

Detailed Contents

<i>List of Figures</i>	xiii
<i>List of Tables</i>	xv
<i>Acknowledgments</i>	xvii
1. The Missing Link: The Importance of Collegiality for Judicial Behavior	1
Introduction	1
What Influences Judicial Behavior?	5
Law	6
Attitudes	7
Strategy: Internal and External Constraints	8
Background Characteristics	10
Judicial Behavior Is Collaborative	11
Roadmap of the Book	12
2. Understanding Collegiality	15
Introduction	15
What Is Collegiality?	17
Collegiality Is Important	18
Collegiality in Our Everyday Lives	18
The Importance of Collegiality in Courts	19
Existing Evidence on the Effects of Collegiality	27
Studies of Collegiality in Policymaking and Contact	27
The Potential Mechanisms Tying Contact and Collegiality to Outcomes	28
Is Collegiality Always Good?	33
Our Theory	34
Relationship of Collegiality to Contact	34
The Role of Ideology	38
Institutional Differences in Balancing Ideology and Collegiality	40
Collegiality and Different Types of Colleagues	42
Conclusion	42
Appendix 2.A: Interview Methods	43
Appendix 2.B: Interview Questions	44
Court of Appeals Judges	44
Supreme Court Clerks	45
Court of Appeals Clerks	46
Appendix 2.C: Clerks' Perspectives on Collegiality	47
3. Interpersonal Contact and Publicizing Disagreement	49
Introduction	49
Collegiality and the Costs of Publicizing Disagreement	50
Collegiality and Ideological Disagreement	53

The Differences Between Concurring and Dissenting	55
Proximity and Collegiality	55
A Measure of Collegiality: Same Courthouse	58
Data and Research Design	60
Descriptive Results	63
Multivariate Analysis	64
Conclusions	69
Appendix 3.A: Regression Results	71
Appendix 3.B: Detailed Data Collection Description	72
Appendix 3.C: Interview Evidence on Panel Assignment	72
4. Why Does Collegiality Matter?	75
Introduction	75
Personal and Professional Relationships	76
Persuasion and Suppression	77
Measuring the Mechanisms	79
Personal Relationships	79
Professional Relationships	80
Empirical Strategy	85
Results	86
The Direct Effects of Collegiality	87
The Conditional Effect of Collegiality	88
The Conditional Effect of Ideology	91
The Cumulative Effect of Collegiality	94
Control Variables	99
Conclusions	99
Appendix 4.A: Summary Statistics	103
Appendix 4.B: Regression Results	104
5. The Supreme Court: From the Boarding House to the Marble Temple	107
Introduction	107
Collegiality and Institutional Context	108
Historical Accounts Regarding the Operation and Importance of Collegiality	110
Interview Evidence Regarding the Operation and Importance of Collegiality	113
Institutional Differences	113
Clerk Professionalization and Socialization and the Importance of Collegiality	114
Contact and Relationships among Clerks and Justices	116
Observations about Justices, Their Interactions, and Collegiality	117
Contact and Collegiality	118
The Consequences of Collegiality	121
Data and Research Design	122
Results	125
Descriptive Statistics	125
Multivariate Research	125

Conclusions	128
Appendix 5.A: Interview Results	129
Collegiality among Clerks	129
Clerks as Conduits	131
Appendix 5.B: Summary Statistics	132
Appendix 5.C: Regression Results	133
6. The Lunchroom Politics of Intercourt Relations	137
Introduction	137
Reversal and Reputation	139
Building Assessments	141
Assessments, Collegiality, and Ideology	144
Measuring Hierarchical Collegiality	145
Data and Research Design	148
Results	150
Direct Effects of Reputation	150
Conditional Effect of Ideology by Assessments	150
Control Variables	154
Conclusions	154
Appendix 6.A: Summary Statistics	156
Appendix 6.B: Regression Results	157
7. Collegiality and the Language of Dissent	159
Introduction	159
The Context and Complexity of Dissent	160
The Impact of Language on Relationships	163
Collegiality and the Language of Dissent	167
Measuring Politeness and Rudeness	169
Data and Methods	172
Results: U.S. Courts of Appeals	175
Results: Supreme Court	181
Conclusions	188
Appendix 7.A: Summary Statistics	190
Appendix 7.B: Regression Results	192
8. The Impact of Relationships on the Use of Precedent	199
Introduction	199
The Importance of Studying Citations	201
Reasons to Cite a Precedent	202
The Impact of Collegial Relationships on Citation	204
Relationships with Former Colleagues	205
Relationships with Current Colleagues	207
Research Design	209
Collegiality and Citation in the Circuit Courts	211
Data	211
Results	212

Collegiality and Citation in the U.S. Supreme Court	217
Data	217
Results	218
Conclusions	221
Appendix 8.A: Summary Statistics	223
Appendix 8.B: Regression Results	225
9. Taking Collegiality Seriously in Designing and Studying Courts	227
Introduction	227
Summary of Findings	227
Increased Collegiality May Foster Consensus	228
The Effect of Collegiality Increases with Ideological Distance	229
Collegiality Dampens the Effect of Ideological Disagreement	230
Mechanisms	231
Differences in Institutional Context	232
Highlights of Our Findings	233
Implications	235
Implications for Theories of Judicial Behavior	235
Implications for Institutional Reforms	236
Potential Reforms to Judicial Norms	238
Opportunities for Future Research	241
Generalizability	241
Collegiality and Judge Characteristics	242
Building and Maintaining Collegiality	243
Collegiality in Other Contexts	246
Final Thoughts	248
<i>Bibliography</i>	251
<i>Index</i>	273