Who Should Be Worried About Asymmetric Information in Litigation?

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I. Introduction

What is the appropriate informational structure when modeling the lawsuit? In numerous papers stretching back almost 30 years litigation has been portrayed as a game involving incomplete, sometimes asymmetric information. That information is incomplete is beyond question. Clients, in conjunction with their attorneys, must make decisions on filing and settlement in the presence of uncertainty about how courts will interpret evidence, litigants’ settlement reservation values, and a host of other factors.

However, the direction of informational asymmetry, if any, is a subject of disagreement in the theoretical literature. Various models have depicted the lawsuit as exercises in which plaintiffs [Farmer and Pecorino (1994); Reinganum and Wilde (1986); Shavell (1989)] or defendants [Bebchuk (1984); Nalebuff (1987); Png (1983, 1987); Spier (1992)] uniquely know key information such as the level of fault or damage. In other work both sides either each possess private information [Daughety and Reinganum (1994); Hay (1995); Schweizer (1989)] or contend with symmetric incomplete information [Priest and Klein (1984)]. Often these assumptions have significant implications for the predictions of these models. Given the large range of informational stipulations in the theory, it is surprising that so little empirical analysis of the informational structure of the lawsuit exists. This paper will examine that structure by testing litigants’ ability to predict court decisions.

The paper has three findings. The first is that asymmetric information (AI) does exist in cases that proceed to a decision. This finding is in contrast to recent work by Waldfogel (1998), who finds that theories based on random optimism (RO), as in the Priest/Klein model and its descendants, explain trial data better than AI. The second finding is that this asymmetry is substantially in favor of defendants. The third is that the asymmetry is largely associated with the use of contingent fees by plaintiffs. The paper proceeds as follows: Section 2 presents evidence for AI, Section 3 investigates the direction of the asymmetry, and Section 4 examines the relation between attorneys’ fees and information.
II. Does Asymmetric Information Exist?

The hypothesis that nonsettled cases are systematically characterized by AI can be tested by examining how litigants do relative to expectations. The Civil Litigation Research Project data set contains such information. It includes data compiled from both court and alternative dispute resolution cases in the late 1970s from all over the United States and in a wide variety of areas of law. Cases with multiple plaintiffs or defendants, each with a distinct stakes value and award, were coded such that each litigant was a separate observation. Although the data contain observations involving government attorneys, because there are so few observations involving such litigants that also contain stakes information, and because it is plausible that government and private attorneys face different optimization problems, I will include only the latter.

Although Waldfogel (1998) found that evidence from tried cases was not consistent with the presence of AI, in his work no direct measures of litigant expectations were available. He tested for AI in tried cases by examining plaintiff win rates at various stages of litigation from filing to decision or settlement. His data included both whether plaintiffs won and, if so, how much they were awarded. He created a series of proxies for expected judgments and the informational stock of plaintiffs and found that the pattern of plaintiff wins and the proportion of cases proceeding to trial are not broadly consistent with AI at trial, although there is evidence of it earlier in litigation. He concluded that tried cases reflect RO rather than AI.

However, the CLRP data, in contrast, contain a direct measure of litigant expectations. In addition to the award to the plaintiff (AWARD), the set contains a variable I will call STAKES, which was the attorney’s estimate of the maximum the client should have taken to settle the case. Although the estimate was obtained after the conclusion of the lawsuit, the survey questions were specifically designed to extract the best figure for ex ante stakes estimation, and the interviews were conducted in a manner allowing attorneys to consult case records. If this figure is equivalent to an actual ex ante estimation, then under a few uncontroversial assumptions it is a direct linear transformation of the award, and in any event presumably has a high degree of comovement with it. The value of having a stakes measure is that it should capture all information, private or commonly known, that affects the eventual award and is available to a litigant prior to decision. Evidence of the value of this ex post assessment as a measure of contemporaneous stakes estimation comes from the finding that it was a significant predictor of the attorney’s own investment in the case, a contemporaneous optimizing decision [Trubek et al. (1983b)].

Because AI means that one litigant is significantly better informed than another, a testable implication of its presence is that if a case is not settled one side should do approximately as well as expected and another significantly worse than expected. In contrast, if RO prevents settlement, then on average, both parties must be unusually optimistic, and so both of them will tend to do worse in court than they expected (all the more so when the litigants who fail to settle are risk averse). Thus, if settlement fails...
to occur because of RO (and recalling that the uncertainty may be not just over the probability of a plaintiff verdict but the amount that will be awarded), large errors in estimated recovery can be expected on both sides, as courts, on average, essentially split the difference between two unjustifiably optimistic litigants.

A useful way to test for AI is to define $e = (\text{AWARD} - \text{STAKES}) / \text{STAKES}$, the proportional error in the stakes estimation. If AWARD and STAKES are both always positive, so that they represent absolute dollar amounts rather than net transfers from defendant to plaintiffs, $e$ is bounded from below by $-1$ (when $\text{AWARD} = 0$), and has no upper bound. $e = 0$ indicates a litigant was exactly right, while $e = 1$ indicates the award was 100% higher than he expected.

By the above reasoning, AI and RO theories have different implications for the distribution of $e$. Under the AI theory, $e$ will be close to zero for one party and large (in either direction) for the other. $e$ will thus have a distribution with large tails and a large middle. Under the RO theory there should be relatively few observations in the middle but a large number of sizable errors, roughly equally distributed between the sides. The distribution of $e$ should thus be roughly U-shaped.

Figure 1 depicts the distribution of $e$ for cases that yielded a court decision and for which data were available on STAKES and AWARD for either plaintiffs or defendants ($n = 250$). The left-most bar represents cases in which $e = -1$, the right-most represents all observations for which $e > 1$, and the other bars located between $x_i$ and $x_{i+1}$ contain all observations for which $x_i < e \leq x_{i+1}$. The distribution is strikingly suggestive of AI. There are a large number of observations in which $e$ lies between $-0.2$ and $0.2$, a large number in which $e \leq -0.8$ and $e \geq 1$, and few observations elsewhere. There are, thus, many litigants who do about as well as expected and many who significantly overestimate their prospects.

III. Where Does the Asymmetry Lie?

Does It Matter?

Although the evidence in Section 2 suggests the presence of AI, more precise information on its direction can be obtained by using regressions to estimate predictability for
each party. But before beginning the analysis it is necessary to ask whether there are truly any consequential differences between litigants, or whether the labels “plaintiff” and “defendant” are simply arbitrary when modeling the lawsuit, devoid of significant economic content. Such an argument would be in the spirit of Coase (1960), for whom plaintiff and defendant were simply two parties engaged in a transaction that creates wealth, albeit wealth that may be divided differently if the parties go to trial, depending on how the court rules. Because the court’s award of the property right is irrelevant to the property’s final use in the presence of low transaction costs, there are no economically consequential differences between plaintiffs and defendants. In effect, the only distinguishing characteristic of plaintiffs is that they are the people who happen to arrive at the courthouse first. However, there are several reasons for supposing that party labels in civil trials often do matter.

The first is that there is substantial theoretical and empirical evidence for making the distinction. In casual parlance, of course, there is no lawsuit unless a plaintiff files it. More concretely, Kaplow (1993) and Polinsky and Che (1993), among many others, take the filing decision as a crucial part of using the legal system to elicit efficient care. Party labels may be less relevant in property and contract cases, with their lower transaction costs derived from familiarity with the opposing party, than in cases in which high transaction costs make *ex ante* negotiation impossible. There are obviously stylized differences between plaintiffs and defendants in, for example, a typical product-liability or libel case. On the empirical side, numerous studies [e.g., Farber and White, (1991)], find that tort awards (medical malpractice, in this case) to plaintiffs are a function of defendant care. Clearly, in the typical malpractice case the distinction is a meaningful one, as patients and doctors differ in human capital, costs of mishap prevention, and other economically relevant factors.

Market processes also differ significantly for plaintiffs and defendants. For example, typically only plaintiffs use contingent fees. Numerous theories have been proposed to explain this, but for the purposes of this study it is sufficient to note that being classified as a plaintiff changes the client’s legal costs and, presumably, his strategic behavior. In addition, civil-litigation attorneys often specialize in representing either plaintiffs or defendants, implying that the human-capital requirements for performing the two tasks, and thus perhaps the economic role of each litigant, are different.

*Results*

To measure the ability of plaintiffs and defendants to predict outcomes, the following model was estimated for each side:

\[
AWARD = a_0 + a_1 STAKES + \sum a_i CASE_i + a_{n+1} FIRM + a_{n+2} ARB + a_{n+3} JURY + a_{n+4} FIRM. \tag{1}
\]

The *CASE_i* is a series of dummy variables for different areas of law. The variables *TORTS, CONTRACT, MALPRAC, PRODUCTS, PROPERTY, INTPROP, FAMILY, and LABOR* take the value of 1 if the observation involved, respectively, tort, contract, malpractice, product-liability, property, intellectual-property, family, or labor law. *ARB* takes the value of 1 if the decision was rendered by an arbitration panel, and zero if it was rendered by a court. If the decision was rendered in a court by a jury, *JURY* takes the value of 1, and zero otherwise. *JURY* is included because some claim that juries have systematic tendencies of dubious economic utility, for example, the favoring of “deserv-
ing” plaintiffs over “undeserving” plaintiffs [OECD (1995)]. \textit{FIRM} takes the value of 1 if the representing law firm is a multilawyer firm, and zero if it is a single-lawyer firm. It is included to test whether attorneys who operate as sole practitioners behave differently from those in multiattorney firms. Among the reasons the two types of firms might behave differently in case-value estimation would be different types of agency problems, both between firm and client and among attorneys in a firm, and different levels of risk aversion.

Tables 1 and 2 present the first estimations of Equation (1). Table 1 contains the results for “unpaired” observations, i.e., the full sample without the requirement that plaintiff and defendant observations be available for each case. Note that some cases have observations for plaintiffs and not for defendants, some have observations for defendants but not for plaintiffs, and in some cases observations are available for

\begin{table}[h]
\centering
\begin{tabular}{lcc}
\hline
 & Plaintiffs & Defendants \\
\hline
\(\rho\) & 0.46881\textsuperscript{*} & 0.60491\textsuperscript{*} \\
STAKES & 0.177860\textsuperscript{*} & 0.166878\textsuperscript{*} \\
 & (5.937) & (7.893) \\
TORTS & -3059.971749 & -2036.252247 \\
 & (-0.525) & (-0.289) \\
CONTRACT & 9974.018084* & -1243.009259 \\
 & (1.726) & (-0.206) \\
FAMILY & -10898 & -15254 \\
 & (-0.875) & (-1.274) \\
PROPERTY & 2862.023524 & 18325 \\
 & (0.271) & (1.412) \\
LABOR & -5490.285983 & -10896 \\
 & (-0.600) & (-1.130) \\
PRODUCTS & 21084 & -330.078460 \\
 & (1.014) & (-0.011) \\
INTPROP & 1662.812204 & 28629 \\
 & (0.385) & (1.013) \\
MALPRAC & -6446.426624 & -11125 \\
 & (-0.330) & (-0.394) \\
FIRM & 10711\textsuperscript{*} & 11323\textsuperscript{†} \\
 & (2.639) & (2.960) \\
ARB & -9222.891843 & -7816.985934 \\
 & (-1.438) & (-0.942) \\
ISJURY & -11117 & -7873.794910 \\
 & (-1.529) & (-0.777) \\
\(\bar{R}^2\) & 0.3546 & 0.4451 \\
\(n\) & 139 & 117 \\
\(F\) & 7.366\textsuperscript{*} & 8.754\textsuperscript{†} \\
\hline
\end{tabular}

\textsuperscript{*}Significant at ten percent level.
\textsuperscript{†}Significant at one percent level.
\textsuperscript{‡}Significant at 0.1 percent level.

Figures in parentheses are \(t\)-statistics.
\end{table}

\textsuperscript{5}In these regressions and all that follow the best fit is obtained by suppressing the intercept.
estimates by both sides (including multiple plaintiffs or defendants). The results indicate that defendant estimates are significantly more accurate than those of plaintiffs. In particular, for plaintiffs, the Pearson correlation measure between $STAKES$ and $AWARDS$ is $\rho = 0.47$, while for defendants $\rho = 0.60$. In the regression, $STAKES$ is significant at the 0.1% level for both plaintiffs and defendants. For plaintiffs, $CONTRACT$ is marginally significant, while $FIRM$ is significant at the 1% level. For defendants, besides $STAKES$, only $FIRM$ is significant. Note that even though $JURY$ and $ARB$ are not significant, this does not indicate that these variables are irrelevant to the award, simply that they do not add explained variance to litigant expectations. Finally, explained variance is much greater for defendants than for plaintiffs. The adjusted $R^2$ for plaintiffs is $R^2 = 0.35$, while the figure for defendants is $R^2 = 0.45$. The difference is actually more compelling when the regression is confined to paired observations, i.e., to only cases in which both plaintiff and defendant observations exist. There were 37 such cases, and because of multiple plaintiffs or defendants there were 43 observations in each set. The results are found in Table 2. Note first that because of the smaller number of observations the only case types sufficiently common to render dummy variables meaningful are $TORT$, $CONTRACT$, $JUDGE$, $FIRM$, and $ARB$.

For plaintiffs, the goodness-of-fit measures are $\rho = 0.40$ and $R^2 = 0.41$. Only $STAKES$ ($p < 0.05$) and $ARB$ ($p < 0.06$) are statistically significant. As for defendants, the findings in the right-hand column indicate that litigation involves much less uncer-

Table 2. Basic model, unpaired observations

<table>
<thead>
<tr>
<th></th>
<th>Plaintiffs</th>
<th>Defendants</th>
</tr>
</thead>
<tbody>
<tr>
<td>$\rho$</td>
<td>0.39782†</td>
<td>0.93230†</td>
</tr>
<tr>
<td>$STAKES$</td>
<td>0.096975*</td>
<td>0.129968†</td>
</tr>
<tr>
<td></td>
<td>(2.177)</td>
<td>(15.649)</td>
</tr>
<tr>
<td>$TORT$</td>
<td>5296.670538</td>
<td>5853.418235*</td>
</tr>
<tr>
<td></td>
<td>(0.636)</td>
<td>(1.751)</td>
</tr>
<tr>
<td>$CONTRACT$</td>
<td>21703*</td>
<td>5143.599650</td>
</tr>
<tr>
<td></td>
<td>(2.645)</td>
<td>(1.456)</td>
</tr>
<tr>
<td>$FIRM$</td>
<td>10210</td>
<td>3170.501907</td>
</tr>
<tr>
<td></td>
<td>(1.643)</td>
<td>(1.217)</td>
</tr>
<tr>
<td>$ARB$</td>
<td>−22978*</td>
<td>−5269.219648</td>
</tr>
<tr>
<td></td>
<td>(−2.195)</td>
<td>(−1.352)</td>
</tr>
<tr>
<td>$ISJURY$</td>
<td>−14289</td>
<td>−126.852475</td>
</tr>
<tr>
<td></td>
<td>(−1.422)</td>
<td>(−0.029)</td>
</tr>
<tr>
<td>$\bar{R}^2$</td>
<td>0.4256</td>
<td>0.8786</td>
</tr>
<tr>
<td>$n$</td>
<td>43</td>
<td>43</td>
</tr>
<tr>
<td>$F$</td>
<td>0.311†</td>
<td>52.847†</td>
</tr>
</tbody>
</table>

†Significant at 10% level.
‡Significant at 1% level.
Significant at 0.1% level.
Figures in parentheses are $t$-statistics.

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tainty. The correlation coefficient is $\rho = 0.93$, and explained variance is $R^2 = 0.88$. Only \textit{STAKES} is significant ($p < 0.0001$). Both the paired and unpaired analyses indicate that being a plaintiff causes a relative inability to predict adjudication outcomes, an effect that is sizable in the paired observations.

\textbf{IV. Where Does the Advantage Come From?}

If litigation models require an informational specification, the above analysis suggests that private information held by defendants is more important than that held by plaintiffs. This section discusses several possible explanations for the source of the above discrepancy.

\textit{Inherent Informational Advantages; Civil Procedure}

The most obvious hypothesis is that the assumption in some models of private information that belongs only to the defendant, usually his degree of fault, is literally true. Both parties in a lawsuit have information they would prefer to keep private, and perhaps only some of this information is eventually revealed before and during trial [Cooter and Rubinfeld (1994)]. There is nothing in the data that allows the inference that it is literally the actual level of defendant fault kept secret from the plaintiff that provides the defendant with the advantage, as some of the models described above suggest. However, while being mindful of the considerations in Section IIIa above, plaintiffs are typically the ones who make claims against defendants, and it is possible that this order of play creates a strategic advantage for the defendant in the production of information. Arguing against this possibility is the equivalence of discovery procedures with respect to the two sides.

It is also possible that nondiscovery civil procedure intrinsically provides an advantage to one side or another. However, the rules of civil procedure treat defendants and plaintiffs symmetrically with respect to information acquisition. The Federal Rules of Civil Procedure, descended in large part from common-law procedures, refer only to “parties” with “claims” and “remedies.” No party has privileged access to information simply by virtue of being a plaintiff or defendant. Asymmetry in what information can be acquired is not a function of legal rules.

\textit{Settlement by Uninformed Defendants}

One explanation for the asymmetry is that the least-informed defendants settle early. This assumes that litigants enter the lawsuit with some cost of information production that depends on particular details of each case. For example, a contract defendant who extensively records every detail of his firm’s operations may be able to produce information at much lower cost than a tort defendant in an auto accident who has no experience in litigation or who is otherwise unable to document his defense arguments except at a very high cost. This explanation can be justified by the model of Katz (1988), in which the outcome of legal conflict depends on each side’s production function for “arguments,” which differ for each litigant in each case. Although he did not analyze the decision of whether to settle, his argument production function can be modified to the production of information to analyze the problem here. If some defendants are very poorly informed, \textit{ex ante} production of information might be the costliest for them, and they will then tend to settle early on, particularly if defendants have greater stakes on average than plaintiffs. The remaining defendants would then be the best informed, other things equal. Although there would also be an incentive for plaintiffs with high
information production costs to settle early, a strategic advantage to plaintiffs from moving first (through filing the lawsuit) might induce defendants with high information production costs to settle immediately.

**Differing Compensation Schemes**

Another explanation involves differing payment methods for the two sides. As noted above, it is common for plaintiffs to finance their litigation with contingent fees. Defendants, in contrast, almost always pay fixed or hourly fees. Table 3 presents separate analyses (of unpaired observations) for plaintiffs who paid with contingent fees and those who paid hourly or fixed fees. The difference between the two methods of payment is striking. Attorneys who work on a contingent-fee basis are substantially less able to predict the outcomes of cases, with an \( R^2 \) value less than half that for those paid with an hourly fee. The results strongly suggest that some elements in the decision to adopt a contingent fee are responsible for the lower predictive ability of plaintiff’s attorneys.

![Table 3. Contingent-fee and hourly-fee plaintiffs](image)

<table>
<thead>
<tr>
<th>Contingent fees</th>
<th>Hourly fees</th>
</tr>
</thead>
<tbody>
<tr>
<td>( \rho )</td>
<td>0.45251†</td>
</tr>
<tr>
<td>STAKES</td>
<td>0.128289†</td>
</tr>
<tr>
<td>(3.590)</td>
<td>(7.432)</td>
</tr>
<tr>
<td>TORTS</td>
<td>-4784.537349</td>
</tr>
<tr>
<td>(-0.671)</td>
<td>(-0.181)</td>
</tr>
<tr>
<td>CONTRACT</td>
<td>5626.423747</td>
</tr>
<tr>
<td>(0.641)</td>
<td>(0.896)</td>
</tr>
<tr>
<td>FAMILY</td>
<td>n/a</td>
</tr>
<tr>
<td></td>
<td>(-0.612)</td>
</tr>
<tr>
<td>PROPERTY</td>
<td>-8052.093020</td>
</tr>
<tr>
<td>(-0.410)</td>
<td>(0.682)</td>
</tr>
<tr>
<td>LABOR</td>
<td>-11799</td>
</tr>
<tr>
<td>(-0.843)</td>
<td>(0.221)</td>
</tr>
<tr>
<td>PRODUCTS</td>
<td>21963</td>
</tr>
<tr>
<td>(1.068)</td>
<td></td>
</tr>
<tr>
<td>MALPRAC</td>
<td>-7625.465227</td>
</tr>
<tr>
<td>(-0.389)</td>
<td></td>
</tr>
<tr>
<td>INTPROP</td>
<td>n/a</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>FIRM</td>
<td>8629.601846</td>
</tr>
<tr>
<td>(1.251)</td>
<td>(0.251)</td>
</tr>
<tr>
<td>ARB</td>
<td>4275.480857</td>
</tr>
<tr>
<td></td>
<td>(-0.336)</td>
</tr>
<tr>
<td>( \bar{R}^2 )</td>
<td>0.2725</td>
</tr>
<tr>
<td>( n )</td>
<td>64</td>
</tr>
<tr>
<td>( F )</td>
<td>3.996†</td>
</tr>
</tbody>
</table>

*Significant at 10% level.
†Significant at 1% level.
‡Significant at 0.1% level.
Figures in parentheses are \( t \)-statistics.
n/a indicates no observations of this type in subsample.
There are at least two potential explanations for this: agency-related limiting of attorney effort, and the selection of contingent fees by poorly informed plaintiffs. The first may occur if, in general, defendants are knowledgeable about the production of expected recovery while plaintiffs are not. Defendants can then monitor their attorneys while plaintiffs cannot, and thus, only defendants will use hourly fees. However, defendants’ monitoring ability also enables them to obtain first-best effort, and thus, their attorneys will acquire the optimal amount of information. With a contingent fee the incongruity of the interests of plaintiff and plaintiff’s attorney means that although the plaintiff prefers a contingent fee to an hourly fee, the effort elicited by a contingent fee will be inferior to first-best effort, i.e., that which an informed plaintiff could obtain with a competitive market for attorneys. An attorney working on a contingent-fee basis will work until the marginal product of an additional unit of labor, adjusted by the share of any recovery he will receive, equals the unit’s opportunity cost. In contrast, an hourly fee attorney in a competitive market equates the full marginal product to unit opportunity cost. The mathematical details of these problems are laid out in Schwartz and Mitchell (1970) and Danzon (1983), as well as Dana and Spier (1993).

Because effort is required to produce information, the equilibrium stock of information for a contingent-fee client may be similarly inferior. Because one function of attorney effort is to acquire information so as to refine the expected range of outcomes, and hence the range of acceptable settlements, more effort will presumably imply a better estimate. In this explanation fees thus cause the information shortage.

The second explanation for contingent fees’ association with lower equilibrium information is that clients in the cases in which information is intrinsically most costly to produce find them superior. The contingent fee serves to mitigate risk in an environment in which at the outset on the plaintiff’s side attorney and client possess very little information. To mitigate risk, a client may prefer a contingent fee—in which costs are proportionate to recovery even if recovery is low—to an hourly fee, in which costs are equal regardless of outcome. For the client, an hourly fee entails higher risk than a contingent fee [Danzon (1983)], and in a competitive market for attorneys he could presumably hire an attorney on a contingent basis. Other things equal, for cases in which information production costs are lower, more information will be produced, the outcome will be less uncertain, and thus, the equilibrium fee arrangement is more likely to be an hourly fee. In this theory the information structure causes the fee selection, but in equilibrium contingent-fee plaintiffs would still be less able to predict case outcomes for nonsettled cases.

Defendants pay lawyers by the hour. Whether plaintiffs sometimes pay theirs on a contingent basis because of agency problems or because information is costly to produce, defendant attorneys in nonsettled cases in which the plaintiff’s attorney works on a contingent basis exert effort closer to first-best levels. The predictability gap between plaintiffs’ and defendants’ attorneys is explained. In fact, Table 3 reveals that the attorneys of plaintiffs who use hourly fees, and are thus presumably largely well informed, are better able to predict outcomes than the entire sample of defendants, which presumably includes some poorly informed clients. The predictability gap be-

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7If information is costly, “optimal” information is, of course, not full information.

8“Better” in the sense of a greater expected benefit from the lawsuit, after taking account of the expected error. This can occur both through changing the lawsuit’s expected value and from reducing the variance of what Cooter and Rubinfeld (1994), in their analysis of discovery in particular, call “subjective expected values” of the lawsuit (at 441).
between plaintiffs and defendants is very closely related to attorney-compensation schemes.

V. Concluding Remarks

This paper has presented several findings of interest in assessing various theoretical models of litigation. Court awards relative to expectation indicate the presence of asymmetric information in cases that are not settled. Defendants are significantly better able to predict what courts will do in such cases than plaintiffs. The predictability gap is entirely explained by the disparity in cases in which plaintiffs use contingent fees.

The results have significant implications for the way in which theoretical models of litigation should be built. Informational asymmetry favoring the defendant should be a part of such models when contingent fees are involved, particularly for nonsettled cases. The findings argue against the symmetric-information feature of selection models. They suggest that such models may not be as useful in analyzing areas of law where contingent fees are widespread, unless the models are adjusted for the smaller stock of information held by the attorney working on a contingent-fee basis. Finally, the reason for the correlation between fee type and information is a prime avenue for further research.

References


