




ARTICLE

# Pursuing Change or Pursuing Credit? Litigation and Credit Claiming on Social Media

Anna Gunderson<sup>1,\*</sup> , Kirsten Widner<sup>2</sup>  and Maggie Macdonald<sup>3</sup> 

<sup>1</sup>Department of Political Science, Louisiana State University, Baton Rouge, LA, USA; <sup>2</sup>Department of Political Science, University of Tennessee, Knoxville, TN, USA and <sup>3</sup>Center for Social Media and Politics, New York University, New York, NY, USA

\*Corresponding author. Email: [agunderson@lsu.edu](mailto:agunderson@lsu.edu)

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## Abstract

Interest groups often post about their judicial advocacy on social media. We argue that they do so for two main reasons. First, providing information about the courts on social media builds the group's credibility as a source of information with policymakers, media and the public. Second, social media provides a way to claim credit for litigation activity and outcomes, which can increase membership and aid in fundraising. Using original datasets of millions of tweets and Facebook posts by interest groups, we provide evidence that interest groups use social media for public education and to credit claim for their litigation activity.

**Keywords:** social media; interest groups; amicus briefs; judicial advocacy

Today's interest groups represent a dizzying array of interests in the public policy-making process. Businesses, professionals, workers, and people united by non-economic interests form organizations that use a wide range of advocacy tactics to promote their preferred policies (Baumgartner and Leech, 1998; Grossmann, 2012; Guo and Musso, 2007). Over the past decade or so, social media has become a more and more integral part of interest groups' advocacy toolboxes (Chalmers and Shotton, 2016). They use social media to share information, build community, and mobilize action (Guo and Saxton, 2014). Like other political actors, they use it to attract attention to the group and their cause (Guo and Saxton, 2020; Hemphill, Russell and Schöpke-Gonzalez, 2021; Kreiss, Lawrence and McGregor, 2018).

Posting on social media about support or opposition for legislation or other policies is a natural part of an interest group's mobilization strategy. It provides a low cost way to put out information that can shape public opinion, as well as make calls to action for grassroots activities, such as protests, demonstrations, or contacting lawmakers (Figenschou and Fredheim, 2020; Macdonald, Gunderson and Widner, 2022). It is less clear why organizations would spend time posting about activities like litigation that do not typically depend on public opinion or mass mobilization. While

there is some evidence that courts often act in line with public opinion (see, e.g., Graber, 2006; Pope, 1990), the courts are generally thought to be insulated from direct pressure from interest groups (Kahn, 1999). Interest groups are active in trying to persuade the courts to adopt their preferred policies (Collins, 2004), but this activity takes different forms than those used for advocacy in the legislative and executive branches. Courts are not “lobbied” in the traditional sense — individuals and interest groups cannot call or visit Supreme Court justices to influence important decisions (Collins, 2008). Instead, court advocacy is more formal. It involves representing clients with a legal interest at stake in a particular case or filing amicus briefs to provide additional information to the court. These formal activities do not leave much room for general public involvement.<sup>1</sup>

Why do interest groups spend time and resources gathering and sharing information about court cases or litigation activity with the public through social media, and what do they expect their followers (whether they be members of the group or not) to do with that information? We suggest two answers. First, organizations provide information about the courts on social media to build credibility and recognition as a trusted source of policy information. However, this goal is in tension with the ability to offer information as a selective benefit to gain and retain members. Second, organizations use social media to claim credit for litigation activity or policy decisions made by the courts to increase their public and financial support. Notably, neither strategy expects readers of court-related posts to take direct political action. Rather, both aim to strengthen readers’ support of the organization itself. In other words, while interest groups may engage in litigation to change policy, they *post* about litigation for organizational maintenance.

The paper proceeds as follows. It begins by providing an overview of judicial advocacy by interest groups and exploring the reasons interest groups might post about that activity on social media. It then describes data we collected and examines the nature and extent of court-related posts by interest groups. Although we find that these are relatively rare compared to posts about other topics, such as legislation, general policy information, and member benefits and events (Macdonald, Gunderson and Widner, 2022), there are tens of thousands of court posts every year. These posts result from strategic choices by organizations about how to use social media. The paper then tests hypotheses about information sharing and credit claiming on two original datasets of Facebook and Twitter posts from over 3,000 advocacy organizations active in federal public policymaking and Supreme Court advocacy. Our analyses provide support for our hypotheses and demonstrate that social media provides an important avenue for interest groups to advance their organizational maintenance goals.

## Interest group advocacy and the courts

Interest groups aggregate the policy preferences of particular constituencies and advocate for those preferences in public policymaking processes (Baumgartner and Leech, 1998; Grossmann, 2012). Scholars have used a variety of different categorization schemes to describe the types of groups represented (Walker, 1991; Schlozman

<sup>1</sup>While protests and demonstrations at the Court have increased over time, justices find this distressing and contrary to the proper understanding of their role. See, for example, *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833, 999–1000 (1992) (Scalia J. concurring in the judgment in part and dissenting in part).

and Tierney, 1986; Berry, 1977). This paper focuses on four broad categories: (1) *business and industry groups*, which aggregate the interests of different businesses or industrial sectors and include organizations like the Chamber of Commerce and the Alliance of Automobile Manufacturers; (2) *professional organizations*, which connect and represent people who share an occupational focus or common professional license or education and include organizations like the American Society for Training and Development and the American Bar Association; (3) *labor unions*, which advocate and bargain collectively on behalf of workers and include organizations like the National Education Association and the Service Employees International Union; and (4) *citizens' groups*, which are centered around identities and interests that are not primarily economic or professional in nature and include organizations like the the National Organization for Women and the American Civil Liberties Union. While these groupings lack some of the nuance of more detailed schemes, they capture the major categories of difference that have traditionally been found to matter in studies of interest group behavior: business associations are separated from individuals' economic interests, professional associations are separated from organized labor and economic interests are separated from "public interest" and movement organizations (Baumgartner and Leech, 1998; Grossmann, 2012; Berry, 1977).

Interest groups play a central role in American politics and provide essential representation to their members and constituents in the public policymaking process (Baumgartner and Leech, 1998; Grossmann, 2012). These groups use many tactics to influence public policy (Browne, 1998). While legislative advocacy is by far the most common tactic — virtually all interest groups engage in it to some degree (Schlozman and Tierney, 1986; Nownes and Freeman, 1998) — interest groups typically pursue a multi-venue strategy that can include seeking policy change through the courts (Holyoke, 2003). While litigation was once thought of as a policy strategy of only disadvantaged groups and civil rights organizations, all types of groups are active in the courts (Olson, 1990). Policy advocacy in the courts is more formal than that in the other branches of government (Collins, 2008). The personal contact and direct communication that is common in other venues is not permitted in the courts; advocacy is supposed to occur through the litigation process, and judges frown on attempts to circumvent these rules (see, e.g., Woodward and Armstrong, 2011). Although protest outside the Supreme Court is relatively common, research suggests that it does not have any direct effect on the behavior of justices and is more likely aimed at shaping public or legislative opinion (Gillion, 2013).

There are two main ways in which interest groups can engage in judicial advocacy. First, they can file lawsuits directly. However, this is an expensive and time-consuming process with no guarantee of success or substantive policy change (McCann, 2006). Even if interest groups win in the lower courts, most cases only impact one jurisdiction unless they are appealed to higher courts. Lawsuits that reach the Supreme Court can have national impact, but cases are rare. The Court only chooses to hear about 1 percent of the cases they are asked to review each year and a minuscule 0.02 percent of the cases that are filed in federal district courts each year.

A second option is for interest groups to file *amicus curiae* ("friend of the court") briefs in cases brought forward by other litigants. This option is less resource-intensive than bringing cases directly but still gives groups the opportunity to shape the content of court opinions, particularly at the Supreme Court level (Hazelton, Hinkle and Spriggs, 2019). We will return to this option below. Outside of these

formal processes, interest groups may pursue a third alternative: influencing policy indirectly by shaping the makeup of the courts. The direct targets of this advocacy are not judges but instead those responsible for judicial selection (Caldeira and Wright, 1998; Caldeira, Hojnacki and Wright, 2000).

### *Providing information about the courts*

A fourth court-related advocacy strategy is for interest groups to keep members or other interested parties apprised of relevant litigation activities and cases decided in the courts. This can be seen as a form of organizational maintenance, a goal separate from and in addition to policy aims (Walker, 1991; Solberg and Waltenburg, 2006). Information can be offered as a “selective benefit” of group membership that entices individuals to give time or money to collective action (Olson, 1965). When used in this way, receipt of the information is limited to members or supporters of the group. Membership organizations surveyed by Walker (1991) reported that information shared in publications like newsletters and updates is one of the most important benefits for attracting and retaining members. Providing updates also gives organizations an excuse for regular contact with members and supporters. Regular contact serves several goals for an organization: it prompts donations, provides education and mobilizes members for actions, such as voter registration, coalition building and direct lobbying (Guo and Saxton, 2014). Although some scholars have examined how these kinds of informational strategies are used in the modern context through avenues like emails (see, e.g., Vining, 2011), newer research extends these insights to the social media context (Brown, 2015; Van der Graaf, Otjes and Rasmussen, 2016).

Social media complicates the use of information as a selective benefit, however. Platforms like Twitter and Facebook are generally used to make information available to the widest possible audience, not just to those who are members of a particular group. Information can be obtained by anyone who cares to read what an organization shares.<sup>2</sup> By not requiring membership to obtain the information, organizations that share updates in this way run the risk that interested parties will free ride, taking the information without offering the organization financial or other support (Olson, 1965). Given this risk, what motivates advocacy groups to share information on social media?

Research suggests that nonprofits like interest groups use social media for three primary purposes: to provide information to stakeholders, build community, and mobilize or call people to action (Guo and Saxton, 2014). In this way, social media offers users something distinct from the more traditional news media — control over timing and content of messages as a type of direct communication (Golbeck, Grimes and Rogers 2010; Lipinski 2004). This flexibility allows advocacy organizations to respond to or provide information and commentary on events in real time to meet the desires of their intended audiences. Social media also offers useful affordances, or features, like hashtags, which can help users to engage with users on topics of interest (Hemphill, Culotta and Heston 2013). We argue that there are three possible

<sup>2</sup>In theory, organizations could use private social media accounts to share information only with members, but our research shows that this is uncommon. Of the thousands of interest groups for which social media information was collected for this project, only a handful had private accounts.

motivations for posting about the *courts* on social media, with three different audiences.

First, organizations may believe that it is part of their mission to educate the public or their constituents about important policy issues. Many interest groups, particularly public interest citizens' groups, exist to advance a cause and are highly mission driven (Berry, 1977, 2003). Making policy information as broadly available as possible helps them to fulfill that mission. Guo and Saxton (2014) found that public education was the most common advocacy tactic on Twitter. Second, organizations may seek to increase their visibility with the news media, to help them spread their message and build name recognition and public support (Schlozman and Tierney, 1986). Members of the news media are active on social media, particularly Twitter, and can use social media to diversify their sources (McGregor and Molyneux, 2020). A reporter who may not have otherwise thought to reach out to an organization for comment on a court case may be inspired to do so by an insightful post or tweet. Third, organizations may seek to establish or reinforce their credibility with policymakers. Most members of Congress, for example, are active on both Facebook and Twitter. Interest groups engage extensively with congressional candidates and members of Congress on Twitter: they follow and mention each other (Macdonald, 2020). A reputation as a timely and reliable source for quality information can be a valuable tool for building trust with and gaining access to policymakers. Indirect methods of delivering information, like social media, can be just as valuable, if not more so, in obtaining access to policymakers (Chalmers, 2013).

For all of these reasons, interest group organizations may be motivated to share policy-related information about the courts on social media. However, this approach will be more beneficial for some types of groups than others. Organizations that view public education as part of their mission, like many citizens' groups, should be most likely to prioritize sharing this type of information. In contrast, membership organizations often rely on membership dues as a revenue source and membership numbers as an advocacy resource. While these groups may also want to build credibility and gain public attention, they have to balance these goals against the need to entice membership and discourage free riding (Walker, 1991; Olson, 1965). As a result, these groups may have to more carefully choose when to use information as a selective incentive and when to post for a broader audience. Thus, they may make public information-sharing posts less frequently. In the interest group universe, professional organizations, business and industry groups, and unions all tend to be membership organizations. Citizens' groups are least likely to be membership organizations, and the number of non-membership citizens' groups has grown over time (Grossmann, 2012). Even those citizens' groups that do rely on member dues may have a public interest focus that leads them to emphasize public education over selective benefits (Berry, 1977). This leads us to our first hypothesis:

**Hypothesis 1:** Citizens' groups will post about the courts on social media more often than other types of interest group organizations.<sup>3</sup>

<sup>3</sup>In this paper, we focus on testing hypotheses about social media using data from two of the most popular platforms, Facebook and Twitter. It is possible that these hypotheses would also apply to other social media platforms that share similar affordances, or features.

Note that citizens' groups' motivation to share information is not specific to court-related policy information. This hypothesis is consistent with previous research showing that citizens' groups post more on social media overall (Widner, Macdonald and Gunderson, 2022). Thus, we should not expect to see citizens' groups posting updates about the courts *exclusively*, but instead, we should expect updates on the courts as part of a general social media strategy of public education. However, some groups may have additional incentives to post about the courts specifically. Legal organizations like bar associations and public interest law firms may view legal expertise as a key way they can differentiate themselves and provide value in the policymaking process. Therefore, they may use their social media presence to strengthen their reputations as legal experts and effective litigators.

**Hypothesis 2:** Legal interest group organizations will post about the courts on social media more often than non-legal interest group organizations.

### *Amicus briefs and credit claiming on social media*

The most common litigation-related strategy for interest groups is writing or signing onto amicus briefs. Amicus briefs allow interest groups to indicate their preferences to the courts and pool resources with other groups (Collins, 2004).<sup>4</sup> These briefs are submitted by groups or individuals who are not parties to the case under consideration but who can add context and information helpful to the court. Supreme Court Rule 37 encourages those filing amicus briefs to supply new information and avoid repeating the arguments of the party they support (Collins, 2018), although the briefs often provide no novel legal arguments not offered by the litigants themselves (Wofford, 2015). Organizations can file these briefs alone or together with other organizations, individuals, or states. Amicus briefs can be filed at either the petition for certiorari stage, to urge the Supreme Court to grant or deny review or after the justices grant certiorari, at the merits stage.

Interest groups have two key motivations in submitting amicus briefs. First, they seek to shape the Court's opinion to align with their policy preferences. Empirical evidence suggests that judges use amicus briefs in their work. Supreme Court justices are increasingly likely to cite amicus briefs and sometimes even lift language directly from the briefs into their opinions (Owens and Epstein, 2005; Collins, Corley and Hamner, 2015; Spriggs and Wahlbeck, 1997).<sup>5</sup> Second, interest groups seek to show members and supporters that they are active and engaged on issues that matter (Solberg and Waltenburg, 2006). If a brief plays a role in getting the Court to grant certiorari or in the eventual outcome of the case, interest groups can claim (at least partial) credit for this decision (Collins, 2018). There is evidence that organized interests, particularly membership groups, seek out the cases that allow for participation that is highly visible to the group's members and supporters

<sup>4</sup>We examine the Supreme Court context in the review of the literature here, although amicus briefs can be and are filed in the lower federal courts and state courts as well.

<sup>5</sup>Groups' influence depends on a variety of factors, including ideology, case context, policy consensus and the relative power and connectedness of the group in broader interest group networks (Bils, Rothenberg and Smith, 2020; Box-Steffensmeier, Christenson and Hitt, 2013; Christenson and Box-Steffensmeier, 2017; Hazelton, Hinkle and Spriggs, 2019).

through the media or other avenues (Hansford, 2004a).<sup>6</sup> Like sharing information about the courts, credit claiming is more about organizational maintenance and generating support than it is about advocacy. In other words, sharing the fact that a brief was filed with members or the public is not intended to stimulate additional advocacy action but rather to demonstrate that the interest group is “fighting the good fight.”

In the past, organizations were fairly limited in the methods they could use to educate their members about their amicus activity. Physical newsletters used to be the most common method (Walker, 1991), and more recently, email newsletters have grown in use (Vining, 2011). Now, however, social media provides a cheap and easy means of reaching out to members, supporters and potential supporters quickly. Previous work has shown that other political actors, such as congressional candidates, have adopted social media platforms for these reasons, and use them to reach several audiences — voters, the media, other politicians and interest groups themselves — at once (see Macdonald 2020; Kreiss, Lawrence and McGregor 2018). Interested parties can also go back to an organization’s Twitter or Facebook page and see all of its previous posts. In this way, tweets and Facebook posts offer something different from similar communication tools like email — a way for *anyone* to learn about an organization’s priorities, statements and activities over time. We theorize that social media is an essential new avenue for interest groups to credit claim for their litigation activity, specifically in reference to amicus briefs.

Past research showed that interest groups consider media attention given to similar cases when deciding whether to file amicus briefs (Hansford, 2004b). Cases that receive more attention are more likely to bring the type of positive credit an organization seeks. However, with the use of social media, interest groups, like other political actors, are no longer exclusively reliant on those in the news media to publicize their litigation activities. Social media provides a low-cost method of publicizing a group’s own efforts, bypassing the media and allowing these groups to engage policymakers, the public and other audiences directly (Figenschou and Fredheim, 2020; Gainous and Wagner, 2014; Golbeck, Grimes and Rogers, 2010; Johnson, 2011). This may widen the range of cases they chose to credit claim about.

Although there is a burgeoning literature on how interest groups use social media to engage in lobbying (e.g., Widner, Macdonald and Gunderson, 2022; Chalmers and Shotton, 2016; Obar, Zube and Lampe, 2012; Bortree and Seltzer, 2009; Lovejoy, Waters and Saxton, 2012), so far it offers little insight into how interest groups use social media to credit claim for their amicus activity in the courts. We extend theories of credit claiming to this context and hypothesize that interest groups will use social media to publicize their amicus activity to their members, supporters and potential members and supporters.

**Hypothesis 3:** Interest group organizations that draft or participate in amicus briefs will credit claim by posting about their amicus activity on social media.

As with information sharing about the courts generally, legal organizations may be particularly likely to credit claim for amicus activity, and supporters of legal organizations are more likely to expect them to participate in relevant cases.

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<sup>6</sup>Interest groups can also claim credit for influencing appointment of Supreme Court justices, although that influence is likely small (Shapiro, 1989; Segal, Cameron and Cover, 1992).

**Hypothesis 4:** Legal interest group organizations will credit claim by posting about their amicus activity on social media more often than non-legal interest group organizations.

### Data on interest groups on social media

Many different types of interest groups are active at the Supreme Court. Various typologies have been developed in the study of interest groups generally (see, e.g., Schlozman and Tierney, 1986; Walker, 1991) and interest group activity in the courts in particular (Caldeira and Wright, 1990; Collins and Solowiej, 2007). We narrow the scope of interest groups studied here to those that have the representation of a particular group or issue interest as a central goal.<sup>7</sup> With that in mind, we collected data on two sets of interest groups for this project. First, to examine the general behavior of interest groups, we developed what we call our “national dataset.” To do this, we began with a list of advocacy organizations active in federal policymaking compiled by Grossmann (2012), and then verified that the organizations on that list were still active.<sup>8</sup> We also consulted lists of leading trade associations, professional associations and citizens’ groups to identify organizations not included in the Grossmann (2012) data.<sup>9</sup> This process resulted in a list of nearly 1,700 organizations currently active in lobbying the United States (U.S.) federal government. Of those organizations, 1,566 have a social media account on either Facebook, Twitter or both.<sup>10</sup> We use this national database to test our first two hypotheses concerning information sharing about the courts. Second, to examine the credit claiming behavior of organizations that file amicus briefs, we created a list of every interest group that wrote or signed onto an amicus brief before the U.S. Supreme Court over the four most recent terms (2016 to 2020). This list forms the basis for our “amicus dataset” and includes 2,654 state and national organizations that participated in amicus filings and have a social media account on Facebook and Twitter. Less than 20 percent of the amicus organizations were on our list of national organizations.

Both lists of interest group organizations were hand coded into the four discrete categories of group types, as summarized in Table 1. In both datasets, citizens’ groups are the most common type of interest group — they make up over 44 percent of the organizations in the national dataset and over 62 percent of the amicus dataset.

<sup>7</sup>This is important in the context of social media, because many entities that are often included in interest group studies like governments and individual corporations exist for a different purpose, and engage in policy advocacy and litigation as only a small portion of their overall activity. Their social media activity will be markedly different than those we consider here.

<sup>8</sup>For organizations that no longer had active websites, we did further web searches that sometimes identified other organizations that had absorbed the original organization or stepped into the space left by an organization that had become defunct.

<sup>9</sup>Sources for these lists included: a Wikipedia list of trade associations: [https://en.wikipedia.org/wiki/List\\_of\\_industry\\_trade\\_groups\\_in\\_the\\_United\\_States](https://en.wikipedia.org/wiki/List_of_industry_trade_groups_in_the_United_States); The Reference for Business list of the largest professional associations: <https://www.referenceforbusiness.com/encyclopedia/Per-Pro/Professional-and-Trade-Organizations.html> and UCLA’S Civil Rights Project’s list of leading civil rights groups: <https://www.civilrightspjproject.ucla.edu/resources/civil-rights-organizations>.

<sup>10</sup>Those organizations without a Facebook username either had no Facebook presence or had pages without valid user names.



**Table 1.** Four Main Types of Interest Groups in our National and Amicus Datasets

Group type	Description	Examples	Number national	Number amicus
Business and Professional industry groups	Trade associations and other organizations that aggregate the interests of businesses or industrial sectors.	Aluminum Association National Women's Business Council	304	383
Professional Organizations	Organizations that are centered around a particular profession or occupation.	American Political Science Association American Medical Association	510	553
Unions	Labor unions that advocate and bargain collectively on behalf of workers.	AFL-CIO American Postal Workers Union	63	68
Citizens' groups	Organizations that centered around identities or issues that are not primarily economic or professional in nature.	NAACP AARP World Wildlife Fund	688	1,650

Note: To be included in this table, a group must have a Twitter account, a Facebook account or both.

Professional groups are the second largest group in each dataset, followed by business and industry groups and then by unions.

Additionally, to test [Hypotheses 2](#) and [4](#), we hand coded whether each interest group was a **legal organization**. Most legal organizations in our data are either bar associations (which are professional organizations for lawyers) or public interest law firms (which are citizens' groups organized as law offices with a particular focus on litigation). Within the amicus dataset, there were also a handful of legal defense funds set up for litigation affecting particular professions or types of businesses that were also coded as legal organizations. Merely having a lawyer on staff or having an association with legal cases is not enough for an organization to be coded as a legal organization. For example, the American Bar Association, a professional organization, is coded as a legal organization, and the American Medical Association is not. The NAACP Legal Defense Fund, a citizens' group, is coded as a legal organization, but the NAACP is not. Within the national dataset, only about 5 percent of organizations were coded as legal organizations. About two-thirds of these were citizens' groups, and the remainder were professional organizations. As might be expected, the interest groups that participate in amicus briefs are more likely to be legal organizations. The proportion of organizations in the amicus dataset that were coded as legal organizations was much higher than in the national dataset, at approximately 30 percent. The proportion of those legal organizations that are citizens' groups stays consistent, however, at just under two-thirds. Most of the rest of the legal organizations are professional organizations, except for less than 2 percent that were business or industry groups.

#### **Data collection: Facebook and Twitter**

We collected *all* posts interest groups in the national and amicus lists made on both Facebook and Twitter from January 1, 2016 to December 31, 2020. We used

CrowdTangle to collect the Facebook posts from organizations' public pages. We collected the Twitter handle of each organization (their unique Twitter username) using links from the organization's website and Google and collected their data using Twitter's Academic Research API. We collected several pieces of information about each organization's account and posts. This includes, but is not limited to, the organization's number of followers and total number of posts, as well as the text of each post, the number of likes and retweets it has, and its date of creation. In total, there are 26 million social media posts between the platforms — 20 million tweets and 6 million Facebook posts.<sup>11</sup>

### Court and amicus posts on social media

Recall that [Hypotheses 1](#) and [2](#) propose that citizens' groups and legal organizations will be most likely to post about the courts on Facebook and Twitter. These hypotheses were tested on our national dataset, which is more representative of the range of different interest group organizations involved in policymaking. We coded posts and tweets using a dictionary method. A post or tweet was labeled as about the **courts** if it contained at least one of several keywords, including terms like "SCOTUS," "Supreme Court," "court ruling," "court decision," "friend of the court", "amici" or "amicus" (see the Appendix for the full dictionary of court terms).

The summary statistics for national organizations' Facebook and Twitter posting behavior are shown in [Table 2](#) (along with information on posting for the amicus groups). From January 1, 2016 through December 31, 2020, there were over 37,000 posts on Facebook made by over 1,000 national interest groups that included at least one court-related word. During the same period, almost 1,300 national interest groups tweeted about the courts more than 130,000 times. Posts about the courts are about 1.5 times more frequent in the amicus dataset. Court-related posts make up 1.4 percent of total posts in the national dataset on both Facebook and Twitter. In the amicus dataset, they make up 2.5 percent of Facebook posts and 2.1 percent of Twitter posts. Note that the proportion of posts about the courts on Twitter and Facebook are different — this is due to the higher number of tweets compared to Facebook posts. Across the two platforms, although some of the groups mention the courts and their decision-making only once, many post about the courts more frequently. Although

**Table 2.** Interest Group Summary Statistics in the National and Amicus Datasets, January 1, 2016 to December 31, 2020 on Facebook and Twitter

Court word posts	Amicus word posts	Case name posts	Total posts	Platform	Dataset
37,094	1,342	2,256	2,691,015	Facebook	National
134,712	3,244	7,941	9,853,561	Twitter	National
99,373	5,104	4,890	3,952,044	Facebook	Amicus
208,357	7,720	10,410	9,977,697	Twitter	Amicus

<sup>11</sup>There is some overlap between datasets. As noted above, a little less than 20% of organizations in the national dataset are also in the amicus dataset. Duplicates are eliminated when the datasets are combined for analysis of the credit claiming hypotheses.

the court-related posts are a small percentage of the overall posts on these platforms, they are by no means rare.<sup>12</sup> While we do more specific tests below of *Hypotheses 3* and *4* regarding credit claiming posts about amicus activity using the amicus and national and datasets together, we see some support for the hypotheses in the summary statistics for both datasets separately in *Table 2*. If a Facebook post or tweet included either “friend of the court,” “amici” or “amicus,” it was labeled as an **amicus** post (see the Appendix for more details). This is a conservative method of capturing these posts. In the national dataset, 1,342 Facebook posts, made by 301 unique groups, and 3,244 tweets, made by 426 unique groups, included one of these three words as shown in *Table 2*. Approximately one-fifth of the organizations in our national dataset posted on Twitter or Facebook about amicus briefs at least once.<sup>13</sup> As expected, amicus participants post using these terms even more — amicus posts are more than twice as frequent in the amicus dataset compared to the national dataset. This is consistent with the expectation that amicus participants are posting about their own amicus filings for credit claiming purposes.

Similarly, we created a dictionary of **case names** of the 278 cases heard before the Supreme Court from 2016 to 2020 to label the tweets and Facebook posts which mentioned cases by name. We took every case name and included different variations of the name in the dictionary, with and without spaces, to account for different iterations and hashtags. For example, to label tweets about *Little Sisters of the Poor Saints Peter and Paul Home v. Pennsylvania* (2020), the dictionary includes variations, such as *Little Sisters of the Poor v. Pennsylvania* and *Little Sisters of the Poor v. PA*. Accounting for these alternative case names, this dictionary contains over 4,200 variations of case names (that correspond to the 278 unique cases). Note that this includes any mention of a case name by an interest group on these platforms — whether or not they filed an amicus brief on the case. We provide more information on this dictionary, and how we use it to merge case-specific data to relevant posts, in the Appendix. *Table 2* includes summary statistics of the case names dictionary, too. We found about 2,300 posts made by 278 unique groups about case names on Facebook and nearly 8,000 of those on Twitter, made by over 370 unique groups.<sup>14</sup>

### Content analysis of court-related posts

To validate our dictionary labels and get a better sense of what interest group organizations are actually posting about the courts, we took a closer look at a random sample of 300 Facebook posts and 300 tweets that our dictionaries identified as court-related posts and conducted a content analysis of that random sample.<sup>15</sup> *Figure 1* provides some examples of posts and tweets that were coded as court-related posts on Facebook (*Figure 1a* and *1b*) and Twitter (*Figure 1c* and *1d*).

<sup>12</sup>See the Appendix Table 1 for the top filers by group type and group name on both platforms.

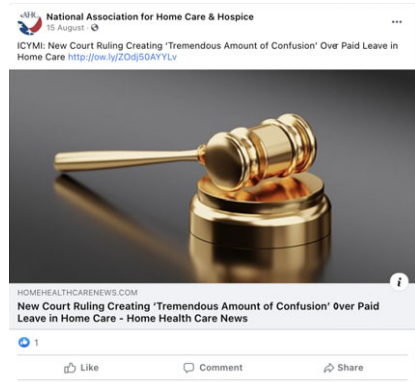
<sup>13</sup>See Appendix Table 2 for the top 20 amicus posters.

<sup>14</sup>See Appendix Table 3 for the top 20 posters of these case names.

<sup>15</sup>There were 19 of the Facebook posts and five of the tweets that were false positives — in other words, they were not actually about courts. We used these false positives to exclude terms like “bonamici” for a Congresswoman with that last name and “judiciary committee” for posts about Congress from our data for the analyses that follow. The percentages presented here are based on the remaining 281 Facebook posts and 295 tweets.



(a) Facebook Example 1



(b) Facebook Example 2



(c) Twitter Example 1



(d) Twitter Example 2

Figure 1. Examples of Court-related Posts on Facebook and Twitter.

The vast majority of court-related posts we examined (80 percent of Facebook posts and 76 percent of tweets) focused on the U.S. Supreme Court, though discussion of lower federal courts, state courts and even foreign courts did come up in the sample. Many posts and tweets give updates on cases. For example, 3 percent of Facebook posts and 1.5 percent of tweets in the content analysis announced that a lawsuit had been filed. About 8 percent of Facebook posts and 5 percent of tweets announced that cases had been appealed to a higher court or had oral arguments. About 14 percent of the Facebook posts and 16 percent of the tweets informed readers that the Court had reached a decision in a particular case. Organizations commonly used posts providing information about a case to make the organization's policy position clear; 59 percent of Facebook posts and 46 percent of tweets that gave information about a case also included a statement of the policy position of the organization. While many of the case-related posts provide information for all to read, some posts by professional organizations show attempts to strike a balance between public posts and selective incentives — several organizations invite readers to click a link to learn more, and the link leads to a web page that is gated for members-only access.

Within the content analysis sample, posts related to judicial nominations were among the most frequent types of content. Given that four Supreme Court justices

were nominated during the date range of our data (Merrick Garland in 2016, Neil Gorsuch in 2017, Brett Kavanaugh in 2018 and Amy Coney Barrett in 2020), it is perhaps unsurprising that about 23 percent of the court-related Facebook posts and 35 percent of the court-related tweets were about the judicial nominations. Not all of nomination-related posts were about the Supreme Court, however, particularly on Twitter. Nearly 11 percent of tweets about judicial appointments were related to lower federal courts or state courts (compared to only 1.5 percent on Facebook). Another interesting difference between Facebook and Twitter with regard to the content of these posts is that the Facebook posts were more likely to be educational in focus, providing readers with information about the nominee and the organization's position on whether the person should be confirmed, while the tweets were more likely to include a call to action, encouraging readers to sign petitions or call their senators to support or oppose the nominees.

Calls to action were quite rare outside of the nomination context. Two posts each from the samples for Facebook and Twitter invited readers to attend a protest or a rally, and a few used a court decision as a reason readers should ask Congress to take action on an issue. Overall, less than 6 percent of the posts examined asked the reader to take any action at all. This supports our assumption that social media posts about the courts are generally not focused on mobilization. Court posts also did not tend to directly solicit members or funds. None of the Facebook posts and only one tweet in the content analysis sample suggested readers join the organization, and no Facebook posts and only one tweet asked for donations.

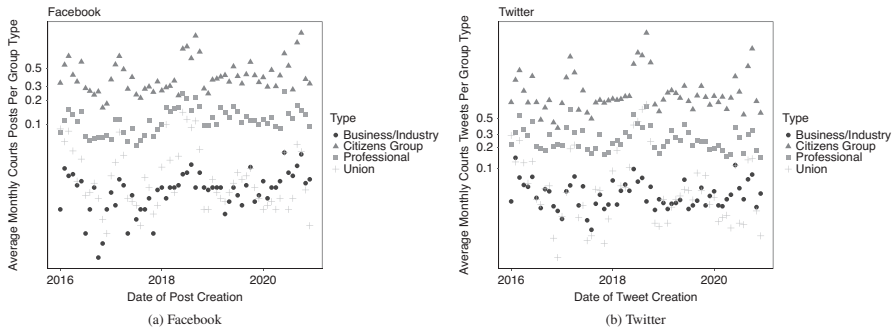
Organizations do seem to be using posts to demonstrate their value, however, which may be seen as an indirect form of organizational maintenance. Consistent with our credit claiming hypotheses, 14 percent of the court-related Facebook posts and 10.5 percent of the tweets analyzed highlighted the organizations' own involvement in cases and judicial nominations. Organizations promoted lawsuits and amicus briefs they had filed, arguments they had made and instances where the court or the media cited their briefs, research or other work on the issue.

### **Variation by group type**

To test our expectation that there will be variation in court posts between different types of interest groups, we use the national dataset to compare the four types of groups introduced above: business, professional, citizens' groups, and unions. As stated in [Hypothesis 1](#) (H1), we expect that citizens' groups will post the most about court activity. Because the numbers of organizations of each type vary, we use average posts by group type rather than raw counts to test this hypothesis. A plot of the monthly average court posts by each type of group is shown in [Figure 2](#).<sup>16</sup> The plots provide evidence in support of [Hypothesis 1](#). Citizens' groups consistently post the most frequently about courts on both Facebook and Twitter. Unions and professional organizations post the next most frequently, and business and industry groups post the least about the courts. We conducted pairwise t-tests and found that all of the differences between groups are significant.<sup>17</sup>

<sup>16</sup>We also ran this analysis with weekly averages and the patterns were identical.

<sup>17</sup>See Appendix Tables 4 and 5 for the t-test results comparing court posts by group type.



**Figure 2.** Monthly Average Court Posts by Group Type, January 1, 2016 to December 31, 2020. Notes: Facebook posts are shown on the left (2a) and tweets are shown on the right (2b).

Because they use monthly averages, these plots cannot tell us whether these trends are driven by a small number of organizations within a given type or are instead more widespread. Which organizations are the most frequent posters on Twitter and Facebook about the courts? Appendix Table 1 shows the top 20 posters about the courts on each platform. The vast majority of top posters (75%–85%) on both platforms are citizens' groups. Only one union — Service Employees International Union — breaks the top 20 on either Facebook or Twitter, at number 13 on Twitter (and not in the top 20 on Facebook). Even more striking is the complete lack of business groups in the top 20 most frequent posters on the courts on both Twitter and Facebook. When considered with the general trends shown in Figure 2, the predominance of citizens' groups among the most frequent posters about the courts on Twitter and Facebook provides additional support for Hypothesis 1. Although there is some overlap among the most prolific posters between platforms, the composition of the top groups are largely different. This is worth further exploration, especially considering the trends in Table 2 — the overall number of groups who posted, and the frequency with which the average group posts about courts, on Twitter and Facebook are relatively similar, but these trends are not being driven by the same organizations across the two platforms.

### Legal organizations

Notably, all of the professional groups and about half of the citizens' groups that are among the most frequent posters about courts fall within the category of legal organizations, despite the fact that these organizations make up only about 5 percent of the organizations in the national dataset. Hypothesis 2 predicts that these organizations will post more often about the courts and court decisions than non-legal organizations. This finds general support. All but two of the legal groups in our national dataset posted about the courts, while only 54 percent of non-legal organizations did so. Figure 3 shows additional evidence in support of this hypothesis by dictionary. This figure shows the percentage of all posts made by interest groups that are about courts, amicus, or case names, broken down by whether the interest group is a legal organization (1) or not (0). These differences are striking: legal organizations post significantly more about all types of court-related posts than non-legal groups on both Twitter and Facebook. This provides further support for Hypothesis 2.

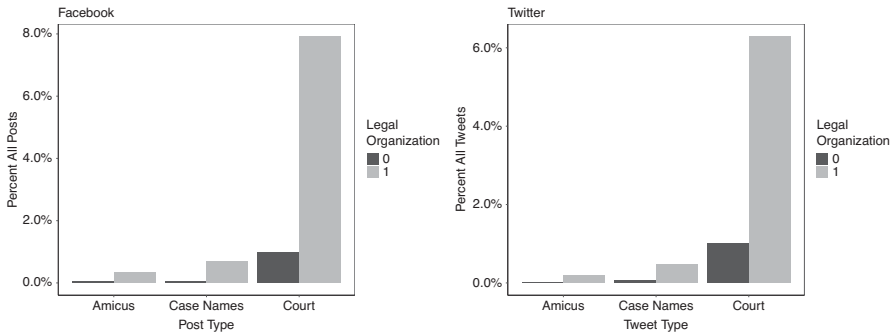
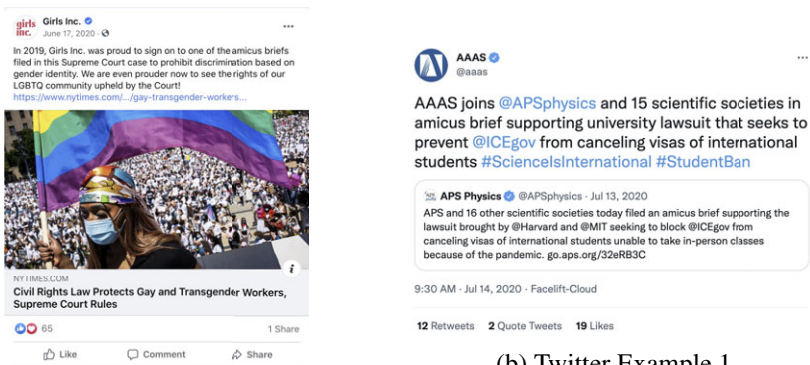


Figure 3. The Percent of All Posts by National Organizations That Are about Amicus, Case Names or Court Terms by Type of Organization, Legal or Not, on Facebook (Left) and Twitter (Right).



(a) Facebook Example 1

(b) Twitter Example 1

Figure 4. Examples of Credit Claiming on Facebook and Twitter.

### Credit claiming for amicus briefs

For the analysis of our credit claiming hypotheses (H3 and H4), we begin by looking at the content of a random sample of 100 Facebook posts and 100 tweets in our national dataset containing the words “amicus” or “amici.” In the majority of these posts (59 percent on Facebook and 64 percent on Twitter), organizations were explicitly claiming credit for an amicus brief. The vast majority of these posts were credit claiming for *filing* a brief. Many of these posts acknowledge co-filers and highlight the strength of the coalition in support of their position. The tweet from the American Association for the Advancement of Science in Figure 4 is representative. A smaller proportion link the organization’s amicus brief to the outcome of the case. Generally, these posts note that their side was victorious but do not go so far as to say they *caused* the victory. The Facebook post from Girls, Inc. in Figure 4 is representative of this type of post. The remaining posts that mention amicus briefs fall into two general categories. Some thank or acknowledge other organizations for filing amicus briefs. Often these posts also serve to remind readers of the organization’s own position on the issue. Others provide general information about who has filed a brief in the case. Most of these seem to provide general education about the case.

Occasionally, however, these posts provide an endorsement of the filer. For example, there are a few instances in the sample where a congressperson or an executive agency nominee had participated in an amicus brief on the side of a case favored by the organization, and the organization was advocating for others to support that person's campaign or nomination because of it. Interestingly, despite the fact that these samples were pulled from our national dataset, a substantial proportion of the posts and tweets do not focus on the U.S. Supreme Court. Approximately 10 percent of the posts we examined for the content analysis dealt with amicus activity in state courts, and almost one quarter of them dealt with amicus activity in the lower federal courts. These proportions are notably different from those in our content analysis of more general court-related posts, which were overwhelmingly about the U.S. Supreme Court. This suggests that while national organizations will primarily provide updates and general information about the Supreme Court, they will credit claim for their amicus activity in any court in which they are active.

To complement the content analysis, we combine posts from our amicus dataset with those in the national dataset. The combined dataset includes all posts from the national groups along with those from all groups that filed an amicus brief in Supreme Court cases from 2016 to 2020. We consider any posts which included at least one word or phrase from our three dictionaries (courts, amicus, and case names). In total, between the national and amicus datasets, this subset includes about 130,000 Facebook posts from about 2,600 groups and about 350,000 tweets from 4,405 groups. We test [Hypotheses 3 and 4](#) by examining how each organization fits into two categories. First, we consider whether an organization filed at least one amicus brief in the U.S. Supreme Court from 2016 to 2020 ("*amicus organizations*") or not ("*non-amicus organizations*").<sup>18</sup> Second, we also consider whether those organizations were legal organizations or not. In total, then, we compare four mutually exclusive groups: legal amicus, legal non-amicus, non-legal amicus and non-legal non-amicus organizations.

[Table 3](#) shows the number of Facebook posts, out of the approximately 130,000 total, by amicus and legal organization category and whether those groups mentioned any term in our amicus dictionary. The final column in [Table 3](#) provides the percent of posts by group that use amicus terms. This allows for an appropriate comparison given the differences in the number of groups in each category. Groups that filed amicus briefs posted more about amicus terms than comparable organizations that

**Table 3.** Amicus Posts by Group Type on Facebook, Alongside the Percent of Posts by Group Type About Amicus Terms

Group	Number of groups	Total posts	Amicus posts	Percent amicus posts
Legal amicus	498	42,723	2,866	6.71
Legal non-amicus	20	3,208	38	1.18
Non-legal amicus	1,556	74,122	3,162	4.27
Non-legal non-amicus	553	10,017	175	1.75

<sup>18</sup>As we noted in the content analysis, organizations do not just post about amicus activity in the U.S. Supreme Court, but rather post about their activity in any court. It is possible that organizations coded as non-amicus for this analysis are amici in other courts, so credit claiming by amicus organizations may be undercounted in this analysis.



**Table 4.** Amicus Tweets by Group Type on Twitter, Alongside the Percent of Posts by Group Type About Amicus Terms

Group	Number of groups	Total posts	Amicus posts	Percent amicus posts
Legal amicus	481	102,742	4,505	4.38
Legal non-amicus	21	16,006	101	0.63
Non-legal amicus	1,690	185,543	5,115	2.76
Non-legal non-amicus	913	23,777	333	1.40

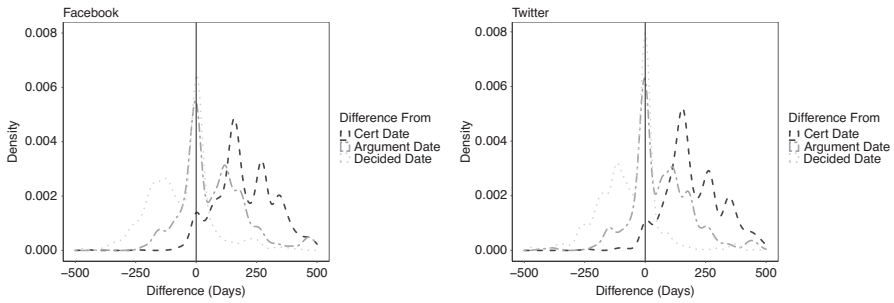
did not. Similarly, legal groups tend to post more frequently about amicus terms, especially if they filed any brief at the Supreme Court. In Appendix Table 6, we present a series of pairwise t-tests comparing the percent of court posts that mention amicus terms by group type. The differences between all groups are significant at  $p < .001$  and indicate significant heterogeneity across group types. In particular, legal amicus organizations have the highest proportion of posts that mention amicus terms, consistent with both [Hypotheses 3](#) and [4](#).

[Table 4](#) displays the same comparisons using the Twitter data. The trends for tweets are similar to the trends for Facebook posts — those who filed amicus briefs themselves post using amicus terms substantially more on average than groups that did not. This offers additional support for [Hypothesis 3](#). We also see some evidence for [Hypothesis 4](#) in [Table 4](#). Legal amicus filers posted using amicus terms the most, although legal non-amicus groups posted about these terms similarly to their non-legal counterparts. In Appendix Table 7, we provide a series of pairwise t-tests comparing the percent of tweets that mention amicus terms by group type. All the comparisons are significant. This provides further evidence of significant heterogeneity between categories and further supports our expectations in [Hypotheses 3](#) and [4](#).

### **Credit claiming and the timing of posts**

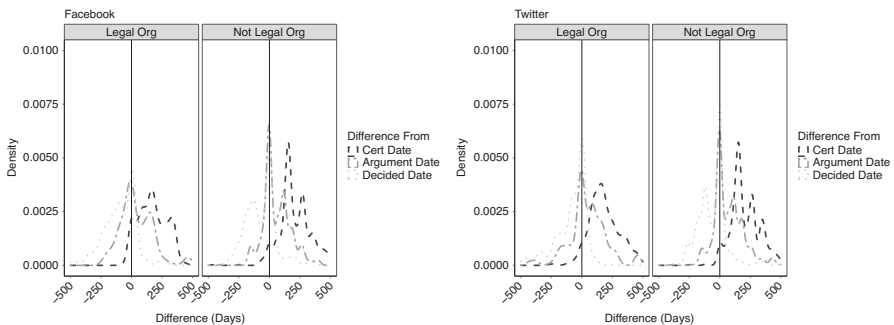
The analyses above demonstrate that the groups we expect to be most likely to credit claim mention amicus briefs on Facebook and Twitter. However, as we saw in the content analysis, while the majority of posts using amicus terms are credit claiming, not all of them are. To further support our credit claiming hypotheses, we turn to an analysis of how posting aligns with the *timing* of Supreme Court decisions. The content analysis showed that groups tend to credit claim most when they file a brief. In other words, they are credit claiming primarily for their own activity and involvement. If posts about Supreme Court cases are primarily educational or information sharing, we should expect them to occur at the time the Court decides to hear a case, at the time the case is argued and at the time the Court releases its decision, as these are the times to talk about what the *Court* is doing. If the group is credit claiming, we would expect them to post when they filed a brief: before certiorari is granted, if they are credit claiming for a brief supporting or opposing certiorari, or between the granting of certiorari and the argument, if they are credit claiming for a brief on the merits. Briefs are filed at both these stages, so they reflect activities of the *interest group* in the litigation process.

We explore timing using posts by interest groups that participated in amicus briefs in any Supreme Court case from 2016 to 2020 in which the post contains a term in our case names dictionary. [Figure 5](#) shows the density of posts about a Supreme Court



**Figure 5.** Difference in days from Facebook and Twitter posts about Supreme Court case to the cert, argument or decision date among groups that filed amicus briefs at the Supreme Court from 2016 to 2020.

case matched to key dates in the progress of that case. Specifically, we measure the distance of a post in days from the dates certiorari (cert) is granted, oral argument is heard and the Court’s decision is released. If organizations are credit claiming for filing amicus briefs supporting (or opposing) cert, we would expect to see posting activity before cert is granted. We see some posting in this period but not much. The vast majority of posts come after the Court has chosen to hear the case. However, amicus participation is generally not as robust at the certiorari stage as it is at the merits stage. This is where we would expect to see the largest spike of credit claiming activity, and this expectation is supported in these data. Posts about a case tend to build before the case is argued, when most amicus briefs are filed, and around the argument date itself, when news coverage of the case may be most prominent. This is consistent with a mix of credit claiming and information sharing. We also see that the majority of posts occur before the case is decided rather than after. As with the content analysis, this demonstrates that organizations are posting in the lead-up to a Supreme Court decision, likely to inform readers about the organizations’ efforts to sway the courts. This is consistent with the idea that interest groups are credit claiming for organizational *effort*, not *policy outcomes*. Notably, this is true even when we take into account whether the side on which an organization filed their brief won. Appendix Figure 2 displays the same timing analysis for only those organizations whose policy position prevailed in the Supreme Court, and the graphs are



**Figure 6.** Difference in days from Facebook (left) and Twitter (right) posts about Supreme Court case to the cert, argument or decision date for legal and non-legal organizations that filed amicus briefs at the Supreme Court from 2016 to 2020.

virtually identical to those in [Figure 5](#). Winning organizations are still more frequently claiming credit for their litigation activity rather than their policy successes.

Are these patterns consistent across different categories of groups? We further consider whether these temporal patterns differ by whether an interest group is a legal organization. [Figure 6](#) highlights that these patterns do indeed differ by whether the organization is classified as legal or not. For instance, legal organizations appear to post more consistently about cases in which they are involved throughout the Supreme Court case process, from certiorari to argument and decision dates. Non-legal organizations' posts are more tightly clustered around the Court's key dates. This analysis suggests that there may be important differences by group type in credit claiming behavior. Future analyses ought to excavate these differences further.

## Discussion and Conclusion

This paper examines interest groups' social media posts about courts and judicial advocacy. Overall, these posts constitute a small proportion of interest groups' overall social media activity; they make up a little over 2 percent of all the interest group posts in our national and amicus datasets from 2016 to 2020. While the proportion of posts of this type is small, we have argued that interest groups use these posts strategically to advance two key goals, public education and organizational maintenance. Posting about the courts may help an interest group build the public's understanding of its issues, build a reputation as a trusted source of information, and obtain the membership and financial resources needed to continue to advance its policy goals.

We find support for our hypotheses that interest groups are in fact using social media in these ways. Interest group organizations use Facebook and Twitter to post about court-related topics. Citizens' groups, which are least likely to need to offer selective incentives and most likely to value public education, post most frequently about the courts. Organizations that file amicus briefs post about that activity to credit claim about their efforts, particularly around the time amicus briefs on the merits are filed. Legal organizations, which have additional incentives to promote their expertise and litigation experience, post most frequently about courts generally and about their amicus activity in particular. This supports the idea that interest groups have embraced social media as a wide-reaching, relatively inexpensive avenue for credit claiming. This paper documents a modern way that groups can credit claim for activity at the Supreme Court (and other courts) and highlights the importance of technology in interest group communications about the courts.

Our analysis also raises interesting questions for future research. First, the relatively high rate of posts about amicus brief filings in state and lower federal courts we saw in our content analysis suggests that credit claiming is not limited to Supreme Court cases. It is particularly notable that national organizations that focus on federal policy advocacy use their social media to show that they also play an active role in state court cases. This suggests that they do not think a case needs national salience to be an opportunity for credit claiming, as the previous literature suggested (see, e.g., [Hansford, 2004a](#)). This may be a way that direct credit claiming on social media differs from older forms of credit claiming, which often relied on being able to obtain the attention of the news media. Our analysis of credit claiming here focuses on Supreme Court cases, but future work could further investigate whether or how social media has expanded opportunities for credit claiming.

Second, while social media may be a valuable credit claiming tool for all interest groups, it may be particularly important for those with fewer resources. Social media increases the frequency and ease with which organizations can communicate to a wide range of audiences while incurring no expense other than the cost of staff time. Although we do not explicitly test the relationship between credit claiming and organizational resources here, that could be a fruitful extension of our research.

Third, the content of amicus posts seems to emphasize the value of coalitions and partnerships in legal advocacy. Highlighting other groups advocating around the same issue could be seen to diminish, rather than enhance, an organization's ability to fundraise or gain members through credit claiming. Why, then, do groups do this? Do groups that need co-filers more because their legal resources are more limited do this to demonstrate that they are good partners? Or are strong groups that want to encourage collaboration more likely to do this because they know having the support of other organizations strengthens their position? Examining coalition behavior could be a productive area for future work.

Another interesting, but outstanding, question is whether groups try to derive benefits from posting on social media about litigation in which they were not involved. Can organizations free ride on the judicial advocacy efforts of other interest groups by engaging in comparatively low-cost information sharing rather than more costly litigation or amicus filing activity? Our initial analysis about posts from non-amicus filers shows that case-related posts are less common within these groups, but they are not nonexistent. This suggests that even those groups that are not directly involved in particular Supreme Court cases may be posting information about those cases for some other purpose. This leads to a broader question of whether the credit claiming actually works: that is, do the groups' members or the broader public pay attention to this activity or the posts about it? Are they able to credibly credit claim if the audience is not recognizing that activity? Exploring these issues would be a useful extension of research on amicus briefs in an increasingly prevalent social media context.

Finally, this project has focused on two specific social media platforms, Facebook and Twitter. We have noted that there are some differences in how interest groups are using these two platforms. For example, calls to action are more common on Twitter. This raises questions about whether or how our expectations about how interest groups talk about the courts on social media would travel to different platforms with different features. For example, would organizations use platforms that are primarily image based, like Instagram, or video based, like YouTube and TikTok, for credit claiming as well? As social media continues to grow and evolve, will interest groups' posting behavior evolve as well? These are interesting avenues for future work.

This project provides new information about how social media may be an avenue for organizations to educate the public and credit claim about their litigation activity. This is an important addition to the literature on how groups may use amicus briefs to credit claim and how they publicize that activity (Collins, 2018; Hansford, 2004a.), as well as to our overall understanding of the many motivations and strategies that shape interest groups' use of social media. Our paper suggests that social media is a useful tool in the interest group toolbox; one that can emphasize litigation efforts and court activities more broadly.

**Supplementary Materials.** To view supplementary material for this article, please visit <http://doi.org/10.1017/jlc.2022.16>.

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