

# Conglomerates at the court: The political consequences of mergers & acquisitions

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## Abstract

Increasingly, corporations expand through the creation or acquisition of new subsidiary companies. Despite the commonality of the practice, little is known regarding how it influences corporations' political behavior. This *research note* analyzes how subsidiaries shape corporations' political interests and collaborations as they seek to influence the Supreme Court. To accomplish this, we construct a historical dataset of the acquisitions and mergers of a politically active sample of Fortune 500 corporations (spanning various industries and sizes) that we combine with their history of filing amicus curiae briefs to the Court. Through social network and longitudinal analyses, we analyze whether and how corporations change their targeted issue areas, collaborations, and political success following consolidation. While mergers and acquisitions have little effect on the quantity of actions or success before the Court, they expand the issues of political interest for corporations, and increase both their popularity and ability to broker information in their political network.

## Keywords

Mergers & acquisitions, business and politics, corporate consolidation, political networks, U.S. supreme court, interest groups

Mergers and acquisitions (M&As) are common tools of corporate restructuring, allowing corporations to expand their businesses and products by taking over other companies or combining with them, respectively. While the volume and value of M&As ebb and flow over time, the recent trend has been a marked increase across a host of countries and industry sectors. The financial consequences of such restructuring, however, are decidedly mixed, with some scholarship suggesting increases in production and profit (Hitt et al., 1998; Chevalier, 2004; Healy et al., 1992) and others finding no effects to negative ones (Cartwright and Schoenberg, 2006; Jarrell et al., 1988; Singh and Montgomery, 1987; Weston, 1961). Even less understood and far less studied are the *political* consequences.

Do M&As have political ramifications? A long history of antitrust literature suggests that corporate concentration should be questioned not only because of market inefficiencies, but also the potential for undue political influence (e.g., Brandeis, 1914; Means, 2017; Pitofsky, 1978). More

recent work examining the last few decades of consolidation points to gaps in antitrust oversight (Wu, 2018) and a “‘Medici vicious circle,’ in which economic and political power reinforce each other” (Zingales, 2017: p 114), yet systematic, empirical work here is thin.

Following a classic theory of the concentration of economic influence and the resulting political consequences (Brandeis, 1995; Jamison, 2020), we explore the relationship between corporate consolidation and political influence in the judicial branch. In particular, we seek to understand

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whether M&As change corporations' political issues of interest, political networks, and political success at the Supreme Court. To do so, we collect data on all recent Fortune 500 companies' consolidations and their history of amicus curiae submissions to the Court. Our analyses of longitudinal network data show that corporations' M&As expand their issues of political interest, increase the size of their networks, and move them to the position of information brokers. However, we find no effect on the quantity of briefs submitted or success before the Court.

## The Consequences of Growing Corporate Power

Despite the country's long history of antitrust regulation and related fears of political influence by corporate conglomerates, the recent trend among the largest companies is an increase in consolidation. Indeed, speculation of increased political influence following M&As regularly surround high profile mergers, like Amazon's acquisition of Whole Foods or Facebook's acquisition of Instagram and WhatsApp (e.g., Kang and McCabe, 2023). Yet, scholarship on the link between politics and industrial concentration is sparse. Generally, from the literature we know that most congressional lobbying expenditures come from corporations or trade organizations, both of which tend to be large or well-funded (e.g., Figueiredo and Richter, 2014). These engaged groups are more likely to increase lobbying efforts, lobby new issue areas and achieve a higher legislative enactment rate (Feldman and Hernandez, 2022; Kerr et al., 2014; Moshary and Slattery, 2024) uses stakeholder theory to gain insight into how M&As may impact firm behavior. However, most of these findings only examine companies at a fixed time and do not study how these trends develop as companies change in size and resources. In an invaluable exception, Cowgill et al. (2021) find evidence of increasing campaign contributions and congressional lobbying expenditures following mergers. Their work complements a more general contribution associating structural changes in firms (e.g., industry concentration, inequality, decline in labor share) with increases in consolidation and lobbying (McCarty and Shahshahani 2021; Showalter, 2021). Lozada (2023) tells us that "increased market concentration almost certainly has an effect on campaign contributions, lobbying expenditures, media disinformation campaigns, and partisan think tank support. Those in turn generate changes in laws and regulations ..." Furthermore, Lozada (2023) calls for an economic analysis of M&As to measure these effects and their consequences. Our look at M&A's aims to further this work in the seldom considered judicial realm.

While the Court is a unique arena for political influence, we still expect to uncover evidence of these general trends here. Take, for example, General Electric (GE), a

corporation centered around energy and manufacturing, which acquired Vivendi, an entertainment company and primary owner of the National Broadcasting Company (NBC), in 2003. According to our data, in the years following the acquisition GE nearly doubled its submitted briefs to cases before the Court, and sent briefs on a broader range of issues, including patent protection, civil rights, and environmental protection. Such behaviors suggest some support for classic theories of the concentration of economic influence, but are they merely anecdotes or systemic?

To our knowledge, we are the first large and historical empirical study to concentrate on the judicial branch. We do so for three reasons. First, the Court is a key player through their decisions on a wide range of issues that affects corporations' interests. Second, corporations have made their interests publicly and precisely known to the Court via amicus curiae briefs. Amicus briefs have been demonstrated to impact not only who wins the case, but also the opinions of the justices and adoption of the rules (Box-Steffensmeier et al., 2013; Collins, 2008; Kearney and Merrill, 1999).<sup>1</sup>

Finally, because these briefs are often cosigned by organizations with shared interests, this process offers a window into the political networks of corporations, expanding our understanding of corporate politics beyond just involvement and success. Thus, our approach allow us to test the effect of M&As on political influence in terms of the range of political activity, positions within political networks, and amount of favorable political outcomes.

As companies restructure through M&As both their capacity to submit briefs and incentives to do so may increase. We expect them to submit more briefs to a wider range of issues. However, it is possible that the effect of the M&A does not expand the issue areas nor change their network positions. Organizations may choose to integrate vertically, buying up their own competitors, for example, in which case we would not expect an increase in issue areas. This could lead to a centralization in power, which we would pick up in eigenvector centrality. In contrast, horizontal integration suggests more issues but not necessarily concentrated power within the network, instead a branching out that might appear in betweenness or degree centralities. Thus we test multiple different outcomes, not just win rate or social network power, but also the number of issues engaged, as well as social network brokerage, popularity, and closeness. The varying effects suggest the nuance of the M&A from a political perspective.

**H<sub>1</sub>:** Following M&As, they will submit more briefs.

**H<sub>2</sub>:** Following M&As, they will submit briefs to a wider range of issue areas.

Before the Court and in other political arenas we also know that coalition formation is key to successful lobbying (Box-Steffensmeier et al., 2013; Collins, 2004; Hula, 1999).

These interest group networks can also provide selective benefits in terms of knowledge, reputation, and innovation (Gilsing et al., 2008; Stuart, 1998). Therefore, as corporations grow and seek to improve their political influence, we expect them to expand their cosigner networks.

**H<sub>3</sub>:** Following M&As, their network of cosigners will increase.

Next, as firms develop experience before the courts, political reputation, and corporate resources, we expect firms to become more attractive to cosign with (Crocchi et al., 2017; Esterling, 2004) and play a greater role within their network of cosigners (See Box-Steffensmeier and Christenson, 2014).

**H<sub>4</sub>:** Following M&As, they will become more central within their networks.

Finally, as illustrated in Box-Steffensmeier et al. (2013), influential groups can have a significant influence on judicial decision-making. This finding highlights a larger consensus that large and affluent companies are considered to have an outsized influence in American politics (e.g., Broockman and Malhotra, 2020; Gilens and Page, 2014; Page et al., 2013).<sup>2</sup> Thus, we expect that as companies grow, their success before the courts will similarly increase.

**H<sub>5</sub>:** Following M&As, cases will be decided in their favor more often.

## Combining Corporate & Judicial Datasets

Given the complexity associated with tracking companies' corporate and political behavior, we limit our sample to companies that made the Fortune 500 in the last 5 years.<sup>3</sup> As of 2019, these companies represent almost two-thirds of the U.S. GDP and employ over 28.7 million individuals worldwide (Fortune, 2019). While it limits generalizability, focusing on these large companies provides us with two key benefits. First, given their size, these companies are both affected by government policies—and by extension Court rulings—and have the resources to engage in politics.<sup>4</sup> Second, these companies are more likely to have better-kept records and/or public visibility of their corporate history. We begin the dataset with 751 unique companies spanning over 11 unique industries. The bottom plot of Figure 1 displays the distributions of industries captured within our sample.

For each of these companies, we generate a complete list of their M&As by relying on a commercial dataset provided by MarketLine, a business information vendor. The dataset details a company's founding year, corporate name changes, originating companies in the case of a merger, and all

previous M&As.<sup>5</sup> For each M&A, we record the year it was completed and use it to calculate annual totals for each company. Our final dataset contains a yearly record of M&As for each company from its founding until 2012, where the judicial data leaves off.

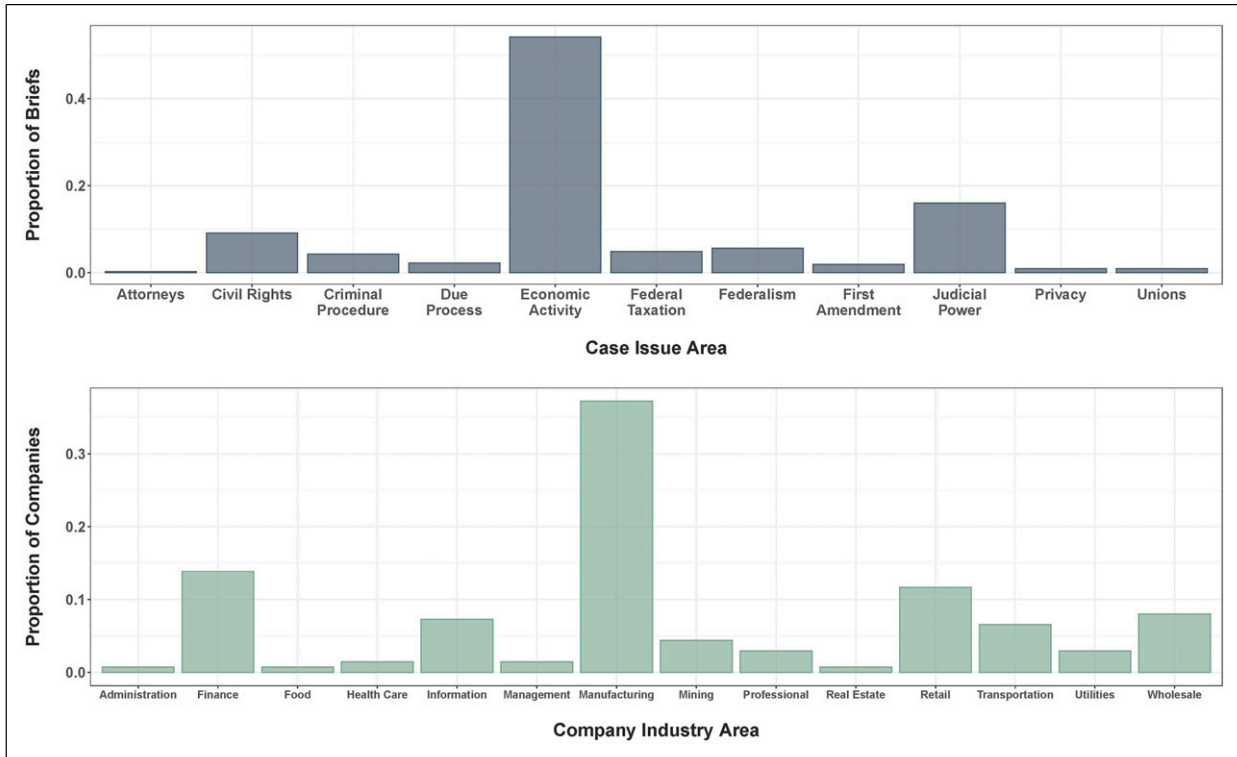
To capture corporate activity at the Court, we rely on amicus curiae brief signing behavior data from Box-Steffensmeier and Christenson (2012). We first identify all briefs signed under the company's current name to match the corporate dataset to the judicial one. If the company underwent a name change—for example, Facebook to Meta—we identify all briefs signed under their previous name.<sup>6</sup> Using this process, we successfully identified 318 unique briefs signed by 136 of our original 751 companies. These briefs cover 216 cases from 1940 to 2012. We also record brief related covariates for each company. These covariates include the issue area of the case for which the brief was submitted and whether the case was decided in the direction of the brief. The top plot in Figure 1 displays the distribution of case issue areas to which our sample of companies submitted briefs. As expected, our sample primarily submitted briefs to cases pertaining to economic activity, but their influence expands broadly into other key policy areas.

Finally, to provide insights into the collaborative hypotheses, we use these data to construct a network based on cosigner status. Each company that submits a brief represents a unique node. When two companies cosign a brief, we draw an edge between their nodes—and maintain all nodes that cosigned with the 136 Fortune 500 companies.<sup>7</sup>

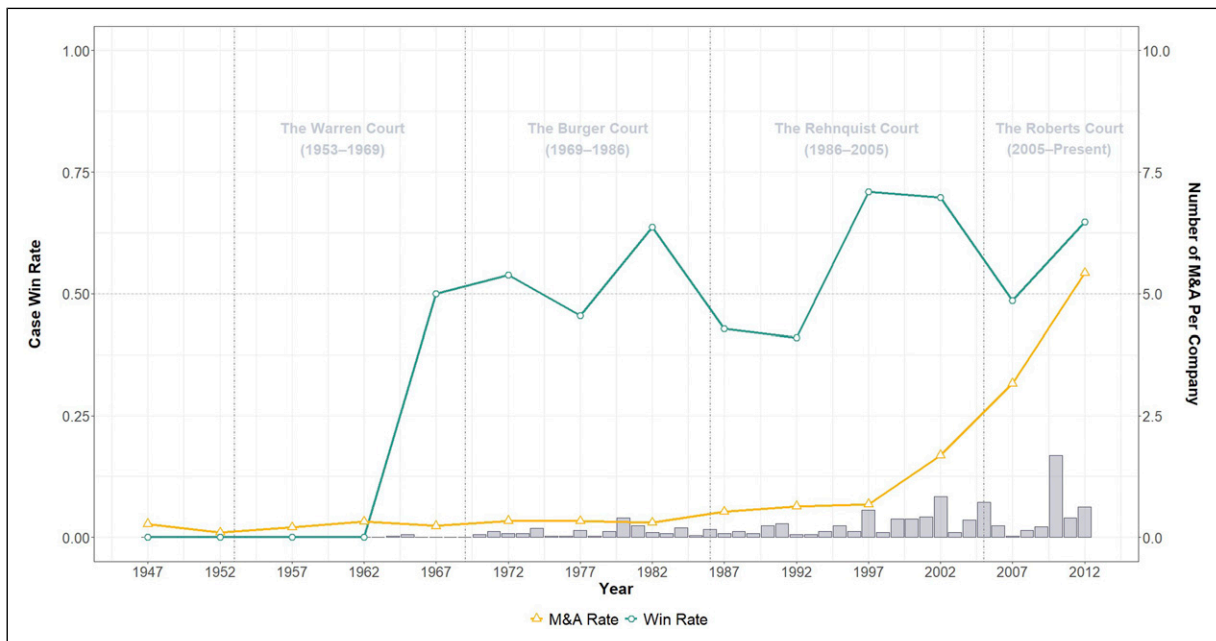
## The Political Effects of Consolidation

We begin by plotting the aggregate corporate consolidations and major judicial behaviors over time in Figure 2. Both the M&A rate and corporate win rate have increased since the late 1990s, with M&A rates growing, virtually exponentially, since the early 2000s. Corporate win rates have remained relatively high since the 1970s, albeit with a minor dip during the early 1990s, which may be associated with increased corporate competition in the decade prior (Wilson, 1990). Interestingly, these findings suggest that the Court's pro-business nature—which prior works associated with the Roberts Court (see Epstein et al., 2013)—may have emerged far sooner.

Over the last six decades, the data show increases in M&As, briefs, and cases decided in their favor. Such consistent growth across these macro-level measures seem to suggest support for the conventional wisdom that corporate consolidation has led to greater political presence and influence. However, one cannot draw such a conclusion from mere associations over time. Thus, to more rigorously investigate the effects M&As might have on a company's political



**Figure 1.** Distribution of corporate industries and case issue areas. Industry areas are ascertained from US Census Bureau’s NAICS codes and case issue areas from the Spaeth database.



**Figure 2.** M&As and judicial win rates over time. A company is considered a winner if the case is decided in the same direction as their brief. The histogram displays the distribution of brief submissions within our sample by year.

behavior, we turn to a series of inferential, multivariate, time-series analyses.

To test the relationship between each company's consolidations and political behaviors we aggregate the key independent variable, *Number of M&As*, as well as several dependent variables for the most conservative bin, a 5-year period, of the three substantively acceptable possibilities of five, ten or fifteen.<sup>8</sup> First, we explore the general political behavior of corporations before the Court by counting their *Number of Amicus Briefs* and *Number of Case Issue Areas*, as well as by calculating their *Case Win Rates*. The latter two are cumulative up until a given period. To look at the effect of M&As on changes in collaboration patterns, we similarly generate networks from all briefs (co)signed up until a given 5-year period. We then calculate the *Degree*, *Betweenness*, *Harmonic Centrality*, and *Eigenvector Centrality* for each company in each period. These four measures tap different aspects of collaboration—popularity, information control, closeness, and power, respectively—thereby providing a wholistic view of a company's positions and influence in their network over time.<sup>9</sup>

To estimate the effect M&As have on a company's brief and network behavior, we estimate year and company fixed effect models with contemporaneous and lagged counts of M&As.<sup>10</sup> Table 1 presents the results. Notably, the total number of M&As a company undergoes is positively associated with the number of briefs, but the effect is not significant (H1). This result suggests that unlike lobbying and electoral donations, which increase with corporate growth (Cowgill et al., 2021; Drutman, 2015), brief signing does not—and may function in a fundamentally different way. The lack of link here may be due to the fact that simply submitting briefs may not be as influential as the quality of briefs (Box-Steffensmeier et al., 2013). Assembling a compelling amicus curiae brief can be expensive (Caldeira and Wright, 1988; Lynch, 2004), so companies may not be incentivized to submit briefs to areas outside their traditional business practices. Moreover, big companies may have reached a ceiling effect. There are only so many potentially relevant cases heard by the Court, and these large companies may already be submitting in large number prior to an M&A. Thus, there are good reasons to expect little change in the sheer amount of briefs companies submit.

While M&As do not appear to increase the total number of briefs a company submits (H1), they affect the number of issue areas (H2). Each M&A a company undertakes during a 5-year period significantly increases the number of issues for which they submit briefs. However, the effect size is quite small. Specifically, our model indicates that on average these large companies expand to only one new issue area for every 39 M&As they undertake.

The last four columns of Table 1 provide insights regarding M&As' effect on companies' collaborations; that is, their positions in cosigning networks (H4). M&As' positive and significant coefficient on Degrees suggests that they directly increase a company's popularity, or total number of cosigners (H3). Interestingly, the coefficient's magnitude suggests that companies gather new cosigners at a rate similar to new issue areas. These results suggest that as companies expand into new industries or issue areas, they expand their political networks to tap into their pre-existing expertise. By utilizing existing expertise, companies may benefit both from valuable pre-built reputations (Box-Steffensmeier et al., 2013) and lessen the upfront cost of assembling a detailed brief (Lynch, 2004).

When we examine M&As' effect on the other network centralities (H4), we find mixed support. Also statistically significant, each recent M&A appears to increase a company's Betweenness within the network, or the amount of network information that flows through them. Nodes with high betweenness measures act as bridges that link pre-existing clusters within a network together (Freeman, 1977). This finding suggests that as companies grow, they tap into existing cosigner networks to situate themselves in new issue areas as more essential partners in the flow of information. However, this positioning as informational bridges does not translate into an increase in their power or closeness within their networks. That is, in the case of the other two measures—Eigenvector Centrality and Harmonic Centrality—M&As do not appear to have a statistically significant effect. Given that our network comprises other Fortune 500 companies and their cosigners, these results make some intuitive sense. These companies already hold economically and politically influential roles in their industries, and many have held these positions for decades.<sup>11</sup> It is unlikely that M&As alone do much to affect their already strong reputations and close relationships.

Finally, the coefficient surrounding win rate—while positive—is not significant (H5). Despite the theoretical increase in economic and political resources provided by a merger or acquisition, companies appear no more likely to win a case. It is important to note here that the companies within our sample win the majority of cases for which they submit a brief to begin with—about 64% of the time. This high win rate is likely a result of these companies' ability to both fund and submit detailed briefs (Lynch, 2004) and their reputation within a case's particular issue area (Box-Steffensmeier et al., 2013; Collins, 2007). Thus, companies may not experience noticeable gains in wins from M&As, as they have effectively reached the ceiling of potential influence. While a corporation may experience an economic and political boon following a M&A, similarly influential companies or organizations may be competing



**Table 1.** Effects of M&As on Political Activity & Success.

	Num. Briefs	Win Rate	Num. Issues	Eigenvector Cent.	Betweenness	Degree	Harmonic Cent.
Num. M&As	0.031 (0.019)	-0.0004 (0.003)	0.026* (0.011)	-0.004 (0.004)	0.070* (0.019)	0.028* (0.012)	2.022 (1.725)
Lag M&As	0.032 (0.141)	0.026 (0.020)	0.040 (0.079)	-0.013 (0.021)	-0.003 (0.109)	-0.022 (0.077)	-3.565 (10.130)
Constant	-3.440* (1.093)	0.006 (0.134)	-1.485 (0.761)	0.440* (0.179)	-1.473* (0.716)	0.368 (0.618)	18.559 (66.352)
Year FE	✓	✓	✓	✓	✓	✓	✓
Company FE	✓	✓	✓	✓	✓	✓	✓
Court FE	✓	✓	✓	✓	✓	✓	✓
Model Type	NB	OLS	NB	OLS	OLS	NB	OLS
N	938	558	558	558	558	558	558
Adj. R-squared		0.823		0.231	0.328		0.847
AIC	1551.983		296.000			4228.712	

\* $p < .05$ .

Note: All data has been binned into five year periods covering 1940-2012. Results appear robust to the inclusion of Court and industry fixed effects. All reported significance statistics are the result of two-tailed significance tests.

against them, especially in the high-profile context of the Court (e.g., [Wilson, 2022](#)).

## Discussion

The nuances of industry concentration are critical for our understanding of American capitalist democracy, as are the associated roles of governmental institutions and factions. Knowing whether, when and how changing corporate political influence, in all of its manifestations, impacts the health of the larger governance system speaks to the future trajectory of democracy. As corporations have grown and consolidated, public concern over their size and political influence has increased, resulting in an imperative to explore their perceived pervasive influence within politics.<sup>12</sup> Common corporate decisions, such as M&As, can be leveraged to reveal how, when and where corporations participate in political processes and their impact on governmental outcomes. Our analysis takes an innovative step in understanding corporate political behavior by specifically examining how corporations' growth in the form of M&As affects their political behavior before a prominent U.S. governmental institution, the Supreme Court.

Importantly, we find evidence that corporations' M&As expand their issues of political interest (modestly), increase the size of their political networks and move them to the position of information brokers in their new political networks. Our study finds that the political consequences of these financial decisions are nuanced, as corporate growth does not necessarily increase already high rates for judicial wins or the number of briefs submitted. The groups most frequently engaged in M&As are among the largest and most powerful groups to begin with, and thus may already be at their ceiling of influence before the Court (prior to

another M&A). Rather than an uncapped relationship between size and influence, a corporation's impact on politics appears to hit inherent institutional ceilings. Corporations within our sample enjoyed immense success before the Courts over the past decade, a trend that may run parallel in other political arenas. However, their success is limited as competing interests advocate for their own desired outcomes before the Court and beyond. How briefs change post-merger for a company, perhaps a supervised learning approach for legalistic style, legal issues, or various substantive business issues provides another potentially fruitful area of investigation.

This first of its kind study calls for future research with broader samples of corporations. In addition, we recognize that lobbying the Supreme Court represents only a narrow accounting for a corporation's total political behavior, and only a subset of corporations ever participate at this stage of politics. Yet, despite these limitations, we still find significant and substantively important effects surrounding corporate consolidation. It is unlikely these effects are limited to the Courts. Indeed, we expect that the political effects are felt more strongly across other branches. Corporations actively lobby state and federal rulemaking processes, contribute to or fund electoral campaigns, and pursue legal challenges in lower courts. Our sense is that the effect is limited before the Court, due to a number of factors, including the Court's greater (though not impervious) insulation from outside groups—indeed, the effect of amicus briefs at the Court have been shown to be marginal to begin with ([Box-Steffensmeier et al., 2013](#); [Collins, 2007](#)); the limited number of cases before the Court that are of interest to groups; and ceiling effects, where powerful interests acquiring or merging with another group does little to move their already powerful status. However, M&As do increase

their issues of interest and potentially along with that their geographic interests—that is, new location of offices, factories and farms—leading to them having new interests in candidates and sitting representatives. There is greater potential for political effects and more opportunities for influence outside the court of last resort. We suspect that M&As may lead to similar changes in political behavior within these realms of American politics, and hope that this letter and novel data help motivate future research of this nature.

### Author's note

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### Supplemental Material

Supplemental material for this article is available online.

The replication files are available at: <https://dataverse.harvard.edu/dataset.xhtml?persistentId=doi:10.7910/DVN/NP7BZN>

### Notes

1. See [Collins \(2018\)](#) for a comprehensive review on the importance of amicus briefs, including why they are filed, the influence of the briefs, and the normative implications.
2. Though, see [Enns \(2015\)](#) and [Branham et al. \(2017\)](#).
3. See [Section B.1](#) of the Appendix for additional details.
4. [Ansolabehere et al. \(2003\)](#) make a similar assumption in their study of campaign finance.
5. In [Section B.2](#) of the Appendix we provide details on our definition of M&As.
6. See [Section B.3](#) the Appendix for further details.
7. In [Figure B1](#) of the Appendix, we highlight the evolution of our network over time.
8. In [Section C.3](#) of the Appendix, we provide robustness checks for our choice of binning and the results are largely consistent.

The smaller the bin the greater the chance of a Type II error. Because Supreme Court cases of interest are rare for any one group, substantial time may exist before a case may arise that a group engages with a brief. Using a single year would be far too stringent of a test for M&A effects at the Court. A case is unlikely to come up in such a short period. In addition, the process of converting to a single organization itself is time-consuming and can go on for more than a year. Likewise, allowing too large of a bin would allow perhaps more than one M&A to occur or otherwise make it difficult to claim a treatment effect.

9. [Table C1](#) in the Appendix includes a list of all our dependent variables of interest and their interpretable meaning.
10. We provide details on the model specification in [Section C.2](#) of the Appendix. For the court fixed effects, we check where the middle of the bin corresponds to the six court periods under study in our analysis. Alternative constructions did not change the results, in large part because we have substantial control in the model for over time change with fixed effects for both the court and the year.
11. We provide a more in-depth analysis of industry influence in [Section D.5](#) of the Appendix.
12. See [Gallup \(2022\)](#) as an example.

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