Professor Smith's "Grader's Notes" (i.e., detailed suggested answer avenues, as provided to each Grader…)

Grader's Notes for Part I, Questions A&B:

Statement 1: This Statement implicates the discussion of "The Impact of Localism" in Carp, Chap. 12. Useful points in that discussion include the following:
--Initial study of "two leading students of the subject" noting that "A persistent factor in the molding of lower court organizations has been the preservation of state and regional boundaries."
--Explanation that "trial and appellate judges tend to come from the district or state in which their courts are located, and the vast majority were educated in law schools of the state or circuit they work in."
--"Some evidence indicates that regionalism pervades the federal judicial system at the appeals court level…" Citing:
*1981 study showing "regional differences on such important questions as the rights of the consumer, pleas by criminal defendants, petitions by workers and by blacks, public rights in patent cases, and immigration litigation."
*Study by Susan Haire noting patterns of Western federal court of appeals judges being more liberal in 4th amendment search and seizure cases and more conservative in race-based employment-discrimination cases
--Studies of federal district judge decisions showed "East-West differences were never very great. However, significant variations have traditionally existed between judges living in non-southern states and those holding court in the South." (citing 32-79 data showing generally that southern judges were less liberal; citing 1990 study showing greater southern conservativism on abortion rights)
--Studies cited in "Variations in Judicial Behavior among the Circuits" shows further regional variation at the appeals-court level
--The discussion in "Variations in Trial Judge Behavior among the States" gives three explanations why there is regional variation among federal trial judges: 1) judges reflect broader state-by-state policy variations, 2) "many judges regard their states as meaningful boundaries and behave accordingly" (providing illustrations), and 3) diversity of citizenship cases, in which federal judges need to apply the law of their stat means they stay abreast of state law and create a "slight local tinge"
--One study found "meaningful differences" in state-by-state district court decisions – differences that "have been increasing since the late 1960's"
--Finally, the section on "Localism and the Behavior of State Judges" notes "even more pervasive differences" and gives examples of urban vs. rural variations within a state.

[NOTE: Optimally, any subject-specific example (e.g., 4th amendment; abortion) should include a specific observation of how variations in law application on these important rights can have real practical affects on individuals and communities]

Statement 2: This Statement taps key points in Carp/Stidham/Manning, Chapter 7:

--Re: First sentence that modern U.S. presidents have differed as to their ability to have the federal judiciary reflect their ideological and partisan visions, that
*can be inferred from Table 7-1, which shows a not completely predictable pattern of percentage-of-liberal-district-court decisions in key areas. (EX: Almost as many "liberal" civil rights/liberties decisions from Ford (moderate R) appointees as Clinton (liberal D) appointees. More liberal labor/econ regulation decisions from George W. Bush (conservative R) appointees as liberal D presidents Carter and Clinton
*is implicit in the president-by-president discussions of appointments in the chapter

--Re: second sentence about some factors influencing success being "beyond a president's control" – this would include principally *the number of vacancies to be filled (depends on death and retirement beyond president's control; and willingness of Congress to create new judgeships, which may largely be out of president's control) *the judicial climate the new judges enter (which is determined by whether the predecessors who appointed existing judges were of the president's party and ideology or not). Also relevant here could be the president's limited control over what the ABA and outside interest groups say about his nominees, and what kind of lobbying and grass-roots campaigns they mount. So, too, would the constraint of home-state senatorial approval for home-state district-court judicial nominees (see the "blue slip" process). Finally, the fact that a nominee may turn out not to decide cases in ways anticipated (e.g., Eisenhower's alleged displeasure with Warren & Brennan; Stevens and Souter voting more liberally than expected) is another limit on presidential control and influence after the nominee is confirmed.

--Re: third sentence about some factors beings "very much within a president's control", that is certainly where to put the extent to which the president makes ideological impact a priority (e.g. Clinton was more committed to diversity; Truman was more committed to personal relationships/loyalty; Reagan and Geo. W. Bush were primarily committed to ideological impact). Other individually relevant points might include a president's decision to cooperate or not (e.g. Geo. W. Bush) with the ABA vetting process (which restricts the full range of presidential appointment discretion, b/c the president must take the ABA into account, but then helps pave the way for the president's nominee to be confirmed, if they get a good ABA rating).

[NOTE: Presidential political clout could go in either category. The president's own political abilities, etc., are important in determining political clout. But clout is also a function of how large a majority the president has in Congress and appointment success especially depends on the Senate margin. Both these may be significantly determined by local political factors, crises, the economy, etc. largely beyond presidential control. But an incumbent president does affect the overall popularity of legislators and candidates associated with his party…]

Statement 3: This statement calls for a pretty straight-forward recreation of Carp/Stidham/Manning Chapter 10 and my lecture on it. The key for getting full credit is not only to reference ONE example cutting against substantial policy-making and ONE example showing it; also, answers should EXPLAIN how the particular process portion might link to limited or larger opportunities for policy-making. (E.g., Because judges don't have much control over the trial strategy and presentation decisions of the prosecution and the defense, judges can't control the extent to which the trial becomes a publicly noteworthy referendum on drugs law, gang enforcement, etc. E.g., By using their substantial sentencing discretion to give relatively light or heavy sentences, they can significantly affect defendants, the community, the prison system, the deterrence message sent forth to other potential offenders, etc.)

--Trial Phases with little or no opportunity for judicial policy-making or involvement:
*Voir dire questioning of potential jurors and their peremptory challenge, p. 245-46
*Generally deciding how prosecution and defense will present case, including opening statement, which witnesses will call and not call, what documentary evidence will be introduced, pp. 246-249
*Generally serving as a "relatively passive" umpire during the trial, pp. 249-251; for example, the jurors decide facts and guilt, not the judge, pp. 251-252

--Post-conviction and appeal phases where judicial policy-making opportunities are relatively restricted:
*Mandatory minimum sentencing and the inherent restriction in providing a legislated sentencing range (see below)
*Parole boards, etc., can undercut judicial judgments by shortening the time period convicts actually serve by as much as 1/3

--Trial Phases with substantial opportunity for judicial-policy making and involvement:
*Rulings on application of constitutional rights to particular trials (e.g., Sixth Amendment right to impartial jury & right to effective assistance of counsel, pp. 242-243; Fifth Amendment double-jeopardy clause, when defendant claims that were already tried for "same offense", pp. 243-244; Fifth Amendment right ag/ self-incrimination, p. 244; Fourth Amendment right against unreasonable searches and seizures, when allegedly illegally obtained evidence is sought to be introduced at trial, p. 244)
*Initial removal of biased jurors, prior to attorney questioning
*Policing of *Batson* rule that jurors may not be peremptorily challenged based on race or gender, p. 245
*Ruling on objections during direct and cross examination of witnesses, p. 248
*Instructing the jury on the rules of law (including the burden of proof) it is to apply, pp. 252-254
*Deciding whether to sequester the jury and whether to keep a divided jury deliberating, or to declare a mistrial, p. 254

--Post-conviction and appeal phases with substantial opportunity for judicial policy-making and involvement (although subject to some limitations):

*Sentencing convicted defendants in non-capital cases, pp. 257-263; generally, judges exercise substantial discretion within the sentencing ranges provided in criminal statutes passed by the legislature. (NOTE: this discretion is expanded in the wake of the Booker case series, pp. 261-62, which held that it was unconstitutional to make sentencing guidelines mandatory.) (NOTE2: this is not to say the legislature cannot provide mandatory minimum sentences to be given if certain elements , e.g., using a gun, are found by a jury beyond a reasonable doubt, p. 262.)
*Appellate judges have substantial authority to reverse trial-court judges on appeal (pp. 263-264) and to decide on the constitutionality of the death penalty for certain offenders and offenses (pp. 264-266)

Statement 4: This Statement zeroes in on Baum's observations about the role of the S.G. at the Court.

--"Specific Functions" Served / Benefits Given by Solicitor General's office for Supreme Court:
*Damping down the number of federal cases appealed to the Court; ensuring that the cases appealed are especially meritorious (Baum, p. 84, observing that the SG's office "decide[s] whether to bring federal government cases to the Court; only a few federal agencies can take cases to the Court without the solicitor general's approval"; Baum, p. 84, discussing the payoff to SG in exercising "self-restraint in requesting the Court hear cases"; referencing SG serving as "Doctor No")
*Filing briefs on cert. and the merits at the Court's "invitation" (Baum, p. 85: gives Court the benefit of the federal government's views "in cases that do not affect the federal government directly")
*Participating in oral argument as amicus by invitation or at its own request (Baum, p. 85): helps ensure that the oral argument is of high quality and ensures that matters most likely to be of interest to the Court are ventilated.
*Generally insulating the Court from more overtly "political" involvement/interference in the federal government's legal argumentation by the Attorney General or the President (see Baum, p. 85: "a degree of independence" of SG from political superiors)
*Other?

[Of course, any of the above could be spun as special functions / benefits the Court gives to the SG. For example, because only the Court can issue a nationally binding interpretation of federal law or the Constitution, the SG's "special relationship" with the Court and unusually high success rate in achieving cert. grants, etc., ensures that the Court can serve the interests of the federal government by resolving inter-circuit conflicts, harmonizing the law, etc. Similarly, being "invited" by the Court to file briefs or argue as an amicus is a special benefit the Court gives the SG's office, which expands its influence. Further, it could be thought that the fact that the Attorney General and president "understand the value of maintaining" the special SG/Court relationship gives the SG's office powerful insulation from political pressures from "higher ups" in most cases. Finally, because SG lawyers are "repeat players" familiar with how to argue

responsively to the Court, these lawyers give the justices an especially useful argument!]

Grader's Notes for PART I/Question C:

--Pair 1: This implicates parts of Carp/Stidham/Manning, Chapter 13 ("Decision Making in Collegial Courts) and Baum, Chap. 4 (pp. 131-140 on "Group Interaction").

BACKGROUND --"Group dynamics" explanations for judicial decision-making focus on, as the name implies the inter-personal interactions of the different judges. At the Supreme Court level, Baum discusses justices influencing each other (e.g., to switch votes on case decisions), seeking to influence "swing voter" justices like Kennedy, the role of the Chief Justice, and the extent of harmony and conflict. In the section on "Small-Group Analysis", Carp/et. al. talk about the engaging or non-engaging personalities of different justices and judges; the role of bargaining for joining opinions, the language in opinions and, ultimately, the threat to "go public" with an accusation of a major breach of propriety and process, and the evidence of small-group interaction attributable to vote changes at the Supreme Court level.

--"Rational choice" or "strategic" explanations focus on the justice/judge individually making a decision in an attempt to "psych out" how colleagues or extra-judicial actors will react. Examples would include Baum's discussion (p. 93) of how individual justices might "act strategically by voting to hear a case when they think the Court would reach a decision they favor if it decided the case on the merits and voting against certiorari when they think the Court would reach what they consider the wrong decision." (Baum notes that evidence of this strategic action is "uncertain," that "Justices probably concentrate their strategic calculations on [a] relatively small proportion of cases," and speculates that this strategizing is mainly valuable to an "ideological minority" on the Court.) Another example: Baum's speculations at p. 145 that b/c Congress and other policymakers "take actions that affect the Court and the impact of its policies" "justices may take those policymakers into account when reaching decisions." (Similar point made by Carp in discussion of "rational choice theory".

MAIN AREAS FOR NOTING "MOST IMPORTANT DIFFERENCES:"
--"Group dynamics" explanations focus on the interaction among a collegial judicial group – how the justices/judges actually deal with one another; By contrast, the rational/strategic choice explanation focuses more on how *individual justices/judges act* (or decline to act) based on how they "read" the likely reactions of judicial colleagues or other policy makers.
--"Group dynamics" focuses on the personalities and powers/influence of particular justices/judges; the rational/strategic choice explanation is concerned with likely votes, actions, decisions of others. (For example, a rational-choice explanation of a particular justice's vote to take case would look at how that justice "read" other colleagues and their likely decision and rationale. We wouldn't be talking about other colleagues

influencing that justice by their powers of persuasion, etc. Another example: a rational-choice explanation of a particular justice's vote to decide a case on narrow, technical grounds – thus avoiding a congressional backlash – would focus on how that justice "read" the likely reaction of the relevant other policy makers. A "group dynamics" explanation would talk about how other colleagues' persuasion might have influenced that justice, how that justice might in turn have influenced his/her colleagues, the special role of the chief justice in shaping decision making and in assigning the writing of the draft majority opinion, etc.)
--Other?

--Pair 2: This implicates the initial Week 2 discussion of the constitutional foundation (via the in-class discussion questions) for judging. Key differences would include:

--Empowerment: The U.S. Constitution is *the* source of power for federal judges: Article III creates the federal judicial power, and defines the categories of cases within it (Section 2). State judges get their powers from their state constitutions; state courts are neither created nor empowered by the U.S. Constitution

--Empowerment / Life Tenure: In the sense that life tenure (Article III, Section 1) gives federal judges great autonomy (and therefore the power to decide without regard to re-election politics), the U.S. Constitution "empowers" federal judges but not state judges (whose methods of selections are also determined by the state constitution)

--Limitation/ Generally and Specific Provisions: Although the U.S. Constitution's notions of Supremacy and its specific constitutional limitations (e.g., limitations on illegal searches and seizures) apply to federal and state courts alike, Article III of the U.S. Constitution imposes specific limitations on federal judges not imposed on state judges, such as
*the requirement to serve "during Good behavior" (Sec. 1),
*the requirement to stay within cases listed within the judicial power (Sec. 2, Cl. 1),
*the power of Congress to make Exceptions and Regulations to Supreme Court appellate jurisdiction (Sec. 2, Cl. 2),
*the requirement that trial of crimes generally be by jury in the state where the crime was committed (Sec. 2, Cl. 3), and
*the specific prohibition on treason convictions other than "on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court" (Sec. 3)

--Limitation / Impeachment: The U.S. Constitution includes federal judges within an impeachment process that potentially limits their tenure; this process is inapplicable to state judges

--Pair 3: This implicates part of Carp/Stidham/Manning Chapter 6, discussing "The Federal Selection Process and Its Participants". Key differences would include:

--For federal district-court judges, the traditional "senatorial courtesy/blue slip" process used by the Senate Judiciary Committee gives home-state Senators of the president's party (and, during Republican Senator Oren Hatch's Chairmanship, of both Senators regardless of party) a special "virtual veto" over nominees – thus prompting advance consultation. There is no equivalent to this for federal appellate nominations (which are not tied to a particular "state") – except for the recent tradition of deferring to "home state" Senators if a circuit-court nominee would be the only member on the appellate court from that Senator's state.

--Indeed, although home-state Senators are really the main shot callers on district-court appointments, because of the greater visibility and ideological impact of decisions by intermediate-appellate judges and especially the Supreme Court, these appointments are most likely to engage other Senators to a degree depending upon the extent to which they are on the Judiciary Committee, are otherwise power brokers or opinion leaders in Congress, are constrained by loyalty to the president's party, etc.

[NOTE: Although not discussed significantly in class, the recent exercise of the "nuclear option" (making it easier to the Senate to break a filibuster) for nominations of executive-branch officials and lower-federal-court judges – but not the U.S. Supreme Court – means a diminished ability of a Senate minority to block nominations for lower-federal-court judges BUT NOT the Supreme Court.]

Grader's Notes for PART II/Question D:

This question gives students the greatest opportunity to range over P Sc 104D materials:

Professor 1:

--"the broad policy discretion possessed by federal and state judges" taps the 2nd week discussion questions re: areas where judges have significant policy discretion and the myriad other places in Carp (e.g., the end of Chapter 12, discussing how judicial discretion is maximized when precedential guidance is unclear or the area of law is "new", pp. 327-332)

--"the extent to which their decisions in fact reflect partisan and ideological preferences" reflects any of the portions of Carp and Baum discussing partisan differences among judges/justices, including:

*Parts of Chapter 7, discussing partisan/ideological differences among district-court appointees of different modern presidents (e.g., pp. 163-167 and Figure 7-1 in 8th Ed.; Table 7-1 on p. 173 in 8th Ed.)

*The "Democratic Subculture" discussion of Carp, Chap. 12. (pp. 302-317 in 9th Ed.; e.g., Table 12-1 showing differences in % of "liberal" decisions by federal

district-court judges; e.g. pp. 306-307, describing differences in federal appeals-court judges; e.g., Table 12-2 and surrounding discussion on p. 313, re difference in liberalism based on region)
*Discussions of ideological differences/influences in Carp., Chap. 13 (Decision Making in Collegial Courts) (e.g., discussion of ideology in "Attitude Theory", pp. 363-365; e.g., discussion of liberal/conservative breakdown in Obamacare decision, pp. 369-371)
*Discussion of ideological differences among Supreme Court justices in Baum, Chap. 3 ("Policy Preferences" as affecting cases granted review, pp. 93-94) and Chap. 4 ("The Influence of Policy Preferences", pp. 122-124 & "The Ideological Dimension", pp. 123-126)

--"the dynamic give-and-take in which they engage with elected officials" could tap any discussion so far about how judges/justices engage in "strategic thinking" about how Congress and the president will react to particular Court decisions (see Question C, "Pair 1" above – and also Carp, pp. 371-372, discussing Obamacare decision as handing strategic split decision to Congress/president)

--"federal and state judges are just politicians who wear black robes" is a catchall for any comments equating judges and non-judges, such as:
*Carp, Chap. 12: Noting, in a discussion of "The Impact of Localism": "In identifying with their regional base, judges are similar to other political decision makers"
*Baum, Chap. 3 (p. 79): Noting, re: the hundreds of interest groups that participate at the Supreme Court litigation level, "Among them are nearly all the groups that are most active in Congress and the executive branch." (i.e., equates justices with other co-branch political officials)

Professor 2:

"Legal-system constraints" on political policy-making invokes
*the Carp discussion about how the "Legal Subculture" constrains judges (Carp, pp. 296-302, describing multiple examples)
*the Baum discussion of how "The State of the Law" – including interpretive theories, precedents(pp. 115-121), and (I would include) the justices' "Role Values" (pp. 130-131) – explain/constrain decision-making

""Other limitations on judicial policymaking" is a broad catch-all that could include
*"Group Interaction" at the Supreme Court level (Baum, pp. 131-140)
*"Small-Group Analysis" in general (Carp., Chapter 13: pp. 345-363 in the 9th Ed.)
*Other indications of how the opinions of other judges constrain a judge inclined toward a particular ideology (e.g., discussion in Carp, Chapter 7, of how presidents can be limited in their impact on the federal judiciary if the president's new judges enter a "judicial climate" dominated by judges of another ideology

(pp. 163-165 in the 9th Ed.; although the focus here is on the president's influence it implicitly recognizes that the JUDGES THEMSELVES may be constrained, b/c the president only has influences if his judges do…)
*The impact of others in "The [Supreme] Court's Environment" (Baum, pp. 140-147, discussing mass public opinion, elite opinion, litigants and interest groups, and the Congress and the President as constraints on Supreme Court freedom of decision making)
*Carp's similar discussion in Chapter 12 of "The Impact of Public Opinion" (pp. 317-322 in 9th Ed.) and "The Influence of the Legislative and Executive Branches" (pp. 322-326)
*Discussion in the Carp chapters on state and federal judicial selection (Chapters 4 & 5) about how electoral selection or appointment makes judges dependent upon the politics/views of the electorate or the appointing president/Senate

Grader's Notes for Part II/Questions E & F:

--PROFESOR 3: This comment focuses on the judicial-selection materials in Carp/Stidham/Manning, Chapters 5 (state judges) and 6 (federal). It asks the respondent to tie judicial-selection materials to resulting political dynamics or decision-making.
Among the possible places to look for answers, these three avenues seem especially fruitful:

1. Political Dynamics in Initial Appointment:
*At the federal level, and in states where the governor appoints judges, the primary "political dynamic" reflected will be the president and his party or the governor and his. Where there is Senate confirmation (as there certainly is at the federal level and may be at the state level), then the politics of the Senate majority and key minority members will be reflected. (NOTE 1: for federal district judges, being acceptable to home-state Senators is critical; this is not relevant to state judges.) (NOTE 2: where governors appoint in "merit selection" from a short-list developed by a committee, the governor's politics will be somewhat constrained by the politics of the merit-selection committee, which usually includes representatives of the Bar, the public, the legislature, and the governor).
*By contrast, because many states use general election (partisan or non-partisan) to select trial judges (and, to a lesser extent appellate judges), elected judges will be more responsive to the general voting public's politics. (So, too, will even merit-selected judges, once they run for retention in general elections.

2. Policy Discretion Constrained by the Need to Run for Re-Election: *Almost all state judges – even if appointed initially – will face re-election, which constrains their freedom to take policy positions unpopular with the voting public. (EX: State Justice Penny Hall being rejected over perceived anti-death-penalty views.)

*By contrast, because they are appointed for life, federal judges at all levels are significantly more immune from direct public pressure in decision-making. This is why most of the time (but not always) federal judges are responsible for more controversial judicial decision-making protecting unpopular targets of governmental action (e.g., flag burners) or unpopular causes (e.g., sexual-orientation rights in prior eras; campaign-spending rights of corporations)

3. Differences in Trends re: Typical Backgrounds of Federal vs. State Appointees:
Respondents could make use of different trends in the backgrounds of federal vs. state judges. For example: *State judges -- especially trial judges – are more likely to be tied to their local communities (i.e., be a "boy (or girl) made good" *Service as a prosecutor is more likely to be relevant to STATE judicial appointment than FEDERAL judicial appointment.

--PROFESSOR 4: This question taps a comparative look at Carp/Stidham/Manning's Chapters 12 & 13 (re: decision-making by trial-court and appellate-court levels, respectively)

--The basic point is made under "The Subcultures as Predictors" toward the end of Chapter 11: "The vast majority of federal [but could easily apply to state] trial judges' cases…involve routine norm enforcement decisions" (that is, decisions in which there is clear law to apply and the decision-making is mainly about applying the clear law to disputed facts). There is substantially greater room for policy-making decisions as one goes up the chain -- to intermediate appellate courts (where, although "much appellate judicial business" also involves norm enforcement, there is substantially more room for the exercise of policy discretion because the governing law is unclear or because the issue is "new") and especially to state supreme courts and the U.S. Supreme Court (where because of their role as the one unifying body in the jurisdiction and because they have almost complete discretion on cases they take, most of the cases are about disputed precedents and novel situations.)
[NOTE: Respondents could either make this point generally as one of their examples or arguments, or they could provide specific examples of differences related to this phenomenon as both of their examples/arguments]

--The Kitchin study referenced under "The Judge's Role Conception" toward the end of Chapter 11 underscores the differences in roles/policy-making options referenced above. Although the same low percentage of federal district court judges and federal appellate court judges were classified as "activists," there are major differences the other two roles:

> --A majority (52%) of federal trial judges "were found to be [strict] law interpreters, whereas only 26 percent of the appeals court judges were so designated."
> --By contrast, 59% of federal appellate judges were "pragmatists"/"realists" (believing that "on occasion they are obliged to make law), whereas only a third of district court judges fit this role designation.

--A point specifically relevant to state courts is that because somewhat fewer appellate judges are chosen and retained by election, but are rather appointed and are not subject to electoral competition (but only run in a "retention election" in which the question is simply keep them or not), they have more freedom to exercise policy discretion that might be unpopular. (Compare Carp Tables 5-1 & 5-2: while 30 states choose trial-court judges by election, state supreme-court justices in 23 states are chosen by election.)

--Other?

--PROFESSOR 5: This comment implicates Baum's several points about the interaction of interest groups with the Supreme Court – specifically:

--Involvement in Identification and Confirmation of Supreme Court Justices (Baum Chap. 2):
*Looking specifically at the legal community (ABA, etc.) as an "interest group," an ABA committee investigates presidential nominees and ranks their qualification, testifies to the Senate Judiciary Committee, etc. (p. 30)
*Interest groups generally try to influence the president's nomination by suggesting some candidates and trashing others (p. 31)
*"Once a nomination has been announced, groups often work for or against Senate confirmation." (describing rapid growth "in the interest groups and the intensity of group activity") (p. 31; pp. 31-32, giving examples of interest group influence)

--Involvement in Bringing Cases to the Court (Carp, pp. 76-79; 83): Interest groups influence cases brought to the Court in three main ways (pp. 77-79):

1. By initiating litigation (i.e., developing litigation strategies, recruiting plaintiffs, filing lawsuits, etc.)
2. Sponsoring (i.e., helping pay costs and providing legal representation) to a case commenced by another
3. Filing amicus briefs re: case selection (p. 79: although amicus briefs at the cert. stage are "much less common," "In the Court's 2005 term 270 amicus briefs were submitted on behalf of 144 paid petitions, about 10 percent of all paid petitions")

[p. 83: "There are many important legal question in civil liberties than no individual litigant would take to the Supreme Court without help. For example, most of the individuals whom the ACLU assists could not have gone to court without the group's legal assistance."]

--Involvement in How Brought Cases are Decided (Carp, pp. 79-83):
*Interest group participation in Supreme Court participation has increased dramatically in the past half-century…Hundreds of interest groups now participate in some way. Among them are nearly all the groups that are most active in Congress and the executive branch." (p. 79)

*The wide range of interest groups participating are: *Economic Groups: Business and Occupational *Noneconomic interests *Ideological and Issue Groups *Governments and Governmental Groups (Chart on p. 81; described on pp. 80-82)
*Describing differences in how much $ and energy interest groups put into the Court, depending upon views of members, "a group's perception of the courts in general and the Supreme Court in particular" (including whether the current Court is conducive to the groups aims) (p. 82); "Some groups establish long-term litigation strategies" (p. 83)
*"In the 2010 Term amicus briefs were submitted in 95 percent of the cases decided after oral argument, 67 percent of the cases had at least five briefs, and 34 percent had at least 10 briefs." (pp. 78-79)
*In discussing Supreme Court decisions, in Chap. 4, on pp. 143-145, Baum notes that

--Justices "pay attention" to material provided by interest groups, sometimes quoting their briefs (pp. 143-144)

--"Justices may react to the identities of the litigants or amici themselves rather than just the arguments they present." (p. 144)