

No Surprise But Now Substantiated: Foreign Litigants Lose More in US Courts

As recently covered by the Financial Times, and forthcoming in the Journal of Law and Economics, a new study details an unsurprising yet still unsettling fact when it is substantiated: foreign litigants lose more in U.S. Courts. Here is the abstract:

Using a comprehensive sample of 2,361 public U.S. corporate defendants and 715 public foreign corporate defendants in U.S. federal courts in the period 1995-2000, we find that the market reaction at the announcement of a U.S. federal lawsuit is less negative for U.S. corporate defendants. We find that this market reaction is rational; U.S. firms are less likely to lose than foreign firms controlling for year, industry, type of litigation, size and profitability. This may still reflect a sample selection bias. We control for this bias, and the results remain. We thus cannot rule out that U.S. firms have a home court advantage in U.S. federal courts.

Opinio Juris notes that perhaps the most interesting claim is that judges may be more biased than juries are. As this sort of evidence mounts, I assume it will incrementally bolster the legitimacy of supranational and arbitral fora for dispute resolution.

The full study can be found [here](#).