# Web Appendix

**Nancy Scherer, Brandon L. Bartels, and Amy Steigerwalt. 2008. "Sounding the Fire Alarm: The Role of Interest Groups in the Lower Federal Court Confirmation Process."** ***Journal of Politics*** **70(4).**

## Web Appendix A

## Explanation of the Split Population Duration Model

We utilize a split population duration model in order to simultaneously test both whether a nominee will be confirmed and, if the nominee is confirmed, how long confirmation will take. This methodology allows us to capture more accurately the reality of present day lower court confirmation politics in which not all nominees will be confirmed, and, even for those who are confirmed, the road to confirmation may be long and difficult. In the split population model, the censoring indicator (whether the nomination was confirmed) serves as the dependent variable in the incidence, or "splitting," part of the model. We specify the incidence of confirmation part of the model as a probit given our dichotomous dependent variable of whether the nominee was confirmed. The hazard part of the model (how long it takes to be confirmed) is specified as a log-logistic distribution. The log-logistic distribution, which is an "accelerated-failure time" (AFT) parameterization, allows for a non-monotonic hazard and accommodates a duration process where the risk of an event increases rapidly early in the process and then tapers off gradually. This distribution accurately depicts, *a priori*, the lower court confirmation process in that most nominations will be confirmed early, while there are fewer, yet still a good share, of observations that will experience a longer duration before being confirmed.

The split population model produces an estimation of a "split parameter" ($\delta$), which represents the mean probability across observations of experiencing the event of confirmation, and it allows us to test whether relaxing the assumption that every nomination will be confirmed is reasonable. If $\delta = 1$, then the split population model collapses into a typical log-logistic duration model. If $\delta < 1$, then the split population model correctly accommodates a process where not every observation will experience the event of interest.

## Web Appendix B

## Explanation of Umbrella Organizations Involved in Judicial Selection Politics

Umbrella organizations involved in judicial selection politics monitor judicial nominations on behalf of other organizations and then speak for these organizations on this issue. Thus, an objection from an umbrella organization, by definition, represents the objection of numerous other interest groups as well. The leading liberal umbrella organization is the Alliance for Justice, which represents over 60 grass roots organizations (see http://www.allianceforjustice.org) including: the Asian American Legal Defense and Education Fund, the Bazelon Center for Mental Health Law, the Children's Defense Fund, the Disability Rights Education and Defense Fund, the Education Law Center, the Human Rights Campaign Foundation, the Lambda Legal Defense and Education Fund, the Mexican American Legal Defense and Education Fund, the NARAL Foundation, the National Abortion Federation, the National Lawyers Guild, the National Women's Law Center and Planned Parenthood.

The leading conservative umbrella organization is the Judicial Selection Monitoring Project, which represents over 700 grass roots organizations (see http://www.freecongress.org) including: the American Association of Christian Schools, the American Conservative Union, the American Family Association, Americans for Tax Reform, the Center for New Black Leadership, the Christian Coalition, Coalitions for America, Concerned Women for America, Defenders of Property Rights, the Eagle Forum, the Family Research Council, Focus on the Family, the Independent Women's Forum, the National Association of Evangelicals, the Pro-Life Action League, the Traditional Values Coalition, Women for Responsible Legislation, Save America's Youth, and the National Rifle Association (see also 144 Cong. Rec. S640, 647, Feb. 11, 1998).

## Web Appendix C

## Models Using an Alternative Measure of Interest Group Opposition

As we explain in the text (pp. 12-14), we conceptualize opposition as binary (whether or not it occurred) rather than as a count because interest groups routinely work in coalitions concerning judicial appointments, making it impossible to count the number of interest groups objecting to any given judicial nomination. For example, umbrella groups, by definition, represent numerous other interest groups and speak on their behalf when opposing a specific nomination (see Web Appendix B). Moreover, the data revealed that interest group opposition tends to be an all or nothing proposition; a nomination either garners no opposition or substantial opposition.

Nevertheless, we attempted to create an alternative measure of interest group opposition – an ordinal measure – designed to capture the magnitude of interest group opposition. Our five-point measure consisted of the following categories: 0 = no objections; 1 = opposition by two or more national groups, but no umbrella group or other coalition; 2 = opposition by an umbrella group or coalition only; 3 = opposition by an umbrella group or coalition plus one to three national interest groups; and 4 = opposition by an umbrella group or coalition plus four or more national interest groups. To show how these results compare to the our main model in the text of the paper, which entails showing how the degree of opposition influenced outcomes and timing separately for opposition by liberal and conservative groups, we first created two dummy variables, one for Democratic nominations and one for Republican nominations. We then ran two models. The first model, in Table C1, includes the Democratic nominations dummy variable and the interaction between this dummy and the level of opposition variable. Since opposition and the Democratic nominations dummy are interacted, the coefficients (in both parts of the model) associated with interest group opposition are the conditional effects of opposition when

the Democratic dummy equals 0, which represents Republican nominations. Thus, these effects (-0.499 in the likelihood part and 0.200 in the timing part) are the effects of the opposition variable for liberal interest groups. Table C2 reports results where the coefficients associated with interest group opposition represent conditional effects for opposition by conservative interest groups. Note that the two models are identical (see model fit statistics, for instance) since the only difference between the two models is that we are switching the baseline for the Democratic/Republican nomination dummy variable.

Importantly, Tables C1 and C2 show that the results of using the degree of opposition variable for interest group opposition produce very similar inferences as those reported in Table 1.

**Table C1: Split Population Duration Model Using an Alternative Measure of Interest Group Opposition – Showing the Effect for Liberal Interest Groups**

| | Likelihood of Confirmation | | | Timing of Confirmation | | |
|---|---|---|---|---|---|---|
| | Coeff. | (Robust SE) | p | Coeff. | (Robust SE) | p |
| **Interest Group Opposition (effect is for liberal interest groups)** | -0.468 | (0.114) | 0.000 | 0.195 | (0.079) | 0.007 |
| Democratic Nominations Dummy | -0.369 | (0.760) | 0.314 | 0.196 | (0.287) | 0.247 |
| Opposition*Democratic Nominations | 0.255 | (0.193) | 0.093 | 0.110 | (0.115) | 0.169 |
| **Nominee Characteristics** | | | | | | |
| Nominee-Senate Median Distance | 0.108 | (1.074) | 0.460 | 0.314 | (0.306) | 0.153 |
| White Male Nominee | 0.627 | (0.310) | 0.022 | 0.033 | (0.124) | 0.397 |
| ABA Rating | -0.018 | (0.113) | 0.437 | -0.089 | (0.040) | 0.013 |
| Balanced Circuit | -0.214 | (0.303) | 0.241 | 0.011 | (0.100) | 0.458 |
| Judiciary Committee Patron | 1.164 | (0.415) | 0.003 | -0.114 | (0.110) | 0.150 |
| **Political Environment** | | | | | | |
| Divided Government | -0.665 | (0.465) | 0.077 | 0.396 | (0.122) | 0.001 |
| President-Opposing Median Senator Distance | 2.111 | (6.862) | 0.379 | -2.874 | (2.009) | 0.076 |
| Presidential Approval | 0.009 | (0.031) | 0.386 | -0.009 | (0.013) | 0.256 |
| Latter Part of President's Term | -1.284 | (0.842) | 0.064 | -0.149 | (0.317) | 0.319 |
| **Senate Workload** | | | | | | |
| Number of Nominations Pending | -0.026 | (0.051) | 0.303 | 0.061 | (0.010) | 0.000 |
| Month in Congressional Term | -0.002 | (0.074) | 0.490 | -0.026 | (0.021) | 0.110 |
| Renomination | 0.212 | (0.434) | 0.313 | -0.280 | (0.241) | 0.123 |
| Constant | 0.235 | (7.394) | 0.975 | 6.730 | (2.329) | 0.004 |

N=284; Log-likelihood=-1002.04; Wald Chi-Squared (df=15)=189.37, p<0.001; $\gamma$=0.33

Note: One-tailed p-values are reported for the remaining coefficients (except for the constant).

**Table C2: Split Population Duration Model Using an Alternative Measure of Interest Group Opposition – Showing the Effect for Conservative Interest Groups**

| | Likelihood of Confirmation | | | Timing of Confirmation | | |
|---|---|---|---|---|---|---|
| | Coeff. | (Robust SE) | p | Coeff. | (Robust SE) | p |
| **Interest Group Opposition (effect is for conservative interest groups)** | -0.213 | (0.193) | 0.135 | 0.305 | (0.069) | 0.000 |
| Republican Nominations Dummy | 0.369 | (0.760) | 0.314 | -0.196 | (0.287) | 0.247 |
| Opposition*Republican Nominations | -0.255 | (0.193) | 0.093 | -0.110 | (0.115) | 0.169 |
| **Nominee Characteristics** | | | | | | |
| Nominee-Senate Median Distance | 0.108 | (1.074) | 0.460 | 0.314 | (0.306) | 0.153 |
| White Male Nominee | 0.627 | (0.310) | 0.022 | 0.033 | (0.124) | 0.397 |
| ABA Rating | -0.018 | (0.113) | 0.437 | -0.089 | (0.040) | 0.013 |
| Balanced Circuit | -0.214 | (0.303) | 0.241 | 0.011 | (0.100) | 0.458 |
| Judiciary Committee Patron | 1.164 | (0.415) | 0.003 | -0.114 | (0.110) | 0.150 |
| **Political Environment** | | | | | | |
| Divided Government | -0.665 | (0.465) | 0.077 | 0.396 | (0.122) | 0.001 |
| President-Opposing Median Senator Distance | 2.111 | (6.862) | 0.379 | -2.874 | (2.009) | 0.076 |
| Presidential Approval | 0.009 | (0.031) | 0.386 | -0.009 | (0.013) | 0.256 |
| Latter Part of President's Term | -1.284 | (0.842) | 0.064 | -0.149 | (0.317) | 0.319 |
| **Senate Workload** | | | | | | |
| Number of Nominations Pending | -0.026 | (0.051) | 0.303 | 0.061 | (0.010) | 0.000 |
| Month in Congressional Term | -0.002 | (0.074) | 0.490 | -0.026 | (0.021) | 0.110 |
| Renomination | 0.212 | (0.434) | 0.313 | -0.280 | (0.241) | 0.123 |
| Constant | -0.134 | (6.750) | 0.984 | 6.927 | (2.094) | 0.001 |
| N=284; Log-likelihood=-1002.04; Wald Chi-Squared (df=15)=189.37, p<0.001; $\gamma$=0.33 | | | | | | |

Note: One-tailed p-values are reported for the remaining coefficients (except for the constant).

## Web Appendix D

## Nominations Opposed by Interest Groups, U.S. Courts of Appeals, 99th -108th Congresses (1985-2004)

**99th Congress (Court)**
Alex Kozinski (9th)*
Daniel Manion (7th)*

**100th Congress (Court)**
Susan Liebeler (Fed)
David Sentelle (D.C.)*
Bernard Siegan (9th)
David Treen (5th)

**101st Congress (Court)**
Clarence Thomas (D.C.)*
Kenneth Ryskamp (11th)

**102nd Congress (Court)**
Lillian BeVier (4th)
Edward Carnes (11th)*
Francis Keating (10th)
Andrew Kleinfeld (9th)*
Kenneth Ryskamp (11th )

**103rd Congress (Court)**
Rosemary Barkett (11th)*
Martha Daughtrey (6th)*
Lee Sarokin (3rd)*

**104th Congress (Court)**
James Beaty (4th )
William Fletcher (9th)
Margaret McKeown (9th)
Charles Stack (11th)

**105th Congress (Court)**
James Beaty (4th)
Marsha Berzon (9th)
Timothy Dyk (Fed)
William Fletcher (9th)*
Margaret McKeown (9th)*
Richard Paez (9th)

**106th Congress (Court)**
Marsha Berzon (9th)*
Bonnie Campbell (8th)
Timothy Dyk (Fed)*
Raymond Fisher (9th)*
Richard Paez (9th)*

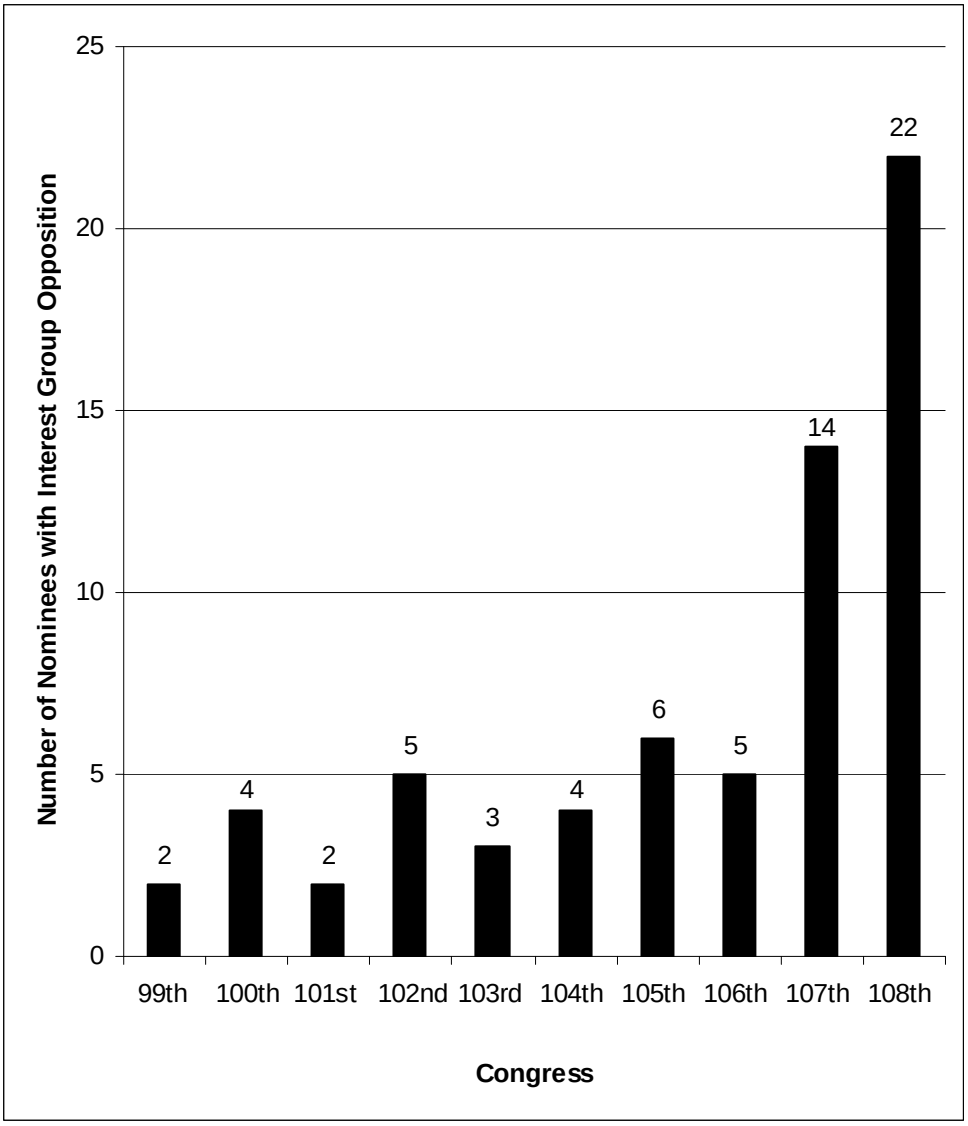
**107th Congress (Court)**
Terrence Boyle (4th)
Deborah Cook (6th)
Miguel Estrada (D.C.)
Carolyn Kuhl (9th)
Michael McConnell (10th)*
Priscilla Owen (4th)
Charles Pickering (5th)
John Roberts (D.C.)
Dennis Shedd (4th)*
D. Brooks Smith (3rd)*
Lavenski Smith (8th)*
William Steele (11th)
Jeffrey Sutton (6th)
Timothy Tymkovich (10th)

**108th Congress (Court)**
Claude Allen (4th)
Terrence Boyle (4th)
Janice Brown (D.C.)
Jay Bybee (9th)*
Deborah Cook (6th)*
Miguel Estrada (DC)
D. Michael Fisher (3rd)*
Richard Griffin (6th)
Thomas Griffith (D.C.)
William Haynes (4th)
Brett Kavanaugh (D.C.)
Carolyn Kuhl (9th)
David McKeague (6th)
William Myers (9th)
Priscilla Owen (5th)
Charles Pickering (5th)
William Pryor (11th)
John Roberts (DC)*
Henry Saad (6th)
Jeffrey Sutton (6th)*
Diane Sykes (7th)*
Timothy Tymkovich (10th)*

*confirmed

## Web Appendix E

## Bar Chart of the Number of Nominees with Interest Group Opposition by Congressional Session



## Web Appendix F

## Alternative Models Testing the Conditional Influence of Interest Group Opposition

We argue in the text of the article that interest group influence works differently at the lower court level than at the Supreme Court level. At the Supreme Court level, Senators' default positions are a combination of party, personal preferences and constituent preferences. Mindful of the need to persuade the median Senator to vote against an objectionable nomination in roll-call, interest groups influence the process by convincing some Senators to abandon their default positions and vote against an objectionable nomination. This makes their influence unconditional on Senate preferences. Conversely, we argue that interest group influence at the lower court level is both unconditional and conditional on Senate preferences. It is unconditional because the default position of all Senators absent interest group opposition is to confirm swiftly and thus, in order to block confirmation of an objectionable nomination, Senators must be moved away from their default positions. It is conditional because we know interest groups target Senators known to be sympathetic to the groups' political causes. Unlike the Supreme Court confirmation process in which roll-call votes are the norm, interest groups at the lower court levels are able to focus their lobbying efforts on only a select group of like-minded Senators because they need only convince a few strategically placed Senators to block confirmation through pre-floor procedural tactics.

In order to confirm our theory that interest group opposition at the lower court levels works in both a conditional and unconditional manner, we ran auxiliary texts in which we interacted our interest group opposition dummies (for liberal or conservative opposition), first, with a measure of the median senator (using the median Common Space NOMINATE scores for each Congress), and, second, with the median member of the Judiciary Committee.[1] The results

of the first model are presented in Table F1; Figure F1 presents these results graphically. The graph represents the conditional effects of opposition by conservative groups (on the top half of the figure) and liberal groups (bottom half) on both the likelihood of confirmation (left side of the figure) and timing of confirmation (right side) as Senate median ideology varies from liberal to conservative. Note that the Y-axis represents the marginal effect of liberal or conservative group opposition, and the X-axis represents Senate ideology. In the graph, the thick, dark line represents the marginal effect of opposition conditional on various values of Senate median. The dashed lines represent the 90% confidence intervals around the conditional effects. Note that the 90% intervals coincide with our one-tailed tests at the alpha=.05 level of confidence. *If the zero line falls within the dashed lines, then the effect is not statistically significant, but if the zero line is outside of the dashed lines, the effect is statistically significant.* Table F1 (along with Figure F1) suggests interest group influence is unconditional when considering the preferences of the entire Senate, as the impact of liberal and conservative group opposition does not significantly vary across the different ranges of Senate ideology.

The results of the second model are set forth in Table F2 and are graphically depicted in Figure F2. Table F2 echoes Table F1 as to the impact of liberal opposition on the likelihood of confirmation and the impact of conservative opposition on timing: these effects do not significantly differ as the Judiciary Committee becomes more liberal or conservative. However, when looking at the likelihood part of the model, the conservative opposition by Judiciary Committee median interaction term is statistically significant. The upper-left graph in Figure F2, though, suggests that while the effect changes significantly as the Judiciary median changes, the impact of conservative group opposition is almost always statistically insignificant. The duration part of the model in Table F2 shows that the liberal opposition by Judiciary Committee median

interaction term is also statistically significant, meaning that as the Committee becomes more liberal, liberal groups are more successful at delaying conservative nominees (see also Figure F2). And, while not statistically significant at the .05 level, conservative opposition works in a similar manner such that conservative opposition is more successful at delaying nominees when the Committee is more conservative. These results thus provide support for the idea that interest group influence is in part conditional – namely, that as the preferences of the Committee become more or less conservative, interest groups may find it easier or harder to convince strategically-placed senators to abandon their default positions (to confirm swiftly) and instead heed the alarms sounded by the interest groups, thereby delaying and blocking objectionable lower court nominations.

**Table F1: Split Population Duration Model, Testing the Interaction Between Senate Median and Opposition by Liberal and Conservative Interest Groups**

| | Likelihood of Confirmation | | | Timing of Confirmation | | |
|---|---|---|---|---|---|---|
| | Coeff. | (Robust SE) | p | Coeff. | (Robust SE) | p |
| Opposition by Conservative Interest Groups | -0.689 | (0.926) | 0.229 | 1.113 | (0.272) | 0.000 |
| Opposition by Liberal Interest Groups | -1.804 | (0.507) | 0.000 | 0.730 | (0.238) | 0.001 |
| Senate Median | -3.091 | (3.659) | 0.199 | 0.641 | (1.163) | 0.291 |
| Opposition by Conservative Interest Groups*Senate Median | 2.531 | (7.069) | 0.360 | 1.322 | (1.751) | 0.225 |
| Opposition by Liberal Interest Groups*Senate Median | -3.340 | (5.570) | 0.275 | 1.481 | (3.785) | 0.348 |
| **Nominee Characteristics** | | | | | | |
| Nominee-Senate Median Distance | -0.035 | (1.216) | 0.489 | 0.274 | (0.314) | 0.191 |
| White Male Nominee | 0.570 | (0.329) | 0.042 | 0.036 | (0.126) | 0.388 |
| ABA Rating | -0.034 | (0.136) | 0.402 | -0.093 | (0.040) | 0.010 |
| Balanced Circuit | -0.248 | (0.309) | 0.211 | -0.025 | (0.106) | 0.406 |
| Judiciary Committee Patron | 1.077 | (0.423) | 0.006 | -0.133 | (0.113) | 0.120 |
| **Political Environment** | | | | | | |
| Divided Government | -0.953 | (0.636) | 0.067 | 0.414 | (0.152) | 0.003 |
| President-Opposing Median Senator Distance | 4.517 | (4.823) | 0.175 | -4.225 | (2.563) | 0.050 |
| Presidential Approval | 0.008 | (0.033) | 0.407 | -0.013 | (0.014) | 0.176 |
| Latter Part of President's Term | -1.263 | (0.798) | 0.057 | -0.206 | (0.306) | 0.251 |
| **Senate Workload** | | | | | | |
| Number of Nominations Pending | 0.001 | (0.069) | 0.495 | 0.056 | (0.013) | 0.000 |
| Month in Congressional Term | -0.030 | (0.073) | 0.340 | -0.027 | (0.022) | 0.110 |
| Renomination | 0.104 | (0.429) | 0.405 | -0.315 | (0.295) | 0.143 |
| Constant | -1.318 | (4.535) | 0.771 | 8.265 | (1.466) | 0.000 |
| N=284; Log-likelihood=-997.47; Wald Chi-Squared (df=17)=180.22, p<0.001; $\gamma$=0.33 | | | | | | |
| Note: One-tailed p-values are reported for all coefficients (except the constant). | | | | | | |

**Table F2: Split Population Duration Model, Testing the Interaction Between the Senate Judiciary Committee Median and Opposition by Liberal and Conservative Interest Groups**

| | Likelihood of Confirmation | | | Timing of Confirmation | | |
|---|---|---|---|---|---|---|
| | Coeff. | (Robust SE) | p | Coeff. | (Robust SE) | p |
| Opposition by Conservative Interest Groups | 1.144 | (1.089) | 0.147 | 1.000 | (0.196) | 0.000 |
| Opposition by Liberal Interest Groups | -1.360 | (0.489) | 0.003 | 0.286 | (0.327) | 0.191 |
| Judiciary Median | -4.475 | (4.091) | 0.137 | -0.235 | (0.634) | 0.356 |
| Opposition by Conservative Interest Groups*Judic. Median | -12.045 | (7.237) | 0.048 | 2.051 | (2.094) | 0.164 |
| Opposition by Liberal Interest Groups*Judic. Median | -1.840 | (9.099) | 0.420 | -5.269 | (1.880) | 0.003 |
| **Nominee Characteristics** | | | | | | |
| Nominee-Senate Median Distance | -0.323 | (2.499) | 0.449 | 0.311 | (0.389) | 0.212 |
| White Male Nominee | 0.663 | (0.474) | 0.081 | 0.021 | (0.128) | 0.436 |
| ABA Rating | 0.026 | (0.122) | 0.416 | -0.090 | (0.039) | 0.011 |
| Balanced Circuit | -0.244 | (0.296) | 0.205 | -0.023 | (0.113) | 0.420 |
| Judiciary Committee Patron | 1.176 | (0.707) | 0.048 | -0.174 | (0.111) | 0.059 |
| **Political Environment** | | | | | | |
| Divided Government | -0.228 | (0.740) | 0.379 | 0.259 | (0.160) | 0.053 |
| President-Opposing Median Senator Distance | 0.777 | (4.474) | 0.431 | -4.177 | (2.282) | 0.034 |
| Presidential Approval | 0.006 | (0.041) | 0.447 | -0.011 | (0.013) | 0.210 |
| Latter Part of President's Term | -1.639 | (0.796) | 0.020 | -0.083 | (0.226) | 0.358 |
| **Senate Workload** | | | | | | |
| Number of Nominations Pending | 0.008 | (0.041) | 0.424 | 0.059 | (0.008) | 0.000 |
| Month in Congressional Term | -0.044 | (0.070) | 0.268 | -0.025 | (0.016) | 0.064 |
| Renomination | -0.001 | (0.477) | 0.499 | -0.081 | (0.306) | 0.396 |
| Constant | 1.316 | (5.567) | 0.813 | 8.058 | (1.289) | 0.000 |
| N=284; Log-likelihood=-990.33; Wald Chi-Squared (df=17)=315.22, p<0.001; $\gamma$=0.32 | | | | | | |
| Note: One-tailed p-values are reported for all coefficients (except the constant). | | | | | | |

**Figure F1: Conditional Effects of Liberal and Conservative Interest Group Opposition as Senate Median Changes**

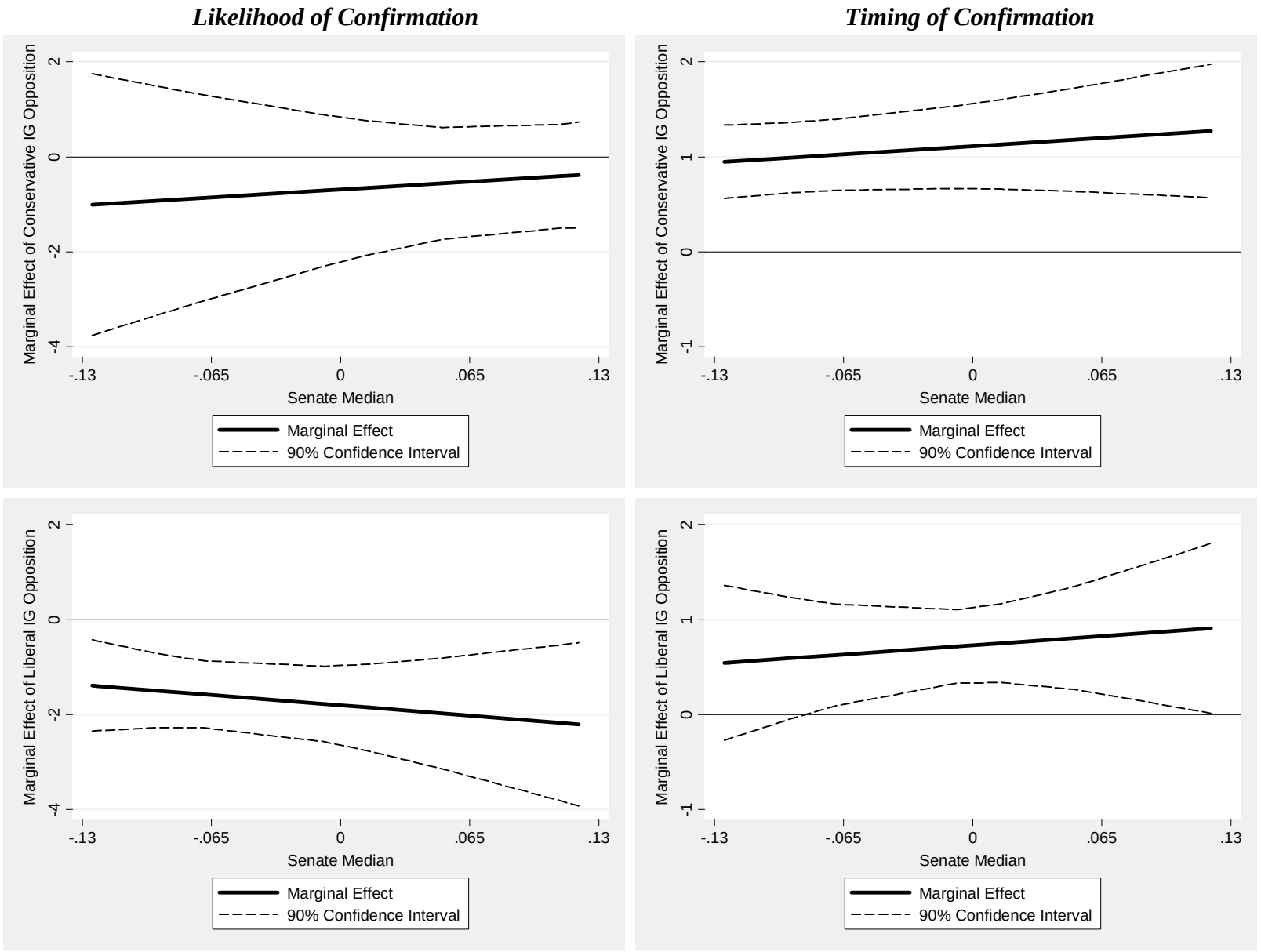
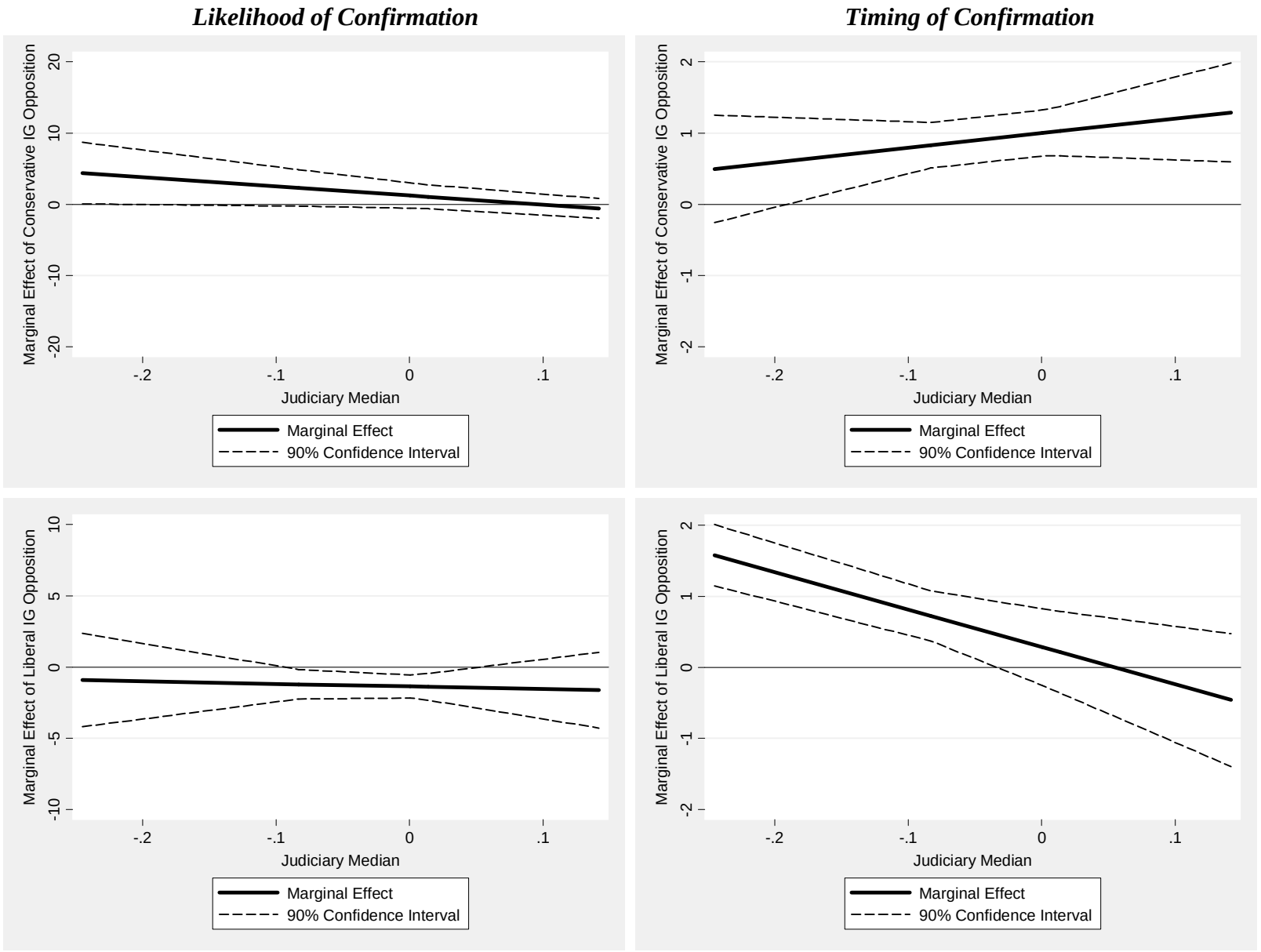


**Figure F2: Conditional Effects of Liberal and Conservative Interest Group Opposition as Judiciary Median Changes**



## Web Appendix G

## Explanation and Coding of Independent Variables

### Nominee Characteristics

***Appointing President*** is a nominal variable. We use a set of three dummy variables indicating whether a nomination was made by Reagan, Bush (41), or Clinton; Bush (43) nominations are treated as the excluded (or baseline) category. The presidential dummies account for unobserved variation between administrations that might account for whether and when a successful confirmation occurs.

***Nominee-Senate Median Distance*** is measured as the absolute value between the median senator's Common Space score, first dimension (Poole and Rosenthal 1997) and the nominee's Giles, Hettinger and Peppers (2001) ideology score, which is also based on first dimension Common Space scores. This variable tests the traditional ideological explanation that the greater the ideological distance between the Senate and the nominee, the less likely and less quickly that nominee will be confirmed.

***White Male Nominee*** designates whether the nominee is a white male; we expect that these nominees will be more likely to be confirmed, and confirmed more quickly, than other nominees.

***ABA Ratings*** measures a nominee's professional qualifications for sitting on the bench using the ratings issued by the American Bar Association's Standing Committee on the Federal Judiciary; we expect the higher the rating, the more likely and more quickly the nomination will be confirmed.

***Balanced Circuit*** designates whether the nomination is made to a circuit currently in ideological balance, that is, if the circuit currently has between 40 and 60 percent of the sitting judges appointed by Democratic presidents. Nominations to circuits in ideological balance will be more

contentious as even a single nomination may decisively tilt the court ideologically in one direction or the other. These nominations should be less likely to be confirmed, and confirmed more slowly, than nominations to circuits not in ideological balance.

***Patron*** designates whether the nominee has a home state senator who sits on the Judiciary Committee and supports the nomination; nominations with a patron are more likely to be confirmed, and confirmed more quickly, than nominations without a patron.

## Political Environment Characteristics

***Divided Government*** designates whether the nomination came up for consideration by the Senate during divided government. We expect nominations made during divided government are less likely to be confirmed – and likely to take longer to be confirmed – than nominations made during unified government.

***Ideological Distance between the President and Median Senator of the Opposing Party*** is measured by taking the absolute value in the difference between the Common Space score (first dimension) for the appointing president and the median senator of the opposing party of the president. This variable taps into party polarity. The expectations for this variable is that, as ideological polarization increases between the president and the Senate, the likelihood of confirmation should decrease and the amount of time it takes to confirm a nomination should increase.

***Presidential Approval Rating*** measures the president's approval rating as recorded by the Gallup Poll taken immediately preceding the Senate's consideration of the nomination; we hypothesize the higher the approval, the more likely and more quickly a nomination should be confirmed.

***Lateness in President's Term*** designates whether the nomination was made in the first two years of the president's term (coded zero) or the last two year's of the president's term (coded one).

Traditionally, a president's judicial nominees have received less favorable treatment by the Senate during the later years in his term. Thus, nominations should be less likely to be confirmed and confirmed more slowly in the latter two years of the president's term. We did not operationalize this variable as an ordinal count (number of years into the president's term) because confirmation rates do not decrease in a linear fashion for each additional year in the president's term. Rather, confirmation rates tend to be cyclical; they are highest in the second year and lowest in the last year of the president's term.

### Senate Workload

***Nominations Pending*** measures how many other courts of appeals nominations were pending at the time the nomination was made. An increase in this variable signals an increase in the Senate's workload; therefore, an increase in workload should decrease the likelihood of confirmation and increase the time it takes to be confirmed.

***Month of Nomination*** measures how many months into the two-year congressional session the nomination was made. The expectation is that the closer a nomination is made to the end of a congressional session, the less likely that nomination will be confirmed.

***Renomination*** measures whether a nominee is being nominated for the second time because his or her nomination lapsed at the end of the prior congressional session. Those nominated a second time should be more likely to be confirmed and confirmed more quickly than those facing nomination for the first time, as the initial work to be done reviewing the nomination has already occurred in the previous Congress.

## Web Appendix H

## Details on Rivers-Vuong Test for Endogeneity

The test statistic for the joint significance of the residual terms associated with conservative and liberal opposition (from the first-stage models) is $\chi^2$=0.02, p=.989. The *z*-tests for both terms produced statistically insignificant results as well. Thus, we fail to reject the null hypothesis of exogeneity. We conducted this test on a model (in the second stage) where the confirmation outcome is the dependent variable (1=confirmed, 0=not confirmed), and the independent variables are the same as those included in our split population model specification. Another possibility for addressing the endogeneity issue in this reduced probit model predicting nomination outcomes would be to use a two-stage probit procedure. However, because the results from the Rivers-Vuong test allow us to support the null hypothesis of exogeneity, we do not need to perform the two-stage procedure.

## Endnotes

[1] Note that in both Tables F1 and F2, we exclude the presidential administration dummy variables. Neither model converged when including these dummies. This occurs because when we break down opposition by liberal and conservative opposition and then include interactions between these dummies and Senate preferences measures, there is drastic multicollinearity and the variables become perfect linear combinations of each other. This problem does not occur in our main model in the text (in Table 1), which does include the administration interactions, because it does not include interactions between the opposition dummies and any measure of Senate preferences.

## References

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