Judicial Ability and Securities Class Actions

Stephen J. Choi, Mitu Gulati and Eric A. Posner

Abstract

We exploit a new data set of judicial rulings on motions in order to investigate the relationship between judicial ability and judicial outcomes. The data set consists of federal district judges' rulings on motions to dismiss, to approve the lead plaintiff, and to approve attorneys' fees in securities class actions cases, and also judges' decisions to remove themselves from cases. We predict that higher-quality judges, as measured by citations, affirmance rates, and similar criteria, are more likely to dismiss cases, reject lead plaintiffs, reject attorneys' fees, and retain cases rather than hand them over to other judges. Our results are mixed, providing some but limited evidence for the hypotheses.

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1.   Introduction

An enormous literature has established that judges are sometimes influenced by their ideological preferences, but leaves unanswered many questions about judicial decisionmaking. One unanswered question concerns the relationship between the ability of judges and their judicial output. Everyone would agree that judges with greater judicial ability should produce higher-quality output—more decisions, better decisions, better opinions that describe their reasoning. But how does one measure the ability of judges? This question has received little attention from scholars. Yet it is of great importance. Confirmation battles typically are fought over two issues: the politics of the nominee, and the qualifications of the nominee. When district judges are nominated to the appellate bench, their performance as trial judges provides a basis for evaluating them. Nevertheless, there is rarely a serious inquiry into what objectively measureable aspects of the relative performances of the lower court judges or their prior backgrounds should be considered in determining the best candidates for promotion.

By contrast, take the primary ratings of nominees that are employed, the subjective ratings produced by the American Bar Association. The American Bar Association's evaluations of judicial nominees have been found to have but a limited relationship to future judicial performance, measured in terms of reversals and citations (Barondes 2009; Landes, et al., 1998, at 325). These ratings have also been criticized by conservatives who believe that they are politically biased (Vining, et al., 2009, discuss the debate and the empirical evidence). Further, there is evidence suggesting that judges who do better on citations and publications take *longer* to get confirmed (Lott 2005). In sum, there seems to be room for better predictive measures of judicial ability.

Judicial ability has two sources: native talent and experience. Talent reflects sheer cognitive ability and the capacity for hard work. Experience reflects years on the job, first as a lawyer, and then as a judge. People with more experience as lawyers and judges should be better judges. Other personality characteristics no doubt play a role in the quality of judicial decisionmaking. Integrity is one such characteristic. People with

lifetime tenure may be tempted to shirk on the job; those with integrity will resist this temptation (at the margin).

The hypothesis of this paper is that more able judges produce superior judicial output. This hypothesis might seem too obvious to be worth proving, but in fact it raises important and interesting issues. The first is the methodological challenge of finding measures for judicial ability and judicial performance. If we find positive correlations between the measures we propose, this provides some evidence that the measures are non-arbitrary. Another issue is the relative contribution of native talent and experience to judicial ability. If native talent (measured by attendance at a top law school) dominates experience (measured by years on the bench), that is useful information for those who seek to elevate high-quality trial judges to the appellate bench.

The hypothesis that high-ability judges produce superior judicial output is also central to the design of the judicial system. Federal judges enjoy lifetime tenure and cannot be given bonuses for good work or penalties for bad work. Their incentives to work hard and well are accordingly weak. Some trial judges may hope that they might be awarded with elevation—appellate judges are paid more than trial judges.[1] But the prospect of elevation is exceedingly remote, and depends on many factors outside the judge's control—such as politics. In any other labor market, we would expect that workers who cannot be punished or rewarded would shirk on the job. It therefore should be an open question whether judges would do the same.

If high-ability judges are those who can do the same work as low-ability judges with less effort, and if all judges seek prestige or the good opinion of the profession while also seeking to minimize effort, then high-ability judges should, at the margin, work harder than low-ability judges do. In effect, hard work is "cheaper" for high-ability judges than for low-ability judges. If judges are not affected by incentives, then high-ability and low-ability judges should work equally hard (presumably just enough to avoid professional disgrace or impeachment). Thus, if we find evidence that high-ability judges produce superior judicial output, then we can infer that judges are affected by incentives, however weak they might seem to outsiders.

Our data set consists of decisions of trial judges on motions in securities class actions. We focus on securities class actions for a number of reasons. They are typically characterized by two-sided agency problems (Choi 2003). That is, the real parties whose interests are at stake, the shareholders, frequently have little control over the litigation. Instead, the agents on one side, the corporate executives whose actions are being challenged, have an incentive to bury any problems and settle using the company's funds. The agents on the other side, the plaintiffs' lawyers, have an incentive to focus on obtaining the highest fees with as little effort as possible. The end result is that many of these cases result in high payouts for the plaintiff's lawyers, low penalties for the

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[1] Federal appellate judgeships also probably have higher status and lower workloads than district judgeships have.

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misbehaving executives, and high costs to the shareholders (Romano 1991; Bai, Cox & Thomas 2010; Choi 2003, surveys the literature). For our purposes, what is important here is that there is a central role for the judge in protecting the interests of the class of investors. The judge, who has to approve of any settlement that the executives and the plaintiffs' lawyers make, has the power to reject the settlement and demand that greater attention be paid to the interests of investors. However, the incentives of the judge are not necessarily to act in such a fashion. Demanding that the parties redo the settlement will require higher effort from the judge, since she will have to give reasons and later assess the revised settlements. There is also the theoretical risk of a time-consuming trial (although the risk is close to zero). Given that it is the managers and plaintiffs' lawyers who control the litigation, the judge who wishes to minimize work has an incentive to approve quickly whatever settlement is suggested. This setting is useful for our inquiry because it allows us to look at the behavior of judges in approving these settlements and draw conclusions as to whether they exerted effort to protect the interests of the absent parties or deferred to the interests of the lawyers controlling the litigation.

Further, securities class actions have complex issues and multiple parties. In other words, effort and expertise on the part of the judges are likely to make a difference. On the flip side, these are also cases that the judges less inclined to expend effort might wish to avoid. Given that trial judges, particularly in the context of large multi-district class actions, have some discretion over which cases they take, we can examine whether judges choose to avoid these cases as a function of prior backgrounds (Baum 2010).

Finally, the law on securities class actions, largely a function of the 1995 Private Securities Litigation Reform Act ("PSLRA") was still relatively new and evolving during the period that we examine (cases decided from 2003 to mid-2007). That means that lawyers would not have as yet been able to collect enough information about how individual judges would behave so as to be able to fully adjust their litigation strategies to the likely behavior of the judges in these cases.

We use a dataset of 615 federal district court judges and their judicial performance in 2001 and 2002 combined with a dataset of 552 securities class actions filed from 2003 to mid-2007. Unusually, our dataset of cases includes not just case outcomes, but judges' decisions on various motions, including motions to dismiss, to approve settlements, and to approve attorneys' fees. We find evidence that the general and business-specific ability of the judge is correlated with the propensity of a judge to make decisions in securities class actions that involve more work or risk more work in the future. But not all the evidence is consistent with our hypotheses, and the story it tells about judicial incentives, and particularly those of judges who have taken senior status, is complex.

We survey related literature in Section 2 and set forth our hypotheses relating effort and expertise to judicial quality in securities class actions in Section 3. Section 4

describes our dataset and variables. Section 5 reports our empirical tests. Section 6 concludes.

2.   Literature

The literature on the relationship between judicial ability and judicial output is sparse. Landes, Lessig and Solimine (1998) find that federal appeals court judges from elite schools and those with high honors produce more cited opinions (a proxy for quality). Christensen and Szmer (2009) find that more experienced federal appellate judges are slower at deciding cases (they attribute it to "burn-out"), and that graduates of elite law schools decide cases more quickly.[2] Bhattacharya & Smyth (2001), using data on invocations (a type of citation where the judge is invoked by name), find that younger and more conservative judges tend to be more influential. Posner (1985), using citation and citation depreciation measures, suggests more of a life cycle model. His theory and data suggest that judges tend to improve as they age up to a certain point and then, presumably as age catches up, decline in performance. Taha (2004) finds that judges with higher ABA ratings and more experience publish more opinions. Choi, Gulati and Posner (2010), find that federal district judges who attended one of the top three law schools publish more opinions. In a study of the Japanese judiciary, Ramseyer (2010) finds that judges who attended elite law schools and performed well on an exam decided medical malpractice cases more quickly and in greater quantity. Together, these findings suggest judges with greater talent and experience—albeit up to the point when old age sets in— tend to score better on measures of judicial performance..

There is some related work on specialization. Multiple commentators have argued that higher levels of specialization might be beneficial for judging in the more technical areas such as intellectual property, tax, bankruptcy and antitrust (Dreyfuss 1989; Dreyfuss 1995; Stempel 1995; Baum 2009, surveys the literature). Worthy (1971) provides data on reversal rates in tax cases for district judges and tax judges. He finds that the specialists do better. Nash and Pardo (2008) compare the rates of reversals and citation rates in bankruptcy cases for district judges and bankruptcy appellate panels. Again, the specialists do better. Scholars examining patent cases find that the Federal Circuit reverses district court decisions at a relatively high rate, as compared to the other appeals courts, suggesting that the generalist trial judges do not do well in tackling cases in this area (Moore 2001; Chu 2001; Wagner 2004).[3] The one study examining the relative performances of generalist judges as a function of expertise is Baye and Wright (2009). Baye and Wright look at reversal rates in federal antitrust cases as a function of whether the judges attended a specialized economics training course for judges. Judges

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[2] In a related paper, Christensen, Szmer and Wemlinger (2009) find that that diversity of race and gender on appellate panels correlates with delay.
[3] Yu (2007) uses reversal rates to compare the performance of specialist and generalist trial courts on economic matters in the period prior to the establishment of the Federal Circuit. He finds that the specialist courts are reversed less.

with the training have higher affirmance rates in antitrust cases.[4].A related debate concerns the dominance of Delaware in the field of corporate law. Some scholars argue that the dominance of Delaware in corporate law is a function of the high quality of judges on that court, particularly in terms of the strong business law backgrounds that they bring to the courts and the fact that they regularly see and decide important business law cases (Romano 1985). Others, however, take the view that Delaware dominates in corporate law not because it has the best courts, but because it caters (at least in part) to the narrow self-interest of corporate executives leading to a race-to-the-bottom (Bebchuk 1992).

Using data from a series of experiments on judges, Guthrie, Rachlinski and Wistrich (2006; 2009) ask whether specialist judges (bankruptcy and administrative law judges) are more likely to use deliberative processing of information rather than intuitive processing. The latter type of processing, while having some advantages, can result in faulty reasoning overall. Overall, the authors did not find strong differences in the information processing methods used (intuitive processing dominated).

To summarize, there is some evidence that effort and expertise influence the quality of the judicial product. But the overall picture from the bits and pieces in the various studies is murky.

3.   Hypotheses

We hypothesize that higher-ability judges produce higher-quality judicial output—in terms of quantity and quality. The challenge lies in measuring ability and quality.

3.1 Measures of Judicial Ability

We look at several measures of judicial ability. We look at three variables that measure the overall quality of judicial performance, which, we believe, provide a rough measure of ability. These variables are publication rate (number of opinions published divided by number of cases), affirmance rate (number of cases affirmed divided by number of cases), and positive outside citations (average number of per-case positive citations by out-of-jurisdiction courts)..We assume that judges who publish more, are affirmed more often, and produce opinions that receive more positive citations are judges with higher ability. The data come from cases decided in 2001–2, prior to the securities class action motions data that are used for the dependent variable (2003–7). They also reflect *all* cases decided, not just securities class actions.

We also look at enrollment at a top law school (Harvard, Yale, Stanford) and years on the bench—standard measures of talent and experience, respectively. A third— senior status—also (perhaps) suggests a judge who prefers to work less, reflecting less ability or energy.

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[4] Moore (2001), however, finds no difference in reversal rates between Federal Circuit judges with technical backgrounds and those without.

Next, we look at two variables that reflect specialization—years in private practice and number of business cases. Private practice typically involves corporate law or litigation, often securities litigation; for that reason, we predict that judges with such experience will have higher ability for securities cases. Similarly, judges who already have a lot of business cases will have higher ability for securities cases.

Finally, we have a variable for whether a judge is a Democrat. We do not assume that Democrats are more or less competent than other judges, but one might predict that Democrats would be more favorable to plaintiff's lawyers, who are traditional supporters of the Democratic party, and to lead plaintiffs, who are likely to be ordinary people cast as victims of corporate greed. Thus, we use the party of the judge as a control variable, rather than as a measure of judicial ability.

3.2. Measures of Judicial Performance

We use several measures of judicial performance that exploit our dataset of securities class action motions.

Taking a securities case. Securities class actions are frequently difficult, involving multiple sophisticated parties, numerous lawyers, and difficult issues of causation, materiality and scienter. Not only is the regulatory apparatus complicated, but so are the underlying theories of market behavior. To add to the judge's woes, there is considerable confusion about the precise standards coming out of the most recent statute dealing with these cases, the PSLRA. We predict that judges with high general ability or high specialized ability will be able to handle these cases more easily, and thus will be more likely to take on these cases in the first place. We also test the hypothesis that the high-ability judges will be less likely to step down from a securities case once it begins.

To be sure, judges do not formally have the power to choose to hear or not hear certain cases. However, they have several informal instruments for controlling their docket. First, judges have considerable discretion over whether to recuse themselves from cases for reasons of perceived conflicts of interest. Assuming the judge holds a diversified portfolio of stocks or has had an extensive past practice, it is likely that she will be able to recuse herself from many securities cases if she wishes to do so. These recusals could be on the grounds of either ownership of stock, past work for one of the parties or ties to someone who has an interest in the company at issue.[5] Second, most

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[5] The rules on recusal are fairly vague (a "substantial interest" test), giving judges discretion in their decisions regarding whether to recuse themselves (28 U.S.C. Sections 144 and 455 are the relevant statutes; Ingram 2009, discusses the current debate). The question for our purposes though is what recusal signals about the judge in question. We have seen from recent nominations to the Supreme Court that the recusal decisions of nominees are scrutinized carefully by opponents of the nominee (at least three recent nominees, Alito, Breyer and Thomas, have been accused of acting improperly with respect to failures to recuse themselves). Promotion-seeking and risk averse judges might, therefore, be more likely to recuse themselves. In addition, judges might also use recusal to avoid tough cases or ones where they might be criticized. Concern about such behavior, we suspect, led to a line of cases on the "duty to sit". Laird v.

securities class actions are the product of multiple cases with an overlap in parties, claims, and factual background. The process of consolidating cases and choosing which judge to hear the consolidated case may allow for some discretion over assignment. Third, some courts, by local rule or custom, permit the chief judge to assign cases non-randomly.[6] If a big securities class action case comes in, the chief judge may assign the case to a judge with special expertise in these cases.[7] Fourth, some courts may have procedures for funneling "related" cases to the same judge, in the interest of efficiency. These procedures might allow the judges room to assign certain types of cases to the specialists among them.[8] Fifth, judges may have some leeway in deciding which cases to remove from their dockets and transfer to judges newly appointed to the court.[9] The new judge will typically be assigned a set of cases from the assignment sheets for the other judges. Even assuming that the assignment procedure is random (e.g., every fourth case gets assigned to the freshman judge), the other judges may, depending on local practice, have room to say that they would like to hold on to particular cases.[10] Sixth, judges who take senior status may be able to have their cases assigned to other judges.[11] In sum, although judges are not supposed to have discretion over which cases they hear, it is likely such discretion does exist informally.[12]

Tatum, 409 U.S. 824, 837 (1972). However, on the other side of the equation, there is the obligation to avoid the appearance of impropriety.

[6] The website answering basic questions regarding the federal courts, explains:

> At times judges having special expertise can be assigned cases by type, such as complex criminal cases, asbestos-related cases, or prisoner cases. The benefit of this system is that it takes advantage of the expertise developed by judges in certain areas. Sometimes cases may be assigned based on geographical considerations. For example, in a large geographical area it may be best to assign a case to a judge located at the site where the case was filed.

Answer to Question: How are judges assigned to cases (available at http://www.uscourts.gov/faq.html).

> The chief judge, we assume, will likely send cases toward those judges with an expertise in the area. In theory, it is possible that the chief judge might also use her administrative power strategically, to shape the direction of legal developments (a famous example is Justice Burger's assignment of the opinion in Roe v. Wade to Justice Blackmun). Wahlbeck (2006). We suspect, however, that such dynamics do not exist on the district courts since the power to the chief judge to assign cases is minimal there.

[7] For a broader discussion of these informal mechanisms of specialization on the federal trial courts, see Baum (2010, chapter 1). Specialization by subject area also appears to occur on the federal appeals courts. Cheng (2009).

[8] For example, see the rules of the Southern and Eastern Districts of New York, districts that see a high volume of securities cases. Rules 15 & 1.6, Local Rules of the Southern and Eastern District of New York (1997; With Amendments through 2009) (hereinafter "Local Rules")..

[9] E.g., Rule 12 of the Local Rules (explaining the system of assigning cases to new judges by lot, but also noting that "[n]o case shall be transferred without the consent of the transferor judge").

[10] This possibility was suggested to us by a former federal district judge.

[11] E.g., Rule 17 of the Local Rules (noting that " [w]hen an active judge becomes a senior judge, or later as the judge chooses, the judge may keep as much of his or her existing docket as said judge desires and furnish the assignment committee with a list of all cases which the judge desires to have transferred.").

[12] For a period of time prior to that covered by our dataset, chief judges on the district court had the authority to reassign complex cases to particular judges (this was the 1971 Bar Harbor Resolution). This resolution, however, was rescinded in 1999 on the grounds that it allowed undue specialization and was inconsistent with "judicial autonomy". Cheng (2007) (citing Committee on Court Administration and Case

Rejection of the lead plaintiffs' selection of lead counsel. In a securities class action, a court-appointed lead plaintiff acts on behalf of the rest of the investor class members. The PSLRA creates a presumption that the plaintiff with the greatest financial stake in the litigation (typically the party with the greatest damages), among other criteria, will be appointed lead plaintiff.[13] Congress intended the PSLRA's lead plaintiff provision to put in place a motivated lead plaintiff to protect the interests of investor class members against possible agency problems with the plaintiffs' attorneys.

At the stage in a securities class action when the lead plaintiff is selected, judges make two decisions. First, the judge decides on the motion for lead plaintiff. Second, the judge decides on the lead plaintiffs' motion for lead counsel (often co-lead counsel). We do not focus on the first decision on the lead plaintiff itself because, in many cases, the judge does not have a decision to make. Where there is only one movant for lead plaintiff, the judge will select the sole movant. Even if multiple motions are made for lead plaintiff, as Choi (2009) reports, movants will often voluntarily withdraw their motions leaving just one movant (or combine together to form one grouped motion for lead plaintiff). We focus instead on the second judicial decision to approve the lead plaintiffs' selection of lead counsel—a decision a judge will have to make in all cases after the selection of the lead plaintiffs.

In practice, plaintiffs' attorneys come tied to a specific lead plaintiff movant at the lead plaintiff selection stage. Once the court appoints a specific movant for the lead, in theory the movant is allowed to select any plaintiffs' attorney of their choice. However, courts often appoint the plaintiffs' attorney who initially filed the motion for lead plaintiff as the lead counsel (Choi 2009). If multiple movants are appointed together as a group of lead plaintiffs, courts will often appoint the individual attorneys for each movant as co-lead counsel without regard to the need for multiple attorney firms on the same case (Choi 2009). In effect, judges often appear to rubber stamp the selection of lead counsel by the lead plaintiff despite the specter of attorney agency cost problems. The reason for this may be that it is easier for the judge to do what the lawyers in front of the judge ask for (typically with no party opposing the lead plaintiff's selection of lead counsel); going out of the way to act as an advocate for the absent investor is likely to annoy the lawyers and delay the resolution of the litigation.[14].

Accordingly, we predict that higher-ability judges will be more likely to reject the lead plaintiff's selection of attorney.

Dismissal with prejudice..Defendants move for dismissal of the case. Denials of such motions cannot be appealed because they are not final orders, but grants of the

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Management, Judicial Conference of the United States, Report of the Proceedings of the Judicial Conference of the United States, March 16, 1999, *available* http://jnet.ao.dcn/library/99-mar.html).

[13] See Section 21D, Securities Exchange Act of 1934.

[14] The fact that some district judges got reversed on their refusal to approve the lead plaintiffs' selection of lead counsel adds to the district judges' general reluctance to second guess the proposed lead counsel motion. See, e.g., In re Mexico State Inv. Council, 250 Fed. Appx. 225 (2007)..

motion can be appealed. In addition, because the grant of the motion ends the case at an early stage and under a rigorous set of conditions (the judge is ruling that, assuming all the properly alleged facts to be true, the plaintiffs still lose), judges are generally expected to explain their reasons. Finally, when cases are not dismissed, the parties are likely to settle (as opposed to going to trial), which is less work for the judge. For these reasons, granting a motion to dismiss entails more work, at least in the short term. We therefore predict that higher-ability judges will grant more motions to dismiss, all other things being equal (including in particular the strength of the case).

Rejection of attorneys' fees. The greatest point of conflict between plaintiffs' attorneys and the plaintiff class is the attorney fee award. With passive members of a plaintiff class, plaintiffs' attorneys may use their control to request a greater attorney fee. The greater the award, the lower the recovery available from the settlement fund. Meanwhile, the defendant has an incentive to collude with plaintiff's lawyers in order to make the case go away. We therefore conjecture that higher-ability judges will be more likely to reject the lead counsel's attorney fee motion.

3.3 Summary

We predict that high-ability judges—those with both high general ability and high specialized ability relating to business cases—are likely to produce higher-quality output. General ability is measured by attendance at a top school, years of judicial experience, non-senior status, publication rate, affirmance rate, and outside citation rate. Specialized ability is measured by private practice experience and number of business cases. High-quality output means willingness to take the more difficult path in securities class actions—accepting a case, rejecting the lead plaintiff, dismissing the case, and rejecting proposed attorneys' fees.

4. Sample and Descriptive Statistics
4.1. Sample

To test our hypotheses, we use two samples: a securities class action case dataset and a judge dataset. Our securities data consists of class actions involving a Rule 10b-5 cause of action filed from 2003 to mid-2007 used in Choi (2009) and Choi and Pritchard (2010) obtained from the Stanford Securities Clearinghouse.[15] We exclude cases in which financial firms (SIC 6000 to 6999) are the primary defendant because of the different regulatory regime that applies to them.

[Insert Table 1 about Here].

Table 1 shows that the lawsuit filings were distributed relatively equally across our sample period except for 2006 where there is a decline in class action filings.

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[15] Choi and Pritchard (2010) add to the dataset in Choi (2009) and cover class actions filed from January 1, 2003 to June 21, 2007 for use in their test of the Supreme Court *Tellabs* decision that was announced on June 21, 2007.

Relatively few of our class actions were filed in 2007 due to the ending point of the dataset on June 21, 2007. Looking at the frequency of lawsuit by circuit, we find that most class action filings are in the Second and Ninth Circuits with 18.7% and 26.1% of the lawsuits. Almost half (49.9%) of the class actions resulted in settlement. A large percentage (37.5%) resulted in dismissal.

Our judge dataset consists of all district judges active in either 2001 or 2002. We selected the judge dataset time period to allow us to collect information on the judge's judicial output prior to class action filings in our securities class action dataset. As reported in Table 1, we had a total of 615 judges.[16] Of these 615 judges active in 2001 and 2002, only 201 (or 32.7%) were involved in a securities class action in our dataset.

4.2. Variables

We use two sets of independent variables in our regression tests. The first set of independent variables focus on a number of district judge level characteristics relating to ability.

We define a number of variables relating to a judge's overall judicial performance in the 2001 to 2002 period (immediately prior to our securities class action period from 2003 to mid-2007). Publications Per Filings represents the average number of published opinions per district court filings per judge for the 2001 to 2002 period. Next, we calculate the average number of opinions that were affirmed at the circuit court level for the particular district court judge for the 2001 to 2002 time period (Affirmed Opinions).[17] The variable, Positive Citations, is the average number of positive citations per opinion for the judge in question during the 2001 to 2002 period. These are citations to a judge's opinions from courts outside the circuit in which the judge sits. Judges who write more influential opinions, just like judges who produce more opinions, might be those with greater ability.

Our overall judicial performance variables are subject to an endogeneity problem. A judge who incurs effort in order to publish opinions, write opinions that are affirmed, or write highly cited opinions, may have less time to tackle difficult motions in securities litigation. However, we assume that these variables are independent for two reasons. The three independent variables come from an earlier time period (2001–2), and refer to the mass of cases that judges hear, not just the securities cases. Thus, they are more plausibly an overall measure of judicial ability.

We define Top School as an indicator variable equal to 1 if the judge went to Harvard, Yale, or Stanford law school and 0 otherwise. Top School acts as a crude

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[16] Some judges were excluded because they were active for only portions of the period. Also excluded were a handful of judges where there appeared to be errors in the data (for example, where Westlaw had conflated the cases for two judges with the same last name).

[17] As the denominator in calculating this variable, we use the number of published opinions for the year .as the number of opinions that were likely appeal-worthy. Hoffman, et al. (2008) demonstrate that the decision of a judge to provide a written explanation of her reasons for a decision is tied to the likelihood of appeal..

indicator of initial legal ability for the judges. We also define an indicator variable for whether the judge has senior status. For our test of whether a judge ever presides over a securities class action decision in our class action sample period, we define Senior2005 as equal to 1 if the judge is a senior judge in 2005 or earlier and 0 otherwise. We choose 2005 as the mid-point in our class action dataset that ranges from 2003 to mid-2007. For our tests of individual class action decisions, we define Senior as equal to 1 if the judge is a senior judge in the year of the specific motion decision in question (e.g., a decision to appoint lead counsel) and 0 otherwise.

General judicial experience may also affect the ability of judges ruling on securities class action motion decisions. We define Prior Judge as an indicator variable equal to 1 if the judge's immediate occupation prior to becoming a federal district judge was as a judge, including state judges and federal magistrate judges, and 0 otherwise. We also compute the amount of experience each judge has as a federal district judge. For our test of whether a judge ever presides over a securities class action decision in our class action sample period, we define Judge Experience2002 as the difference between 2002 and the year the judge was appointed to the district court. For our tests of individual class action decisions, we define Judge Experience as the difference between the year of the specific decision in question and the year the judge was appointed to the district court.

We also include variables relating to the business specialization of a judge. To capture the business experience of a judge, we compute a variable for the fraction of published opinions that involved a securities law or other federal business law subject matter in the 2001 to 2002 time period (Business Caseload). Judges with a larger prior business caseload may have developed an expertise that allows them to make decisions in securities class actions that better protect the interests of investor class members. We also define Prior Private Practice as an indicator variable equal to 1 if the judge's immediate occupation prior to becoming a federal district judge was as an attorney in private practice, and 0 otherwise.

We define an indicator variable for whether the judge was appointed by a Democrat President (Democrat). Lastly, we define an indicator variable for whether the judge was a chief judge at any point during the 2003 to 2007 time period (Chief Judge, 2003–7). The additional administrative burdens of a chief judge may reduce their likelihood of presiding over a securities class action and decrease the willingness of the chief judge to exert effort. Table 2 displays summary statistics.

[Insert Table 2 about Here].

$$\text{Securities Judge}_i = \alpha + \beta_{1i}\text{Publications Per Filing}_i$$
$$+ \beta_{2i}\text{Affirmed Opinions}_i + \beta_{3i}\text{Positive Citations}_i$$
$$+ \beta_{4i}\text{Top School}_i + \beta_{5i}\text{Senior2005}_i$$
$$+ \beta_{6i}\text{Prior Judge}_i + \beta_{7i}\text{Judge Experience2002}_i$$
$$+ \beta_{8i}\text{Democrat}_i + \beta_{9i}\text{Chief Judge2003-2007}_i$$
$$+ \text{District Court Indicators}$$
$$+ \text{Active Service Indicators} + \varepsilon_i$$

We present the results in Table 3 as Model 1. We do not find evidence that judicial opinion quality (Positive Citations) or judicial inclination towards effort (Publications Per Filing) are associated with a higher propensity to preside over a securities class action. By contrast, we do find evidence that senior or close-to-senior-status judges are less willing to preside over securities class actions. The coefficient on Senior2005 is negative and significant at the 5% level. This finding supports the assumption that senior judges have some control over the types of cases they take and may seek to avoid certain burdensome categories of cases. General judicial experience also is an important explanatory variable. The coefficient on Prior Judge is positive and significant at the 1% level. The coefficient on Judge Experience2002 is positive and significant at the 10% level. Those judges with prior judicial experience or greater experience on the federal bench are more likely to preside over a securities class action. Contrary to our expectation, however, the coefficient on Affirmed Opinions is negative and significant at the 10% level, indicating that high-ability judges (we assumed that one indicator of a higher judicial ability was a higher affirmance rate) avoid securities class actions.

[Table 3 about Here]

We next focus on whether judges with prior business law experience are more likely to preside over securities class actions—in other words whether district court judges informally specialize in taking class action cases. We re-estimate Model 1 with the addition of a variable for the fraction of published opinions that involved either a securities law or other federal business law subject matter in the 2001 to 2002 time period (Business Caseload). We also include an indicator variable for whether the judge's immediate occupation prior to becoming a federal district judge was as an attorney in private practice (Prior Private Practice). We exclude our general judicial experience variables (Prior Judge and Judge Experience 2002).

We report the results as Model 2 in Table 3. Neither Business Caseload nor Prior Private Practice are significantly different from zero. We find no evidence that judges with business law experience have a greater likelihood of presiding over a securities class action. As in Model 1, the coefficient on Senior2005 is negative but now significant at the 10% level. Judges who are senior or about to become senior judges are less likely to

preside over class actions. Like in Model 1, the coefficient on Affirmed Opinions is negative and but it is now insignificant.[18]

Our tests above compare judges who presided over securities class actions with judges who did not preside over such class actions. As another test of what factors determine whether federal district court judges choose to preside over securities class actions, we examine whether the first judge listed on the docket for a federal securities class action is the same judge the eventually makes the lead plaintiff motion decision. We predict that lower-ability judges are more likely to drop out of securities class actions.[19] We construct an indicator variable, Judge Continues, equal to 1 if the first judge listed in the docket of the reference complaint listed in Stanford's Securities Class Action Clearinghouse database (the consolidated complaint in the case of multiple filings) is the same judge that makes the lead plaintiff motion decision and 0 if the two are the different. We control for various factors that may affect a judge's decision to approve the lead plaintiffs' choice of lead counsel with a multivariate logit model using Judge Change as the dependent variable estimated on case level data. The model excludes cases where the reference complaint case shifted to another court before the lead plaintiff motion decision. The model also excludes cases where the first judge no longer was actively presiding over cases (due to death for example) by the time of the lead plaintiff motion decision.

The right hand side of the equation is the same, with several exceptions. Instead of Judge Experience2002, we include Judge Experience defined as the years between the year of the first securities class action filing and the appointment year for the specific district judge. Instead of Senior 2005, we include Senior, defined as 1 if the judge is a senior judge in the year of the first securities class action filing and 0 otherwise. Lastly, instead of Chief Judge 2002–7 we include Chief Judge, defined as 1 if the judge is the Chief Judge in the year of the first securities class action filing and 0 otherwise. Because we use case level data and not pooled judge level data, we omit the Active Service

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[18] As a robustness test, we combine Prior Judge, Judge Experience2002, Business Caseload, and Prior Private Practice together with our other independent variables in the same model. Unreported, we obtain similar qualitative results as in the models of Table 3. As in Model 1 of Table 3, the coefficient on Affirmed Opinions is negative and significant at the 10% level.

To gauge the intensity of judge participation with securities class actions, we replace the binary Securities Judge dependent variable in Models 1 and 2 with the number of class action suits from 2003 to mid-2007 over which a particular judge presided (measured as of the time of the lead plaintiff decision). Unreported, we find similar qualitative results with the following differences. The coefficient on Chief Judge2002-2007 is negative and now significant at the 5% level in Model 1. This supports the view that Chief Judges, perhaps because of their increased administrative burden, are less likely to preside over securities class actions. The coefficient on Senior2005 in Model 2, while still negative, is now significant at only the 11.1% level.

[19] We corrected these dropout numbers for the possibility of deaths and retirements (there were only two such events). It is not clear from the docket sheets or other available documents, however, what the specific reasons for the dropouts were. One explanation for the dropout numbers has to do with the entrance of new judges to the court. As discussed earlier, when new judges join the court, a fraction of cases from the other judges is taken and given to the new judge. And the other judges typically have some discretion is saying that they would like to retain certain of those cases..

Indicators. We also have no reason to believe that the propensity of a judge to continue with a particular class action varied with time in our dataset; accordingly, we do not include year effects for our case-level data.

$$\text{Judge Continues}_i = \alpha + \beta_{1i}\text{Publications Per Filing}_i$$
$$+ \beta_{2i}\text{Affirmed Opinions}_i + \beta_{3i}\text{Positive Citations}_i$$
$$+ \beta_{4i}\text{Top School}_i + \beta_{5i}\text{Senior}_i$$
$$+ \beta_{6i}\text{Prior Judge}_i + \beta_{7i}\text{Judge Experience}_i$$
$$+ \beta_{8i}\text{Democrat}_i + \beta_{9i}\text{Chief Judge}_i$$
$$+ \text{Case Controls} + \text{District Court Indicators} + \varepsilon_i$$

We present the results in Table 4 as Model 1. As with Table 3, we do not find evidence that Publications Per Filing is associated with a lower propensity to remove oneself from a securities case. By contrast, we do find evidence that senior judges are less willing to preside over securities class actions. The coefficient on Senior is negative and significant at the 5% level..This is consistent with our hypothesis that lower-ability judges– as we assume is correlated with senior status—are more likely to drop out as judge of a securities class action. We find no evidence that judges with a high affirmed case ratio are more willing to stick with securities class actions. Indeed, as in Table 3, the coefficient is on Affirmed Opinions is negative..

In Model 2 of Table 4 we include our business-specific measures for experience (Business Caseload and Prior Private Practice) and remove our general judicial experience variables (Prior Judge and Judge Experience). Unlike the models of Table 3 (which examined whether the judge presided over at least one securities class action over the 2003 to mid-2007 time period), we find that the coefficient on Business Caseload is positive and significant at the 10% level in Model 2 of Table 4. This supports the hypothesis that judges with a greater prior business caseload are more likely to retain jurisdiction over a securities class action.[20]

In sum, we find mixed evidence on the importance of ability in the selection of judges who preside over securities class actions. Senior judges appear to avoid presiding over securities class actions. They are less likely to take these cases and, when they do

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[20] As a robustness test, we combine Prior Judge, Judge Experience2002, Business Caseload, and Prior Private Practice together with our other independent variables in the same model. Unreported, we obtain similar qualitative results as in the models of Table 4 with two differences. The coefficient on Publications Per Case is positive and now significant at the 10.3% level, indicating that hard working judges are less likely to drop out as judge of a securities class action, consistent with our hypothesis. The coefficient on Prior Private Practice is positive and significant at the 10% level. Contrary to our finding for Business Caseload (which remains negative and significant at the 10% level), judges with prior private practice experience are more likely to drop our as judge. Perhaps judges with prior private practice experience seek different type of work once they become federal judges.

We add year effects to the models of Table 4. We obtain similar qualitative results as in Table 4 with the following difference. The coefficient on Publications Per Case is negative and now significant at the 10% level in Model 1. Hard working judges are less likely to drop out as judge of a securities class action, consistent with our hypotheses.

take them, are more likely to drop off them. Judges with greater prior business caseload are no more likely to preside over a securities class action than other judges, although judges with greater general judicial experience are more likely to preside over such actions. In contrast, judges with a greater prior business caseload are more likely to stick with a securities class action once they are appointed the initial first judge. Contrary to our prediction, we also find (weak) evidence that one of our measures of judging ability—low rate of reversal—is negatively correlated with the probability of presiding over a securities class action.

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5.2.   Approval of Lead Plaintiff Attorney Selection

We predict that higher-ability judges will be more likely to reject the lead plaintiff's selection of lead counsel than are lower-ability judges. To test this hypothesis, we construct an indicator variable, Lead Plaintiff Attorney Choice, defined as equal to 1 if the judge rejected the lead plaintiffs' choice of lead counsel without modification and 0 otherwise.[21] We estimate a multivariate logit model using Lead Plaintiff Attorney Choice as the dependent variable on case level data.

We include case-level judge characteristic in the model as various factors that may affect a judge's decision to approve the lead plaintiffs' choice of lead counsel (the same as those in Model 1 of Table 4). We also include the case controls and the fraction of lead plaintiffs in the specific case in question that consist of public pension funds (Public Pension), labor union pension funds (Labor Union) and other institutions (Other Institution). Judges may be more receptive to the lead counsel choice of an institutional lead plaintiff compared with an individual lead plaintiff..We do not include Circuit or District effects in the model. We have no a priori reason to believe that circuit or district court-specific practices may affect a judge's propensity to accept the lead plaintiffs' selection of lead counsel. We also have no reason to believe that the propensity of a judge to accept or reject the lead plaintiffs' choice of lead counsel varied with time and do not include year effects.

$$\text{Lead Plaintiff Attorney Choice}_i = \alpha + \beta_{1i}\text{Publications Per Filing}_i$$
$$+ \beta_{2i}\text{Affirmed Opinions}_i + \beta_{3i}\text{Positive Citations}_i$$
$$+ \beta_{4i}\text{Top School}_i .+ \beta_{5i}\text{Senior}_i$$
$$+ \beta_{6i}\text{Prior Judge}_i .+ \beta_{7i}\text{Judge Experience}_i$$
$$+ \beta_{8i}\text{Democrat}_i + \beta_{9i}\text{Chief Judge}_i$$
$$+ \beta_{10i}\text{Public Pension}_i + \beta_{11i}\text{Labor Union}_i$$
$$+ \beta_{12i}\text{Other Institution}_i + \text{Case Controls} + \varepsilon_i$$

We present the results in Table 5 as Model 1. Here, contrary to our hypothesis that taking senior status was a sign of diminishing ability, senior judges appear more

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[21] Note that this variable is different from the Securities Judge variable, which was 1 if the judge made any type of decision regarding the plaintiff's choice of lead counsel (both approval and rejection).

likely to reject the lead plaintiffs' choice of lead counsel. The coefficient on Senior is positive and significant at the 5% level. Consistent with our hypothesis, the coefficient on Judge Experience is positive and significant at the 10% level. The other variables are not statistically significant. Again, like in the prior two tables, the coefficient on Affirmed Opinions (although not significant) points in a different direction from what we predicted.

[Table 5 about Here]

In Model 2 of Table 5 we include our business-specific measures for experience (Business Caseload and Prior Private Practice) and remove our general judicial experience variables (Prior Judge and Judge Experience). In Model 2, the coefficient on Publications Per Filing is positive and now significant at the 10% level. Higher-ability judges are more likely to reject the lead plaintiffs' selection of lead counsel without modification, consistent with our hypothesis. The coefficient on Business Caseload is positive and significant at the 10% level respectively. Judges with greater business expertise are also more likely to reject the lead plaintiffs' selection of lead counsel without modification. Contrary to our hypothesis regarding senior judges, the coefficient on Senior remains positive and significant (this time, at the 1% level), suggesting a willingness to exert high scrutiny on the part of the senior judges.[22]

Endogeneity is a potential issue with our examination of the judicial decision whether to accept the lead plaintiffs' selection of lead counsel. Prospective plaintiffs' lawyers might rationally anticipate a judge's ability and adjust their actions at the stage in a class action when the lead counsel firms are selected. Where the judge has lower ability, prospective plaintiffs' attorneys may put forth an application for lead counsel that is less likely to benefit the class and more likely to benefit solely the plaintiffs' attorneys. One can imagine, for example, plaintiffs' attorneys agreeing to divide up class actions, directing lower quality attorneys to low quality judges (who will be more likely to accept such attorneys) and leaving higher quality attorneys for the high quality judges. Plaintiffs' attorneys may also aggregate previously separate motions for lead plaintiffs and join together as co-lead counsel to eliminate the risk of not getting selected as lead counsel and to diversify the risk of not achieving a profitable settlement from the litigation (Choi (2009)).

The possibility of endogeneity in the motion for lead counsel will bias against finding a correlation between judges with high ability characteristics and a higher

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[22] As a robustness test, we combine Prior Judge, Judge Experience2002, Business Caseload, and Prior Private Practice together with our other independent variables in the same model. Unreported, we obtain similar qualitative results as in the models of Table 5 with the following differences. The coefficient on Publications Per Case is positive and now significant at the 5% level, indicating that hard working judges are less likely to accept the lead plaintiffs' selection of lead counsel. The coefficient on Prior Judge is positive and significant at the 10% level and the coefficient Prior Private Practice is positive and significant at the 5% level. Judges with greater judicial and business experience prior to becoming a federal judge are also less likely to accept the lead plaintiffs' selection of lead counsel. We also add year effects to the models of Table 5. We obtain similar qualitative results as in Table 5.

likelihood of rejecting the lead counsel motion. If lawyers perfectly anticipate judges' ability, then lead counsel motions should never be rejected. Our results—which demonstrate a correlation between certain judge characteristics and the rejection of the lead counsel motion—are thus of even greater significance. We also are unsure of the magnitude of the possible endogeneity. As noted at the outset, we shaped our inquiry to cover a period of time when the law on securities class actions was in considerable flux, which should have made predictions about what judges would do more difficult from the perspective of plaintiffs' attorneys. To assess the impact of endogeneity, we need a proxy for the "quality" of the lead counsel motion. For our proxy, we use the number of lead plaintiffs in the lead plaintiff group. A large number of lead plaintiffs—with a correspondingly larger collective action problem among the lead plaintiffs—indicates a greater likelihood that the plaintiffs' attorneys have de facto control and that the judge should pay greater attention to the motion for lead counsel. Plaintiffs' attorneys, for example, who know the judge will not in fact engage in close scrutiny of the lead counsel motion will be more likely to combine with other plaintiffs' attorneys (or alternatively, find more lead plaintiffs on their own) to generate both a large group of proposed lead plaintiffs and co-lead counsel.

We first compared the number of lead plaintiffs using a series of t-tests for our judge characteristics independent variables—separating the lead plaintiff judges into two groups based on the binary variables (such as Senior) and the continuous variables (such as Publications Per Filing) divided at the median. Not one of our t-tests resulted in a significant difference, suggesting that endogeneity is not a large concern for our lead counsel selection test. We next re-estimated the models in Table 5 using an ordered logit model with the number of lead plaintiffs as the dependent variable. Unreported, we found that the coefficient on Senior was positive and significant at the 10% level, indicating that plaintiffs' attorneys may attempt to take advantage of senior judges by forming larger groups of lead plaintiffs (often with a correspondingly larger number of co-lead counsel in the lead counsel application). As discussed above, senior judges, nonetheless, are more likely to reject such applications compared with other judges. In other words, it is as if the lawyers misestimate the level of scrutiny and attention senior judges are likely to apply. We also found that the coefficient on Prior Private Practice is negative and significant at the 10% level, indicating that plaintiffs' attorneys may worry about judges with Prior Private Practice and adjust to form smaller groups of lead plaintiffs with a correspondingly smaller number of co-lead counsel in the lead counsel application. The fact that Prior Private Practice was not significantly different from zero in Table 5, therefore, could be a result of this adjustment on the part of plaintiffs' attorney to present such judges with less troublesome applications for lead counsel firms.

In sum, our tests on the lead plaintiffs' selection of lead counsel provide limited evidence that higher-ability judges are more willing to scrutinize lead counsel proposals. In particular, judges with greater business law experience and general judicial experience

are more likely to dismiss lead counsel motions. While we do not find evidence that judges with prior private practice experience are more likely to dismiss lead counsel motions, we do find evidence that plaintiffs' attorneys may adjust their behaviour to present such judges less problematic applications for lead counsel. Senior judges, contrary to expectation, do not appear to shirk on effort. It may be that senior judges of low ability responsibly avoid securities cases (or those cases are not assigned to them), leaving those cases to the subset of senior judges with high ability, who are willing to retain those cases. It also may be that senior judges, while preferring to avoid securities class action cases, work hard on them once they have them (although we do find some evidence that plaintiffs' attorneys may present senior judges with more troublesome applications for lead counsel).

5.3.   Dismissal Decision

We predict that higher-ability judges will be more likely to dismiss a securities class action. To test this hypothesis, we construct an indicator variable, Dismissal, defined as equal to 1 if the judge granted a dismissal with prejudice and 0 otherwise. We control for various factors that may affect a judge's decision to approve the lead plaintiffs' choice of lead counsel with a multivariate logit model using Dismissal as the dependent variable estimated on case level data..We omit those cases where the plaintiffs' voluntarily dismissed their suit from the model.

We include the case-level, district judge characteristic variables (the same as in Model 1 of Table 4). We include the Case Controls described above to control for the strength of the securities class action. Because the law of the specific circuit may affect the likelihood of dismissal, we include circuit effects in the model. We also include year effects (for the year of the dismissal decision) to control for shifts in the law governing how courts deal with dismissals over the time period of our class action dataset from 2003 to mid-2007.

$$\text{Dismissal}_i = \alpha + \text{\ss}_{1i}\text{Publications Per Filing}_i$$
$$+ \text{\ss}_{2i}\text{Affirmed Opinions}_i + \text{\ss}_{3i}\text{Positive Citations}_i$$
$$+ \text{\ss}_{4i}\text{Top School}_i.+ \text{\ss}_{5i}\text{Senior}_i$$
$$+ \text{\ss}_{6i}\text{Prior Judge}_i.+ \text{\ss}_{7i}\text{Judge Experience}_i$$
$$+ \text{\ss}_{8i}\text{Democrat}_i + \text{\ss}_{9i}\text{Chief Judge}_i$$
$$+ \text{Case Controls} + \text{Circuit Effects}$$
$$+ \text{Year Effects} + \varepsilon_i$$

We present the results in Table 6 as Model 1. Higher-ability judges (measured by Publications Per Filing and Positive Citations) are more likely to dismiss a case, at a statistically significant level. On the other hand, the coefficients on Senior and Affirmed Opinions are not significantly different from zero. Once again, the coefficient on Affirmed Opinion is negative (in the opposite direction from that predicted). Interestingly, we find that Democratic judges are more willing to dismiss cases, contrary

to the view the Republican judges are tougher on securities class action plaintiffs.

[Table 6 about Here]

In Model 2 of Table 6 we include our business-specific measures for experience (Business Caseload and Prior Private Practice) and remove our general judicial experience variables (Prior Judge and Judge Experience). None of these variables are significant. The coefficients on Positive Citations and Publications per Filing remain positive and significant at the 5% level.[23]

Endogeneity is a potential issue with the dismissal decision because plaintiffs' attorneys might rationally anticipate a judge's ability (and resulting inclination to focus on the motion to dismiss) and choose to dismiss voluntarily their case prior to a judicial dismissal decision. Because we only test the decision to dismiss on cases that were not voluntarily dismissed, we may understate the impact of a judge's ability on the overall rate at which cases are dismissed (whether voluntarily or due to a dismissal with prejudice). To determine the importance of voluntary dismissal, we define Any_Dismissal as equal to 1 if the judge granted a dismissal with prejudice or the plaintiffs voluntarily dismissed the suit and 0 otherwise. We re-estimated the models in Table 6 using Any_Dismissal as the dependent variable. Unreported, we obtained the same qualitative results as in Table 6. We thus find that higher-ability judges correlates with an increased probability of dismissal—whether the judge makes the actual dismissal decision or the plaintiffs' voluntarily choose to dismiss in anticipation of the judge's likely dismissal decision.

Our results support the hypothesis that higher-ability judges (the relevant ability measures being publications and citations) are more likely to dismiss a case.

5.4.   Approval of Settlements and Attorney Fees

The judge plays a key role in evaluating the two-sided agency problem in securities cases at multiple points; one of which is when the parties bring the judge a settlement agreement for approval. The role of the judge here is to act as the guardian for the absent investors and ensure that their agents (the plaintiff's lawyers and the corporate executives) are not misbehaving. We take the willingness to reject settlement agreements as a sign of judicial ability. Rejection means more work for the judge.

We first categorize judicial decisions on motions to accept the first preliminary settlement motion. As reported in Table 7, only 8 out of the 215 cases (or 3.2%) with judicial decisions on the first preliminary settlement motion resulted in a denial of the motion. We then examined judicial decisions on the final settlement motion. Unfortunately, we have no variation: none of these decisions resulted in a denial of the motion. Accordingly, rather than look at judicial decisions concerning the settlement, we

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[23] As a robustness test, we combine Prior Judge, Judge Experience, Business Caseload, and Prior Private Practice together with our other independent variables in the same model. Unreported, we obtained the same qualitative results as in Table 6.

examine whether any change takes place to the settlement amount from the date of the initial stipulated settlement agreement to the date of the final settlement motion decision. Only 8 out of 215 settlements (or 3.7%) had a change in the settlement amount from the initial stipulated settlement agreement. Moreover, only 2 of the 215 settlements (or 0.9%) resulted in an increase in the settlement amount to the benefit of class members.

[Table 7 about Here]

Because of the small number of denials to the preliminary or final settlement motion as well as the small number of times the settlement amount actually increased to the benefit of class members from the initial stipulated agreement, we are unable to estimate a multivariate model to test our hypotheses on district judge characteristics. Judges almost always—regardless of their characteristics—accept the settlement proposed by the securities class action litigants.

Instead of examining the decision to approve a settlement, we therefore focus on the related decision by judges to approve the requested fees for the plaintiffs' attorneys. The point of greatest interest to one set of potentially misbehaving agents, the plaintiffs' lawyers, is the approval of attorney fees. Higher-ability judges will be more likely to scrutinize these attorney fees because they cannot depend on the defense side to do so fully (after all, they are paying the fees out of the corporate coffers rather than the pockets of the executives). To test this, we focus on the sub-sample of class actions that resulted in a settlement. We define an indicator variable Judge Rejected Fee as equal to 1 if the judge rejected the attorney fee motion without modification and 0 otherwise. To control for various factors that may affect the judicial decision on attorney fees, we estimate a multivariate logit model on the set of settlements in our dataset with Judge Approved Fee as the dependent variable.

Aside from our case-level judge characteristic and case control independent variables, we include the requested attorney fee (Requested Fee). The chance that a judge will approve the attorney fee in a securities settlement will decrease as the level of requested fee increases. We also include the log of the settlement amount (ln(Settlement Amount)). Judges may be more willing to accept the attorney fee request the greater is the settlement amount. We do not include Circuit or District effects in the model. We have no a priori reason to believe that circuit or district court-specific practices may affect a judge's propensity to accept the plaintiffs' attorney fee request..We also have no reason to believe that the propensity of a judge to accept or reject the fee request varied with time and do not include year effects.

$$\text{Judge Approved Fee}_i = \alpha + \beta_{1i}\text{Publications Per Filing}_i$$
$$+ \beta_{2i}\text{Affirmed Opinions}_i + \beta_{3i}\text{Positive Citations}_i$$
$$+ \beta_{4i}\text{Top School}_i. + \beta_{5i}\text{Senior}_i$$
$$+ \beta_{6i}\text{Prior Judge}_i. + \beta_{7i}\text{Judge Experience}_i$$
$$+ \beta_{8i}\text{Democrat}_i + \beta_{9i}\text{Chief Judge}_i$$
$$+ \beta_{10i}\text{Requested Fee}_i + \beta_{11i}\ln(\text{Settlement Amount})_i$$
$$+ \text{Case Controls} + \varepsilon_i$$

We present the results in Table 8 as Model 1. The Senior variable was dropped from Model 1 because Senior judges were perfectly correlated with judges approving the attorney fee motion, consistent with the hypothesis that senior judges exert lower effort and thus are more likely to accept the attorney fee request. Although we cannot rule out the possibility that the litigants have greater familiarity with the preferences of senior judges and may adjust their fee awards to match these preferences.

The coefficient on Affirmed Opinions in Model 1 is negative and significant at the 10% level. Once again, contrary to our prediction that higher affirmance rates were a proxy for high ability in judging, we find that judges with higher affirmance rates are less likely to reject the attorney fee motion without modification. Also contrary to our hypothesis, the coefficients on Prior Private Practice and Prior Judge are both negative and significant at the 1% level. Note also that the coefficient on Democrat is negative and significant at the 1% level. Consistent with the view that Democratic judges are more permissive toward plaintiffs' attorneys, we find that Democratic judges are less likely to reject the attorney fee motion without modification. Top School —attending, Harvard, Yale or Stanford for law school--is also negative and significant the 1% level. Judges who attended a top law school are less likely to reject the attorney fee request without modification.

[Table 8 about Here]

In Model 2 of Table 8 we include our business-specific measures for experience (Business Caseload and Prior Private Practice) and remove our general judicial experience variables (Prior Judge and Judge Experience). As in Model 1, the coefficient on Publications Per Filing is not significant. The coefficient on Affirmed Opinions, while still negative, is no longer significant. In contrast, the business-specific experience variables are consistent with our experience hypothesis. Business Caseload is positive and significant at the 10% level; Prior Private Practice is positive and significant at the 5% level. Judges with prior business-specific experience are more likely to reject the attorney fee request.[24].

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[24] As a robustness test, we combine Prior Judge, Judge Experience2002, Business Caseload, and Prior Private Practice together with our other independent variables in the same model. Unreported, we obtain similar qualitative results as in the models of Table 8. The coefficient on Affirmed Opinions is negative and significant at the 5% level. The coefficient on Business Caseload, while still positive, is now significant at the 17.5% level, beyond conventional statistical significance.

Endogeneity is a potential issue with the attorney fee inquiry because lawyers might rationally anticipate a judge's ability (and resulting inclination to focus on the attorney fee motion) and shape their fee requests accordingly. As noted above, we shaped our inquiry to cover a period of time when the law on securities class actions was in considerable flux, which should have made it difficult for lawyers to make predictions about how judges would rule on motions. But a critic might argue that the matter of attorney fees is independent of the securities laws (instead, largely a function of the effort exerted by the lawyers). The point is a fair one. To examine it, we looked to see whether the fee requests being made varied as a function of the judge, correcting for case characteristics.

We first compared the requested attorney fee using a series of t-tests for our judge characteristics independent variables—separating the settlement judges into two groups based on the binary variables (such as Senior) and the continuous variables (such as Publications Per Filing) divided at the median. Not one of our t-tests resulted in a significant difference, suggesting that endogeneity is not a large concern for attorney fee request test..Plaintiffs' attorneys do not appear to be adjusting their fee award according to observable characteristics of the settlement judge. We next re-estimated the models in Table 8 using an ordinary least squares model with the log-odds of the requested attorney fee as the dependent variable and omitting the requested attorney fee from among the independent variables. Unreported, none of our judge characteristic independent variables were significantly different from zero, indicating that plaintiffs' attorneys do not adjust their fee application based on the characteristics of the settlement judge. We thus found little indication of endogeneity in the attorney fee motion.

6.   Conclusion

The existing literature on judges focuses largely on cases where there are published opinions. That poses a particular problem with regards to the district courts because the primary task of these judges is to manage cases—ruling on evidentiary matters, discovery requests, and preliminary motions—rather than publish opinions (Kim, et al., 2009). The recent electronic availability of information on decisions on the various intermediate decisions in a case, however, has made fuller inquiry into the behavior of district judges possible (Hoffman, et al., 2008; Kim, et al., 2009). Using this data, we inquire into the behavior of district judges in securities class actions; an area where the judge has a particularly important role to play in policing the two-sided agency problem.

To control for this selection bias, we attempted to re-estimate the models of Table 8 with the HECKPROB model in Stata. For an instrument, we used the total number of securities class actions filed in the dataset time period for the district court in which the specific class action is filed. We assume this variable is correlated with the decision to settle. A particular district court with large numbers of securities class action may face greater pressure to dismiss such actions to clear their docket, leading to fewer settlements. On the other hand, we assume this variable is not correlated directly with requested attorney fees in a particular settled litigation. Unfortunately, the HECKPROB models did not converge to a solution. We were therefore unable to control for a possible selection bias.

It is difficult to summarize our findings, but we can say, roughly, that there is suggestive evidence that higher-ability judges produce higher-quality judicial output, in the sense of being more willing to make difficult choices in securities litigation cases. A number of our measures of ability, such as publication rates, citations, and prior business and judicial experience, are positive correlated with one or more of the dependent variables that represent more work for the judge. For example, judges with higher numbers of published opinions are also more likely to take on securities cases, reject proposed lead plaintiffs and to dismiss cases.

The major exception is affirmance rate. Judges with higher affirmance rates avoid securities class actions and are unlikely to reject attorneys' fees requests. We offer the following speculation to explain these results. Judges' affirmance rates are a more salient aspect of their reputation than publication rates and positive citations. In addition, affirmance has a more direct impact on a judges' workload than publication rates and positive citations. A judge who is reversed has more work—she must continue the case on remand. A judge who writes fewer or less influential opinions is not penalized in the same way. Accordingly, judges have strong incentives to avoid reversals. Judges who refrain from dismissing securities class actions will not be reversed—virtually all these cases settle and are therefore not appealed. And judges who accept attorneys' fees requests also do not face appeal and the possibility of additional work.

If this story is correct, the lower-ability judges—or at least, the more cautious and work-averse judges—will deny motions to dismiss and accept fee agreements. These lower-ability or more cautious judges are in fact those who end up with higher affirmance rates. The story has troubling implications for judicial behavior. For the judges for whom an important goal is to avoid reversal, there are strong incentives to permit plaintiffs' lawyers and defendants to collude—because colluding parties don't appeal when their agreements are accepted.

Another surprise in the results concerns senior judges. We predicted that taking senior status was a sign of diminishing abilities and inclinations to work. We expected, therefore, to find that senior judges would do less work on these cases than their younger and more energetic colleagues. We do find that senior judges are less likely to take on securities class actions and more likely to drop them—and that is consistent with the increased leeway that senior judges have in determining their caseloads. However, these senior judges, if they are on one of these cases, are more likely to scrutinize the choice of lead plaintiffs than their colleagues are. They also do not grant dismissals at a significantly higher rate than their junior colleagues. One explanation for these findings is that we may have made some incorrect assumptions about what it means to take senior status. Instead of that choice being driven by diminished interest and ability, it may have more to do with being a good institutional citizen. Congress, in recent years, has been slow in authorizing additional federal judgeships to help tackle the fast increasing federal caseload. One way to get around this problem is for more of the judges on a court to take

senior status. When they do that, they can continue to try cases (the minimal amount they have to take on is 25% of the full load) and the court also gets a new judge. In other words, taking senior status may be more of a sign of institutional commitment than diminishing ability.[25]

The data, then, tell a complex story about the motivations and characters of judges. The literature tells us that judges care about political outcomes. Our data suggest, in addition, that judges have different dispositions and levels of ability, and these differences will show up in measurable patterns of behavior.

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[25] There is some evidence supporting this view. Yoon (2005) reports that roughly a fourth of judges he surveyed reported that the primary reason they took senior status was to help out their courts. Also along the lines of senior judges internalizing institutional commitments, Haire (2009) finds that the voting patterns of senior judges are less ideological than those of their colleagues.

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Table 1: Summary of Datasets

Securities Class Action Dataset

Year of Suit Filing	Freq.	Percent
2003	148	26.8
2004	172	31.2
2005	138	25.0
2006	81	14.7
2007	13	2.4
Total	552	100.0

Circuit Court	Freq.	Percent
1	36	6.5
2	103	18.7
3	46	8.3
4	21	3.8
5	50	9.1
6	26	4.7
7	27	4.9
8	26	4.7
9	144	26.1
10	20	3.6
11	50	9.1
D.C.	3	0.5
Total	552	100.0

Outcome (if Known)	Freq.	Percent
Settlement	254	49.9
Trial Verdict or Judgment on Pleadings for Plaintiff	2	0.4
Summary Judgment for Defendant	6	1.2
Voluntary Dismissal	56	11.0
Dismissal with Prejudice	191	37.5
Total	509	100.0

Judge Dataset

Involvement in Securities Class Action	Freq.	Percent
Involved in Securities Class Action	201	32.7
Not involved in Securities Class Action	414	67.3
Total	615	100.0

Circuit Court	Freq.	Percent
1	28	4.6
2	69	11.2
3	51	8.3
4	51	8.3
5	70	11.4
6	62	10.1
7	49	8.0
8	42	6.8
9	89	14.5
10	35	5.7
11	57	9.3
D.C.	12	2.0
Total	615	100.0

Table 2

Independent Variables

Judge Characteristics

Variable	Mean	25th Percentile	Median	75th Percentile	Standard Deviation
Positive Citations	1.735	0.710	1.333	2.116	1.925
Publications Per Filing	0.025	0.005	0.012	0.026	0.035
Affirmed Opinions	0.915	0.875	0.949	1.000	0.124
Business Caseload	0.093	0.000	0.056	0.135	0.135
Prior Private Practice	0.420	0	0	1	0.494
Prior Judge	0.423	0	0	1	0.494
Democrat	0.524	0	1	1	0.500
Senior2005	0.224	0	0	0	0.418
Judge Experience2002	10.694	5	10	15	6.782
Top School	0.145	0	0	0	0.352

Case Controls

Variable	Mean	25th Percentile	Median	75th Percentile	Standard Deviation
Restatement	0.356	0	0	1	0.5
Gov Investigation	0.429	0	0	1	0.5
Officer Terminated	0.326	0	0	1	0.5
Auditor Terminated	0.074	0	0	0	0.3
Insider Trading Claim	0.588	0	1	1	0.5
Section 11 Claim	0.115	0	0	0	0.3
Market Cap ($ millions)	5800.0	150.2	532.5	2000.0	20000.0
High Tech	0.167	0	0	0	0.373

Table 2 Continued

Other Controls

Variable	Mean	25th Percentile	Median	75th Percentile	Standard Deviation
Public Pension	0.144	0	0	0	0.324
Labor Union	0.163	0	0	0	0.335
Other Institution	0.145	0	0	0	0.308
Requested Fee	0.269	0.250	0.270	0.300	0.052
Settlement ($ millions)	23.1	2.8	6.0	13.5	89.1

Dependent Variables

Judge Level Dependent Variables

Variable	Mean	25th Percentile	Median	75th Percentile	Standard Deviation
Securities Judge	0.327	0	0	1	0.469

Case Level Dependent Variables

Variable	Mean	25th Percentile	Median	75th Percentile	Standard Deviation
Judge Continues	0.928	1	1	1	0.259
Lead Plaintiff Atty Rejected	0.081	0	0	0	0.273
Dismissal	0.375	0	0	1	0.485
Judge Rejected Fee	0.215	0	0	0	0.412

Table 3: Selection of Securities Class Action Judges

	Model 1	Model 2
Publications Per Filing	1.639	1.602
	(0.51)	(0.50)
Affirmed Opinions	-1.625[+]	-1.304
	(-1.74)	(-1.42)
Positive Citations	0.0149	0.0145
	(0.28)	(0.27)
Top School	0.405	0.366
	(1.19)	(1.09)
Senior 2005	-0.871[*]	-0.605[+]
	(-2.36)	(-1.73)
Prior Judge	0.639[**]	
	(2.80)	
Judge Experience2002	0.0447[+]	
	(1.77)	
Business Caseload		-0.708
		(-0.81)
Prior Private Practice		-0.258
		(-1.10)
Democrat	-0.176	-0.329
	(-0.63)	(-1.33)
Chief Judge2002-2007	-0.326	-0.223
	(-1.10)	(-0.79)
Constant	0.214	0.853
	(0.24)	(0.97)
District Court Indicators	Yes	Yes
N	404	404
pseudo R^2	0.128	0.112

t statistics in parentheses; [+] $p < 0.10$, [*] $p < 0.05$, [**] $p < 0.01$. Models 1 and 2 are logit models estimated on judge-level data with Securities Judge as the dependent variable. District Court Indicators are for districts with 20 or more class actions in our dataset and include the Southern District of New York, the Central District of California, the District of Massachusetts, the District of New Jersey, the Middle District of Florida, the Northern District of California, the Northern District of Texas, the Southern District of California, and the Southern District of Florida. Variable definitions are in the Appendix.

Table 4: Judge Continues

	Model 1	Model 2
Publications Per Filing	18.01	17.16
	(1.61)	(1.52)
Affirmed Opinions	-2.000	-0.288
	(-0.60)	(-0.09)
Positive Citations	0.0553	-0.0340
	(0.33)	(-0.20)
Top School	-0.654	-0.339
	(-0.99)	(-0.49)
Senior	-2.421*	-2.577**
	(-2.40)	(-2.63)
Prior Judge	-0.141	
	(-0.22)	
Judge Experience	0.0228	
	(0.49)	
Business Caseload		7.083$^+$
		(1.94)
Prior Private Practice		-0.823
		(-1.23)
Democrat	0.253	-0.258
	(0.37)	(-0.41)
Chief Judge	-0.949	-0.206
	(-0.93)	(-0.19)
Constant	7.202*	5.950$^+$
	(2.08)	(1.82)
District Court Indicators	Yes	Yes
Case Controls	Yes	Yes
N	209	209
pseudo R^2	0.246	0.288

t statistics in parentheses; $^+ p < 0.10$, $^* p < 0.05$, $^{**} p < 0.01$. Models 1 and 2 are logit models estimated on securities class action case level data with Judge Continues as the dependent variable. Note that Auditor Terminated was perfectly correlated with Lead Plaintiff Attorney Choice and was dropped from the logit model. District Court Indicators are for districts with 20 or more class actions in our dataset and include the Southern District of New York, the Central District of California, the District of Massachusetts, the District of New Jersey, the Middle District of Florida, the Northern District of California, the Northern District of Texas, the Southern District of California, and the Southern District of Florida. Variable definitions are in the Appendix.

Table 5: Lead Plaintiff Attorney Rejected

	Model 1	Model 2
Publications Per Filing	10.15	12.40[+]
	(1.49)	(1.84)
Affirmed Opinions	-2.640	-1.885
	(-0.95)	(-0.64)
Positive Citations	0.129	0.0767
	(0.81)	(0.43)
Top School	0.486	0.187
	(0.79)	(0.33)
Senior	2.565[**]	3.308[**]
	(2.68)	(3.54)
Prior Judge	0.328	
	(0.57)	
Judge Experience	0.0874[*]	
	(2.02)	
Business Caseload		3.976[+]
		(1.65)
Prior Private Practice		0.442
		(0.81)
Democrat	0.574	0.0393
	(0.87)	(0.06)
Chief Judge	0.324	1.379[+]
	(0.36)	(1.70)
Public Pension	-1.335	-0.947
	(-1.25)	(-0.94)
Labor Union	0.0155	-0.236
	(0.02)	(-0.28)
Other Institution	0.00322	0.311
	(0.00)	(0.41)
Constant	-3.564	-3.154
	(-1.31)	(-1.07)
Case Controls	Yes	Yes
N	267	269
pseudo R^2	0.198	0.221

t statistics in parentheses; [+] $p < 0.10$, [*] $p < 0.05$, [**] $p < 0.01$. Models 1 and 2 are logit models estimated on securities class action case level data with Lead Plaintiff Attorney Rejected as the dependent variable (rejection of lead plaintiff attorney choice). Note that Auditor Terminated was perfectly correlated with Lead Plaintiff Attorney Choice and was dropped from the logit model. Variable definitions are in the Appendix.

Table 6: Dismissal Decision

	Model 1	Model 2
Publications Per Filing	12.48*	12.40*
	(1.99)	(1.98)
Affirmed Opinions	-1.419	-1.247
	(-0.85)	(-0.74)
Positive Citations	0.283*	0.269*
	(2.20)	(2.07)
Top School	-0.201	-0.264
	(-0.44)	(-0.58)
Senior	-0.540	-0.407
	(-0.57)	(-0.43)
Prior Judge	-0.0370	
	(-0.10)	
Judge Experience	0.0258	
	(0.71)	
Business Caseload		-0.874
		(-0.57)
Prior Private Practice		0.255
		(0.68)
Democrat	1.027$^+$	0.856$^+$
	(1.80)	(1.80)
Chief Judge	-0.232	-0.188
	(-0.35)	(-0.28)
Constant	-0.348	-0.0231
	(-0.15)	(-0.01)
Case Controls	Yes	Yes
Year Effects	Yes	Yes
Circuit Effects	Yes	Yes
N	218	218
pseudo R^2	0.206	0.207

t statistics in parentheses; $^+ p < 0.10$, $^* p < 0.05$, $^{**} p < 0.01$. Models 1 and 2 are logit models estimated on securities class action case level data with Dismissal as the dependent variable. Note that Auditor Terminated was perfectly correlated with Lead Plaintiff Attorney Choice and was dropped from the logit model. Variable definitions are in the Appendix.

Table 7: Settlement Outcomes

	Freq.	Percent
Judge Accepted Final Settlement Motion	241	100.0
Judge Rejected Final Settlement Motion	0	0.0
Total	241	100.0
Judge Accepted Preliminary Settlement Motion	239	96.8
Judge Rejected Preliminary Settlement Motion	8	3.2
Total	215	100.0
Settlement Amount Unchanged From Stipulation	207	96.3
Settlement Amount Changed From Stipulation	8	3.7
... Settlement Amount Increased	2	0.9
... Settlement Amount Decreased	6	2.8
Total	215	100.0

Table 8: Judge Rejected Attorney Fee

	Model 1	Model 2
Publications Per Filing	-28.86	-24.85
	(-1.53)	(-1.57)
Affirmed Opinions	-5.509[+]	-4.115
	(-1.87)	(-1.56)
Positive Citations	-0.388	-0.473
	(-1.14)	(-1.45)
Top School	-2.959**	-3.136*
	(-2.69)	(-2.50)
Prior Judge	-3.167**	
	(-3.10)	
Judge Experience	-0.286**	
	(-2.74)	
Business Caseload		5.805[+]
		(1.71)
Prior Private Practice		2.118*
		(2.43)
Democrat	-3.229**	-1.476[+]
	(-2.61)	(-1.68)
Chief Judge	-1.658	-1.502
	(-1.57)	(-1.51)
Log odds of the Requested Fee	5.614*	3.887*
	(2.48)	(2.15)
ln(Settlement Amount)	-0.512	-0.329
	(-1.13)	(-0.76)
Constant	15.68**	6.449[+]
	(3.00)	(1.93)
Case Controls	Yes	Yes
N	94	94
pseudo R^2	0.394	0.322

t statistics in parentheses; [+] $p < 0.10$, [*] $p < 0.05$, [**] $p < 0.01$. Models 1 and 2 are logit models estimated on securities class action case level data with Judge Rejected Attorney Fee as the dependent variable. Case Controls include the Restatement, Gov. Investigation, Officer Terminated, Auditor Terminated, Insider Trading, Section 11, ln(Market Capitalization) and High Technology variables. Variable definitions are in the Appendix.

Appendix: Variable Definitions

Dependent Variables

Variable	Description
Securities Judge	Indicator variable defined as equal to 1 if the judge made a lead plaintiff decision in a securities class action during our case dataset time period and 0 otherwise.
Judge Continues	Indicator variable defined as equal to 1 if the first judge listed in the reference case docket as given by Stanford Securities Class Action Clearinghouse is the same judge that make the lead plaintiff decision and 0 otherwise.
Lead Plaintiff Atty Rejected	Indicator variable defined as equal to 1 if the judge rejected the lead plaintiffs' choice of lead counsel without modification and 0 otherwise.
Dismissal	Indicator variable defined equal to 1 if the suit resulted in a dismissal with prejudice and 0 otherwise.
Judge Rejected Fee	Indicator variable defined to equal to 1 if the judge rejected the attorney fee motion and 0 otherwise.

Judge Characteristic Independent Variables

Variable	Description
Publications Per Filing	The average number of published opinions in 2001 and 2002 for the judge in question as a fraction of the per judge number of filings for the district court in which the judge sits.
Affirmed Opinions	The number of affirmed opinions for the judge in question as a fraction of all published decisions in 2001 and 2002.
Positive Citations	The average number of positive citations per opinion for the judge in question during the 2001 to 2002 period.
Top School	Indicator variable defined as equal to 1 if the judge in question graduated from Harvard, Yale, or Stanford Law School and 0 otherwise.
Senior2005	Indicator variable defined as equal to 1 if the judge in question is a senior judge in the year 2005 or earlier.
Senior	Indicator variable defined as equal to 1 if the judge in question is a senior judge in the year in question (first suit filed year, lead plaintiff appointment year, or outcome year depending on the test) is made and 0 otherwise.
Prior Judge	Indicator variable defined as equal to 1 if the judge in question immediate prior provision before appointment was as a magistrate judge or a judge in another court system and 0 otherwise.
Judge Experience2003	Number of years between the year of appointment for the judge in question and the year 2003.
Judge Experience	Number of years between the year of appointment for the judge in question and the year in question (first suit filed year, lead plaintiff appointment year, or outcome year depending on the test) is made.

Business Caseload	The fraction of the judge in questions published opinions in 2001 and 2002 that were on a securities law or other federal business law subject matter.
Prior Private Practice	Indicator variable defined as equal to 1 if the judge in question immediate prior provision before appointment was in private practice and 0 otherwise.
Democrat	Indicator variable defined as equal to 1 if the judge in question was appointed by a Democrat President and 0 otherwise.
Chief Judge2003-2007	Indicator variable defined as equal to 1 if the judge in question was the chief judge for the district at any time during 2003 to 2007 and 0 otherwise.
Chief Judge	Indicator variable defined as equal to 1 if the judge in question is the chief judge for the district in the year in question (first suit filed year, lead plaintiff appointment year, or outcome year depending on the test) is made and 0 otherwise.

Other Independent Variables

Case Control Variables	Description
Section 11	Indicator variable equal to 1 if the complaint for a particular class action alleged a Section 11 of the Securities Act of 1933 violation and 0 otherwise.
Govt. Investigation	Indicator variable equal to 1 if the complaint indicated the presence of a SEC or other governmental investigation or enforcement action relating to the fraud at issue and 0 otherwise.
Restatement	Indicator variable equal to 1 if the complaint indicated that the company announced a restatement covering at least part of the class period and 0 otherwise.
Officer Term.	Indicator variable equal to 1 if the complaint indicated that a top officer of the defendant company resigned or was terminated during the class period and 0 otherwise.
Auditor Term.	Indicator variable equal to 1 if the complaint indicated that the auditor resigned or was terminated during the class period and 0 otherwise.
Insider Trading	Indicator variable equal to 1 if the complaint alleged insider trading and 0 otherwise.
Market Capitalization	Market value of a company's common equity (in $ millions) at the end of the fiscal year preceding the beginning of the class period.
Settlement Amount	The settlement amount for the class action.
High Tech	Indicator variable equal to 1 if the firm is in SIC codes 3570-3577 or 7370-7379 and 0 otherwise
Public Pension	The fraction of lead plaintiffs in a specific case that consist of a public pension fund.
Labor Union	The fraction of the lead plaintiffs that consist of a labor union.
Other Institution	The fraction of lead plaintiffs in a specific case that are institutions but not public pensions or labor unions.

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