

The Success and Failure of the Solicitor General When the U.S. Government Appears as a Direct Party before the U.S. Supreme Court

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Abstract : This paper analyzes the extent to which the U.S. Supreme Court votes to support the position of the United States in cases where the government is a party to the litigation. This study considers the relationship between the Solicitor General's Office and the U.S. Supreme Court. The Solicitor General has the unique position of being the representative of the Executive Branch and the U.S. government before the Supreme Court. While a great deal of research has looked at the Solicitor General's success as a "friend of the court," far less has considered this relationship when the U.S. is a direct party in the litigation. This paper investigates the success rate of the Solicitor General's Office in these cases. We find that there is considerable variation in the U.S. government's success rate before the Court depending on the issue, Supreme Court leadership, the ideological direction of the Court and whether the U.S. approached the Court as a petitioner or respondent. We conduct our analysis on the Court's decisions from 1953-2009. This study adds to our understanding of checks and balances, separation of powers, and inter-institutional relationships between the branches of the federal government of the United States.

Keywords : U.S. president, solicitor general, U.S. Supreme Court, separation of power, checks and balances

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