

# Do Decisions Follow Dollars? Campaign Contributions and State Supreme Court Decisions

Benjamin C. Soltoff  
Department of Political Science  
The Pennsylvania State University  
University Park, PA 16802  
Email: bsoltoff@psu.edu



## ABSTRACT

Scholars have proposed numerous theories of how campaign contributions might influence the behavior of elected officials, with varying levels of empirical support, including two specific pathways: by *influencing elections*, whereby contributions shape the outcome of elections, and by *influencing dispositions*, when contributions affect the actions and decisions of elected officials without substantially altering their preferences. In this paper, I test the relative strength of these explanations on the behavior of elected judges, using a sample of business-related decisions from state supreme courts in the United States. I incorporate information on campaign financing from both businesses as an interest group and the individual litigants and attorneys involved in business litigation to measure both election and disposition-influencing contributions. I find strong support that contributions from interest groups influence judicial votes by shaping electoral outcomes, but only minimal evidence that contributions from litigants directly alter judicial votes.

## HOW DO CAMPAIGN CONTRIBUTIONS INFLUENCE JUDICIAL DECISIONMAKING?

Campaign contributions could influence judicial decisionmaking through two alternative pathways (Austen-Smith 1987; Morton and Cameron 1992):

- “*Election-influencing*” contributions – contributors may attempt to shape the outcome of an election so that favorable candidates are selected to office (Gerber 1998; Jacobson 1978). Contributors assume candidates’ preferences are fixed, and that their contributions will alter the probability of a specific candidate being elected. Individuals and groups donate money to candidates most closely aligned with their preferences in order to increase their probability of electoral success.
- “*Disposition-influencing*” contributions – contributors may assume their money cannot influence the outcome of an election, but that they can alter the decisions of the candidate once they enter office. That is, contributions do not influence electoral outcomes, but they do effect the voting behavior of successful candidates who become officeholders (Fleisher 1993; Silberman and Durden 1976).

## BUSINESS CASES & HYPOTHESES

Judicial decisions in business cases offer an ideal test for these competing theories of campaign contribution influence. Businesses represent relatively unified interest groups with a common preference structure, while electoral spending by businesses and corporations in judicial contests has also increased over the past decade (Bonneau and Hall 2009; Bannon et al. 2013). Business groups will likely only fund their preferred candidate, rather than financing all viable candidates. When contributions are measured at the industry-level, businesses can be seen as giving with a common goal in mind. Finally, businesses themselves have received a significant amount of attention in past research on judicial decisionmaking as frequent litigants before state supreme courts (Bannon et al. 2013; Kang and Shepherd 2011; Shepherd 2013; Ware 1999), so data on decisions in business cases is prevalent.

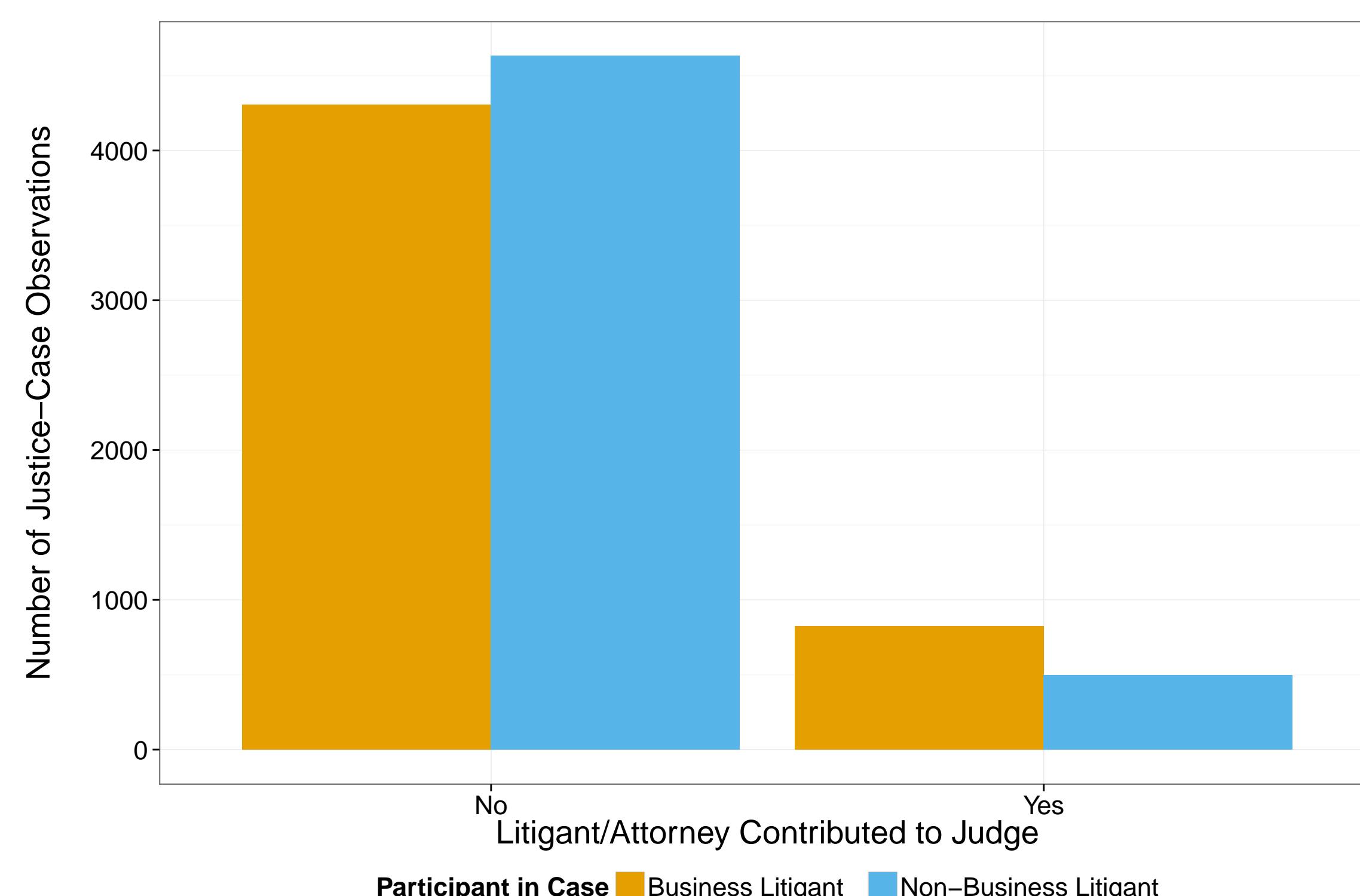
**Business group hypothesis:** As the contributions from all businesses increases, the probability of a judicial vote in favor of the business litigant increases.

**Business litigant hypothesis:** As the contributions from the business litigant or its attorney involved in the case increases, the probability of a judicial vote in favor of the business litigant increases.

**Non-business litigant hypothesis:** As the contributions from the non-business litigant or its attorney involved in the case increases, the probability of a judicial vote in favor of the business litigant decreases.

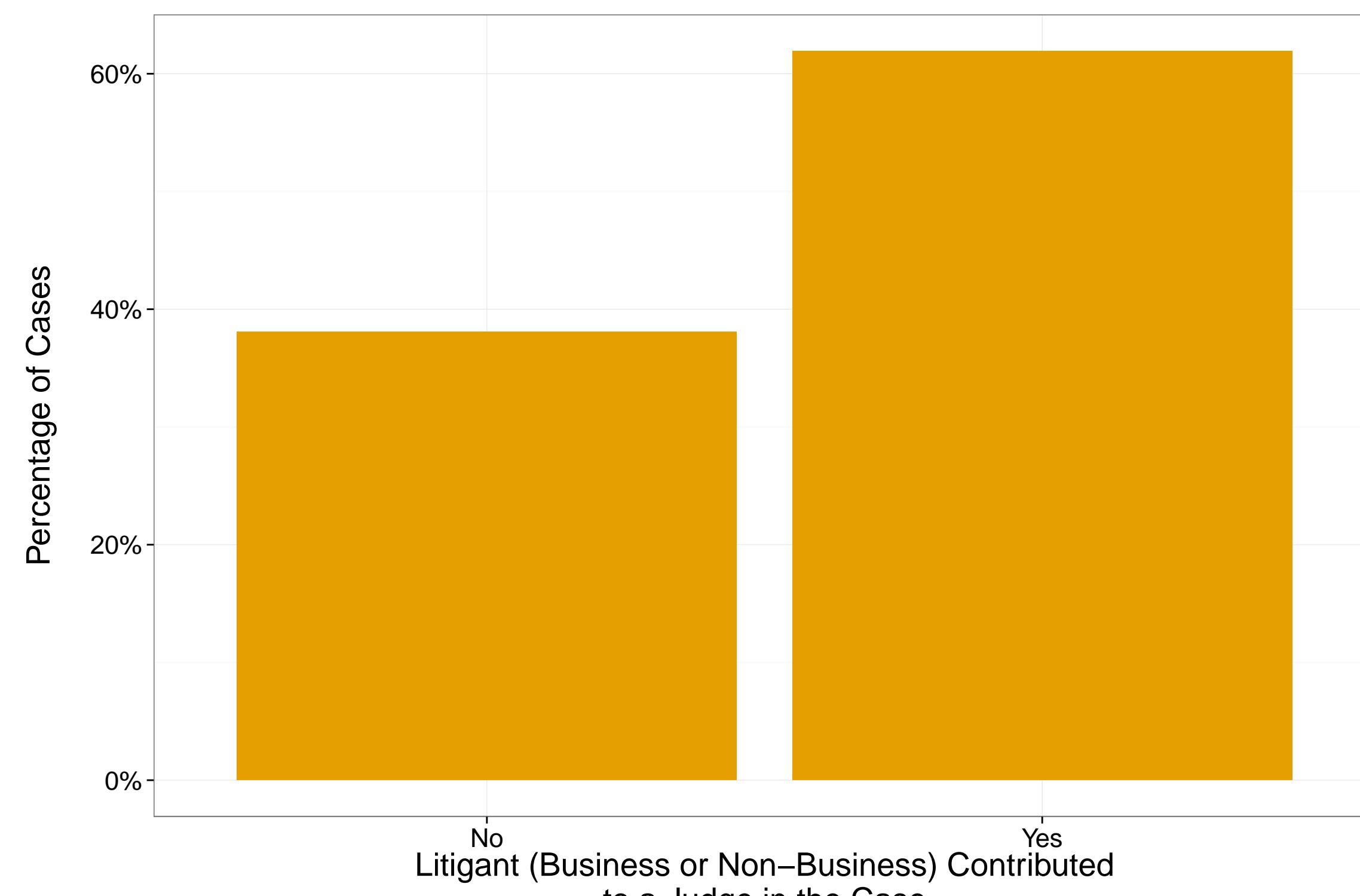
## LITIGANTS & THEIR ATTORNEYS DO NOT COMMONLY CONTRIBUTE DIRECTLY TO JUSTICES...

### Litigant Contributions



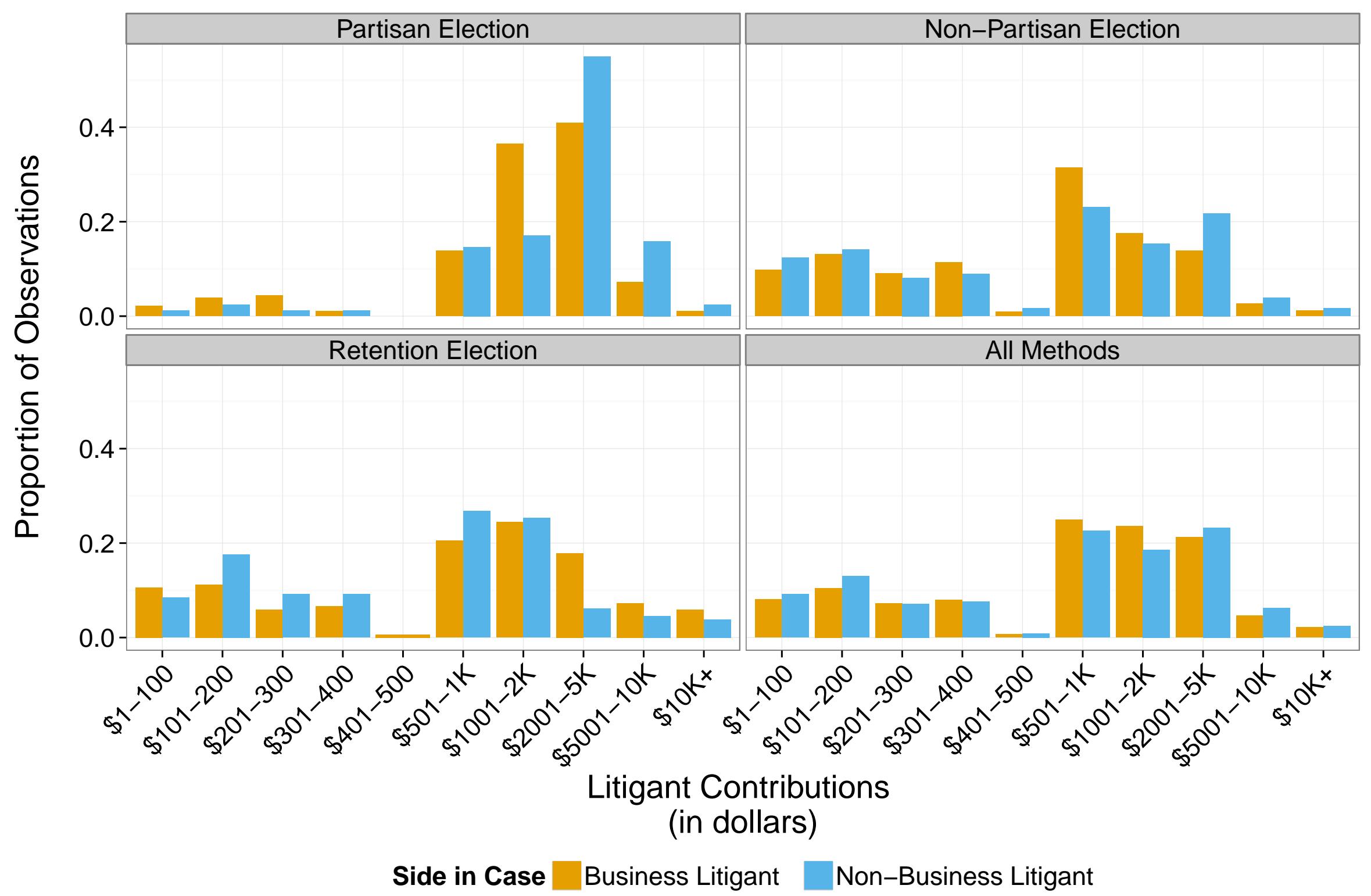
## ...BUT A SIGNIFICANT NUMBER OF CASES ARE AFFECTED BY THESE CONTRIBUTIONS

### Litigant Contributions



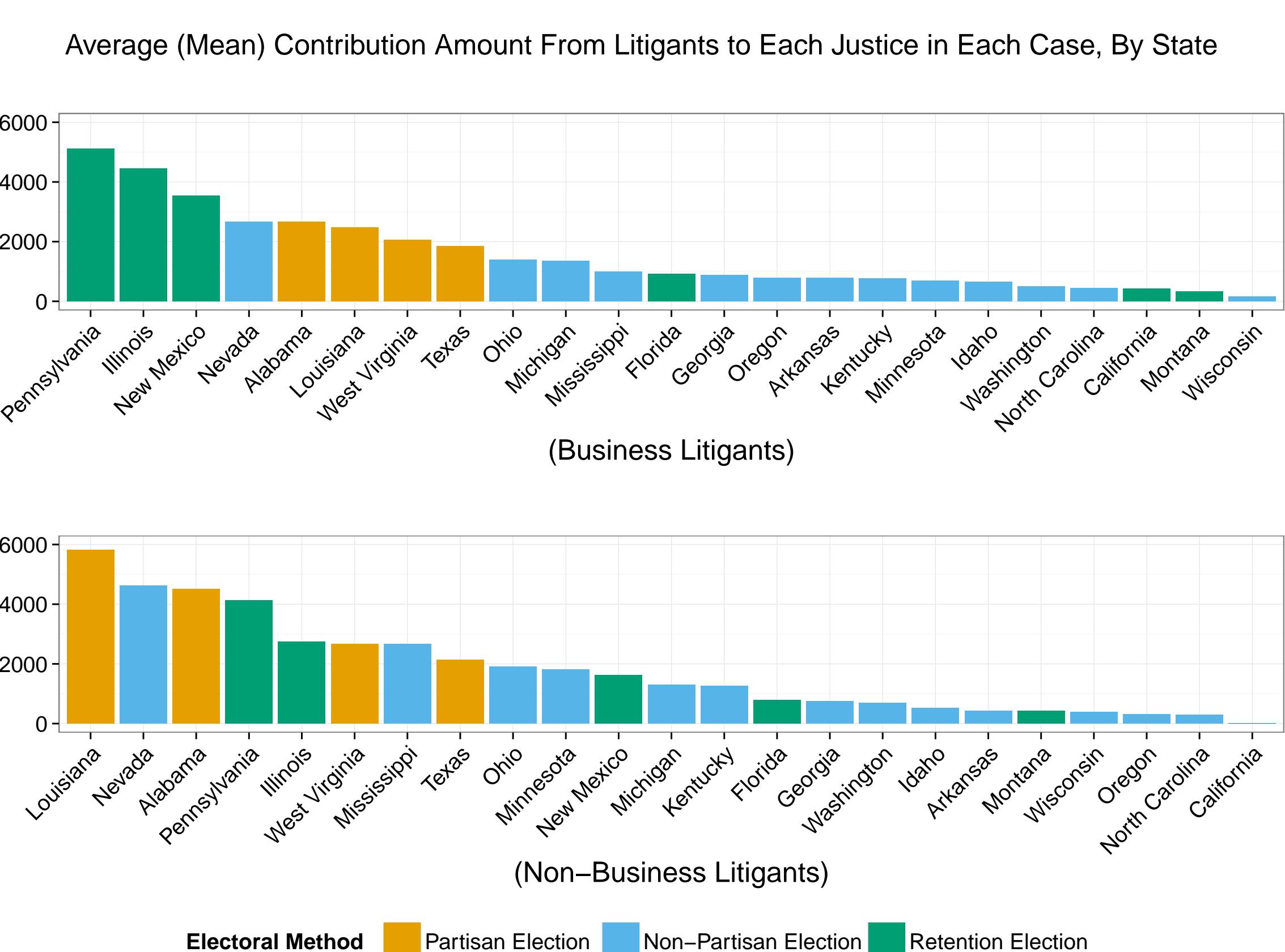
## LITIGANT CONTRIBUTIONS TO EACH JUSTICE ARE TYPICALLY LOW-DOLLAR AMOUNTS

### Litigant Contributions, to Each Justice in Each Case



Note: This figure only includes observations where the justice reported receiving a contribution from at least one named litigant, attorney, or law firm involved in the case.

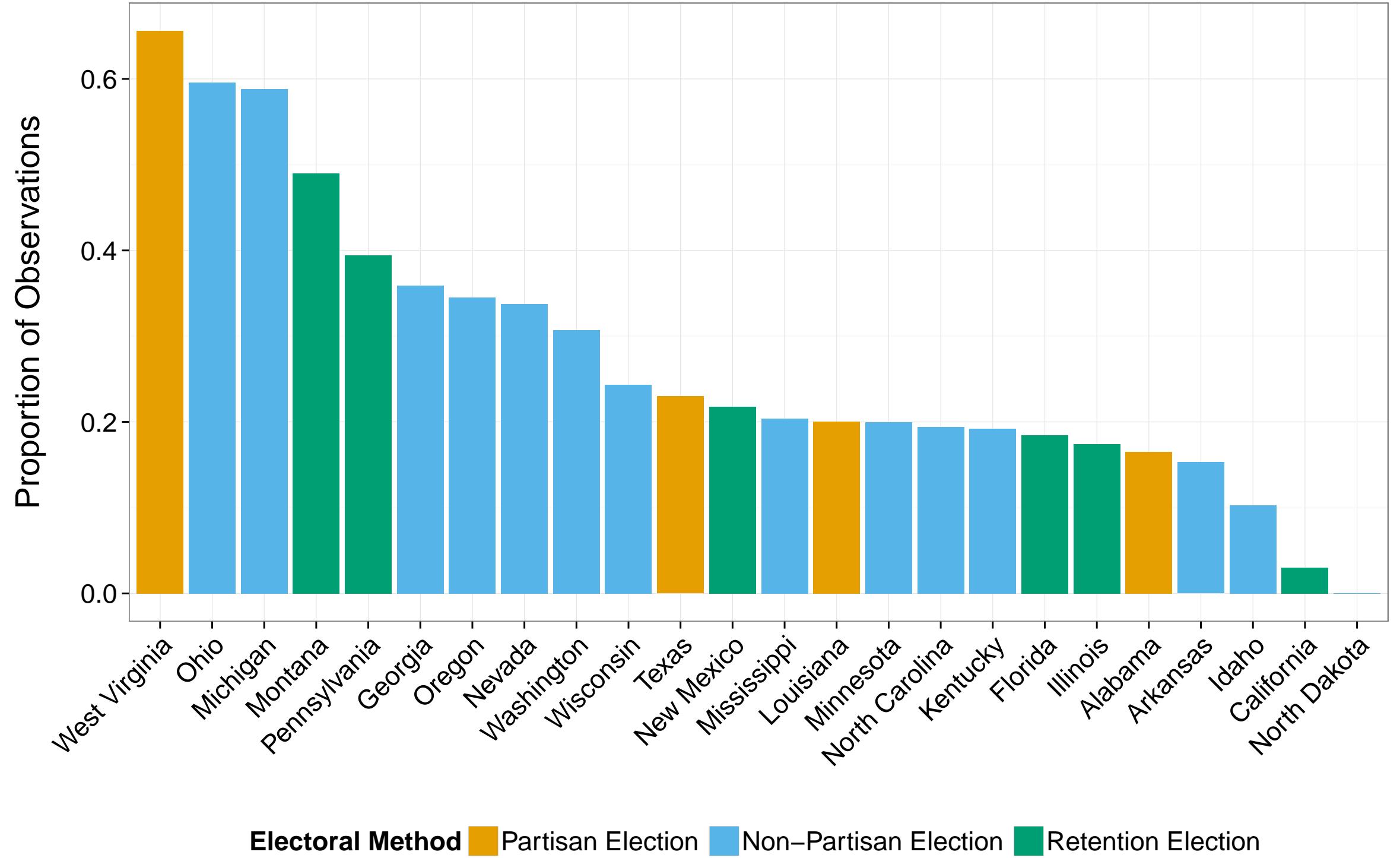
## NON-PARTISAN STATES TYPICALLY HAVE LOWER AVERAGE LITIGANT CONTRIBUTIONS...



Note: This figure only includes observations where the justice reported receiving a contribution from a named litigant, attorney, or law firm involved in the case.

## ...BUT ALSO PARTICIPATE MORE FREQUENTLY IN CASES INVOLVING CAMPAIGN DONORS

### Proportion of Justices Voting in Cases While Receiving Contributions From a Litigant, by State



## DATA

Two Primary Data Sources:

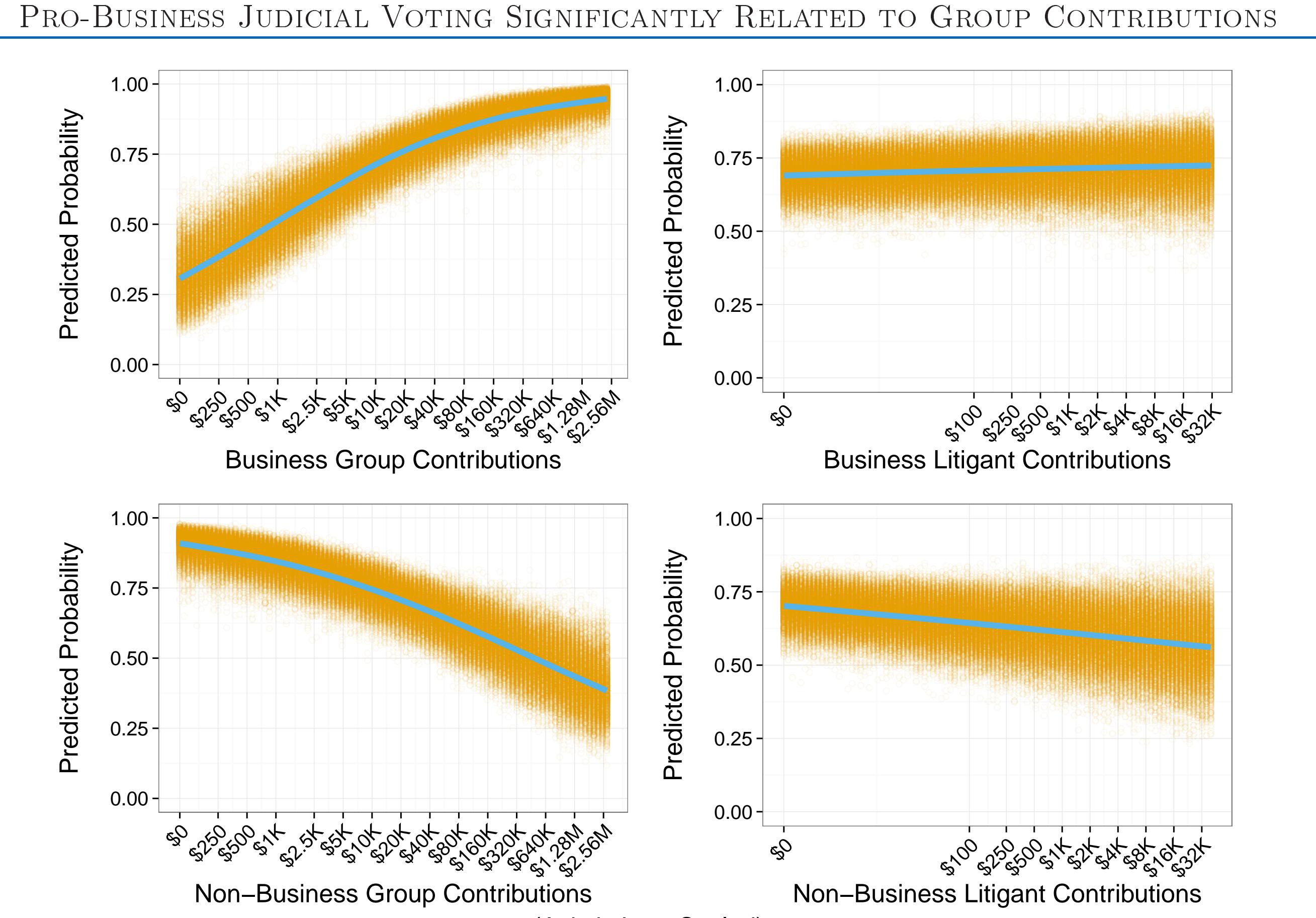
- **Campaign contributions** – contains the names of every reported contributor to each elected state supreme court justice in their previous electoral cycle, as well as the amount contributed (Bonica 2013).
- **Judicial decisions** – vote-level information on a sample of 796 business-related cases decided between 2010 and 2012 across 24 states with elected justices (Shepherd 2013).

Key Variables	Description
<b>Dependent Variable</b>	1 if the justice votes in favor of the business litigant, 0 if the justice votes in favor of the other side
<b>Independent Variables</b>	
Business group contributions	Sum of contributions in the following categories: agriculture, communications, construction, defense, energy, finance/real estate/insurance, general business, health, transportation, standardized by contributions per \$10,000 as a natural log (Shepherd 2013)
Non-business group contributions	Sum of total contributions minus contributions that come from business, standardized by contributions per \$10,000 as a natural log (Shepherd 2013)
Business litigant contributions	Sum of contributions received from business litigant in the case (includes named litigants, attorneys, and law firms), standardized by contributions per \$10,000 as a natural log (Bonica 2013)
Non-business litigant contributions	Sum of contributions received from non-business litigant in the case (includes named litigants, attorneys, and law firms), standardized by contributions per \$10,000 as a natural log (Bonica 2013)

## RESULTS OF MULTILEVEL LOGISTIC REGRESSION MODELS

Dependent variable:	
	Justice Votes in Favor of the Business Litigant
(1)	(2)
Constant	0.08 (0.77) 2.38 (1.52)
Business Group Contributions (\$10K), logged	0.38* (0.08) 0.39* (0.08)
Non-Business Group Contributions (\$10K), logged	-0.28* (0.07) -0.28* (0.07)
Business Litigant Contributions (\$10K), logged	0.02 (0.03) 0.11 (0.10)
Non-Business Litigant Contributions (\$10K), logged	-0.06 (0.04) 0.13 (0.11)
Nonpartisan Election	-0.29 (0.66) -1.61 (1.35)
Partisan Election	2.96* (0.88) 1.30 (1.63)
Democrat	-0.31 (0.33) -2.26 (1.28)
Republican	0.54 (0.32) -0.78 (1.25)
State Tort Climate	-1.71* (0.63) -1.70* (0.63)
Business Litigant Contributions (\$10K), logged x Nonpartisan Election	-0.09 (0.08)
Business Litigant Contributions (\$10K), logged x Partisan Election	-0.15 (0.10)
Non-Business Litigant Contributions (\$10K), logged x Nonpartisan Election	-0.08 (0.09)
Non-Business Litigant Contributions (\$10K), logged x Partisan Election	-0.05 (0.11)
Business Litigant Contributions (\$10K), logged x Democrat	-0.03 (0.09)
Business Litigant Contributions (\$10K), logged x Republican	-0.01 (0.09)
Non-Business Litigant Contributions (\$10K), logged x Democrat	-0.21* (0.10)
Non-Business Litigant Contributions (\$10K), logged x Republican	-0.14 (0.09)
Variance Components	
State level	0.000 0.000
Justice level	1.058 1.054
Case level	30.657 30.627
Log Likelihood	-1,877.66 -1,873.49
AIC	3,781.32 3,788.97
BIC	3,866.38 3,926.37

Note: Standard errors in parentheses. \*p<0.05



Probabilities estimated using model (1). Shaded region represents 95% confidence intervals. All other covariates held at their mean values.

## DISCUSSION OF RESULTS

- Litigants rarely contribute directly to state supreme court justices participating

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