

Litigation Risk

Federal Judge Ideology: A New Measure of Ex Ante Litigation Risk

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- (Kim and Skinner [2012]). These measures are also likely to capture industry and firm characteristics unrelated to ex ante litigation risk. Consequently, such measures can induce spurious relations, which affect their results
- Judge composition is less endogenous to omitted correlated variables that are also likely to affect firm operations or managerial decisions, such as risk and growth
- Takes a different perspective by focusing on a set of critical players outside the firm, judges, who are central to the interpretation of legal doctrines and whose ideology is a key determinant of both the expected and realized lawsuit outcomes



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民主党和共和党 (Democratic VS Republican)

Judge panels controlled by Democratic appointees are more likely to produce liberal decisions than those controlled by Republican appointees。

Judge partisanship contributes to almost one-half of the variance in judicial actions.

A panel composed of only Democratic appointees is 80% more likely to issue a liberal ruling than a panel composed of only Republican appointees.



Plaintiffs attempting to take advantage of a court's ideological makeup to achieve a desired ruling. 【原告在提起诉讼时会考虑法官的意识形态】



案件随机分配地区法院（使得每个法官案件数量均衡）【驳回约50%、庭外和解约50%、审判1.6%】
不满结果 → 向巡回法庭提起诉讼，分配随机三位法官组成审判团 → 败诉方可上诉
最高院

Supreme Court does not have to hear every case it is asked to review. Typically, it will agree to hear a case only when the case involves an unusually important legal principle or when two or more circuit courts have interpreted a law differently. 【每年约1%左右案件复审】

District court judge decisions are subject to mandatory and routine reviews by circuit courts. 在审查过程中，巡回法庭可以裁定区法院法官的决定不正确，并予以推翻。撤销后，地方法院法官必须听取新的动议并进行新的审判，从而增加了他或她的工作量。撤销令地方法院法官尴尬，损害了他们的名誉，减少了他们被任命到上级法院的机会。由于地区法院法官必须考虑他们的裁决会被巡回法院审查和推翻的概率，因此他们在做出的裁决时被发现考虑了巡回法院的政治偏好。

→ **Circuit courts and district courts generally serve as the final arbiters for the vast majority of, if not all, securities class action lawsuits, and thus have the greatest effect on case outcomes**



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Democratic presidents' appointees dominate a panel of three judges randomly selected from the circuit (LiberalCourt) $= [C(x, 3) + C(x, 2) \times C(y-x, 1)] / C(y, 3)$,

TABLE 1
Summary Statistics of Judge Ideology in Circuit Courts

	1st	2nd	3rd	4th	5th	6th	7th	8th	9th	10th	11th	D.C.	Yearly Mean	Yearly SD
1996	0.183	0.304	0.146	0.304	0.388	0.346	0.191	0.326	0.476	0.461	0.484	0.364	0.343	0.113
1997	0.183	0.326	0.138	0.304	0.388	0.380	0.191	0.335	0.470	0.453	0.518	0.425	0.349	0.116
1998	0.255	0.434	0.159	0.366	0.388	0.398	0.191	0.369	0.502	0.426	0.552	0.419	0.379	0.115
1999	0.279	0.578	0.148	0.459	0.410	0.371	0.159	0.360	0.546	0.400	0.481	0.349	0.393	0.128
2000	0.279	0.612	0.283	0.426	0.421	0.371	0.199	0.403	0.632	0.400	0.458	0.279	0.422	0.130
2001	0.279	0.602	0.296	0.446	0.416	0.389	0.214	0.384	0.651	0.397	0.450	0.279	0.427	0.132
2002	0.265	0.562	0.309	0.438	0.326	0.350	0.214	0.286	0.648	0.330	0.412	0.279	0.392	0.141
2003	0.263	0.500	0.279	0.383	0.230	0.281	0.214	0.263	0.618	0.277	0.412	0.254	0.356	0.139
2004	0.183	0.455	0.234	0.360	0.188	0.271	0.203	0.213	0.610	0.270	0.379	0.236	0.326	0.149
2005	0.183	0.466	0.246	0.360	0.162	0.263	0.197	0.169	0.613	0.270	0.359	0.210	0.318	0.156
2006	0.183	0.466	0.290	0.328	0.155	0.250	0.214	0.109	0.591	0.252	0.337	0.185	0.302	0.157
2007	0.183	0.461	0.253	0.355	0.148	0.250	0.157	0.054	0.564	0.227	0.360	0.176	0.285	0.163
2008	0.183	0.500	0.247	0.374	0.120	0.236	0.137	0.046	0.568	0.227	0.360	0.176	0.284	0.172
2009	0.175	0.497	0.247	0.395	0.117	0.220	0.164	0.046	0.568	0.236	0.356	0.176	0.286	0.173
2010	0.167	0.528	0.318	0.514	0.117	0.234	0.214	0.046	0.581	0.225	0.377	0.176	0.309	0.188
2011	0.183	0.586	0.332	0.564	0.166	0.277	0.189	0.046	0.645	0.265	0.400	0.176	0.341	0.207
2012	0.183	0.651	0.332	0.615	0.209	0.298	0.158	0.046	0.697	0.296	0.449	0.176	0.367	0.228
2013	0.271	0.670	0.361	0.633	0.209	0.298	0.176	0.077	0.692	0.382	0.435	0.230	0.395	0.215
2014	0.335	0.680	0.409	0.689	0.233	0.261	0.176	0.105	0.709	0.445	0.464	0.412	0.428	0.216
Circuit mean	0.222	0.520	0.265	0.438	0.252	0.302	0.187	0.194	0.599	0.328	0.423	0.262		
Circuit SD	0.054	0.105	0.076	0.114	0.114	0.059	0.026	0.136	0.069	0.086	0.063	0.090		

Clinton

Bush
(Democratic)

Obama

This table reports the circuit average monthly LiberalCourt for all states in each circuit during 1995-2014 period. Variable definitions are in appendix B.



样本选择

TABLE 2

Descriptive Statistics of the Securities Class Action Lawsuit Sample

Panel A: Securities class action lawsuit sample selection		Number of Cases
Lawsuit filings from 1996 to 2014 from the SCAC Web site		3,898
Less: Filings of Non Rule 10b-5 violations	(573)	3,325
Less: Filings against non-U.S. companies	(385)	2,940
Less: Filings against companies not listed on NYSE, AMEX, or NASDAQ	(195)	2,745
Less: Filings against companies not in Compustat or CRSP	(139)	2,606
Less: Filings against companies with missing variables in the class periods	(633)	1,973
		Number of Firm-Years
Firm-years that overlap with class periods of securities class action lawsuits		4,183
Total firm-years available in Compustat from 1996 to 2014		91,698

(Continued)



Examine the effect of judge ideology on shareholder litigation

Logit (SUED) =
f(LiberalCourt, FPS, Controls_SUED) +

ε . 

Huang 等 - 2019 -
Federal Judge

法官意识形态提供了改善事前的增量信息，法官意识形态捕获的事前诉讼风险的变化在经济上是显著的，表明了政治任命对企业的重要性。

TABLE 6
Relation Between Judge Ideology and Lawsuit Occurrence

Dependent Variable	(1)	(2)	(3)	(4)
	SUED			
<i>LiberalCourt</i>	1.182*** (4.71)	1.137*** (4.41)	0.044*** (4.74)	0.040*** (4.10)
<i>FPS</i>	0.136** (2.14)	0.148** (2.29)	0.006** (1.97)	0.006** (2.06)
<i>Size</i>	0.358*** (10.24)	0.357*** (10.25)	0.014*** (8.07)	0.014*** (8.05)
<i>SalesGR</i>	0.554*** (10.03)	0.546*** (9.86)	0.032*** (7.53)	0.031*** (7.48)
<i>Beta</i>	0.137*** (3.24)	0.144*** (3.51)	0.004 (1.58)	0.004* (1.68)
<i>RetVol</i>	0.699** (1.99)	0.663* (1.85)	0.004 (0.26)	0.003 (0.18)
<i>RetSkw</i>	-0.034 (-1.50)	-0.034 (-1.51)	-0.001 (-0.89)	-0.001 (-0.88)
<i>Return</i>	0.037 (0.96)	0.038 (0.99)	0.006*** (2.69)	0.006*** (2.73)
<i>MinRet</i>	-1.432*** (-4.88)	-1.436*** (-4.86)	-0.077*** (-4.85)	-0.078*** (-4.86)
<i>Turnover</i>	0.146*** (14.17)	0.144*** (14.41)	0.012*** (13.16)	0.012*** (12.85)
<i>IO</i>	0.363*** (3.26)	0.371*** (3.45)	0.000 (0.09)	0.001 (0.13)
<i>Leverage</i>	0.051 (0.40)	0.035 (0.26)	-0.008 (-1.53)	-0.009 (-1.59)
<i>Financing</i>	0.358*** (11.92)	0.358*** (12.03)	0.013*** (7.95)	0.014*** (8.04)
<i>IndRet</i>	-0.202*** (-5.30)	-0.199*** (-5.28)	-0.014*** (-5.73)	-0.014*** (-5.74)
<i>IndRetVol</i>	1.071** (1.99)	0.968* (1.83)	0.073*** (2.98)	0.069*** (2.85)
<i>MktRet</i>	0.237 (1.16)	0.226 (1.14)	0.009 (1.21)	0.009 (1.18)
<i>GDPGR</i>	2.197** (2.22)	1.903* (1.81)	0.074* (1.79)	0.063 (1.39)
<i>UNEMP</i>	4.561***	2.247	0.136**	0.023



SUPREME COURT' S TELLABS DECISION

特拉布斯案的裁决规定，巡回法庭必须对"所有指控进行整体评估"，对合理的推论进行"比较评估"，并考虑所有"竞争性推论"，以确定某一申诉是否"引起了强有力的推论"。

因此，法官需要从被告申诉的内部和外部调查与推论相关的所有信息，并在评估相互竞争的推论时依靠自己的判断。因此，特拉布斯裁决可能会让法官在决定是否发出驳回动议时拥有更高的自由裁量权。预期在特拉布斯执政后，意识形态对证券集团诉讼的影响会更大。

Adding an indicator variable, AfterTellabs: 巡回法庭法官意识形态在解释Tellabs后的诉讼立案方面具有显著更强的效果。



原告考虑法官意识形态对诉讼结果影响的能力和动机

当股东更精明或诉讼预期收益更高时，法官意识形态的影响更强。

用机构投资者持股比例来衡量潜在原告的信息能力。【机构投资者持股比例较高，法官意识形态对诉讼发生的影响更强。】

用诉讼的预期收益来衡量原告考虑法官意识形态的动机。【预期预期收益越高，原告越有可能考虑。】

TABLE 8
Relation Between Judge Ideology and Litigation Occurrence in Subsamples

Partition Variables	IO		Size		Phat-Firm	
	High (1)	Low (2)	High (3)	Low (4)	High (5)	Low (6)
Dependent Variable	SUED					
<i>LiberalCourt</i>	1.544*** (5.59)	0.831** (2.10)	1.419*** (4.84)	0.282 (0.80)	1.357*** (5.45)	0.615 (1.15)
<i>FPS</i>	0.062 (0.76)	0.261*** (2.70)	0.143** (1.96)	0.137 (1.42)	0.150** (2.30)	0.066 (0.45)
<i>Controls_SUED</i>	Yes	Yes	Yes	Yes	Yes	Yes
Circuit FE	Yes	Yes	Yes	Yes	Yes	Yes
Year FE	Yes	Yes	Yes	Yes	Yes	Yes
Pseudo-R ²	10.59%	13.86%	9.99%	10.28%	8.33%	8.25%
Number of observations	44,245	47,453	45,834	45,864	45,834	45,864
Testing the equality of coefficients of <i>LiberalCourt</i> between High and Low subsamples:						
Chi-square	4.627**		7.140***		6.754***	

This table reports the logit regression results on the relation between securities class action lawsuit occurrences and circuit court judge ideology in various subsamples. We estimate the logit regression of $SUED = f(LiberalCourt, FPS, Controls_SUED) + \varepsilon$. *Controls_SUED* include *Size*, *SalesGR*, *Beta*, *RetVol*, *RetSkw*, *Return*, *MinRet*, *Turnover*, *IO*, *Leverage*, *Financing*, *IndRet*, *IndRetVol*, *MktRet*, *GDPGR*, *UNEMP*, and *BlueState*. Columns 1, 3, and 5 use firm-years with above sample median values of *IO*, *Size*, and *Phat-Firm*, respectively; columns 2, 4, and 6 use firm-years with below sample median values of *IO*, *Size*, and *Phat-Firm*, respectively. z-Statistics based on standard errors clustered by state are reported in parentheses below the coefficients. ** and *** indicate significance at the 0.05 and 0.01 levels, respectively. Variable definitions are in appendix B.



JUDICIAL APPOINTMENT TEST

为了进一步验证法官意识形态作为诉讼风险的衡量指标，以及论证政治任命的影响，我们将探讨司法任命如何影响提起诉讼的可能性，以及投资者是否理解其含义。。



Litigation Risk and Firm Disclosures

我们现在检验法官意识形态在一个具体的经济问题中的作用：事前的诉讼风险如何影响公司的自愿性披露决策。

诉讼风险激励公司及时披露坏消息VS 诉讼风险可能会阻止企业进行自愿性披露
了检验管理者是否理解法官意识形态对诉讼风险的影响，并将我们对诉讼风险的度量应用到自愿性披露文献中，我们估计了以下回归：

$$\text{Issue} = f(\text{LiberalCourt}, \text{Controls Disclosure}) + \varepsilon,$$

管理者意识到法官意识形态在决策中对诉讼风险的影响。



Conclusions

法官意识形态在预测证券集团诉讼的诉讼中具有经济意义，在最高法院的特拉布斯裁决之后，法官意识形态的作用更强。

在司法任命的经济后果中，我们发现自由派(保守派)法官任命后，诉讼立案率上升(下降)，市场做出相应反应。

我们发现在更宽松的巡回法庭中提起的诉讼更不容易被驳回



国外文献简述

行业特征指标变量 (Francis, Philbrick and Schipper [1994a,1994b])

It likely captures industry characteristics that are unrelated to litigation risk but that affect managers' decisions, creating a potential correlated omitted variables problem.

企业特征测度 (Kim and Skinner [2012])

$$SUED = \beta_0 + \beta_1(FPS_t) + \varepsilon \quad (1a)$$

$$SUED = \beta_0 + \beta_1(FPS_t) + \beta_2(LNASSESTS_{t-1}) + \beta_3(SALES\ GROWTH_{t-1}) + \beta_4(RETURN_t) + \beta_5(RETURN\ SKEWNESS_t) + \beta_6(RETURN\ STD\ DEV_t) + \beta_7(TURNOVER_t) + \varepsilon \quad (2)$$

$$SUED = \beta_0 + \beta_1(FPS_t) + \beta_2(LNASSESTS_{t-1}) + \beta_3(SALES\ GROWTH_{t-1}) + \beta_4(RETURN_{t-1}) + \beta_5(RETURN\ SKEWNESS_{t-1}) + \beta_6(RETURN\ STD\ DEV_{t-1}) + \beta_7(TURNOVER_{t-1}) + \varepsilon \quad (3)$$

$$SUED = \beta_0 + \beta_1(FPS_t) + \beta_2(LNASSESTS_{t-1}) + \beta_3(SALES\ GROWTH_{t-1}) + \beta_4(RETURN_{t-1}) + \beta_5(RETURN_{t-2}) + \beta_6(RETURN_{t-3}) + \beta_7(RETURN\ SKEWNESS_{t-1}) + \beta_8(RETURN\ STD\ DEV_{t-1}) + \beta_9(TURNOVER_{t-1}) + \varepsilon \quad (4)$$



国外文献简述

以Kim and Skinner [2012]为基础的拓展及应用

诉讼风险异象：高风险低回报

诉讼风险与审计、披露

诉讼风险和公司绩效



国内文献简述

诉讼风险的度量

文献中所涉猎约80%+的文献以是否发生，发生数量，涉案金额三个指标来度量诉讼风险。

少数文献使用Kim and Skinner [2012]文中的企业行业特征指标进行诉讼风险的刻画。

诉讼风险的相关研究

财务审计、自愿披露

公司管理层（性别、机构持股等）特征&诉讼风险

正负向信息溢出（负面新闻、慈善捐款等）



头脑风暴

- 诉讼风险的度量模型的优化 【类似于联邦法官意识形态】

【行为金融类？】可入手点：？？？

以国内数据研究诉讼风险和股票收益的关系

- 舆情暴露程度对诉讼风险的影响

机器学习，通过报道，网络曝光量来衡量舆论曝光程度

