It's Not What You Do, It's the Way that You Do It: Increasing Women's Presence at the Supreme Court

Elizabeth A. Lane[1]
Jessica A. Schoenherr[2*]

Abstract. Despite occasional arguments that women deserved judicial representation, no woman sat on the nation's highest court until 1981, and they are only now nearing parity on the bench. While women's presence on the Court is symbolically important and substantively meaningful in its own right, research also suggests it should create more opportunities for women to work within the broader Court system as clerks and advocates. We examine the composition of the clerk and advocacy corps between the 1984 and 2018 terms to see if that is true. Our results suggest it is. We find that more women get named to coveted clerkships as more women join the Court, and more women are leading briefs and appearing as oral advocates than they did as the past, especially in the Office of the Solicitor General. Our results suggest diversity at the top of the Court creates opportunities to work inside and appeal to it, which can have lasting consequences for the broader legal profession and, ultimately, the judiciary itself.

After a student at Safford Middle School in Arizona accused thirteen-year-old Savana Redding of handing out prescription-strength ibuprofen between classes, the assistant principal, Kerry Wilson, called Redding to his office, informed her of the charge, and asked to check her backpack for the offending items (Mears 2009). Redding consented to the search, which Wilson conducted with the help of his aide, Helen Romero. When the search turned up nothing, Wilson asked Romero to take Redding to the nurse's office and search her for drugs (Strauss 2020). Romero and the nurse, Peggy Schwallier, first checked Redding's jacket, socks, and shoes, and then her shirt and pants, before asking her to strip down to her underwear and shake out her clothing (Liptak 2009a). This strip search also turned up nothing,

but Redding called it "the most humiliating experience I have ever had" (ACLU 2009b). She went home in tears and eventually switched schools (Liptak 2009b). Enraged about her daughter's experience, Redding's mother sued the school district, Wilson, Romero, and Schwallier, claiming the search was illegal under the Fourth Amendment (ACLU 2009a).

When the case, Safford Unified School District v. Redding, 557 U.S. 364 (2009), reached the United States Supreme Court in 2009, much of the discussion in oral argument centered on the reasonableness of the search. Both sides wanted guidance on how to apply New Jersey v. T.L.O., 469 U.S. 325 (1985) to strip searches for drugs and other contraband. Most of the conversation focused on schools' broader authority to keep drugs off campus and not on Savana Redding's experience, despite amici encouraging the Court to ban strip searches due to their lasting psychological effects on young women (Strauss 2020). The only woman in the room, Justice Ruth Bader Ginsburg, was also the only person to ask about broader issues associated with strip searching young women (Totenberg 2009). Ginsburg was so frustrated by the conversation that she later called out her male colleagues for their approach (Biskupic 2009). She would go on to say these cases showed exactly why the Court needed more than one woman analyzing them. Ginsburg's scolding eventually won the day. Despite initial suggestions the Court would side with the school district (Liptak 2009a), Justice David Souter wrote an opinion declaring the search illegal and confirming strip searches were "extraordinary intrusions" that schools needed incredible reasons to use (Liptak 2009c). No other school-aged girl would get searched like Savana Redding.

For her part, Ginsburg was incensed she had to stand up for Savana Redding at all. After Justice Sandra Day O'Connor retired in 2006, Ginsburg became the Court's only female justice, and she expressed feeling isolated while in that position (DeHart 2018). She outwardly worried her singularity would damage people's perceptions of who could be a justice (Biskupic 2009), as well as the Court's broader ability to reach decisions that helped women (Toobin 2012). Her fears were not entirely misplaced. While having one woman on a nation's high court permanently alters the public's perception of who can be a judge (Escobar-Lemmon et al. 2021b; Solberg and Stout 2021), lone women feel isolated and face pressure to blend in (Collins Jr. et al. 2010; Johnson and Reid 2020), which limits their ability to influence their colleagues on issues with which they have experience (Boyd et al. 2010; Haire and Moyer 2015). These problems do not disappear until more women take seats on the same court and reduce women's otherness in that space (Boyd et al. 2023; Karpowitz et al. 2012). Ginsburg believed her job was easier when O'Connor was on the Court (Biskupic 2009), and research suggests she was right.

Increasing women's presence on the Supreme Court is valuable for a

number of reasons. As Ginsburg accurately reflected, women's presence on the Court affects popular perceptions of who can be a judge as well as the products the Court produces. Beyond that, having women on the Court is crucial for judicial legitimacy; while naming women to the Supreme Court does not directly affect people's belief in the Court's authority to make decisions (Chen and Savage 2024), people reward politicians for naming women to the bench (Goldman 1997; King et al. 2024), and women's presence helps people accept the Court's decisions (Boddery et al. 2020), especially when those decisions involve issues important to women (King and Schoenherr 2024). Importantly, putting women at the top of the hierarchy should increase women's presence in supporting positions, too. Research suggests that when women enter a traditionally-male space like the Supreme Court, they both seek out women who can hold positions within the institution and break down gendered expectations regarding behavior that make it difficult for women to succeed in that space (Badas et al. 2024; Black et al. 2016; Boyd et al. 2023; Lindholm et al. 2018). At the Supreme Court, this should mean more women take clerkships and appear as advocates.

In this paper, we seek to better understand the relationship between the diversification of the bench and the diversification of these supporting positions within the Court. Specifically, we want to understand how women's presence as clerks and as leaders of Supreme Court legal teams – the counsels of record and oral advocates – changes as more women take seats among the Nine. To do this, we analyze the number of women on the bench, in clerkships, and leading litigation teams between the 1984 and 2018 terms. Our results suggest that women's presence as clerks and advocates does, in fact, increase as more women join the bench, though the advocate result is largely attributable to women representing the federal government as members of the Office of the Solicitor General. In the zero-sum game of advocacy, these findings suggest that women holding judgeships leads to sometimes small, but always significant gains toward equality at the Court more broadly.

Examining how women's presence at the top of an institution affects women's presence in supporting positions within it is crucial for understanding diversification's broader effects. Presidents in both parties have put concerted efforts into putting more women onto the federal bench (Armaly et al. 2024; King et al. 2024), which has radically transformed both the look of the judiciary (Mejia and Thomson-DeVeaux 2021), and women's broader ability to score judgeships and advance within the judicial ranks (Moyer et al. 2022). While research suggests increased presence positively affects the way all judges approach their jobs (Boyd et al. 2010; Feenan 2008; Kenney 2013), scholars understand significantly less about how diversity at high levels affects the people supporting an institution,

despite research showing gendered expectations decrease as women's presence increases, period (Gleason 2020). By examining the relationship between the gender diversification of the Supreme Court and the composition of the clerk and attorney pools supporting it, we get a better idea of diversification's downstream effects.

FEMALE JUDGES AND THE IMPORTANCE OF INCLUSION

Justice Ruth Bader Ginsburg said, "Women belong in all places where decisions are being made. It shouldn't be that women are the exception," a quote that is particularly applicable to the judiciary (Al-Arshani 2020). While young lawyers go through an extensive professionalization process (Baum 2006), and the judiciary's legitimacy is at least partially dependent on people believing judges are principled interpreters of the law (Bartels and Johnston 2013), decades of research suggests judges' identity characteristics and lived experiences influence their approaches to judging (Epstein and Knight 2013). Consequently, having a diverse judiciary ensures outcomes are equitable and representative of multiple viewpoints (Kenney 2013). Putting women on the bench fundamentally changes its products, as female judges are more willing to work toward compromise (Boyd 2013), to side with victims of sex discrimination (Boyd et al. 2010; Haire and Moyer 2015), and to produce well-reasoned opinions backed with extensive documentation (Moyer et al. 2021). Put simply, the judiciary produces better outcomes when women are involved (Escobar-Lemmon et al. 2021a).

Looking beyond outcomes, the public views the judiciary more positively when women are on the bench. Putting the first woman on a nation's high court radically alters the public's perceptions of who can be a judge (Escobar-Lemmon et al. 2021b), which affects law school applications and women's entrance into the legal profession (Norgren 2018). Additionally, the public likes seeing women judges and supports qualified women taking seats (Arrington 2021; Solberg and Stout 2021). Women judges can also validate decisions the public otherwise hesitates to accept (Boddery et al. 2020; King and Schoenherr 2024), especially anti-feminist ones (Matthews et al. 2020). While some people, namely White Republicans, voice concerns that female judges can decide cases involving "women's issues" fairly (Ono and Zilis 2022), most Americans are legal realists who accept judges' differences, as long as they stem from a principled place (Bartels and Johnston 2013). Judicial legitimacy does not hinge on women's inclusion (Chen and Savage 2024), but women's inclusion helps people accept the courts and their decisions, which is crucial to maintaining the judiciary's authority to interpret the law.

It takes more than one woman to produce better policy outcomes, however. Research suggests women feel more isolated when they are alone

on a bench (Johnson and Reid 2020), feel the need to conform to their male colleagues' behavior (Collins Jr. et al. 2010), are more likely to self-censor and silence themselves (Karpowitz et al. 2012), and face discrimination when working with colleagues who are not used to seeing women in positions of power (Gleason et al. 2019; Rhode 2017). As the number of women holding seats increases, however, so does female judges' participation (Feenan 2008), which in turn increases women's ability to produce the benefits their presence should create (Karpowitz et al. 2012). The relationship between presence and outcomes is not linear, at least in part because women lag behind men in terms of broad judicial respect and authority (Szmer et al. 2024), but outcomes generally improve as women reach critical masses on the federal bench. Altogether, research suggests a single woman's presence changes perceptions, but a group of women can consistently improve outcomes.

Ensuring women have a large presence at the Supreme Court is particularly important. For one thing, the Court is the most visible court in the country, so its composition is the one people associate with the broader judicial system (Escobar-Lemmon et al. 2021a). The public associates nominations with merit and favors qualification over diversity (Arrington 2020, 2021), so appointing women in near-equal numbers to men is crucial for showing women are equally-qualified for judicial positions (see also Harris and Sen 2019; Solberg and Stout 2021). Looking beyond perceptions, increased presence reduces women's otherness in an institution (Gleason 2020; Patton and Smith 2020). Increased familiarity with women reduces dependence on behavioral stereotypes, which often hurt women's ability to effectively advocate and exhibit their competence (Boyd et al. 2023; Gleason et al. 2017). Put simply, research indicates the best way to ensure the judiciary is revered and productive is to ensure it is also gender diverse.

TRICKLE-DOWN GENDER DIVERSITY: CLERKS AND ATTORNEYS

Research on legislatures suggests more women hold supporting roles within and around legislatures as more women become legislators (see, e.g., Badas and Stauffer 2024). Part of this effect is perceptional. When women see other women in positions of power, they believe they can eventually hold those positions and start looking for ways to get them (Mariani et al. 2015). But the rest of the effect ties to control and influence. Women at the top of an institution have staff, and they both want and are able to increase women's broader presence directly through hiring (Dittmar et al. 2018; Sanbonmatsu 2003). Less directly, men in positions of power often believe women can speak about "women's issues," like abortion and women's health, more effectively than men (Lucas and Hyde 2012), or that women are simply more willing to listen to other women (LaPira et al. 2020), so

they hire more women into relevant lobbying positions, too (Strickland and Stauffer 2022). Notably, women across the board have an easier time succeeding in these positions as more women take leadership positions and gendered barriers weaken (Swers 2013). In legislatures, more women at the top of an institution ultimately leads to more women supporting the institution, too.

Does trickle-down gender diversity also occur at the Supreme Court as more women take the bench? We believe that it does. Specifically, we expect to see more women getting hired as law clerks and appearing before the justices as advocates, as women's presence increases.

Law Clerks

No job at the Supreme Court better exemplifies a supporting role than that of a law clerk. Each justice annually hires four recent graduates of top law schools to help manage their work, from overseeing the thousands of cert petitions the Court receives (Black and Boyd 2012), to doing legal research (Jackson 2024), to drafting opinions (Ward and Weiden 2006). Clerkships provide crash courses in Supreme Court process and procedure, and clerks get intimately familiar with "their" justices, with all their preferences and quirks, as the term goes on (Black et al. 2014). Holding one of these positions is "the most valuable credential a young lawyer can have" (George et al. 2023, 147). Law firms believe clerks have unique insight and pay them well for it (Black and Owens 2021) – big firms promise $500,000 signing bonuses to former clerks who sign with them (Raji 2024) – and clerkships often serve as stepping stones for other legal jobs, including judgeships (Kromphardt 2015).

The people who serve as clerks have historically been White and male (Ward and Weiden 2006). The justices have had clerks since the 1880s (Peppers 2006), but they did not hire their first female law clerk until 1944 (SCHS ND), and women did not reach clerkship parity until 2018 (Baumgaertner 2018). While historical issues, namely the lack of women in law school (Norgren 2018), prevented women from obtaining clerkships through much of the twentieth century, their presence at the Court still lags behind men's despite their equity in matriculation, grades, and graduation rates (Peppers 2023).[1] Research suggests this supply and demand mismatch has gendered roots. First, female law students are less likely to see themselves as future clerks (Badas and Stauffer 2023), which results in significantly fewer women applying for clerkships (Kaye and Gastwirth 2009). Second, male judges hire more male clerks (Badas et al. 2024; Fogel

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1. People who obtain Supreme Court clerkships tend to follow similar paths: they graduate at the top of their classes from top law schools (George et al. 2023), and then complete clerkships for federal district and circuit court "feeder" judges (Baum and Ditslear 2010). They often serve as a Bristow Fellow for the Office of the Solicitor General as well (Isgur 2021).

et al. 2023). Finally, the ideological alignment between a justice and her clerks matters (Bonica et al. 2017), and, given both female judges and women more broadly are more likely to be liberal (Sen 2017; Norrander and Wilcox 2008), talented female law students have fewer justices with whom to work.

Since each justice hires her own clerks, however, we suspect this is a place where women's presence at the top of the Court directly increases women's presence among supporting players. At a minimum, more women on the bench shifts perceptions that the law is a male-dominated discipline, which increases women's feelings of worthiness and willingness to fight for positions (Escobar-Lemmon et al. 2021b). This also leads to more female law school professors, who can encourage their female students to chase clerkships, too (Badas and Stauffer 2023). More directly, female judges want to increase women's representation in the judicial system, and they are subsequently more likely to hire women for clerkships, regardless of their ideological preferences (Badas et al. 2024). Indirectly, regular interaction with female judges decreases male judges' dependence on gendered stereotypes (Gleason and Smart 2023), which implicitly affect their willingness to interact with and hire women for clerkships. As those stereotypes fall, male judges should be more willing to see women as deserving of a clerkship and hire them to work in their chambers (Battaglini et al. 2023). This should be especially true as groups like the Olin Foundation recruit conservative women for legal careers that start with clerking for conservative judges (Greenhouse 2021). We thus expect that as more women join the bench, more women will hold clerkships.

Supreme Court Advocates

Attorneys play a crucial supporting role at the Supreme Court by supplying the justices with much-needed information and expertise about the cases at hand. Every case that reaches the Court comes with difficult legal questions and a mountain of paperwork that should help answer them (Hazelton and Hinkle 2022). The justices need this information to resolve the case – they are policy generalists and thus need to immerse themselves in relevant law before making a decision (Garner and Roberts 2010; Schoenherr and Black 2019) – but they also struggle to work through all the information they have when they address several cases at once on a tight deadline (Black et al. 2024). Attorneys ease the burden of the justices' work by providing them with an overview of the case and its legal issues in a written merits brief (Corley 2008), and they offer additional insights into a case during oral argument (Johnson 2004). That is, they subsidize the justices' information-gathering process so the justices can focus on answering the questions in consistent and correct ways.

Despite suggestions that women's presence within the bar leads to more

equitable outcomes,[2] male attorneys have always dominated the legal profession broadly and the Supreme Court's docket specifically. The first woman to argue before the Court, Belva Lockwood, needed an act of Congress to join the Supreme Court Bar in 1879 (Norgren 2018), and the Court's most-frequent sparring partner, the Office of the Solicitor General, did not have a female head until 2009 (Jefferson and Johnson 2020). Women have never comprised more than 35% of the counsels of record or oral advocates in a Supreme Court term, and they only make up 12% of the elite group of "repeat players" who appear most frequently before the justices (Biskupic et al. 2014). Trends at the Court unfortunately reflect broader professional ones, as women comprise only 38% of the legal profession, 22% of managing partners and 20% of equity partners at the nation's largest law firms, and 27% of federal judges (Day 2018; Enjuris 2019; Mirza and Esteban 2020).

Women's difficulty with locating opportunities does not imply they are not qualified. Instead, long-standing gender stereotypes drive and maintain the gender gap in the legal profession (Rhode 2001). Performance surveys suggest that women and men are equally competent at their jobs, but men receive higher rankings for their performances (Eagly et al. 1995; Rhode 2017). Male attorneys also enjoy a presumption of competence that does not extend to women, who receive less latitude for mistakes and thus are less likely to take "reach" assignments (Rhode 2017). Additionally, female attorneys get penalized for being aggressive or assertive – traits that are required for effective litigation – while their male counterparts get praised for displaying these same traits (Elsesser 2018; Rhode 2003; Premonition AI 2018). These gendered barriers are unfortunate for the legal profession on the whole, as women are consistently rated as more effective leaders than their male counterparts, particularly in their willingness to foster collaboration and encourage teamwork (Eagly and Carli 2003; Hollander 1992; Hoobler et al. 2018).

When women break through the gendered dynamics that make advancement in the profession difficult and appear at Supreme Court oral argument, research suggests the attorneys will face more of the same gendered expectations before the justices. Because the justices see so few women at the lectern, they notice when a woman appears before them (Gleason 2020), which can be problematic when the justices were professionalized in the same legal environment that put such strict boundaries around women's behavior in the courtroom (Rhode 2017). Female oral advocates are more likely to get interrupted during oral

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2. Female attorneys prioritize issues differently than their male counterparts and thus pursue different interests in court (Collins et al. 2017), tend to take the lead on different types of cases (St.Eve and Luguri 2021), and approach the writing and arguing processes differently (Gleason 2020; Gleason et al. 2019).

argument (Litman 2020), and the justices give them less time both to make their arguments and respond to questions (Patton and Smith 2017). The justices, especially the conservative ones, are also more likely to penalize women for engaging with the justices in an assertive or aggressive manner, as they expect women to and reward them for aligning their advocacy with gender stereotypes (Gleason 2020; Szmer et al. 2010).

Ideally, having more women in the judiciary should break these biases. Gendered expectations are most prominent when women appear in places historically dominated by men; faced with an unfamiliar presence, the men in power let stereotypes and expectations guide their interactions with the woman standing before them (Klein 1984). In the courts, female attorneys historically responded to these expectations by conforming to stereotypes and finding other ways to advocate powerfully for their clients – a delicate needle to thread, to be sure, and a not-inconsequential contributor to the idea that women are not effective advocates (Gleason and Smart 2023). But as more women enter a traditionally-masculine space in positions of power, their presence should increase men's familiarization with women, which should in turn ease their dependence on stereotypes when addressing the women who appear before them (see, e.g., Boyd et al. 2023). That is, the same trickle-down effect that makes it easier for women to operate in and around legislatures should happen at the Court as well.

At the Supreme Court, then, we expect to see that gender diversification on the bench should indirectly trickle down to the bar. We specifically hypothesize that as the proportion of women on the Court grows, more women take on leadership positions within litigation teams, either leading the brief as the counsel of record or becoming the oral advocate. While parties arguing before the Supreme Court almost always have teams of attorneys representing them, the counsel of record and the oral advocate are the ones drawing the justices' attention (Garner and Scalia 2010); they are the ones most likely to receive praise or anger from the justices as they review the arguments and form their opinions. We expect to see this change in leadership positions specifically because women generally are on Supreme Court litigation teams, just not as the leader.[3]

A Special Subset of Advocates: The Office of the Solicitor General

Over the years, female attorneys have identified a key way of avoiding some of the gendered barriers that prevent their advancement in the legal profession: they seek jobs in places where institutional demands outpace employers' tendency to hire men (Norgren 2018). State governments, for example, are always looking for talented attorneys willing to work for government salaries, so women often take jobs with state attorneys or

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3.   The average brief lists one woman as part of that party's legal team.

solicitors general, where they can develop litigation skills (Liptak 2022; Robinson 2021). Similarly, women seek out positions with the federal government. The U.S. Office of Personnel Management indicates that as of 2023, 51.5% of its 44,000 attorneys are women (ABA 2024). The best of these jobs, and the ones women with impeccable credentials seek, are with the Office of the Solicitor General (Norwood 2021; Reiland 2020).

The Solicitor General and the attorneys who work in her office represent the federal government at the Supreme Court. Known as the "Tenth Justice," the Solicitor General is the Court's most established and most frequent sparring partner (Pacelle 2003); no one knows the justices better or appeals to them more effectively than the attorneys in the OSG (Black and Owens 2012; Schoenherr and Waterbury 2022). Because the Solicitor General appears at the Court so often, the attorneys supporting her develop formidable litigation records that allow them either to build up a lifetime of cache with the justices or secure high-paying private litigation jobs later in their careers (Johnson et al. 2006; McGuire 1993). To be sure, gendered barriers to entry exist at the OSG (Raji and Meyer 2023), but the women who break through can make a career off their time there. The high litigation load offers more opportunity for skill development than women would have in the private sector (Norwood 2021),[4] and the justices' reverence for the OSG extends to female advocates (Chauvin 2021), which means women face fewer gender-related challenges when they work there, too. Put simply, the Office of the Solicitor General offers women opportunities that can dramatically improve their prospects and incomes in their later careers (Lat 2017).

Given the Office of the Solicitor General's unique ability to avoid some of the gender pitfalls that affect the private sector, we expect the Office of the Solicitor General will drive the diversification of the bar. As women join the bench and their presence becomes more natural and less conspicuous, we suspect the OSG will be the first to respond by putting more women before the justices. This should be particularly evident as the Court's docket continues to shrink and government cases become an even larger part of the Court's cases each term (Lane 2022).

DATA AND APPROACH

Our goal is to see if there is a relationship between the Court's gender composition and the number of women who serve in the Court's supporting roles. Our first step toward answering this question involved counting the number of female justices sitting on the Court each term between 1984 and

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4. By tradition, the Solicitor General is always listed as the counsel of record on a merits brief. Given the Solicitor General is almost always male in our dataset, women typically only appear as oral advocates.

2018.[5] The value ranges from 1 to 3, or from Justice Sandra Day O'Connor's long isolation on the Court to Justice Elena Kagan tipping the Court to three women for the first time in its history.

To examine the direct relationship between the justices and law clerk gender composition, we counted the number of women who held clerkships each term. We include both a raw count of men and women and the proportion of men and women each term. Data from the 1984 to 2015 terms came from Kromphardt's (2017) analysis, and the remaining data came from Cota (NP), who employed the reliably-updated list of Supreme Court clerks on Wikipedia. Both scholars utilized former clerks' professional pages to identify gender.

To look at the relationship between the gender composition of the bench and the gender composition of the bar, we created an original dataset of all the attorneys who appeared before the Supreme Court as the counsel of record, and then combined that with Black and Owens's (2021) data on oral advocates. Our analysis covers 16,859 attorneys who worked on 2,933 different cases, including 3,870 unique counsels of record and 3,609 unique oral advocates over the 34-term period.

To identify the gender composition of the litigation leadership team, we collected the names and gender of every counsel of record who led a Supreme Court merits brief between the 1984 and 2018 terms.[6] Then, with the help of Black and Owens's (2021) oral argument data, we identified the gender composition of the litigation leadership team that represented each side of the case to the justices. We placed each side of a case into one of four different groups: (1) a team led exclusively by men; (2) a team with a female oral advocate; (3) a team with a female counsel of record; or (4) a team led completely by women. We coded the litigation team as having a woman on it if any of that side's briefs listed a woman as the counsel of record, and we did the same if the petitioner or respondent split oral argument time between multiple attorneys, including amici.[7] Our data suggest the modal litigation leadership team across our time period is entirely male. As the left side of Figure 1 shows, about 80% of the

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5.   We start our analysis in 1984 because that term coincides with the advent of the boutique appellate advocacy practices that dominate the modern Court (Lazarus 2008). We end our analysis in 2018 because the COVID-19 pandemic led the justices to modify many of their advocacy procedures (Houston et al. 2023).

6.   We started this process by identifying names traditionally associated with a specific gender. For more ambiguous names like Sidney, Taylor, Kelly, or Ashley, we started by looking for attorneys on Oyez , where oral argument transcripts identify attorneys by their honorifics and preferred pronouns. If the attorney never argued a case before the Court, we looked the attorney up on Google and used a combination of pictures and articles to identify the attorney's gender. On the few occasions where this process failed us (less than one percent of the time), we removed the attorney from our analysis.

7.   This approach aligns with the more expansive approach scholars have taken regarding oral advocates who share time (Black et al. 2020; Johnson et al. 2006). Our results remain substantively the same if you restrict the analysis to cases where the petitioner and respondent each submitted a single brief (see, e.g., Black et al. 2016; Black and Owens 2021; Gleason et al. 2019; Gleason 2020).

petitioning teams we study are all male, and the right side of Figure 1 shows the same is true for responding litigation teams. Just 20% of litigation teams have women involved in any leadership capacity, and teams with women leading both the brief and oral argument make up just 7% of petitioning litigation leadership teams and 9% of responding litigation leadership teams.

Litigation Leadership Team Composition for Petitioners   **Litigation Leadership Team Composition for Respondents**
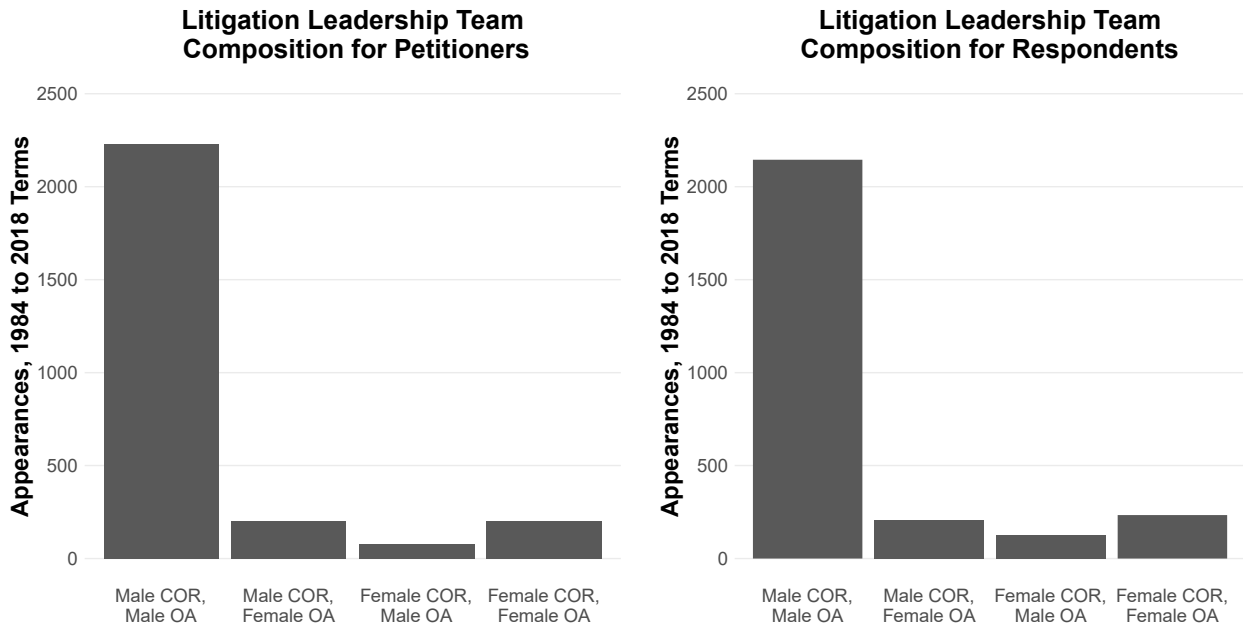

Figure 1: Frequency of litigation leadership team appearances between the 1984 and 2018 Supreme Court terms. Petitioner teams are on the left and respondent teams are on the right.

To study the relationship between bench gender diversity and the diversity of the Office of the Solicitor General's advocates specifically, we identified all attorneys who represented the OSG in a case. This is simply an indicator variable signaling whether the OSG was a party to the case and the attorney listed as the counsel of record or oral advocate was thus associated with the office.

ANALYSIS

We begin our analysis by examining the direct relationship between bench diversification and clerk diversification, which we show in Figure 2. The left side of Figure 2 shows counts of men and women holding clerkships each term between 1984 and 2018, with gray dots showing the number of men and black dots showing the number of women holding clerkships each term. The right side of Figure 2 shows the proportional

breakdown of male and female clerks each term. The shaded panels show the number of women on the bench at any given time, ranging from solo women in light gray and three women in dark gray.

Count of Supreme Court Law Clerks by Gender and Term

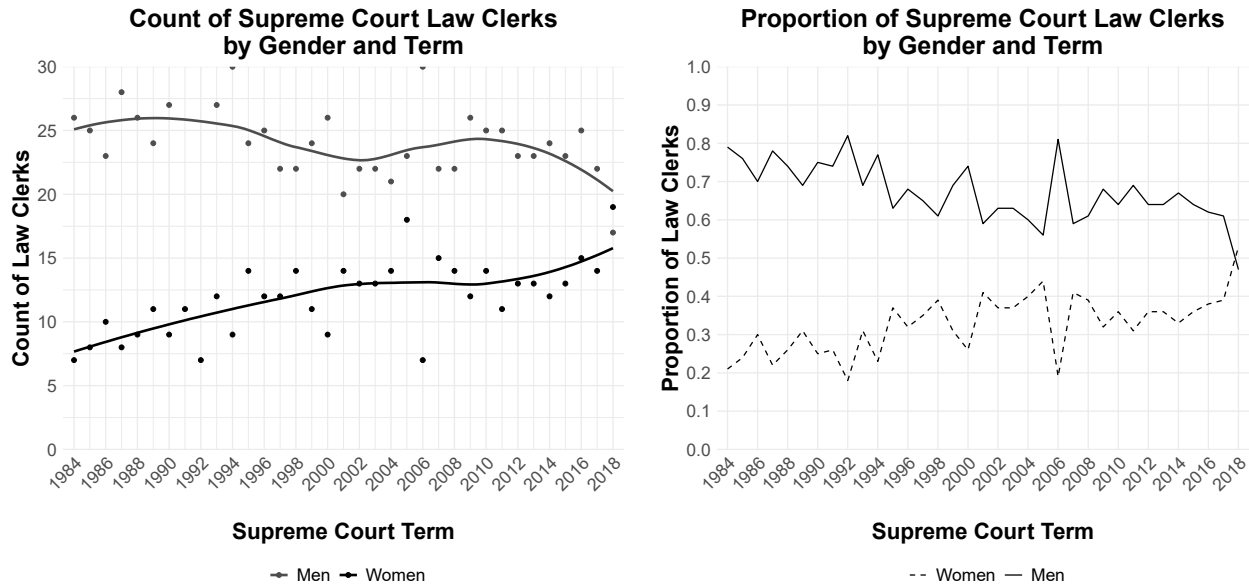**Proportion of Supreme Court Law Clerks by Gender and Term**

Figure 2: Number of men and women serving as Supreme Court law clerks between the 1984 and 2018 terms. Left panel shows the total number of male and female law clerks. Dots represent the actual number of men (gray dots) and women (black dots). Color-corresponding line shows over-time trends via loess best fit with 95% confidence intervals. Background shades get darker as more women join the bench. Right panel is the proportion of male (solid line) and female (dashed line) law clerks.

The dots on the left panel show the raw count of female (black) and male (gray) clerks each term. The smoothed line is a loess curve, or best fit line. As this figure shows, the Court saw a steady increase in the number of female law clerks serving the justices while Justices O'Connor and Ginsburg served together in the 1990s; this increase leveled off in the mid-2000s when O'Connor retired. In fact, as the right side of Figure 2 shows, the number of female clerks on the Court dropped dramatically in 2005, when Justice Samuel Alito brought in four male clerks to work in his chambers (Kaye and Gastwirth 2009). With only one female justice on the Court, the number of women holding clerkships stagnated at about 12 per term until Justices Sotomayor and Kagan joined the bench, at which time female clerks made steady increases in representation through the 2018 term, when the Court had an even split of male and female clerks.

We believe these findings support our hypothesis that as more women

join the Court, the justices will hire more female clerks. To be sure, our data suggest that female justices' presence directly affects hiring, as O'Connor and Ginsburg consciously hired women to work in their chambers (Ward and Weiden 2006), and when one of them left, the number of female clerks dropped off (Kaye and Gastwirth 2009). At the same time, however, these results also suggest women's presence on the bench indirectly affects the justices' hiring practices, too. Figure 2 shows the number of female clerks stagnated when O'Connor retired but did not go back to pre-Ginsburg levels, which suggests the male justices started hiring more female clerks, too. Notably, the Court only reached clerk parity because a male justice, Brett Kavanaugh, promised to hire four women in his first term and then followed through on his promise (Baumgartner 2018). Female justices hire more women, and they help break down gendered barriers so their male counterparts hire more women, too.

Next, we examine the less direct relationship between the composition of Supreme Court bench and bar, which we show in Figure 3. The top half of Figure 3 shows the gender breakdown of counsels of record (left) and oral advocates (right) for the entire bar between the 1984 and 2018 terms, while the bottom half of Figure 3 shows the same gender breakdowns for the Office of the Solicitor General specifically. Following the conventions we established in Figure 2, the background shading on each graph represents the number of female justices on the bench, with darker colors indicating a greater presence.
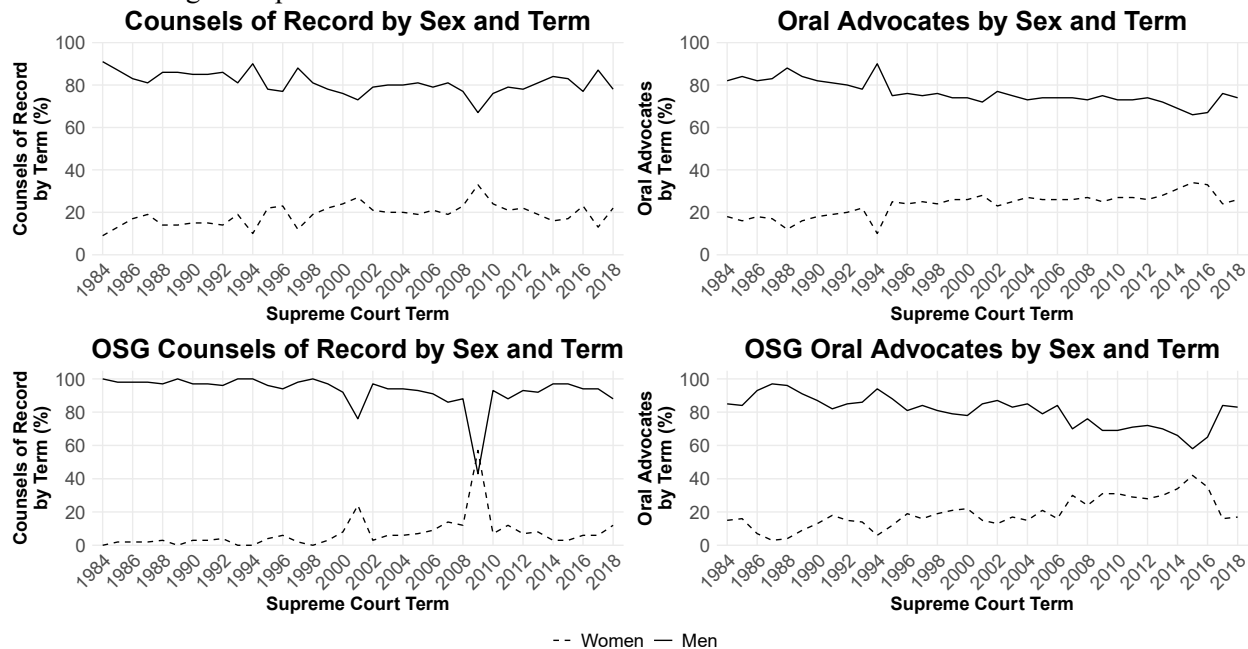
Figure 3: Percentage of men and women appearing before the Supreme Court as counsels of record and oral advocates between the 1984 and 2018 terms. Top row shows the percentage of male (solid) and female (dashed) attorneys serving as counsel of record (left) or oral advocate (right) by term. Background shades get darker as more women join the bench. Bottom row displays the same information, but exclusively for cases involving the Solicitor General as a party.

The top left panel of Figure 3 shows the percentage of cases each term where women (dashed line) and men (solid line) held the title of counsel of record on a party's merits brief. We find that more women are leading the merits briefs over our period of study, going from 9% of counsels of record in 1984 to 22% in 2018. This finding provides general support for our hypothesis that bench composition affects the bar, too. Gender diversity among counsels of record peaked in 2009 at 30%, but this number is slightly misleading because it coincides with the first woman holding the title of Solicitor General. As we show on the bottom left of Figure 3, now-Justice Kagan's turn as the government's top lawyer dramatically influenced the regularity with which women approached the Court. Similarly, this panel also reveals the spike in women's representation in 2001 was also driven by the OSG, as Barbara Underwood took over as Acting Solicitor General that year. Interestingly, if unsurprisingly, if we focus on the 2010 to 2018 terms, when women made up 33% of the bench, we see the percentage of women appearing as counsels of record returned to "normal" – about 20% – after Kagan left the OSG to become a justice.

Moving to the top right panel of Figure 3, we see that female oral advocates also increased their presence at the Court. The dashed line, representing the percentage of women oral advocates per term, shows that between the 1980s to the early 1990s, when the Court moved from one to two female justices, women made up anywhere from 10% to 18% of oral advocates. Shortly after Ginsburg joined the bench in 1993, this number increased to about 25% and remained relatively stable throughout the rest of the period, peaking at 34% during the 2015 term. Moving to the bottom right panel, we see the Solicitor General's Office follows a similar pattern. Notably, there is a large increase in the number of women in the OSG at the start of the Obama administration in 2009. President Obama made a point to diversify the federal bench (Solberg and Diascro 2020), and it appears those efforts extended to the attorneys arguing before the justices. These increases peaked at the end of his administration, with women handling 42% of the government's orally argued cases during the 2015 term before they started leaving the Office for lucrative private sector jobs (Zhu et al. 2023). These results suggest that having more than one woman on the Court affects the frequency with which women appear before the justices at oral argument, but, contrary to our expectations, the number does not increase with each additional woman.

Of course, percentages do not tell the whole story when the Court's docket decreased dramatically over the time period under study here (Lane 2022). Because of this shift, attorneys have fewer opportunities to argue today than they did thirty years ago. Consequently, we also created Figure 4 to examine the raw number of women who acted as counsels of record and oral advocates each term. Similar to Figure 3, background shading represents the number of female justices, with darker colors indicating more women on the Court. This time, however, the top row of Figure 4 shows the count of all female oral advocates (black points) and counsels of record (dark gray points) by term, with loess curves showing trends, and the bottom row of Figure 4 shows the same for advocates in the Office of the Solicitor General.

Turning first to the top row of Figure 4, we see that women oral advocates (black) are stable overtime while fewer women act as counsel of record as the number of female justices increased. While this would appear to disprove our hypotheses, we think that, when combined with Figure 3, the story is one of women gaining ground. While their raw numbers are not changing, the justices are seeing more women compared to men, which suggests female attorneys are getting more opportunities to approach the justices when compared to men, even as the docket gets smaller.

Female Advocates by Term
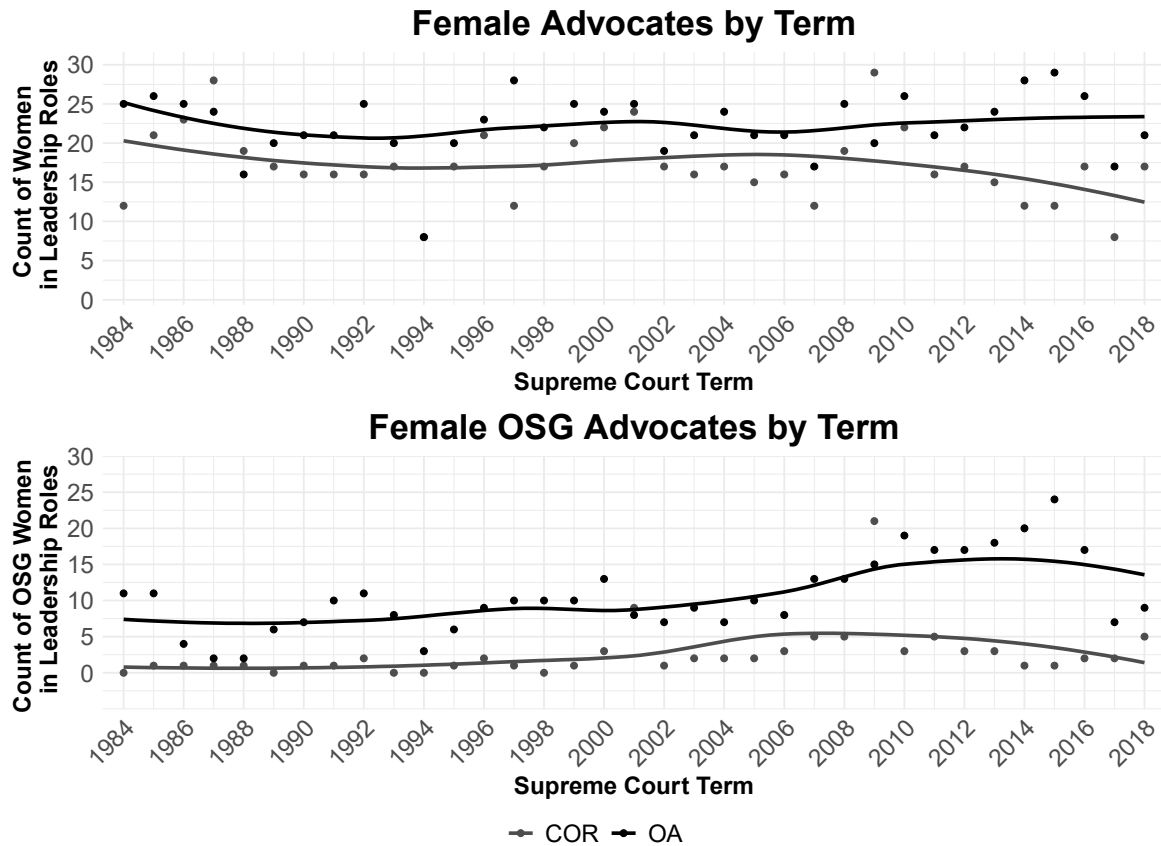

Female OSG Advocates by Term

Figure 4: Number of women appearing as counsel of record and oral advocate at the Supreme Court between the 1984 and 2018 terms. Top panel shows the count of female advocates per term. Dots represent the actual number of women who served as counsels of record (gray) and oral advocates (black). Color-corresponding lines show over-time trends via loess best fit with 95% confidence intervals. Background shades get darker as more women join the bench. Bottom row displays the same information, but exclusively for cases involving the Solicitor General as a party.

The bottom panel in Figure 4 shows the number of female counsels of record (gray) and oral advocates (black) representing the Office of the Solicitor General. First, it is worth noting that women's representation as oral advocates has increased over time, going from single digits in the 1980s to about 15 in recent terms. Second, women from the OSG made up about a third of total oral advocates between 2010 and 2018, when three women sat on the bench. Taken together, these findings support our hypothesis that women's representation should specifically increase in the Office of the Solicitor General when more women take the bench. Women's

representation on the bench indirectly connects to women's increased representation in supporting positions like those of advocates.

DISCUSSION AND CONCLUSION

When Justice Ruth Bader Ginsburg made her public request to end her isolation on the Court and place another woman beside her, she did so knowing an opening was coming; Justice David H. Souter had just announced his retirement a few days prior (Biskupic 2009). Four years earlier, Justice Sandra Day O'Connor made a similar appeal on Ginsburg's behalf (Toobin 2008); Bush's attempt to honor the request ended so catastrophically that he changed course and placed Judge Samuel Alito on the Court instead (Thomas 2019). This time, however, the president heard the message and felt the urgency behind it, and President Barack Obama only considered women for Souter's seat (Kaplan 2018). Ginsburg was by all accounts thrilled when then-Judge Sonia Sotomayor got the nod, and her joy only grew when Obama tapped his Solicitor General, Elena Kagan, to join them (DeHart 2018). The Court had three women for the first time in its history, and those three women, by all accounts, found genuine joy in each other's company (Toobin 2012). They also embraced the challenge of ensuring women's voices were heard at the Court, and they occasionally ganged up on advocates who dismissed women's concerns too quickly (Biskupic 2023).

In a world where diversity produces better outcomes, the Supreme Court has been slow to embrace diversity and the changes it produces, with the vestiges of an all-White, all-male bench still affecting the way people work within it. While women are at near parity on the bench and clearly have no problem advocating for themselves and for others (Biskupic 2023), their incorporation in the institution as clerks and advocates remains slow despite women's increasing presences in law schools and firms (Norgren 2018). Gendered expectations regarding their behavior is at least partially responsible for that, and those expectations stem from women's lack of presence at the institution to begin with. But as the highest, most visible gendered barriers to power continue to break down, research suggests those expectations will change and so, too, will women's presence and success at the lower levels. Our research offers tentative confirmation that this is true.

Moving forward, there is more work to be done. First, research needs to address the most pressing question related to women's presence – how are they doing in their jobs? Research suggests that women seeking positions of power in gendered institutions face a performance premium and must outperform men to gain and maintain their positions (Anzia and Berry 2011; Lazarus and Steigerwalt 2018). That means that, when gendered expectations are in place, female clerks and advocates should be the best workers and most effective advocates. Is that true? And does the premium

wear off as women's representation increases and, consequently, gendered expectations start dying off? We are also are curious about what the tipping point of diversity might look like. Research on so-called "critical masses" suggests that women's feelings of inclusion are dependent on a certain number of women taking positions in that space, typically assumed to be around 30% (Johnson and Reid 2020). Is that true at the Supreme Court? And does it filter down to the women who argue before it? We look forward to future work that examines more questions associated with the ongoing diversification of the bar, for it is surely an issue worth studying.

REFERENCES

ABA (2024). Women in the legal profession. *American Bar Association Profile of the Legal Profession 2024.* https://tinyurl.com/msazfrkb

ACLU (2009a). School strip-search case win at Supreme Court. *YouTube*. https://tinyurl.com/4nff8pxy

ACLU (2009b). U.S. Supreme Court to review unconstitutional strip search of 13-year-old student for ibuprofen. *ACLU of Arizona Press Releases*. https://tinyurl.com/m7z7ktp3

Al-Arshani, S. (2020). 'Women belong in all places where decisions are being made': Ruth Bader Ginsburg was a pioneering figure in her 27 years on the Supreme Court, here are 12 of her most memorable quotes. *Business Insider*. https://tinyurl.com/wux93j52

Anzia, S. F. and C. R. Berry (2011). The Jackie (and Jill) Robinson effect: Why do congresswomen outperform congressmen? *American Journal of Political Science* 55 (3), 478–493.

Armaly, M. T., C. N. Krewson, and E. A. Lane (2024). The influence of descriptive representation on support for judicial nominees and the U.S. Supreme Court. *Political Behavior*, 1–27.

Arrington, N. B. (2020). Group selection and opportunities for gender diversity in the judiciary. *Representation* 56 (2), 149–171.

Arrington, N. B. (2021). Judicial merit selection: Beliefs about fairness and the undermining of gender diversity on the bench. *Political Research Quarterly* 74 (4), 1152–1167.

Badas, A., B. K. Sanders, and K. E. Stauffer (2024). The role of judge gender and ideology in hiring female law clerks. *Journal of Law and Courts*.

Badas, A. and K. E. Stauffer (2023). Gender and ambition among potential law clerks. *Journal of Law and Courts* 11, 116–140.

Badas, A. and K. E. Stauffer (2024). Legislative diversity and the rise of women judicial nominees. *Politics, Groups, and Identities*.

Bartels, B. L. and C. D. Johnston (2013). On the ideological foundations of Supreme Court legitimacy in the American public. *American Journal of Political Science* 57 (1), 184– 199.

Battaglini, M., J. M. Harris, and E. Patacchini (2023). Interactions with powerful female colleagues promote diversity in hiring. *Journal of Labor Economics* 41 (3), 589–614.

Baum, L. (2006). Judges and Their Audiences: A Perspective on Judicial Behavior. Princeton: Princeton University Press.

Baum, L. and C. Ditslear (2010). Supreme Court clerkships and 'feeder' judges. *Justice System Journal* 31 (1), 26–48.

Baumgaertner, E. (2018). Justice Kavanaugh's law clerks are all women, a first for the Supreme Court. *New York Times*. https://tinyurl.com/3tujakjs

Biskupic, J. (2009). Ginsburg: Court needs another woman. *USA Today*. https://tinyurl.com/kwhx8u9s

Biskupic, J. (2023). Nine Black Robes: Inside the Supreme Court's Drive to the Right and its Historical Consequences. New York, NY: William Morrow.

Biskupic, J., J. Roberts, and J. Shiffman (2014). The echo chamber: A small group of lawyers and its outsized influence at the U.S. Supreme Court. *Reuters*. https://reut.rs/3lVwJ9o

Black, R. C. and C. L. Boyd (2012). The role of law clerks in the U.S. Supreme Court's agenda-setting process. *American Politics Research* 40 (1), 147–173.

Black, R. C., C. L. Boyd, and A. C. Bryan (2014). Revisiting the influence of law clerks on the U.S. Supreme Court's agenda-setting process. *Marquette University Law Review* 98 (1), 75–1009.

Black, R. C., M. E. Hall, R. J. Owens, and E. M. Ringsmuth (2016, Fall). The role of emotional language in briefs before the U.S. Supreme Court. *Journal of Law and Courts* 4 (2), 377–407.

Black, R. C. and R. J. Owens (2012). The Solicitor General and the United States Supreme Court: Executive Branch Influence and Judicial Decisions. Cambridge: Cambridge University Press.

Black, R. C. and R. J. Owens (2021). The influence of personalized knowledge at the Supreme Court: How (some) former law clerks have the inside track. *Political Research Quarterly* 74(4): 795-807.

Black, R. C., R. J. Owens, J. Wedeking, and P. C. Wohlfarth (2020). The Conscientious Justice: How Supreme Court Justices' Personalities Influence the Law, the High Court, and the Constitution. Cambridge University Press.

Black, R. C., R. J. Owens, and P. C. Wohlfarth (2024). *Cognitive Aging and the Federal Circuit Courts: How Senescence Influences the Law and Judges*. New York, NY: Oxford University Press.

Boddery, S. S., L. P. Moyer, and J. Yates (2020). Naming names: The impact of Supreme Court opinion attribution on citizen assessment of policy outcomes. *Law and Society Review* 53 (2), 353–385.

Bonica, A., A. S. Chilton, J. Goldin, K. Rozema, and M. Sen (2017). The political ideologies of law clerks. *American Law and Economics Review* 19 (1), 96–128.

Boyd, C. L. (2013). She'll settle it? *Journal of Law and Courts* 1(2), 193–220.

Boyd, C. L., P. M. Collins Jr., and L. A. Ringhand (2023). *Supreme Bias: Gender and Race in U.S. Supreme Court Confirmation Hearings*. Stanford, CA: Stanford University Press.

Boyd, C. L., L. Epstein, and A. D. Martin (2010, April). Untangling the causal effects of sex on judging. *American Journal of Political Science* 54 (2), 389–411.

Chauvin, B. (2021). The path of least resistance?: Women government attorneys' success at the us Supreme Court. *LSU Scholarly Repository*. https://repository.lsu.edu/honors_etd/322

Chen, P. and A. Savage (2024). Amy Coney Barrett is not enough: How descriptive and substantive representation shape trust and legitimacy of the federal courts. *Political Research Quarterly*.

Collins, T., T. Dumas, and L. Moyer (2017). Intersecting disadvantages: Race, gender, and age discrimination among attorneys. *Social Science Quarterly* 98 (5), 1642–1658.

Collins Jr., P. M., K. L. Manning, and R. A. Carp (2010). Gender, critical mass, and judicial decision making. *Law and Policy* 32, 260–281.

Corley, P. C. (2008). The Supreme Court and opinion content: The influence of parties' briefs. *Political Research Quarterly* 61 (3), 468–478.

Cota, M. T. (NP). Reversing the brethren effect: Mitigating the Supreme Court's institutional pressures on its female law clerks. *Working Paper*.

Day, J. C. (2018). Number of women lawyers at record high but men still highest earners. *United States Census Bureau*. https://bit.ly/3w8qkMw

DeHart, J. S. (2018). *Ruth Bader Ginsburg: A Life*. New York: Alfred A. Knopf.

Dittmar, K., K. Sanbonmatsu, and S. J. Carroll (2018). *A Seat at the Table: Congresswomen's Perspectives on Why Their Presence Matters*. New York, NY: Oxford University Press.

Eagly, A. H. and L. L. Carli (2003). The female leadership advantage: An evaluation of the evidence. *The Leadership Quarterly* 14 (6), 807–834.

Eagly, A. H., S. J. Karau, and M. G. Makhijani (1995,). Gender and the effectiveness of leaders: a meta-analysis. *Psychological Bulletin* 117 (1), 125–145.

Elsesser, K. (2018, October). Female lawyers face widespread gender bias, according to new study. *Forbes*. https://bit.ly/3tQHP21

Enjuris (2019). Where do women go to law school? Here are the 2018 numbers. *ABA For Law Students*. https://bit.ly/3d5yKeU

Epstein, L. and J. Knight (2013). Reconsidering judicial preferences. *Annual Review of Political Science* 16, 11–31.

Escobar-Lemmon, M. C., V. J. Hoekstra, A. J. Kang, and M. C. Kittilson (2021a). Breaking the judicial glass ceiling: The appointment of women to high courts worldwide. *Journal of Politics* 83 (2), 662–674.

Escobar-Lemmon, M. C., V. J. Hoekstra, A. J. Kang, and M. C. Kittilson (2021b). *Reimagining the Judiciary: Women's Representation on High Courts Worldwide*. New York, NY: Oxford University Press.

Feenan, D. (2008, December). Women judges: Gendering judging, justifying diversity. *Journal of Law and Society* 35 (4), 490–519.

Fogel, J. D., M. S. Hoopes, and G. Liu (2023). Law clerk selection and diversity: Insights from fifty sitting judges of the federal courts of appeals. *Harvard Law Review* 137, 588.

Garner, B. A. and J. G. Roberts (2010). Interviews with united states Supreme Court justices: John G. Roberts, Jr. *The Scribes Journal of Legal Writing* 13, 5–40.

Garner, B. A. and A. Scalia (2010). Interviews with united states Supreme Court justices: Antonin Scalia. *The Scribes Journal of Legal Writing* 13 (51-78).

George, T. E., A. H. Yoon, and M. Gulati (2023). Some are more equal than others. *Columbia Law Review* 123 (6), 146–182.

Gleason, S. A. (2020). Beyond mere presence: Gender norms in oral arguments at the U.S. Supreme Court. *Political Research Quarterly* 73 (3), 596–608.

Gleason, S. A., J. J. Jones, and J. R. McBean (2017). Gender

performance in party brief success. Wash. UJL & Pol'y 54, 89.

Gleason, S. A., J. J. Jones, and J. R. McBean (2019). The role of gender norms in judicial decision-making at the U.S. Supreme Court: The case of male and female justices. *American Politics Research* 47 (3), 494–529.

Gleason, S. A. and E. Smart (2023). You think; therefore I am: Gender schemas and context in oral arguments at the Supreme Court, 1979-2016. *Political Research Quarterly* 76 (1), 143–157.

Goldman, S. (1997). Picking Federal Judges: Lower Court Selection from Roosevelt through Reagan. University of California Press.

Greenhouse, L. (2021). Justice on the Brink: The Death of Ruth Bader Ginsburg, the Rise of Amy Coney Barrett, and Twelve Months that Transformed the Supreme Court. New York: Random House.

Haire, S. B. and L. P. Moyer (2015). *Diversity Matters: Judicial Policy Making in the U.S. Courts of Appeals*. Charlottesville, VA: University of Virginia Press.

Harris, A. P. and M. Sen (2019). Bias and judging. *Annual Review of Political Science* 22, 241–259.

Hazelton, M. L. and R. K. Hinkle (2022). Persuading the Supreme Court: The Significance of Briefs in Judicial Decision-Making. Lawrence: University of Kansas Press.

Hollander, E. P. (1992). The essential interdependence of leadership and followership. *Current Directions in Psychological Science* 1 (2), 71–75.

Hoobler, J. M., C. R. Masterson, S. M. Nkomo, and E. J. Michel (2018). The business case for women leaders: Meta-analysis, research critique, and path forward. *Journal of Management* 44 (6), 2473–2499.

Houston, R. B., T. R. Johnson, and E. M. Ringsmuth (2023). *SCOTUS and COVID: How the Media Reacted to the Livestreaming of Supreme Court Oral Arguments*. New York: Roman and Littlefield.

Isgur, S. (2021). The new trend keeping women out of the country's top legal ranks. *Politico*. https://tinyurl.com/29ducd7t

Jackson, K. B. (2024). *Lovely One*. New York, NY: Penguin Random House.

Jefferson, R. K. and H. B. Johnson (2020). *Shortlisted: Women in the Shadows of the Supreme Court*. New York, NY: New York University Press.

Johnson, S. and R. A. Reid (2020). Speaking up: Women and dissenting behavior in the Supreme Court of Canada. *Justice System Journal* 43 (3), 191–219.

Johnson, T. R. (2004). Oral Arguments and Decision Making on the United States Supreme Court. Albany: State University of New York Press.

Johnson, T. R., P. J. Wahlbeck, and J. F. Spriggs (2006). The influence of oral argument before the U.S. Supreme Court. *American Political Science Review* 100 (1), 99–113.

Kaplan, D. A. (2018). The Most Dangerous Branch: Inside the Supreme Court's Assault on the Constitution. New York: Crown.

Karpowitz, C., T. Mendelberg, and L. Shaker (2012). Gender inequality in deliberative participation. *American Political Science Review* 106 (3), 533–547.

Kaye, D. H. and J. L. Gastwirth (2009). Where have all the women gone? The gender gap in Supreme Court clerkships. *Jurimetrics* 49, 411–437.

Kenney, S. J. (2013). Gender and Justice: Why Women in the Judiciary Really Matter. New York, NY: Routledge.

King, J. M. and J. A. Schoenherr (2024). A matter of opinion? How unexpected opinion authors influence support for Supreme Court decisions. *Journal of Law and Courts* (1), 144–164.

King, J. M., J. A. Schoenherr, and I. Ostrander (2024). Anchoring or expanding? gender and judicial nominations. *Political Research Quarterly*.

Klein, E. (1984). *Gender Politics*. Cambridge, MA: Harvard University Press.

Kromphardt, C. (2017). Evaluating the effect of law clerk gender on voting at the United States Supreme Court. *Justice System Journal* 38 (2), 183–201.

Kromphardt, C. D. (2015). U.S. Supreme Court law clerks as information sources. *Journal of Law and Courts* 3 (2), 277–304.

Lane, E. A. (2022). A separation-of-powers approach to the Supreme Court's shrinking caseload. *Journal of Law and Courts* 10 (1), 1–12.

LaPira, T. M., K. Marchetti, and H. F. Thomas (2020). Gender politics in the lobbying profession. *Politics and Gender* 16, 816–844.

Lat, D. (2017). What's going on at the Solicitor General's office? *Above the Law*. https://tinyurl.com/yc4yzcxe

Lazarus, J. and A. Steigerwalt (2018). *Gendered Vulnerability: How Women Work Harder to Stay in Office*. Ann Arbor, MI: University of Michigan Press.

Lazarus, R. J. (2008). Advocacy matters before and within the Supreme Court: Transforming the court by transforming the bar.

Georgetown Law Journal 96, 1487–1564.

Lindholm, T., C. Gregory, and T. R. Johnson (2018). Gender dynamics and Supreme Court oral arguments. *Michigan State Law Review* 2017 (5), 1033–1055.

Liptak, A. (2009a). Court debates strip search of student. *New York Times.* https://tinyurl.com/bddahm3x

Liptak, A. (2009b). Strip-search of girl tests limit of school policy. *New York Times*. https://tinyurl.com/5eee7khe

Liptak, A. (2009c). Supreme Court says child's rights violated by strip search. *New York Times*. https://tinyurl.com/y5j2epf3

Liptak, A. (2022). The persistent gender gap at the Supreme Court lectern. *New York Times*. https://tinyurl.com/44xncvw2

Litman, L. (2020). Muted justice. *SSRN*. https://bit.ly/3dqcwEW

Lucas, J. C. and M. S. Hyde (2012). Men and women lobbyists in the American states. *Social Science Quarterly* 93 (2), 394–414.

Mariani, M., B. W. Marshall, and A. L. Mathews-Schultz (2015). See Hillary Clinton, Nancy Pelosi, and Sarah Palin run? Party, ideology, and the influence of female role models on young women. *Political Research Quarterly* 68 (4), 716–731.

Matthews, A. A., R. J. Kreitzer, and E. U. Schilling (2020). Gendered polarization and abortion policymaking in the states. *The Forum* 18 (1), 51–69.

McGuire, K. T. (1993, May). Lawyers and the U.S. Supreme Court: The Washington community and legal elites. *American Journal of Political Science* 37 (2), 365–390.

Mears, B. (2009). Teen strip-searched in school wins partial victory. *CNN.com*. https://tinyurl.com/mp8zdb66

Mejia, E. and A. Thomson-DeVeaux (2021). How Biden is reshaping the courts. *FiveThirtyEight*. ttps://53eig.ht/3cFwfU

Mirza, A. and C. Esteban (2020). Female judges were a rarity when Ruth Bader Ginsburg was born. They still are. *Washington Post*. https://wapo.st/31LiFGl

Moyer, L., A. P. Harris, and R. S. Solberg (2022). 'Better too much than not enough': The nomination of women of color to the federal bench. *Journal of Women, Politics, and Policy* 43 (3), 363–375.

Moyer, L. P., J. Szmer, S. Haire, and R. K. Christensen (2021). 'All eyes are on you': Gender, race, and opinion writing on the U.S. Courts of Appeals. *Law and Society Review* 55, 452– 472.

Norgren, J. (2018). *Stories from Trailblazing Women Lawyers: Lives*

in the Law. New York: New York University Press.

Norrander, B. and C. Wilcox (2008). The gender gap in ideology. *Political Behavior* 30, 503–523.

Norwood, C. (2021). Senate confirms second ever woman Solicitor General, who represents federal government before Supreme Court. *Government Executive*. https://tinyurl.com/22ejup9d

Ono, Y. and M. A. Zilis (2022). Ascriptive traits and perceptions of impropriety in the rule of law: Race, gender, and public assessments of whether judges can be impartial. *American Journal of Political Science* 66 (1), 43–58.

Pacelle, R. (2003). Between Law and Politics: The Solicitor General and the Structuring of Race, Gender, and Reproductive Rights Litigation. College Station: Texas A and M University Press.

Patton, D. and J. L. Smith (2017). Lawyer, interrupted: Gender bias in oral arguments at the U.S. Supreme Court. *Journal of Law and Courts* 5 (2), 337–361.

Patton, D. and J. L. Smith (2020). Gender, ideology, and dominance in Supreme Court oral arguments. *Journal of Women, Politics, and Policy* 41 (4), 393–415.

Peppers, T. C. (2006). Courtiers of the Marble Palace: The Rise and Influence of the Supreme Court Law Clerk. Palo Alto, CA: Stanford University Press.

Peppers, T. C. (2023). Thoughts on law clerk diversity and influence. *Harvard Law Review* 137 (2), 109–132.

Premonition AI (2018). Women in law: Who makes the better lawyer? male or female? *Premonition AI*. https://premonition.ai/reports/

Raji, T. (2024). Clerks for hire: The Supreme Court recruiting race. *Washington Post*. https://tinyurl.com/2s4c7rx7

Raji, T. and T. Meyer (2023). Biden lawyer who defended affirmative action grapples with diversity in her own office. *Washington Post*. https://tinyurl.com/ydx6nssr

Reiland, J. (2020). Women before the Supreme Court: What it takes. *Chicago Daily Law Bulletin*. https://bit.ly/337LMne

Rhode, D. L. (2001). The unfinished agenda: Women and the legal profession. *American Bar Association Commission on Women in the Profession*. https://stanford.io/31oml0v

Rhode, D. L. (2003). *The Difference "Difference" Makes: Women and Leadership*. Stanford, CA: Stanford University Press.

Rhode, D. L. (2017). *Women and Leadership*. New York, NY: Oxford University Press.

Robinson, K. S. (2021). Men repeat at lectern—Firms, U.S. drive Supreme Court gender gap. *Bloomberg Law*. https://bit.ly/33QQlDf

Sanbonmatsu, K. (2003). Gender-related political knowledge and the descriptive representation of women. *Political Behavior* 25, 367–388.

Schoenherr, J. A. and R. C. Black (2019). The use of precedent in U.S. Supreme Court litigant briefs. In S. Sterrett and L. D. Walker (Eds.), *Elgar Research Handbook on Judicial Process*. Edward Elgar Publishing.

Schoenherr, J. A. and N. W. Waterbury (2022). Confessions at the Supreme Court: Judicial response to Solicitor General error. *Journal of Law and Courts* 10(1): 13-36.

SCHS (ND). Life story: Lucille Lomen (1920-1996). *Supreme Court Historical Society*. https://tinyurl.com/36tt2n3s

Sen, M. (2017). Diversity, qualifications, and ideology: How female and minority judges have changed, or not changed, over time. *Wisconsin Law Review* 2017(3), 367–399.

Solberg, R. S. and J. S. Diascro (2020). A retrospective on Obama's judges: Diversity, intersectionality, and symbolic representation. *Politics, Groups, and Identities* 8 (3), 471– 487.

Solberg, R. S. and C. T. Stout (2021). Is nine too much? how the gender composition of state supreme courts influences support for female candidates. *Justice System Journal* 42 (3-4), 291–305.

St.Eve, A. J. and J. B. Luguri (2021). *How Unappealing: An Empirical Analysis of the Gender Gap Among Attorneys.* Chicago, IL: American Bar Association Commission on Women in the Profession.

Strauss, V. (2020). Ruth Bader Ginsburg and the case of the 13-year-old strip-searched at school. *Washington Post*. https://tinyurl.com/49rdxnbf

Strickland, J. M. and K. E. Stauffer (2022). Legislative diversity and the rise of women lobbyists. *Political Research Quarterly* 75, 531–546.

Swers, M. L. (2013). *Women in the Club: Gender and Policy Making in the Senate*. Chicago, IL: University of Chicago Press.

Szmer, J., L. P. Moyer, S. B. Haire, and R. K. Christensen (2024). Who shapes the law? gender and racial bias in judicial citations. *American Political Science Review*, 118(2), 1067-1074.

Szmer, J. J., T. A. Sarver, and E. B. Kaheny (2010). Have we come a long way, baby? the influence of attorney gender on Supreme Court decision making. *Politics and Gender* 6 (1), 1–36.

Thomas, E. (2019). *First: Sandra Day O'Connor*. New York, NY:

Random House.

Toobin, J. (2008). The Nine: Inside the Secret World of the Supreme Court. New York: Anchor Books.

Toobin, J. (2012). The Oath: The Obama White House and the Supreme Court. New York: Doubleday.

Totenberg, N. (2009). Supreme Court hears school strip search case. *NPR*. https://tinyurl.com/ycy5du4k

Ward, A. and D. L. Weiden (2006). Sorcerers' Apprentices: 100 Years of Law Clerks at the United States Supreme Court. New York: New York University Press.

Zhu, S., J. Johnson, and S. Zhang (2023). Women's representation in the legal industry. *JD Supra*. https://tinyurl.com/36j53xbx