Vouvalis 2013; Morris 1986). With states' intense involvement in Supreme Court litigation, it is perhaps surprising that states' success rates as parties before the Supreme Court are "highly volatile" (Sheehan, Mishler, & Songer 1992). Despite this inconsistent pattern, states' success rates have significantly increased in recent years (Chan 2003; Kearney & Sheehan 1992; Waltenburg & Swinford 1999).

Political Scientists have explored possible explanations for these shifting success rates. The ideological composition of the Supreme Court is one important factor that has been empirically supported multiple times by academics studying judicial politics (Kearney & Sheehan 1992; Waltenburg & Swinford 1999). Kearney & Sheehan (1992) found that there is a statistically significant relation between states' success before the Court and the Court's ideological composition. States' varied success rates have also been attributed to multiple institutional developments that have increased state involvement in Supreme Court litigation and have influenced the decisions of the Court (Chan 2003). One potential

explanation that I propose for the shift in state success before the Supreme Court in the 1980s is the quality of the oral arguments the states presented before the Court. I evaluate this by exploring whether the quality of their oral arguments actually improved during that time, like their success rates did. The largest shift in this improvement should have occurred in 1982, with the implementation of the National Association of Attorneys General Supreme Court Clearinghouse Project.

The National Association of Attorneys General, or the NAAG, has worked to improve the quality of state attorney oral arguments before the Supreme Court. The NAAG was established in 1907. Its mission: "To facilitate interaction among Attorneys General as peers and to facilitate the enhanced performance of Attorneys General and their staffs" (*NAAG,* "About NAAG"). One aspect of this mission is its efforts since 1982 to improve the quality of states' performance before the Supreme Court (*NAAG).* Whether the quality of these attorneys' performance has improved as a result of this organization's efforts has until now been left to anecdotal evidence. I attempt to analyze substantive data to test if their efforts have been effective.

States before the Supreme Court

States have always been heavily involved in Supreme Court litigation. States have proceeded as parties in cases quite frequently, appearing (with local governments) in close to half of the cases that come before the Supreme Court (Baker 1981, 367). They fall second, only to the United States federal government, in participation before the Court (Morris, 1986). As such, it is extremely important for us to study the interactions between state governments and the Supreme Court in litigation. Why is it that states appear so often before the Court? There are state

courts readily available to arbitrate litigation in which state governments are involved. With that option available, why would states so often take their cases into the federal court system?

One possible explanation for this pattern is the jurisdiction the Supreme Court has in deciding state cases. In Article 3, Section 2 of the Constitution, it states:

> *The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority;--to all cases affecting ambassadors, other public ministers and consuls;--to all cases of admiralty and maritime jurisdiction;--to controversies to which the United States shall be a party;--to controversies between two or more states;--between a state and citizens of another state;--between citizens of different states;--between citizens of the same state claiming lands under grants of different states, and between a state, or the citizens thereof, and foreign states, citizens or subjects.*

Many of the cases over which the U.S. Supreme Court has jurisdiction include state involvement as a party in the case. The clause continues:

> *In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be party, the Supreme Court shall have original jurisdiction.*

Not only does the Supreme Court have jurisdiction over state cases, it has "original jurisdiction" in many of those cases. This means that a case with the qualifications listed in Section 2 does not have to be appealed from a lower court, but can be taken directly to the Supreme Court. In fact, in statute 28 U.S.C. s 1251 there is a clause that states that disputes between two different states can *only* be decided in the Supreme Court ("Original Jurisdiction"). No other Court has authority to adjudicate such a case. Although the Court is confronted with very few original jurisdiction cases, the states are often involved in the cases they do choose to take.

State courts occasionally strike down state laws and policies under federal law. This custom could be another possible explanation for the states' habit of appearing as parties before the Supreme Court. In these cases, parties will often appeal the cases directly to the Supreme Court. These appeals fall under the Supreme Court's appellate jurisdiction, despite past attempts by Congress to strip them of this authority (Ratner, 1960). A Supreme Court ruling on appeal can often be in the states' best interest because a decision by the Supreme Court makes that interpretation of the federal law binding across all states in the United States, instead of just ruling in that one state (Ratner, 1960). With this vast opportunity to appeal their cases before the Supreme Court, which states often take advantage of, it is perhaps surprising that states are known to perform worse in oral arguments before the Court than other less-frequent litigant groups. It is important to consider whether this poor performance in oral arguments actually affects the chances that the states have in winning their cases. Do oral arguments actually matter to a litigant's success before the Supreme Court?

We have not always recognized and acknowledged the importance of oral arguments before the Supreme Court. In 2001 Tim Johnson stated that "[c]onventional wisdom in judicial politics is that oral arguments play little if any role in how the Supreme Court makes decisions" (Johnson 2001). Only recently have political scientists have begun to recognize the significant effects oral arguments can have on the outcome of a case. Contrary to the conventional wisdom, judicial politics scholars have recently demonstrated that oral arguments are important to the decisions of the Supreme Court (Johnson et al. 2009; Johnson & Spriggs 2007;

Johnson, Wahlbeck & Spriggs 2006). Justices receive most of their information for cases from sources outside of the Court (Johnson 2001). This makes them very reliant on the information presented to them in briefs, the media, and oral arguments (id.). Referring to the studies that test the impact of oral arguments, Johnson et al. (2009) asserted that "oral arguments affect case outcomes because they give Justices an opportunity to clear up lingering questions and to gauge what their colleagues think about the case." Knowing that justices actually rely heavily on oral arguments, it seems clear that attorneys' performance should matter to their chances of success in their litigation efforts before the Court.

Oral arguments have a significant impact on the results of the Supreme Court's merits decisions (Johnson, Spriggs, & Wahlbeck 2007). In the 1990s judicial politics scholars published multiple works that concluded that parties with lawyers who are more experienced in litigation before the Supreme Court "significantly raise the probability of a party's success" in the merits decision of the Court (Mcquire 1995; Sheehan, Mishler, & Songer 1992).

Tim Johnson found that oral arguments have a substantial influence on the Supreme Court's substantive decisions in his 2001 study. In that article, he assesses the impact of oral arguments by evaluating how often justices use the information received solely from oral arguments in the majority opinion of the Court (Johnson 2001). He finds that justices in the majority opinion often do include information offered to them exclusively in attorneys' oral arguments. This substantiates his claim that the justices often rely on information provided to them in oral arguments.

Recent literature, such as this, has verified this theory that oral arguments

are more important to the decisions of the justices than we had originally perceived. Accordingly, it seems that this finding should extend to state attorneys' performance in oral arguments. States' ability to effectively participate in oral arguments should significantly affect their success in litigating before the Supreme Court. A further evaluation into the influence of oral arguments goes past whether it has an influence, and asks the question: what makes oral arguments more or less influential?

In 2006, Johnson, Wahlbeck, and Spriggs evaluated Justice Blackmun's attorney ratings to examine whether the quality of the oral argument actually affects justices' votes on the merits. Justice Blackmun kept thorough notes on cases from 1970 to 1993, where he often scored the attorneys providing the oral arguments for each party on their performance. This finding controls for Justice Blackmun's ideological preferences, which could have been a substantial confounding factor in the analysis. The authors report that the quality of the attorney does significantly affect the merits decision. They found that the score of the attorney's oral argument performance correlates highly with a merit decision that rules in that party's favor. From their analysis, the authors concluded that the performance of an attorney is essential to the level of impact the oral argument has on the justices' decision (Johnson, Wahlbeck, & Spriggs 2006). Accordingly, the states' increasing success rates before the Supreme Court in recent years should have a significant positive correlation with state attorneys' performance before the Supreme Court.

Much of the recent literature on oral arguments has been fairly conclusive in the assertion that oral arguments matter to the merit decisions of the Supreme

Court (Johnson et al. 2009). Because the states offer such a large and frequent group of litigants before the Supreme Court, it is necessary to evaluate why it is that states perform poorly in oral arguments before the Supreme Court, and whether their success before the Court is affected by it. States score second, only to the federal government, in ratings of access to resources used to litigate before the Supreme Court (McGuire 1995). However, in 1982, Baker reported in a law review article that "[t]here is a widespread consensus among Court-watchers... that state and local governments frequently fail to present their cases in the most effective manner" (Baker 1981, 368).

One of the possible reasons for this poor performance before the Supreme Court is that states are often represented by their attorney general, or someone from the attorney general's office. Nearly every state elects its state attorney general "in a state wide partisan election" (Christenson 1970). There are few exceptions to this practice.[1]

In the early years of the Burger Court a conservative majority became frustrated as they observed states' inability to coordinate interests and their attorneys' struggles to perform adequately in oral arguments. A Court concerned with federalism and wanting to rule in the states' favor found themselves disappointed by state attorneys' failure to formulate satisfactory legal arguments that would allow the Court to rule in their favor. This frustration does not seem surprising after evaluating Johnson's findings in 2001 that legal arguments solely

[1] Exceptions: Alaska, Hawaii, New Jersey and Wyoming (appointed by governor); Maine and New Hampshire (appointed by state legislature); Tennessee (appointed by state supreme court). *ballotpedia.org/Attorney_General*

offered by attorneys in oral arguments are often directly implemented in Supreme Court majority opinions. If the justices are really relying so heavily on the information provided to them through oral arguments, it is understandable that poor oral arguments from states' attorneys would make it more difficult for them to hand down a ruling that sided with the states.

There are several anecdotes from the justices themselves that express this perceived problem with the states' performance before the Court. Justice Powell, referring to the quality of state and local government attorneys' oral arguments and briefs, voiced "disappointment" (Baker & Asperger 1981) stating:

> *In most cases... states will be represented by an assistant from its attorney general's office. Some of the weakest briefs and arguments come from these representatives of the public interest* (Baker & Asperger 1981).

Chief Justice Burger also expressed his discontent, writing "that 'state and local governments [had] not provided experienced and qualified personnel skilled in arguing cases before the Supreme Court,' and that 'many who represent the states and local communities in the Supreme Court of the United States fail to appreciate fully the critical importance of well-organized and carefully researched briefs'" (Burger 1984).

Increasing frustration with the poor quality of arguments presented by the states led the Burger Court and the National Association of Attorneys General to begin efforts to promote more qualified internal legal offices in the states (Goelzhauer & Vouvalis 2013). As part of this movement, the NAAG created the Supreme Court Clearinghouse Project in an effort to "support State Solicitor Generals and appellate chiefs in their advocacy efforts before the U.S. Supreme

Court" (Institute for Legal Reform). This project was implemented in 1982. It provides services such as conducting moot courts, reviewing and editing briefs, and hosting annual seminars and conferences (*NAAG*). The organization works specifically to improve the litigation quality of briefs and oral arguments coming out of the states.

In response to these efforts, states worked to better qualify their attorney general offices and many eventually created a state solicitor general office, an office that supposedly is much more qualified to litigate in the Supreme Court (Goelzhauser & Vouvalis 2013; Waltenburg & Swinford 1999). State solicitor general offices are often modeled after the United States Solicitor General office (Goelzhauser & Vouvalis 2013). Miller has suggested that "[m]ost state solicitors have a background that suggests that they are or will become elite members of the legal profession" (Miller 2010, 239). State solicitors general are often experts in appellate litigation (Goelzhauser & Vouvalis 2013). They know how to effectively frame their questions and arguments in a way that is more likely to persuade the Court (id.). The creation of state solicitor general offices, largely resulting from the NAAG and the Supreme Court's efforts in the 1980's, should have helped to improve state attorneys' oral arguments in the following years. If oral arguments are a significant factor in states' increasing success rates, state solicitors general likely contributed greatly to that success.

Judicial politics scholars have evaluated the increasing success rates of states before the Supreme Court in the last couple decades. This growing litigation success has largely been attributed to the compositional shift on the Court toward a more

conservative ideology (Kearney & Sheehan 1992). There are, however, other factors that may determine these increased success rates. Walternburg and Swinford assert that this shift may also be due to the increased funding and expertise in the state attorneys' offices following efforts in the 1980's to improve states' legal offices (Waltenburg & Swinford 1999). However, there has not been much effort to determine if this increased success rate could be due to improvement in state attorneys' oral arguments. Oral argument quality from the states should have significantly improved with the implementation of the NAAG's 1982 project. This improvement was one of the main objectives of the project. There seems to be a general consensus that oral argument quality has improved as a result of the project's implementation, but there isn't actual data to substantiate that.

Question and Hypothesis

In my research, I propose the question: Did the efforts of the Burger Court and the NAAG in the early 1980's actually improve state attorneys' performance in oral arguments before the Supreme Court?

The common understanding is that the justices were correct in their criticisms of the poor quality of oral arguments coming from states' attorneys. There is also a presumption that the joint efforts of the Supreme Court and the NAAG led to a substantial improvement in the quality of these arguments because of the increased success rates of states before the Supreme Court following 1982. I have formulated a hypothesis to evaluate whether these assumptions are correct. Hypothesis: The quality of oral arguments from states' attorneys significantly improved following the implementation of the Supreme Court Clearinghouse Project

in 1982.

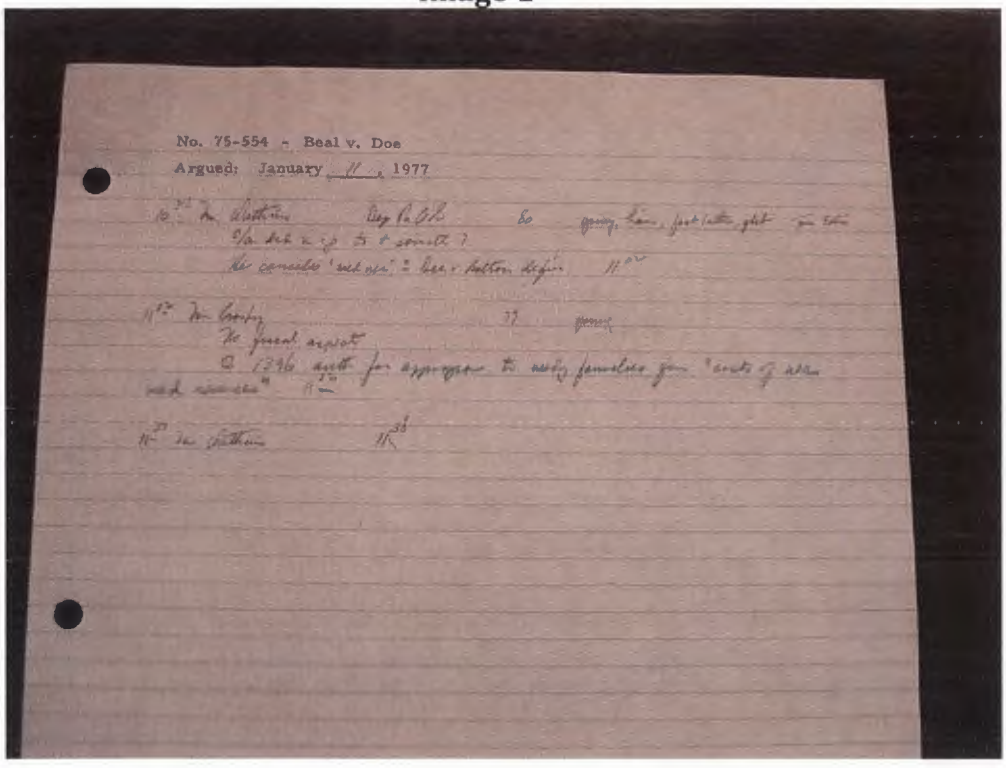
If the hypothesis is supported by the data, we can conclude that the efforts of the Supreme Court and the NAAG in 1982 did improve states' performance before the Court. If the hypothesis is not supported, the efforts of the Supreme Court and the NAAG in the early 1980's did not have any tangible effect of the quality of states' attorneys' oral arguments before the Court.

Methods

To test these hypotheses, I have reviewed the 1,142 cases in which states were involved from 1970 to 1993. Out of these 1,142 cases, I was able to find scores for the state attorney for 792 cases.[2] As discussed earlier, Justice Harry Blackmun kept notes during this period, where he graded attorneys according to their performance in oral arguments (see Image 1 for an example from his notes). These notes can be found in an online archive compiled by Timothy Johnson at the University of Minnesota, titled "Harry A. Blackmun and Lewis F. Powell Oral Argument Notes 1970-1994."

[2] Justice Blackmun did not always include attorney scores in his notes. Of his 1,142 notes on cases that involved states, he only included scores for 792 state attorneys.

Image 1



Johnson, Wahlbeck, and Spriggs' 2006 publication supported the claim that Justice Blackmun's grading system could be used to accurately measure the quality of oral arguments before the Supreme Court (Johnson, Wahlbeck & Spriggs 2006). They controlled for ideological preference and proved that Blackmun's scores can be used as an truthful measure of the actual quality of attorneys by verifying that "the attorneys with more litigating experience, better legal education and training, and greater resources... receive higher evaluations" (Johnson, Wahlbeck, and Spriggs 2006; McGuire 1993a, 1998). In my analysis, I rely on their findings and use Justice Blackmun's ratings as a reliable source to measure the quality of state attorneys' oral arguments.

In collecting the data for this project, I went to the notes for each individual case. The scores were most often found on the right side of the page on the same

line as the attorney's name (See Image 1). I retrieved a list of all of these cases from the Supreme Court Database (supremecourtdatabase.org). Using a database of all Supreme Court cases with a state as a party, I obtained information on whether the state was the petitioner or the respondent in each case. While I collected the scores of both attorneys in each case, this allowed me to consolidate the scores for only the state attorneys in my final analysis. I recorded all of the scores into an Excel document, and then transferred all the state scores for each case into one column.

Justice Blackmun used three different rating systems. From 1970 to 1974, he graded attorneys on a letter scale from A to F. From 1975 to 1977, he graded the attorneys on a numerical scale from 1 to 100. And from 1977 to 1990, he graded them on a numerical scale from 1 to 8. The letter scores from 1970 to 1974 needed to be converted to numerical scores to perform the analysis. In order to convert these, I utilize the conversion used by Johnson, Wahlbeck & Spriggs (see Table 1).

Table 1

A-F Score Conversions

	B+=87	C+=77	D+=67	A-/B+=89
A=95	B=85	C=75	D=65	B-/C+=79
A-=90	B-=80	C-=70	D-=60	C-/D+=69

I calculate the averages and standard deviations of the state attorney ratings for each of the three periods in which Justice Blackmun used these different rating systems.

There are 202 cases in which state attorneys were graded from 1970 to 1974. The average grade is 79.50 and the standard deviation is 5.50. From 1975 to 1977, there are 90 cases. The average grade is 75.67 and the standard deviation is

4.17. Finally, there are 500 cases from 1977 to 1990. The average grade is 4.52 with a standard deviation of .69. I take these measures of central tendency and compare them to the sample means and standard deviations found for all attorneys in the Johnson, Wahlbeck & Spriggs article (see Table 2).

Table 2
Mean and Standard Deviation Comparisons

	All Attorneys (Johnson, et. Al.)			State Attorneys Only		
	Sample Size	**Mean**	**Standard Deviation**	**Sample Size**	**Mean**	**Standard Deviation**
1970 - 1974	435	82.05	5.88	208	79.50	5.50
1975 - 1977	166	77.36	4.42	90	75.67	4.17
1977 - 1990	517	4.88	0.85	500	4.52	0.69

Next, I convert each of the raw scores into z-scores so that I can compare the state attorneys' scores before and during 1982 to those after 1982. To convert this data, I run it through an online system: http://vassarstats.net/standard.html. I copy the z-scores back into the Excel file and take the averages and standard deviations pre- and post- 1982 (see Table 3).

Table 3
Mean and Standard Deviation Comparisons

Pre- and During 1982			Post- 1982		
Sample Size	**Mean**	**Standard Deviation**	**Sample Size**	**Mean**	**Standard Deviation**
506	0.61	0.26	292	0.33	0.14

After collecting all the data found in Tables 2 and 3, I run it all through an online SISA (Simple Interactive Statistical Analysis) system: www.quantitativeskills.com/sisa/statistics/t-test.htm. For the data in both tables, I calculate the difference in means and a 95% confidence interval around the

difference.

Results

The results for the first difference of means t-test (from the data in Table 2) can be found in Table 4. This statistical analysis tests whether the quality of oral arguments from states' attorneys from 1970 to 1993 were significantly lower than the overall average of attorney ratings during that period.

Table 4
Difference of Means T-Test

	p-value	diff. between means	sd	se	95% confidence interval	t-difference	df - t
1970-1974	0.137	2.55	9.873	0.474	1.62<2.55<3.48	5.377	432.9
1975-1977	0.273	1.69	7.726	0.558	0.59<1.69<2.78	3.031	191.5
1977-1990	<.001	0.36	1.522	0.049	0.27<0.36<0.46	7.427	985.1

Table 4 demonstrates that there is a statistically significant difference between the scores of all attorneys and the scores of state attorneys in all three periods. These preliminary results demonstrate that state attorneys' average score was more than one standard deviation below the sample average (as reported in Table 2).

Table 5 presents the key result from the difference in means test, answering my hypothesis.

Table 5
Difference of Means T-Test

diff. between means	sd	se	95% confidence interval	t-difference	df - t
0.28	0.425	0.015	0.25<0.28<0.31	18.33	775.2

The results offered in Table 5 reveal a surprising discovery. The scores of state attorneys actually significantly decreased in the 11 years following the

implementation of the Supreme Court Clearinghouse Project in 1982. This data not only disproves my hypothesis, but it offers evidence of a trend in the opposite direction.

The evidence from the statistical analyses signals some crucial findings. The first is that the anecdotal criticisms concerning the below average performance of state attorneys when compared to other Supreme Court litigant groups seemed to be accurate. This seems surprising since states are so frequently represented in the Supreme Court and have access to a higher volume of resources compared to other litigant groups. However, this finding is consistent with anecdotal complaints in the 1980's considering states' inability to perform well in oral arguments compared to other litigant groups.

There could be a couple of explanations for this. The first is that attorneys general, or other attorneys from that office, are often the ones to represent the states before the Court. State attorneys, for the most part, are not specialists in Supreme Court litigation. In fact, many of them don't have any prior experience before the Supreme Court before entering that office and arguing a case for the state.

Another explanation could be that, while states make up a large percentage of the parties that come before the Supreme Court, these are spread out between the 50 states. The high participation rate of this litigant group does not imply that one state is getting a lot of experience before the Court. There have been complaints about the states' failure to coordinate their efforts. Without coordination, it is difficult for each individual state to gain much information from other states'

experience from previous litigation. Contrarily, the federal government's high rate of appearance before the Court comes from one source, allowing their attorneys many opportunities to specialize in Supreme Court litigation.

The finding that state attorneys score significantly lower than the average performance of all attorneys before the Supreme Court demonstrates that the anecdotes were consistent with the actual quantitative performance of the state attorneys.

The surprising finding in this study is that the Supreme Court and the NAAG's attempts to improve states' litigation experience were not effective, at least within the first 11 years following the program's implementation. In fact, the performance of state attorneys, according to Justice Blackmun's ratings, worsened following 1982. This suggests that the anecdotal statements made by the justices during the Burger Court, while accurate concerning the poor quality of state attorney oral arguments, were maybe not representative of the actual problem with the states at this time. States' inferior performance before the Supreme Court seems to be a consistent pattern, which implies that this should not have been a surprise to the Burger Court. It may be that the Burger Court wanted, more than other Courts prior to and following that time, to rule in the states' favor. This concern with federalism issues may have led to an enhanced awareness concerning the quality of oral arguments. Although this wasn't a new issue, it just became more apparent to this Court.

These findings also demonstrate that the states' increased success rate in recent years was likely not due to an improvement in oral arguments. While

improvements have been attributed to increased resources, expertise, a more ideologically conservative Court, oral arguments don't seem to have had an effect on their success rates. This finding is contrary to the recent judicial politics literature that has assessed and verified the importance of oral arguments to the merit decisions of the Supreme Court. The importance of oral arguments has been accepted as a general rule for attorneys in Supreme Court litigation. It is surprising that oral arguments may not be a significant determining factor for the states that litigate before the Supreme Court.

Conclusion

These findings have crucial implications for future literature on state's interactions with the Supreme Court. First, there is the possibility that, although oral argument performance before the Supreme Court did not initially improve, that states eventually began to perform better in oral arguments. There could have been other unidentified factors during those 11 years following the program's implementation that affected the performance of state attorneys before the Supreme Court. There also could have been a lag time between the program's implementation and its actual effectiveness in improving oral arguments. It would likely be easier to improve the written aspects of litigation quicker than teaching state attorneys the most effective methods of arguing a case before the Supreme Court. New programs often have many kinks to work out in the beginning. It could be that the program eventually became more effective. It could be that there were years after the program's creation before states started recognizing the benefits of utilizing the resources the program provided. If there were a new method

discovered to measure oral argument quality, there might be the possibility of measuring oral argument quality over a longer period of time to evaluate whether there was eventually improvement following that 11-year time period I measured in my study.

Another possibility is that it was not the quality of the oral arguments that was the problem during that time period. There could be other explanations for how states were faring before the Court, which have not been recognized to this point. I leave it to future research to determine whether there are variables other than oral argument quality that contribute to the states' success rate before the Supreme Court.

Although oral arguments may not completely determine states' success, researchers have found that oral arguments are generally important to Supreme Court decisions. Fully understanding the interactions between states and the Supreme Court requires knowledge of states' oral argument quality. I have found that states generally perform worse in oral arguments than other attorneys. Future research should delve into this further to determine the difference between the diverse attorneys representing the states. States choose many different actors to present their interests to the Supreme Court, including attorneys general, solicitors general, and private attorneys. It could be that there is one group of actors that is more successful in state litigation than others. States could significantly benefit from research that measures how these different actors perform comparatively when representing the states. Such findings could be critical in helping the states to improve their legal presentations before the Court. My results in this study indicate

that the Supreme Court Clearinghouse Project did not improve state performance in Supreme Court litigation, but this future research would provide fundamental information to state governments in deciding who would best represent their interests in a case before the Court.

Reflective Writing

My thesis project was a perfect accumulation of all the research I have done as an undergraduate student at Utah State University. I have focused on the United States court system in almost all of the research projects I have been involved in. I was very fortunate to find an area of study that I am so passionate about so early in my undergraduate experience. I owe much of that to Dr. Greg Goelzhauser who specializes in that field and allowed me to become involved in many of those projects I took an interest in. Some of those projects have even specifically focused on oral arguments and the appearance of state attorneys as parties before the Supreme Court. This project gave me the opportunity to apply the knowledge I have accumulated and to conduct my own research on this issue I have gained such a passion for.

I have worked as a research assistant three different semesters and an undergraduate teaching fellow for one semester with Dr. Greg Goelzhauser in the Political Science Department. I have also coauthored and presented a couple of different papers. Much of that work included data collection. I spent countless hours over the last three years collecting data and coding it into files for quantitative analysis. This work prepared me well for my senior thesis project. The data collection for the project included evaluating archival documents collected from the Library of Congress by Timothy Johnson. It was a fun process to look through old notes from a great Supreme Court justice. Data collection is often the most time-consuming aspect of a research project. For this project, it was difficult at times to collect that data because I was reading from handwritten notes, which were at times

hard to comprehend. For the most part, however, the data collection went smoothly and I was able to complete that section of the project without much trouble.

This project was even more enjoyable because I had the chance to not only collect the data, but to actually apply statistical analysis on my own and witness the results of the analysis. I have taken two statistical research classes here at Utah State—an undergraduate psychological research class and a graduate experimental research and design class. Those classes equipped me with the skills to perform the statistics and to analyze the results of the data. It's very exciting to witness the skills and knowledge acquired from classes apply to actual projects. I have also had many classes where I have been required to write literary reviews and research papers. These classes prepared me in two ways for my thesis project. The first is that I learned how to critically analyze academic books and articles. The second is that I was able to improve my writing skills as I got feedback from professors on my papers. Both of these skills were very helpful to me in writing the paper.

One of my favorite parts of writing my thesis was the surprising outcome of the statistical analysis of the data. The results were actually completely opposite to what I had hypothesized they would be. These results raise many further questions in my mind concerning the topic. I am very excited for future research on the issue that could explain the unexpected pattern that I found.

I did face a couple of challenges in writing the paper. The biggest challenges were in the statistical analysis. I confronted difficulties in figuring out how to convert the data to perform the statistical analysis. It took quite a few attempts before I figured out how to convert all the raw scores into z-scores so that I could

compare them to test for statistical significance. I also faced challenges originally in figuring out how it was that I wanted to separate the data to compare between the two time frames. After some trial runs, I did figure it out and was able to run all the data to get the results for the paper.

Overall working on my thesis project was a great experience. I had incredible help and support from my thesis advisor, Dr. Greg Goelzhauser, who guided me through the process. I had a lot of fun conducting my own research project and am proud to see the results of it. I am every excited to have contributed to the judicial politics academic literature and can't wait for future research endeavors as I continue my academic career.

I would offer a few words of advice to future students preparing to write a thesis. My first advice is to get involved in research early on in your undergraduate career. Utah State University is a research institution. In every department there are professors working on research. Develop relationships with your professors. Take the time to meet with them outside of class to discuss both your work in the class and possible work outside of class. My experience at this school has shown me that if you create good relationships with your professors and ask to be involved with projects they are working on, they are more than happy to bring you on board. Professors are looking for students who are excited about research and who can competently assist them in projects. The more you work with professors on research, the better prepared you will be when asked in your thesis project to conduct your own research. My involvement in research with professors at Utah State has been the most influential aspect of my undergraduate experience.

My second advice is that you work hard in your classes to develop better writing skills. Writing is obviously an integral part of developing a thesis. It is so important in writing your thesis and in any future academic and professional endeavors. Learn how to fully develop ideas and arguments and how to articulately formulate those thoughts in a paper. Take the extra time to meet with your professors to discuss how to improve your writing.

My thesis project was an incredible capstone to my wonderful experience at Utah State University. As I reflect on my experiences here, I am very appreciative of all the opportunities for learning and growth I have had. I now look forward to the next adventure.

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Author Bio

Kaylee Johnson will graduate in Honors this spring with a 4.0 GPA, majoring in Law and Constitutional Studies with minors in Psychology and Economics. She has been selected as the Outstanding Undergraduate Researcher of the Year, Scholar of the Year, and Valedictorian for the 2015 graduating class in the Utah State University College of Humanities and Social Sciences. Kaylee has worked as an Undergraduate Teaching Fellow for a Constitutional Law Class. She has also conducted two separate internships: as an intern with a legal team in Washington, D.C. (where she also attended classes at George Mason University) and as a law intern with Utah's 1st District Court in Logan. She is currently the Vice President of USU's chapter of Pi Sigma Alpha (the political science honors society) and is a Merrill Scholar in the Political Science Department. Kaylee is very interested in political science research. She has worked as a research assistant in the Political Science Department for three semesters, collecting data and conducting basic research for multiple projects. Kaylee has presented a paper at the 2015 Southern Political Science Association's Annual Conference in New Orleans and will soon present one at the 2015 Midwest Political Science Association's Annual Conference in Chicago. This last year Kaylee was published as a coauthor for an article in an academic peer reviewed journal, titled "Analyzing Text Complexity in Political Science Research." She is currently co-authoring several other papers, which she hopes to have well underway before she graduates this spring. Kaylee's research has largely involved quantitative studies of the United States court system. She has conducted research regarding state representation before the Supreme Court, Supreme Court decision-making, specific Supreme Court decisions, and the behavior of Supreme Court justices. After graduating, Kaylee plans to undertake a Masters in Statistics, then a Doctorate in Political Science.