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Litigation and Settlement: New Evidence from Labor Courts in Mexico

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Using a newly assembled data set on procedures filed in Mexican labor tribunals, we study the determinants of final awards to workers. On average, workers recover less than 30 percent of their claim. Our strongest result is that workers receive higher percentages of their claims in settlements than in trial judgments. We also find that cases with multiple claimants against a single firm are less likely to be settled, which partially explains why workers involved in these procedures receive lower percentages of their claims. Finally, we find evidence that a worker who exaggerates his or her claim is less likely to settle.

I. INTRODUCTION

One of the major tenets of the field of law and economics is that the legal environment affects economic behavior and outcomes. In studying the legal environment, it is crucial to distinguish between the letter of legal rules and their application or enforcement. Much of the evidence we have on how private law is enforced comes from legal disputes between private parties. The empirical analysis of legal disputes has focused disproportionately on cases litigated at trial, since almost all available data are on trial outcomes. However,

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filed cases are not a random sample of the universe of underlying legal disputes, and cases litigated at trial are not a random sample of those filed.

The literatures on law and economics have examined many areas of dispute resolution, including such topics as litigation, arbitration, settlement, and the selection of cases for trial. A key limitation of the empirical tests of theories in this literature has been the lack of data on settled legal disputes. We exploit the fact that Mexican labor law obliges parties in employment disputes to seek ratification of settlements, and also mandates that courts approve and record the details of settlements of filed lawsuits. We use a data set from labor tribunals in Mexico that provides extensive information about settled cases as well as tried cases in order to address a few of the major testable implications of arbitration and litigation theory.

Our data analysis has yielded several interesting findings. First, lawsuits that go to trial receive significantly lower final payments. Second, final payment amounts are lower when several workers are grouped in a case against a single firm, and these cases settle with lower probabilities. Finally, we find evidence that workers who exaggerate their claims settle less often, and may be punished in terms of final payment amounts. These results have important implications for many of the theoretical models proposed in the literature.

The article is organized as follows. Section II reviews previous theoretical and empirical work in the areas of arbitration, litigation, and settlement. Section III explains the relevant details of the legal environment, namely, Mexican labor law relating to the type of lawsuits we examine, as well as rules governing the labor courts in Mexico. Section IV describes the information available in the data set we use. Section V presents our statistical analyses. Section VI concludes and relates our results to the broader literature.

II. PREVIOUS WORK

This article is related generally to the literature on bargaining and dispute resolution, and more specifically to the work on arbitration and litigation. The usual framework in this area is a game-theoretic model in which parties decide whether to settle a dispute privately or bring it before an arbitrator or a court. When adjudication is costly, parties have complete information, and they are assumed to behave according to standard rational decision theory, all disputes terminate in private settlement. Hence, incomplete information is the predominant explanation in the literature for the fact that a significant

proportion of disputes do not settle. In other words, assuming that settlement negotiations are less expensive than litigating the dispute to a final resolution, parties will settle all disputes privately unless they hold sufficiently different beliefs about the expected benefits of going to court.

Differing beliefs can arise in two ways. On the one hand, the parties may have *ex ante* asymmetric information, that is, one of the parties has superior knowledge about the merits of the dispute and the likelihood of prevailing in an adjudicated award. On the other hand, parties may have *ex ante* symmetric information about the merits, but after the case is filed they may observe different signals of the probability of prevailing in court. This gives rise to differing posterior beliefs about the expected benefits of continuing the litigation rather than settling. If based on these posterior beliefs opposing parties are each relatively too optimistic about the expected benefit of going to court, they will fail to reach a settlement. Both information structures, *ex ante* asymmetric information and *ex ante* symmetric information with differing posterior beliefs, can result in systematic differences between the average underlying merits of disputes that are settled out of court and disputes that proceed to binding adjudication.

A sizeable theoretical literature has focused on explaining why settlement negotiations fail in a significant proportion of legal disputes and on characterizing the selection effect of going to court. However, the lack of information on settlement amounts in most litigation data sets has been a major obstacle to testing and measuring the differences in success rates and compensation amounts between settled and tried disputes. Our data set provides an almost unique opportunity to test and measure differences between the outcomes of settled and tried lawsuits that result from firing disputes.

To provide background for what we do, in this section we review some of the relevant literature. We consider first the implications of models that assume *ex ante* asymmetric information as well as the empirical tests of these models. Second, we discuss the theoretical and empirical literature that assumes *ex ante* symmetric information. Finally, we discuss other empirical work that has measured differences between cases that settle and those that go to court.

A. Asymmetric Information Models

P'ng (1983) proposes one of the early models of litigation under asymmetric information. He assumes risk-neutral parties and one-sided asymmetric

information, along with an exogenously set settlement amount. In the Nash equilibrium of this game, the informed party cannot reveal its private information in its settlement offer because this would allow the uninformed party to perfectly predict the potential trial outcome.¹ Therefore, the average quality of cases that settle need not differ from that of tried cases.

Bebchuk (1984) extends P'ng's analysis by allowing the settlement amount to be chosen by the parties. In this model, the uninformed party (the plaintiff) makes a take-it-or-leave-it settlement offer to the defendant. In equilibrium, the settlement offer made by the plaintiff induces defendants who are relatively likely to lose in court to settle, while defendants who are relatively likely to win refuse to settle and go to court. Hence the quality of cases that settle is higher, on average, than that of cases that go to court. Bebchuk also studies the effects of increasing the stakes in the case, that is, the potential judgment against the defendant. He finds that as the stakes increase, the probability of settlement falls and settlement amounts increase. Nalebuff (1987) points out that Bebchuk's results depend on an assumption that the plaintiff's threat of going to court is always credible. Once this assumption is relaxed, Bebchuk's result on the effects of increasing the stakes can be reversed. As the likely judgment at trial increases (stakes increase), the credibility constraint of the plaintiff may be relaxed, making him or her act less aggressively in settlement negotiations, and increasing the likelihood of a settlement.

Spier (1992) also assumes risk neutrality and one-sided asymmetric information, but models the dynamics of settlement explicitly. Given an exogenously set trial date and a finite number of rounds of settlement offers up to that date, she finds a U-shaped pattern of settlement, so that the probability of settlement is higher at the beginning of negotiations and close to the trial date. Fenn and Rickman (1999) use a data set containing negligence claims against NHS trusts in the United Kingdom to test Spier's model of delay in settlement. They estimate the conditional probability of case settlement and test the effects of changes in legal costs and levels of uncertainty on the probability of settlement.

Sieg (2000) uses data on medical malpractice suits in Florida to estimate an asymmetric information model similar to Nalebuff's. The data

¹The introduction of judicial error in P'ng's model generates some equilibria in which the informed party's information is revealed, but the equilibrium with no information revelation continues to exist.

provide information about whether the dispute settles or not, as well as the amounts of compensation paid in court and in a settlement. He finds that the asymmetric information model can explain most observed empirical facts, in particular the fact that on average plaintiffs who settle receive a higher level of compensation, while those who do not settle receive a higher level of compensation if they win the case, but are very unlikely to win in court.

Farmer and Pecorino (2004) use a data set on final offer arbitration in major league baseball that contains information on offers from both parties, actual salary earned by the player after the arbitration process, and various statistics pertaining to the player's market value. They find that players who exaggerate their claims, by demanding a salary above their predicted market value, are more likely to reach the final stage of arbitration, and more likely to earn a lower ex post salary. They conclude that these results are inconsistent with a bargaining model in which the player has private information about some unobservable characteristic related to risk preferences or future market value. In such a model, players who exaggerated their salary demands would tend to be those whose true market value exceeded the predicted market value from publicly available information, and therefore would tend to earn higher salaries after the conclusion of the arbitration process.

B. Symmetric Information Models

Models with symmetric information can be divided into two broad categories. The first category includes models of arbitration that typically assume symmetric information between the parties to a dispute and model the behavior of an arbitrator who has less information about the dispute than the parties. The second category includes models of litigation in which excessive optimism is the rationale for some disputes going to court.

Gibbons (1988) models the decision of an arbitrator under both conventional and final offer arbitration structures. The parties to the dispute observe equally noisy signals about the underlying merits of their dispute. The arbitrator observes a different and noisier signal; both parties know the distribution of the error in the arbitrator's signal but do not observe the signal directly. In equilibrium, the arbitrator learns from parties' offers and computes the ideal arbitration award, which is a function of the signal and of the average of parties' offers. When parties' offers differ more, these offers provide less precise information to the arbitrator and their average is

assigned relatively lower weight in the arbitrator's ideal award.² Also, as the parties' information about the case becomes relatively more important than publicly available information, the award places relatively higher weight on the average offer.

This decision rule is consistent with empirical evidence on the effects of parties' offers and arbitrators' awards. Farber and Bazerman (1986) study the arbitration decisions of the National Academy of Arbitrators in 25 cases. They find that arbitrators placed relatively more weight on the known facts of the cases than on the offers made by the parties to the dispute, and placed less weight on parties' offers as they diverged more. This is consistent with the notion that an arbitrator who mechanically splits the difference between parties' offers will provide incentives for the parties to take unreasonable or extreme positions. Rather than mechanically splitting the difference, if an arbitrator responds to extreme positions by placing less weight on parties' offers, parties have incentives to submit more reasonable offers.

Boden (1992) works with data from 204 disability claims in Maryland and estimates the adjudicated award as a function of the disability ratings proposed by the physicians of the claimant and the defense, as well as other known facts about the claimant and the injury. He finds that few facts relating to the case add explanatory power to the prediction of the adjudicated award, after including the parties' positions. Using data on settled claims, he finds that when parties settle, they place even less weight on the facts of the case than an arbitrator would, so that the compensation paid is practically always the average of the parties' offers. Moreover, Boden finds that as parties' positions become more disparate, both adjudicated awards and settlements continue to place a large weight on the offers. Nevertheless, the data imply that physicians tend not to submit wildly different positions, perhaps because of reputation considerations, or because adjudicators would ignore physician's ratings that clearly contradicted known facts about the injury.

Priest and Klein (1984) propose a nonstrategic model of the decision to settle a case, and focus on the selection effect of settlement. They show that under several assumptions, the win rate for plaintiffs and defendants should tend to 50 percent, regardless of whether the law favors plaintiffs or

²Given a signal of the underlying facts received by the arbitrator and a position taken by the opposing party, the more aggressive a party's offer is, the lower the weight it will receive in computing the arbitrator's award, and the less likely it is to be chosen as the award under final offer arbitration.

defendants. They assume risk-neutral parties that sue to decide a discrete issue³ with equal stakes. The parties have incomplete but symmetric information as to the merits of the case, and once a case goes to court, the judge observes the true merits and applies clear legal rules at judgment. Each party observes a noisy signal of the merits of the case, estimates its probability of winning at trial, and decides on a range of settlement amounts that would keep the party out of court. Parties settle when their respective ranges of settlement amounts overlap. Priest and Klein show that as parties' signals become more accurate, cases that are litigated have fact patterns arbitrarily close to the legal cutoff for liability, and the plaintiff win rate therefore tends to 50 percent. In addition, as parties observe almost perfect signals of the merits of the case, the settlement rate should increase so that very few cases are litigated. Hence, the smaller the percentage of litigated cases, the closer to 50 percent is the win rate at trial.

Many studies attempting to test the Priest-Klein result have been unable to verify the 50 percent win rate for plaintiffs.⁴ However, the assumptions of the model are quite restrictive, and some are impossible to verify empirically. Hence it is difficult to tell what causes a deviation from the 50 percent win rate, and such evidence cannot be used to assert that the original case-selection theory is incorrect.⁵ Also, testing settlement behavior is generally difficult because very few data sets have information on pretrial negotiations and on settlement amounts. In fact, in many legal systems, out-of-court settlements are generally confidential and this may be an important reason for parties to reach a settlement.⁶

Given that directly testing the differences between compensation obtained in settled and tried cases is usually not an option, much of the work on case selection has extended the Priest-Klein framework to derive implications that relate the probability of reaching a settlement—which is gener-

³For example, the parties in the original case-selection model do not litigate the amount of damages that should be paid, but rather a single issue, such as whether the defendant is negligent.

⁴Kessler et al. (1996) provide an overview of several articles that found plaintiff success rates significantly different from 50 percent.

⁵This argument is made by Gross and Syverud (1991).

⁶Gross and Syverud (1991), for example, study cases that proceeded to trial, but are able to obtain data on the best offer received by the plaintiff in pretrial negotiations. See Daughety and Reinganum (1999) for an extensive discussion and analysis of the confidentiality of settlements.

ally observable—to variables that can be estimated or observed, such as litigation costs, asymmetry in the stakes of litigation, or risk aversion.

Schwab and Eisenberg (1988) compare the success rates between constitutional tort plaintiffs and other non-civil-rights plaintiffs. The main difference between the control group of lawsuits and the group of constitutional tort cases is the presence of the government as a defendant in the latter. The government may have an informational advantage in predicting the outcome of filed suits, may have higher stakes in a given lawsuit since it must potentially defend itself against many similar suits, and may also be less risk averse than individual plaintiffs. As a result, the model developed by Schwab and Eisenberg predicts that the government will tend to settle less often and will win more often at trial. The empirical evidence indeed indicates that plaintiffs are significantly more successful in non-civil-rights lawsuits than when they file a constitutional tort suit. However, since settlement amounts are not observed and settlement is grouped together with winning at trial as a plaintiff success, the data cannot be used to compare success rates between settled and tried cases.

Fournier and Zuehlke (1989) use data from civil cases filed between 1979 and 1981, and observe whether the case settles or not (but not settlement amounts) as well as some characteristics of trial awards and plaintiffs' claims. They find that a higher variance of trial awards increases the probability of reaching a settlement. Although a higher variance of trial awards should increase the likelihood of the parties disagreeing on trial award predictions, it also increases the incentives of risk-averse parties to settle. This empirical evidence suggests that the latter effect is stronger, so that more uncertainty about trial outcomes promotes a higher settlement rate.

Gross and Syverud (1991) study 529 California civil jury trial cases in various areas of law. They observe settlement offers and judgments for cases that go to trial, but have no information on cases that settle. They find that the plaintiff win rate varies greatly across case types (e.g., personal injury vs. commercial transactions). When plaintiffs pay their own litigation costs, the settlement rate increases and the plaintiff win rate at trial increases, indicating that higher-quality suits are brought on average when plaintiffs must shoulder costs of filing and trial. Asymmetric stakes (such as repeat players on one side) cause the settlement rate to decrease and the win rate for the high-stakes player to increase. This could imply that high-stakes litigants seek to establish a tough reputation by going to trial more frequently and exerting more effort to win cases at trial. Finally, they find that in cases with high

potential damages and rich defendants, the plaintiff success rate at trial decreases; this may be evidence that lower-quality suits are brought when defendants are richer and potential damage awards higher.

Siegelman and Donohue (1995) examine employment discrimination cases and find a plaintiff win rate well below 50 percent. They use the business cycle to verify implications of the case-selection hypotheses. As macroeconomic conditions become more adverse, they show that the number of lawsuits filed increases, there is a higher settlement rate, and plaintiffs tend to lose more often at trial. This indicates that on average the quality of cases filed worsens with economic conditions, and that the selection effect weeds out many but not all of the low-quality cases.

Waldfogel (1995) develops the implications of the Priest-Klein model to show that the relationship between the settlement rate and the rate of plaintiff wins at trial depends on the relative cost of going to trial as opposed to settling, the position of the decision standard used by the court with respect to the distribution of parties' behavior, and the variance of the error in the signals parties receive about the merits of the case. Using data from federal civil cases in the Southern District of New York, which are assigned randomly to judges in the jurisdiction, he is able to identify the effect that the judge (who affects the decision standard and the level of uncertainty faced by the parties) has on the relationship between the rate of settlement and the likelihood of plaintiff prevailing in court. He finds a strong relationship between the rate of settlement and plaintiff's win rate, and significant variation across judges in both, especially in disputes for which the law is perceived to be less clear.

Eisenberg and Farber (1997) assume an underlying distribution of litigation costs for potential litigants and consider the effects of changes in this distribution on rates of settlement and success at trial. They show that as the variance of potential plaintiffs' trial costs increases, the rate of settlement decreases and the success of plaintiffs at trial falls. They test this result using data from civil suits in federal district courts and find that individuals, who have a more variable distribution of litigation costs than corporations, are less likely to settle as plaintiffs and also less likely to win at trial.

C. Other Empirical Evidence

Some evidence about the differences in underlying characteristics and success rates between tried and settled cases can be found in a number of studies that examine litigation trends and costs in particular areas of law. In

general, this literature finds that average compensation in tried cases is higher than in settled cases. Our study finds that average compensation in tried cases is slightly higher in one tribunal, and lower in the other tribunal. However, we find that recovery as a percentage of the original claim is significantly lower for tried cases. Unfortunately, by and large, the empirical literature to date has not controlled for the amount of the original claim; therefore, the measure of success used in most previous work is not directly comparable with ours. There are, however, a few studies that find a much higher compensation ratio of trial to settlement than our data display. After reviewing several relevant studies, we will attempt to provide some explanations of the differences between their results and ours.

Kakalik et al. (1984) study the determinants of compensation received in a sample of 513 asbestos-injury-related lawsuits between January 1980 and August 1982. The authors conducted a survey of plaintiff attorneys, defendants, and insurers for all tried cases during this period, in addition to a random sample of claims that closed before trial either by settlement or by being dropped. They find that on average trials resulted in final payments that were more than two times greater than the compensation received by plaintiffs in cases that settled before trial. No data on the amount of compensation initially requested by the plaintiff are given, although the study controls for type of asbestos-related illness, job type, age, sex, marital status, and whether the plaintiff was a smoker.

Danzon (1984) analyzes aggregate data at the state level on medical malpractice claims. She finds that legal rules favoring plaintiffs had an important impact in increasing the frequency of medical malpractice claims but not on the average payment made on such claims. Also, increased use of medical services and urbanization explain a large portion of the growth in medical malpractice litigation, perhaps indicating that larger plaintiff verdicts in urban areas affected expectations of potential plaintiffs, shifting the demand for litigation in these areas. With lawsuit-level data, the shift in legal rules over time could be used as a test of case-selection hypotheses. Unfortunately, Danzon's data set does not differentiate between claims with respect to case disposition, so that the differences in quality or success across tried and settled cases cannot be examined.

Kakalik et al. (1988) measure compensation amounts in aviation accident lawsuits for more than 2,000 cases filed between 1970 and 1984. They find that claims settled without a suit had an average compensation of \$256,200. Claims that resulted in a lawsuit but were settled before trial averaged \$387,600, while those that went to trial averaged \$599,000.

Although case-file data were available for their study, the authors do not take the amount requested initially in the claim or lawsuit into consideration as a predictor of final payment. As in the case of medical malpractice, which motivates much of the empirical work on litigation, aviation accident plaintiffs experienced a shift in legal rules in their favor during the time period studied. However, aviation litigation is somewhat peculiar in that it rarely consists of a dispute over liability, but rather focuses almost exclusively on damages. In addition, the underlying informational structure of the bargaining process between plaintiff and defendant may differ in important ways between aviation litigation and medical malpractice suits.

Dertouzos et al. (1988) use data on 120 jury trials of wrongful termination cases in California between 1980 and 1986 to study the consequences of major shifts away from the employment-at-will doctrine in many states. The information from each jury trial includes the award and subsequent alterations of the award through appeal or posttrial settlement, as well as settlement offers made before the initial trial. The amount of compensation claimed initially by the plaintiff is not observed. The average award over all cases was \$436,627, while the average settlement offer made by the defendant was \$30,000. Since every case in this data set went to trial, the settlement offers observed constitute failures to reach agreement. Hence these data do not allow measurement of the selection effect of going to court. When defense costs are considered, straightforward calculations show that for cases with initial demands in the top three quartiles, defendants would have been better off on average accepting settlement demands, which averaged \$207,710. Barring irrational behavior by firms or severe informational asymmetries, this may indicate that firms decide to go to trial to build a reputation that would deter future litigation, in general, or low-quality litigation, in particular.

Black et al. (2005) investigate trends in medical malpractice litigation in Texas using a database including all closed medical liability insurance claims over 15 years. Claims in this data set may be filed by insured medical professionals or institutions in anticipation of a lawsuit that never materializes, or entail filed medical malpractice lawsuits that later settle or go in court. If there is a lawsuit related to the claim, the data do not contain detailed information about the suit, such as the amount of compensation claimed initially or the process of negotiating a settlement. The authors show that when population growth and overall spending on health care are taken into account, there is no strong positive time trend in the amount of medical malpractice payouts. The average payout ranged between \$303,000 and

\$410,000 during the time period studied, while the average verdict on tried cases was \$1,528,525. The distribution of trial verdicts is highly skewed, implying a low probability of a high amount of compensation. This seems to indicate that, on average, plaintiffs who settle recover a fraction of trial awards. However, average payouts include claims that never became lawsuits, as well as lawsuits that were dropped. In addition, without any information from case files, it is difficult to account for differences in underlying characteristics of disputes that jointly determine case outcome and final payout. Another recent study of malpractice litigation was performed by Chandra et al. (2005). They use the National Practitioner Data Bank, containing information on payments in settled and tried malpractice claims against physicians. The 4 percent of all claims that result in a trial produce an average award approximately twice as large as the average settlement. Once again, detailed information from the case file, including the original amount of the claim, is not available.

Several factors limit the comparison between our study and the empirical literature discussed above. The empirical literature tends to focus on shifts in common or statutory law that alter expected recovery at trial for plaintiffs, while such shifts in legal standards are not present in the data we study. In the area of medical malpractice, where much of the empirical work has been done, plaintiff verdicts can result in extremely high payments. Along with different relative stakes due to important repeated-play features of the environment, this means that defendants may be more willing to go to court for cases with high expected recovery amounts.

Most importantly, detailed information such as that offered by our data set is rare. Absence of data on the amount of the initial claim means that we cannot compare the percentage of recovery achieved by the plaintiff across empirical studies. Information on payments made in settlements is usually unavailable, so empirical work has focused on the probability of settlement or on failed settlement offers. As shown by Waldfogel, a standard case-selection model can explain different relationships between settlement rates and measures of plaintiff success as features of the model such as litigation costs or relative accuracy of parties' signals about expected recovery change. Clearly, across the different data sets, legal areas, and time periods studied in the empirical literature, such features of the case-selection model can vary significantly, causing differences in the evidence found on case selection, particularly the relative success rates for settled versus tried cases.

Although this article does not test a specific economic model rigorously, we do feel it is useful to summarize some of the important implications of the

theoretical models described above, and that the empirical literature to date has not been able to test adequately. The following three issues form the focus of our empirical exercises.

1. Settlement amounts may differ on average from judgment amounts.
2. Repeat players (those with higher stakes) may act differently in the bargaining and trial process, possibly generating differences in settlement rates and final awards.
3. The “quality” of cases that are settled may differ systematically from the “quality” of cases that go to trial.

Despite the fact that these three hypotheses have played prominent roles in the theoretical literature, data constraints have made them quite difficult to address empirically. As described in the next section, institutional features of the labor courts system in Mexico provide us with a unique opportunity to examine these issues empirically.

III. LEGAL ENVIRONMENT

Mexican labor law regulates many aspects of the employment relationship.⁷ For the purposes of this article, the most relevant rules concern the provision of fringe benefits, overtime, and the mechanics of firing. Fringe benefits are mainly composed of vacation time and pay and an end-of-year bonus. Each employee is entitled to a certain number of days of paid vacation depending on tenure at the firm. The worker must also be given a vacation bonus, so that he or she earns 125 percent of the worker’s daily salary during each day of vacation.⁸ Also, every employee is entitled to an end-of-year bonus of at least 15 days’ wages.⁹

⁷All regulations discussed here apply primarily to workers in the formal sector, which covers only around 60 percent of the Mexican workforce. Informal workers can obtain some benefits from the labor law, but must be able to prove the existence of an employment relationship as well as facts about the employment contract.

⁸Ley Federal del Trabajo (LFT), arts. 76, 80.

⁹LFT, art. 87.

A normal workweek cannot exceed 48 hours. If an employee works more than 48 hours, he or she is entitled to overtime pay. The law mandates double pay for up to nine hours of overtime, and triple pay for any hours above 57 per week.¹⁰

Firing is classified under the law as justified or unjustified. Justified firing is limited to wrongdoing on the part of the worker. For example, an employer may justifiably fire a worker for three unexplained absences from work during one month,¹¹ or for deliberately or negligently damaging the employer's machinery. Firing for other reasons, such as low worker productivity, or layoffs during a recession, is considered unjustified and implies a much higher firing cost.¹²

For either type of firing, the firm must cover all payments owed to the worker up to the firing date, including overtime and unpaid end-of-year bonuses, as well as the percentage of the worker's fringe benefits that corresponds to the proportion of the last year in which the worker was employed. Additionally, the worker is entitled to severance pay equivalent to 12 days' wages for each year worked, with wage/day capped at twice the minimum wage.¹³

At the time of firing, the firm must notify the worker of the exact cause of firing as defined by the *Ley Federal del Trabajo* (LFT),¹⁴ often leading to a suit in which the worker disputes the firm's statement of cause. In all lawsuits related to firing, the firm carries the burden of proving that it fired the worker for just cause.¹⁵

For unjustified firings, which under the LFT constitute the vast majority of worker-job separations, the firm incurs much greater costs. To begin with, a worker who proves that he or she was fired without justification can

¹⁰LFT, arts. 66–68.

¹¹Nevertheless, "unexplained absence" is not defined in the LFT, and anecdotal evidence suggests that it is quite difficult for employers to fire their workers on this basis alone.

¹²LFT, art. 47.

¹³LFT, art. 162.

¹⁴The worker must be informed in writing of the cause of firing. Failure to notify in writing and in a timely fashion implies that the firing is considered unjustified under Mexican labor law, regardless of the underlying cause. LFT, art. 47.

¹⁵LFT, art. 48.

ask to be reinstated in the job.¹⁶ For the majority of workers, the letter of the law indicates that unless the firm can prove justification for firing, it cannot defeat the worker's plea for reinstatement.¹⁷ The firm may refuse to reinstate only for certain categories of workers, mainly including temporary workers, those with less than one year's tenure, and workers considered to be at-will employees under Mexican law.¹⁸

Besides the payments owed to all workers separated from their jobs, all workers fired unjustifiably are owed two types of payments. First, they receive backpay, including benefits, covering the period between the date they were fired and the date at which the court's decision in the lawsuit is executed. Second, they receive three months' salary with benefits, with no salary cap. In addition, those workers for whom the firm can refuse reinstatement are entitled to 20 days' wages plus benefits for each year worked, again with no upper limit on the wage rate.¹⁹

Reducing a worker's nominal wage is legally equivalent to an unjustified firing.²⁰ A worker whose wage is reduced may force the firm to give him or her full severance pay, including backpay, three months' salary, and 20 days' wages per year worked, even if the worker is not an at-will employee.²¹

A firm may also avoid having to reinstate workers it fires without just cause in the case of layoffs that are warranted given the economic situation

¹⁶If the worker is reinstated, he or she receives only backpay plus fringe benefits for the period of time from firing to reinstatement. LFT, art. 48.

¹⁷Considering that low worker productivity is not a valid cause for firing, the right to demand reinstatement probably constitutes a large firing cost for employers, regardless of explicit monetary firing costs. Interestingly, in our data we find very few reinstatements. This does not, however, imply that the right to request reinstatement does not affect the bargaining power of workers.

¹⁸At-will employees—so-called *trabajadores de confianza*—include two quite diverse types of employees. On the one hand, they include managerial employees, such as supervisors, managers, directors, inspectors, and accountants, and on the other hand, they include employees whose job implies direct contact with the employer, such as personal staff (e.g., secretaries). LFT, art. 49.

¹⁹LFT, arts. 48, 50.

²⁰LFT, art. 51-IV.

²¹LFT, art. 52.

of the firm.²² A layoff is defined as a proceeding that the firm initiates before the labor courts, submitting proof, including expert testimony, in relation to the firm's economic position and the economic situation of the industry. The labor court must then conduct a public hearing in which workers and their representatives, including unions, can participate, as well as the firm's experts and experts appointed by the court. After this hearing, the labor court declares whether the firm can lay off workers. If so, the firm avoids having to reinstate any workers laid off, and need not pay workers the additional 20 days' salary per year worked, although it must still pay three months' wages.²³

Finally, a few words about the labor tribunals we study.²⁴ Labor courts in Mexico (called *Juntas de Conciliación y Arbitraje*) are in fact administrative courts that belong to the executive branch and enjoy limited independence from the Secretary of Labor. As their name suggests, these tribunals play the role of conciliators as well as adjudicators. Their organic statute mandates at least one conciliation hearing before proceeding to try a case. Federal labor courts have jurisdiction over all labor conflicts that involve a certain minimum amount in dispute in a wide range of industries.²⁵ Among the federal tribunals, jurisdiction is determined by industry.

The procedure for resolving disputes before the federal labor courts in Mexico is similar to a U.S.-style bench trial, preceded by a conciliation process that may terminate the dispute by brokering a settlement between the parties. After the lawsuit is filed, a conciliation hearing is scheduled.²⁶ The employee must attend this hearing in person, along with his or her

²²LFT, art. 434-II.

²³LFT, arts. 900–919. In our sample, we do not find any such layoff cases initiated by firms. However, we do find cases in which firms simultaneously fire large numbers of workers. Given how cumbersome and uncertain the procedure outlined in Articles 900–919 is, it is possible that firms almost never make use of the formal layoff procedure.

²⁴The following description of the rules governing the operation of the federal labor courts is based on Title 14 of LFT.

²⁵LFT, art. 600-IV; Reglamento de la Competencia de las Juntas Especiales que Integran la Junta Federal de Conciliación y Arbitraje. Labor law in Mexico is federal, so that the local juntas are bound by the same substantive law as the federal junta, although they may use simplified procedures.

²⁶LFT, art. 876.

lawyer or legal representative.²⁷ The firm may attend via its legal representative, in which case the hearing may result in a settlement. Otherwise, the next step in the process is a hearing similar to a trial, in which each party states its position and presents evidence. Evidence can include oral testimony or written depositions from witnesses, documents, and expert testimony or reports written by experts. This hearing is presided over by the judge of the particular labor tribunal with jurisdiction over the firm's industry. During the hearing itself, no ruling is made by the judge. At the conclusion of the hearing, the judge instructs one of his or her clerks as to the basic content of the ruling, which the clerk then writes and submits to the judge for comments and revision.²⁸ The decision entails a ruling on all matters of fact, as well as matters of law.²⁹ Once the judge is satisfied with the ruling, he or she schedules a meeting of the labor board, consisting of the judge along with a representative of each one of the parties.³⁰ For a decision to become final, at least one of these representatives must vote along with the judge in favor of the resolution. At least eight days before voting takes place, the judge must provide the rest of the labor board with a copy of the proposed ruling, and each of these representatives may request an additional hearing in order to allow the parties to present new evidence.³¹ In the voting

²⁷Legal representatives need not be licensed lawyers for labor disputes under Mexican law. LFT, arts. 692–696.

²⁸LFT, art. 885.

²⁹Reglamento Interior de la Junta Federal de Conciliación y Arbitraje (Internal Regulations of the Federal Labor Board), art. 21.

³⁰For each industry in the jurisdiction of the federal labor courts, the Secretary of Labor appoints a labor representative and a firm representative. These representatives need not be licensed lawyers. Appointments are often political and usually related to general agreements between the Secretary of Labor and unions or trade associations in the industry. LFT, art. 605.

³¹LFT, art. 886. According to this article, representatives of workers and firms can provide the parties with an additional opportunity to present evidence, thus possibly altering findings of fact made by the judge. The representatives may not challenge findings of law, except by voting against the resolution. Based on interviews with judges and labor lawyers, we believe that representatives' prerogative to request an additional hearing is almost never exercised, and votes are cast simply based on whether the decision generally favors the worker or the firm. To the extent that any given ruling must almost always favor one party or the other, the judge obtains the one vote that he or she needs besides the judge's own, and the resolution stands.

session, labor and management representatives can vote only in favor of or against the ruling, but cannot dispute or request changes in any specific part of the decision.

Parties may resolve their dispute during the conciliation hearing or at any other point in the process before the voting session that finalizes the judge's ruling. According to Article 876 of the LFT, settlement agreements that terminate a filed lawsuit must be approved by the judge. All settlements that are not ratified by the relevant tribunal are not binding, so that an employee cannot credibly promise not to pursue a suit against his or her employer unless the settlement is approved by the court. In the data there is no evidence that judges reject settlements, so that the judge's approval appears to serve only as a mechanism for notifying the tribunal and making the agreement binding at law.

Mexican labor law openly promotes the settlement of disputes, but it takes an extreme position against the confidentiality of settlements. Each tribunal must record details about settlements it ratifies, such as the date of the settlement and the amount paid to the plaintiff. In addition, given that settlement agreements made before a lawsuit is filed are not legally binding without a labor court's ratification, employers and workers very often jointly submit a settlement to the labor court to obtain ratification, even though the worker has not sued his or her employer. Hence, we collect data from filed settlements as well as from lawsuits that conclude as a settlement or as a court ruling.

IV. DATA

We have assembled a data set comprised of a random sample of procedures filed between 1990 and 1998 in two tribunals in the Mexican federal labor court system. We sampled from Tribunal 15, which covers the pharmaceutical, chemical, paper, automotive, and auto parts industries, and from Tribunal 6, which covers the textile industry.³² For Tribunal 15, we randomly selected 150 case files from each year from 1991–1998, with the exception of

³²These data were obtained by the authors using a new law governing freedom of governmental information in Mexico. Although some of the variables used in this study are considered public information under the law, other variables are not public information, and have been obtained under a confidentiality agreement between the Federal Labor Courts System and the authors.

the year 1992 from which we sampled 215 case files. For Tribunal 6, we sampled 75 case files from each year from 1990–1997.³³

There are two main types of procedures: filed settlements and lawsuits. For filed settlements, there is only one statement of facts made jointly by the employer and the employee, and resolution of the procedure is always settlement. Lawsuits contain the employee's claim, the employer's answer (if the employer chooses to answer), the terms of settlement reached if the case settles, and the terms of the court's ruling if the case is not settled. Many suits include multiple plaintiffs and are treated as correlated data points in the statistical analysis. In this section, we describe the main variables relating to the lawsuit, worker and employer information, and resolution of the conflict.

For all procedures filed in our sample, we observe the motive for filing,³⁴ the date of filing, the geographical location of the dispute, and whether the procedure is a settlement or a lawsuit. With respect to information collected from the worker's filing, we have information about the type of job held,³⁵ the date the job started and ended, the salary with and without fringe benefits, hours worked per week, and the worker's demands,³⁶ as well as worker gender, date of birth, and, sometimes, the worker's Social Security ID number.³⁷ With respect to the worker's claims, we collect very detailed data that allow us to construct three variables: the actual amount of money

³³For Tribunal 15, the total number of case files was 973 in 1991, 951 in 1992, 1,020 in 1993, 865 in 1994, 902 in 1995, 722 in 1996, 672 in 1997, and 795 in 1998. For Tribunal 6, the total number of case files was 728 in 1990, 699 in 1991, 700 in 1992, 860 in 1993, 690 in 1994, 574 in 1995, 414 in 1996, and 403 in 1997.

³⁴Most procedures in our sample are related to a firing. A few suits do not dispute the firing decision but claim incomplete severance pay or incomplete payment of fringe benefits. There are also a few pension cases.

³⁵Although the claim specifies the actual job description, we only use this to classify workers as standard employees or as at-will (supervisory) employees, who are entitled to higher severance pay under the labor law.

³⁶In firing lawsuits, workers generally demand reinstatement, backpay, overtime, fringe benefits, and severance pay.

³⁷The presence of the ID number allows us to link the data from the lawsuit to confidential data on the worker's employment records available from the Mexican Social Security Administration. The latter data tell us the wage reported for the worker since 1985, as well as an identifier for the worker's employer, the industry, and the location of the worker. For the present article, we have used the Social Security data only to verify wages reported in the lawsuits and to follow up on dropped cases.

claimed by the worker, an imputed claim assuming the dismissal was unjustified but based only on statements that we believe are easily verifiable, and an imputed claim of what the law would assign to this worker given justified firing, again based on statements that we believe are easily verifiable.

To calculate our imputed claims, we assume that the worker is accurately reporting certain “easily verifiable” features of the case, such as the wage and the dates the worker was employed. We ignore certain other claims, such as having worked an extraordinary amount of overtime or never having received constitutionally mandated benefits despite the fact that the worker could have demanded these benefits prior to the current lawsuit.

For the employer, we have a firm identifier, the location of the business, and the industry. In lawsuits to which the employer provides an answer, we also have the employer’s version of the facts cited by the worker in his or her claim, such as the worker’s job description, salary, and so on. Additionally we code other evidence submitted by the firm to establish that the worker was never hired or fired, was fired with some justification,³⁸ has received fringe benefits payment, or has already accepted a severance package from the firm.

In terms of the procedure outcomes, as explained before, a substantial proportion of the procedures filed arrive at the tribunals as settlements and are always ratified by the courts as such. For lawsuits, we observe three types of conclusions: dropped suits, settlements, and trials leading to a judgment by the court. We record the date of conclusion of the procedure, the payment received by the worker, and any previous payments recognized by the court. For trials, we observe a trial result stated by the court,³⁹ the votes of the judge and the representatives of labor and management in favor of or against the judgment,⁴⁰ the facts of the case as recognized by the judge, the

³⁸In cases where the firm alleges having fired the worker justifiably, it provides evidence of one of the causes for justified firing described in the law.

³⁹The court states whether its decision is in favor of the worker’s claim, the employer, or mixed, in the sense that the judge concedes only part of the claim.

⁴⁰As explained in the previous section, in order for a final judgment to be valid, at least one of the representatives of the parties must “vote” in favor of it, so that along with the court’s vote they constitute a majority. We rarely find both representatives voting in favor of the judge’s resolution.

number of constitutional appeals filed,⁴¹ and the number of judgments made by the court.

V. STATISTICAL ANALYSIS

In this article we do not analyze procedures that arrived at the court as settlements without having been initiated as lawsuits filed by workers. In addition, we limit our analysis to lawsuits related to firing, which constitute the vast majority of lawsuits in the database.

We first report descriptive statistics of lawsuits in our sample. We then present kernel-density estimations that show the distribution of awards and the relationship between awards and claims. Finally we describe our econometric results, which present a story consistent with the intuition provided by the descriptive statistics and by the kernel-density graphs.

Table 1 reports several statistics on lawsuits, including statistics on how lawsuits are resolved. Around 70 percent of lawsuits are settled, and among the 30 percent that are not, slightly more than half are dropped and slightly less than half go to trial. We find quite similar results in the two tribunals we study. Table 1, like all tables in the article, is calculated using the inverse of the ex ante probability of a lawsuit being included in the sample as weights. This is done to approximate what we would have estimated if we had collected data from a census of lawsuits from each tribunal. This weighting procedure essentially adds more weight to lawsuits in years with more total lawsuits, since each sampled lawsuit in these years “represents” a larger number of lawsuits.

Table 1 also shows summary statistics for several other variables, including the award received by the employee. All monetary variables are converted to their equivalent value in December 1998 pesos. The employee’s claim simply measures the amount of money requested by the plaintiff in the lawsuit. We also include our two imputed claims, that is, what Mexican labor law would award to the worker based only on facts of the case that are verifiable relatively easily such as dates worked and salary. Based on these easily verifiable facts, the first estimation assumes the worker was fired without justification, while the second assumes that the worker was fired with justification. Additionally, we report the percentage of the claim obtained by

⁴¹In cases that proceed to a trial, it is common for one or both parties to file constitutional appeals, generally claiming violations of due process. For each successful appeal filed, the court must issue a new judgment, so that in some cases we observe several decisions by the court.

Table 1: Descriptive Statistics—All Lawsuits

	<i>Obs</i>	<i>Mean</i>	<i>SD</i>	<i>Min</i>	<i>Max</i>
<i>Tribunal 15</i>					
Percent settled	1,076	68	47	0	100
Percent tried	1,076	14	35	0	100
Percent dropped	1,076	18	38	0	100
Award	1,076	23,629	59,626	0	1,001,167
Claim	1,076	259,171	703,228	6,747	11,700,000
Imputed award unjustified firing	1,076	64,190	226,613	3,820	5,729,232
Imputed award justified firing	1,076	38,916	215,297	210	5,718,458
Percent of claim obtained	1,076	29	52	0	298
Percent female	1,076	30	46	0	100
Percent of workers who are “at will”	1,076	19	39	0	100
Years of tenure at firm	1,076	5	6	0	39
Percent with tenure 15 years	1,076	8	28	0	100
<i>Tribunal 6</i>					
Percent settled	547	71	46	0	100
Percent tried	547	14	34	0	100
Percent dropped	547	16	37	0	100
Award	547	56,387	412,704	0	4,760,639
Claim	547	238,833	882,595	3,043	11,600,000
Imputed award unjustified firing	547	115,958	712,606	2,038	11,600,000
Imputed award justified firing	547	94,474	679,038	348	11,600,000
Percent of claim obtained	547	26	38	0	435
Percent female	547	26	44	0	100
Percent of workers who are “at will”	547	15	35	0	100
Years of tenure at firm	547	8	9	0	50
Percent with tenure 15 years	547	17	38	0	100

NOTES: All monetary values are expressed in December 1998 pesos. Each observation is given the weight of the inverse of its ex ante probability of being included in the sample. See text for details.

the employee. Note that employees receive substantially less than they ask for, in particular, we do not find that they receive on average half of what they request, as the literature on arbitration might suggest. Bearing in mind that when firms answer the lawsuit, they often acknowledge some positive amount of money owed to the worker, the amount obtained by workers is far from what “splitting the difference” would suggest.⁴² Finally, Table 1 reports

⁴²Note that the average award is less than 10 percent of the average claim in one tribunal, and around 23 percent in the other. However, the average percentage obtained by the worker is closer to 30 percent. This difference arises because the percentage statistic computes the average of the percentage that each worker obtains of his or her claim, rather than the average award divided by the average claim.

Table 2: Descriptive Statistics—Settled Lawsuits

	<i>Obs</i>	<i>Mean</i>	<i>SD</i>	<i>Min</i>	<i>Max</i>
<i>Tribunal 15</i>					
Award	729	27,133	54,438	0	1,001,167
Claim	729	224,272	673,560	6,747	11,700,000
Imputed award unjustified firing	729	64,264	262,967	3,820	5,729,232
Imputed award justified firing	729	40,167	254,404	210	5,718,458
Percent of claim obtained	729	40	58	0	298
Percent female	729	27	44	0	100
Percent of workers who are “at will”	729	18	39	0	100
Years of tenure at firm	729	5	6	0	39
Percent with tenure 15 years	729	7	26	0	100
<i>Tribunal 6</i>					
Award	388	76,455	490,065	0	4,760,639
Claim	388	243,902	949,655	3,043	11,600,000
Imputed award unjustified firing	388	140,149	844,468	2,038	11,600,000
Imputed award justified firing	388	116,014	805,069	378	11,600,000
Percent of claim obtained	388	33	42	0	435
Percent female	388	24	43	0	100
Percent of workers who are “at will”	388	15	36	0	100
Years of tenure at firm	388	8	8	0	50
Percent with tenure 15 years	388	18	38	0	100

NOTES: All monetary values are expressed in December 1998 pesos. Each observation is given the weight of the inverse of its ex ante probability of being included in the sample. See text for details.

statistics on the percent of litigants who are female, the percent of litigants with “at-will” contracts (typically, but not always, white-collar workers), tenure at the firm, and the percent of litigants with 15 years of tenure or more. These variables will serve as control variables and are not the main focus of the article.⁴³

Tables 2, 3, and 4 show the same summary statistics presented in Table 1, but presented separately for lawsuits that are settled, tried, and dropped, respectively. Although we will undertake more formal analyses later in this section, we believe it is useful to begin with simple comparisons of means.

⁴³Perhaps some bivariate correlations of these variables with the main outcome variables would be useful. In both tribunals, women receive significantly lower log final payments. In Tribunal 15, women also receive a lower percentage of their claim and are more likely to go to trial and less likely to settle. In both tribunals, tenure is positively correlated both with final payment received and percent of claim obtained. Results are similar for the dummy for tenure of 15 years of tenure or more. In Tribunal 15, at-will employees obtain lower percentages of their claims.

Table 3: Descriptive Statistics—Tried Lawsuits

	<i>Obs</i>	<i>Mean</i>	<i>SD</i>	<i>Min</i>	<i>Max</i>
<i>Tribunal 15</i>					
Award	153	36,634	99,472	0	657,101
Claim	153	370,782	748,560	12,351	4,778,867
Imputed award unjustified firing	153	54,441	90,441	5,059	874,882
Imputed award justified firing	153	28,700	62,573	494	603,464
Percent of claim obtained	153	16	40	0	218
Percent female	153	41	49	0	100
Percent of workers who are “at will”	153	21	41	0	100
Years of tenure at firm	153	5	6	0	31
Percent with tenure 15 years	153	10	30	0	100
Percent of rulings for worker	153	7	26	0	100
Percent of rulings for firm	153	67	47	0	100
Percent of “mixed” rulings	153	26	44	0	100
<i>Tribunal 6</i>					
Award	69	18,339	32,977	0	186,293
Claim	69	172,608	288,101	32,519	1,894,045
Imputed award unjustified firing	69	56,401	101,758	8,997	710,333
Imputed award justified firing	69	41,088	88,366	1,101	611,824
Percent of claim obtained	69	18	27	0	157
Percent female	69	24	43	0	100
Percent of workers who are “at will”	69	12	33	0	100
Years of tenure at firm	69	8	10	0	42
Percent with tenure 15 years	69	20	40	0	100
Percent of rulings for worker	69	0	0	0	0
Percent of rulings for firm	69	68	47	0	100
Percent of “mixed” rulings	69	32	47	0	100

NOTES: All monetary values are expressed in December 1998 pesos. Each observation is given the weight of the inverse of its ex ante probability of being included in the sample. See text for details.

Comparing Tables 2 and 3, we see some interesting differences between lawsuits that end up being settled and lawsuits that go to a final judgment. First note that, in both tribunals, workers receive a higher percentage of what they ask for in lawsuits that are eventually settled. In both tribunals, our imputed claims of what the worker is entitled to based on relatively easily verifiable facts is higher in lawsuits that eventually settle than in lawsuits that do not settle. Worker claims as a percentage of our imputed claims, however, are larger in lawsuits that end up going to a final judgment. In fact, we see in Tribunal 15 that, despite the fact that our imputed claims lead us to believe that the lawsuits that end up being settled are “stronger” cases for the workers, the workers in this tribunal ask for more in lawsuits that go to final judgment. Taken together, these results suggest that the

Table 4: Descriptive Statistics—Dropped Lawsuits

	<i>Obs</i>	<i>Mean</i>	<i>SD</i>	<i>Min</i>	<i>Max</i>
<i>Tribunal 15</i>					
Award	194	0	0	0	0
Claim	194	300,871	764,719	7,908	6,092,656
Imputed award unjustified firing	194	71,740	138,378	4,724	1,301,103
Imputed award justified firing	194	42,411	106,689	387	1,074,676
Percent of claim obtained	194	0	0	0	0
Percent female	194	33	47	0	100
Percent of workers who are “at will”	194	20	40	0	100
Years of tenure at firm	194	6	7	0	39
Percent with tenure 15 years	194	11	32	0	100
<i>Tribunal 6</i>					
Award	90	0	0	0	0
Claim	90	272,725	913,254	7,216	5,691,863
Imputed award unjustified firing	90	59,626	129,257	4,261	801,570
Imputed award justified firing	90	44,615	121,703	348	758,498
Percent of claim obtained	90	0	0	0	0
Percent female	90	33	47	0	100
Percent of workers who are “at will”	90	14	35	0	100
Years of tenure at firm	90	8	9	0	37
Percent with tenure 15 years	90	14	35	0	100

NOTES: All monetary values are expressed in December 1998 pesos. Each observation is given the weight of the inverse of its ex ante probability of being included in the sample. See text for details.

lawsuits that are settled are the ones in which the worker is asking for a payment that is more in accordance with a conservative reading of Mexican labor laws.⁴⁴

Table 3, which presents descriptive statistics on tried lawsuits, also presents some statistics on whether the judgment was favorable for the worker or for the firm. The judge’s ruling, in addition to containing the amount that will be awarded to the worker, contains a summary of the judgment, which can have three possible values. The most common value (68 percent in Tribunal 15, 67 percent in Tribunal 6) is “favorable for the firm.” Later in this section, we will present further evidence that the firm typically wins tried cases. The second most common value (26 percent in Tribunal 15, 32 percent in Tribunal 6) is “mixed,” that is, neither completely in favor of the firm nor completely in favor of the worker. The least common value is

⁴⁴Table 3 also presents evidence that in Tribunal 15, women tend to go to trial more often. This will be supported by econometric analysis later in this section.

“favorable for the worker.” In fact, this value was never observed in Tribunal 6 and observed in only 7 percent of the tried lawsuits in Tribunal 15.

We see from Table 4 that dropped lawsuits typically involve claims that dispute significant amounts of money. In both tribunals, for instance, the worker claims in lawsuits that eventually get dropped are higher than the averages for all cases. In Tribunal 15, our imputed claims of what the worker is entitled to based on easily verifiable facts is also higher for dropped lawsuits than for all lawsuits.

One might worry that these dropped lawsuits really represent ones in which the firm rehires the worker to convince the worker to drop the case. If this were true, these dropped lawsuits might cause serious econometric concerns. We would not observe any monetary award for the plaintiff, but in reality the worker might have received substantial compensation.

To evaluate the potential severity of this problem, we examined those workers for whom we observe a Social Security ID number. In Tribunal 15, we observed 20 workers who dropped their lawsuits, four of whom we observed to be working at the same firm after the lawsuit was dropped. For settled lawsuits (again for those workers for whom we observed the Social Security number), only two out of 99 workers were observed at the same firm after the lawsuit was settled. For lawsuits that went to trial, three workers out of 47 were observed at the same firm after the lawsuit ended. Unfortunately, sample sizes were too small to do meaningful comparisons in Tribunal 6.

Our interpretation is that the majority of dropped lawsuits are workers who simply gave up and received no compensation. Nevertheless, there is some evidence that dropped lawsuits might in some cases be successes for the workers. For this reason, we estimate models in which dropped lawsuits are included and treated as if the worker received nothing and we estimate models in which dropped cases are excluded from the analysis.

We now turn to our graphical analyses. Figure 1 shows a kernel-density estimate of the distribution of the log difference between the amount the worker asks for and the amount the worker receives for both tribunals. When the worker receives zero, we set the log of the payment equal to zero. Note, first, that the majority of the distribution lies in the negative region of the figure, indicating that nearly all workers receive less than they demand. Also note that the distribution is bimodal. We interpret the bimodal feature of the distribution as evidence that the worker either “wins” or “loses.”

One might suspect that the “worker lose” spike is dominated by lawsuits in which the worker receives no compensation. Figure 2 demonstrates that

Figure 1: Kernel-density estimate of log difference between claim and payment (log payment set to zero when payment is zero).

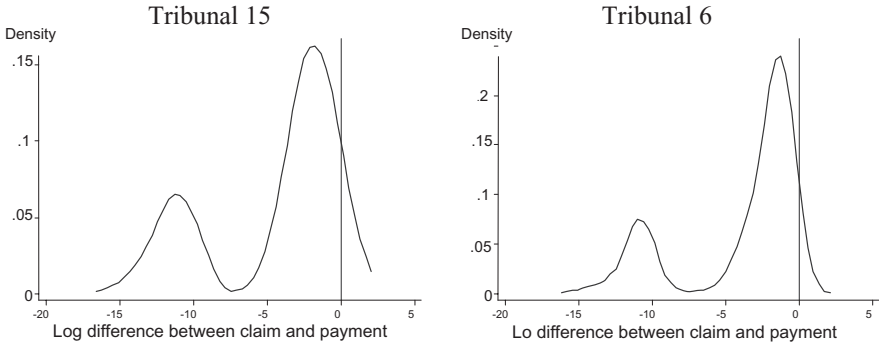
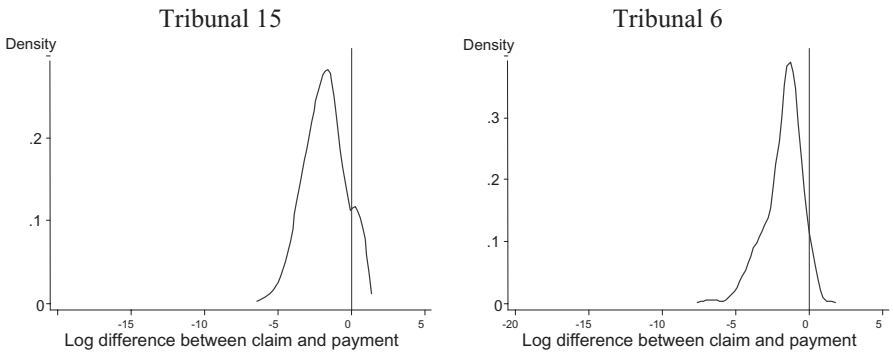


Figure 2: Kernel-density estimate of log difference between claim and payment (positive payments only).



this is indeed the case by excluding lawsuits in which the worker received no compensation. It is clear that the “worker lose” spike in the distribution has disappeared.

Figure 3 shows the same exercise as performed in Figure 1 for lawsuits that reach a final judgment, that is, for lawsuits that are not settled and are not dropped. Once again, we see a bimodal distribution. Note that in this figure, the “worker wins” spike is smaller compared to Figure 1 and the “worker loses” spike is bigger compared to Figure 1. These results lend further support to the evidence in Table 3 that workers do relatively poorly in lawsuits that reach a final judgment. Figure 4 offers further evidence by

Figure 3: Kernel-density estimate of log difference between claim and payment (judges’ rulings only, log payment set to zero when payment is zero).

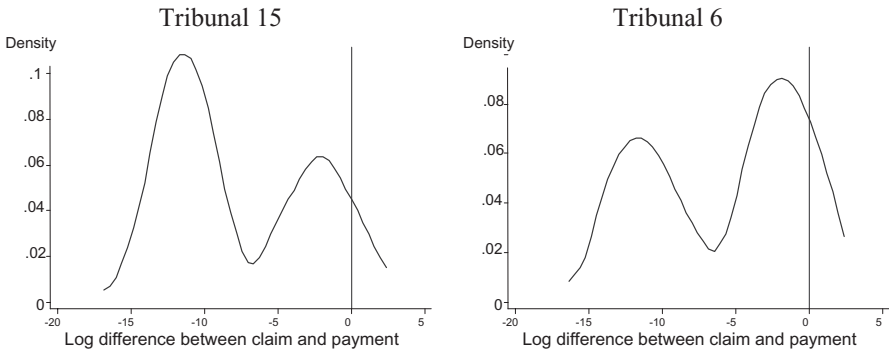
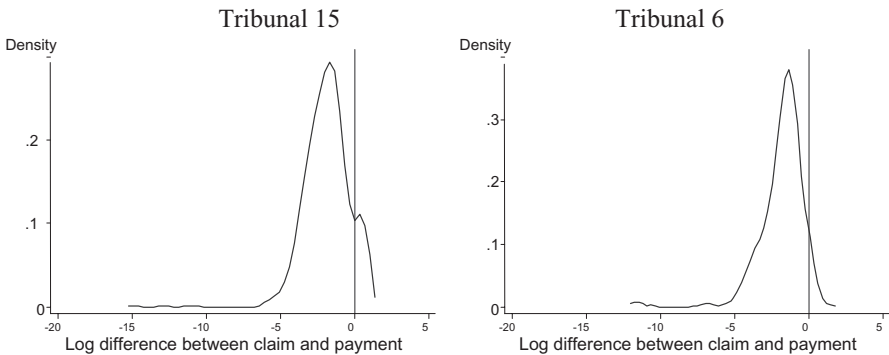


Figure 4: Kernel-density estimate of log difference between claim and payment (settlements only, log payment set to zero when payment is zero).



examining lawsuits that are eventually settled. Note that this distribution is unimodal and that the spike of the distribution lies approximately where the “worker wins” spike lies in the previous figures.

One might, however, question our interpretation of the two spikes as “worker wins” and “worker loses.” To bolster this assertion, Figure 5 examines tried cases that ended in a favorable judgment for the firm. It seems apparent that the “worker loses” spike is dominant for these lawsuits. We continue to analyze tried lawsuits in Figure 6, but we focus here on judgments that were not favorable to the firm, that is, we aggregate into one category judgments that were favorable for the worker and “mixed” rulings.

Figure 5: Kernel-density estimate of log difference between claim and payment (judge’s ruling in favor of firm, log payment set to zero when payment is zero).

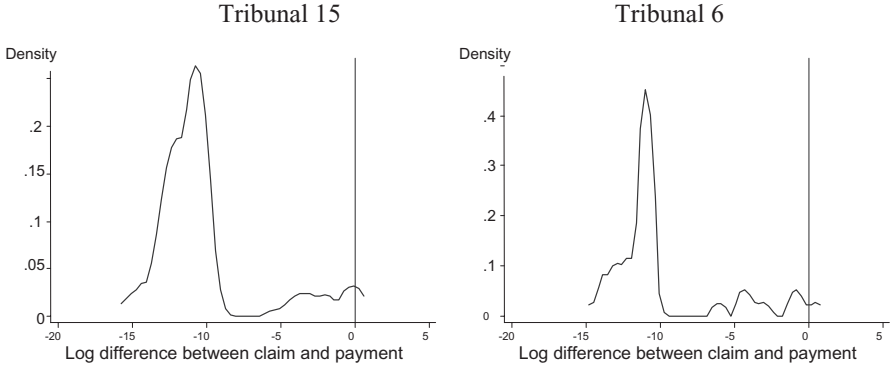
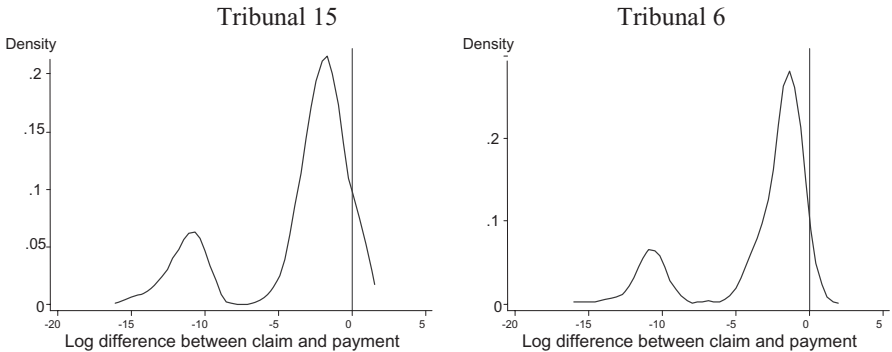


Figure 6: Kernel-density estimate of log difference between claim and payment (judge’s ruling not in favor of firm, log payment set to zero when payment is zero).



It seems apparent here that the “worker wins” spike now dominates the distribution.⁴⁵ We now turn to the econometric section of the article, where we will further bolster the above claims and undertake additional analyses.

⁴⁵Since there were no rulings in favor of the worker in Tribunal 6, in Figure 6, for this tribunal, the distribution is comprised entirely of “mixed” rulings.

Table 5: Effects of Worker’s Assertion and Mode of Termination on Final Payment (Dependent Variable: Log of Final Payment)

	<i>Dropped Cases Included</i>							
	<i>Tribunal 15</i>				<i>Tribunal 6</i>			
	<i>Tobit</i>		<i>OLS</i>		<i>Tobit</i>		<i>OLS</i>	
	<i>coef</i>	<i>s.e.</i>	<i>coef</i>	<i>s.e.</i>	<i>coef</i>	<i>s.e.</i>	<i>coef</i>	<i>s.e.</i>
In(worker’s claim)	0.17	0.21	0.14	0.16	0.17	0.37	0.19	0.30
Trial	-5.10***	1.13	-3.39***	0.70	-3.09***	1.11	-2.28***	0.80
Female	-0.42	0.61	-0.36	0.45	-0.99	0.82	-0.74	0.62
At-will worker	0.58	0.58	0.49	0.43	0.49	0.78	0.36	0.62
Tenure 15 years	1.27	0.87	1.03	0.67	1.51**	0.75	1.32**	0.61
R ²			0.14				0.11	
Number of obs	1,076		1,076		547		547	
Censored obs	288				122			
	<i>Dropped Cases Excluded</i>							
	<i>Tribunal 15</i>				<i>Tribunal 6</i>			
	<i>Tobit</i>		<i>OLS</i>		<i>Tobit</i>		<i>OLS</i>	
	<i>coef</i>	<i>s.e.</i>	<i>coef</i>	<i>s.e.</i>	<i>coef</i>	<i>s.e.</i>	<i>coef</i>	<i>s.e.</i>
In(worker’s claim)	0.31***	0.11	0.29***	0.10	0.22	0.20	0.23	0.19
Trial	-6.24***	0.75	-5.51***	0.60	-4.41***	0.89	-4.01***	0.77
Female	0.33	0.29	0.29	0.26	-0.34	0.34	-0.30	0.32
At-will worker	0.73***	0.27	0.70***	0.25	0.29	0.34	0.26	0.32
Tenure 15 years	2.31***	0.41	2.17***	0.37	1.45***	0.48	1.39***	0.45
R ²			0.53				0.36	
Number of obs	882		882		457		457	
Censored obs	94				32			

NOTES: The dependent variable is the log of the amount awarded to the employee in December 1998 pesos. In cases in which the amount awarded was zero, we set the log of the award to zero. Additionally, these cases are treated as censored observations in the Tobit model. Standard errors are calculated allowing for heteroscedasticity and for the possibility that the outcomes in cases that have been grouped into the same proceeding may be correlated. We use the notation of *** to denote significance at the 0.01 level. Similarly, ** denotes significance at the 0.05 level and * denotes significance at the 0.10 level. All models include dummy variables for the year when the employee separated from the firm and the quarter when the employee separated from the firm. Industry dummies are included in the models for Tribunal 15. Each observation is given the weight of the inverse of its ex ante probability of being included in the sample. See text for details.

Table 5 reports the results of econometric models estimating the determinants of the log of the final award. Once again, we set the log award equal to zero when the actual award is zero. We present both ordinary least squares models and Tobit models; awards of zero are treated as censored observa-

tions in the Tobit models. The key independent variables are the log of the worker's claim as well as a dummy for whether the case ends in a ruling by the judge. We also include a dummy variable for whether the worker is female, a dummy variable for whether the worker has an "at-will" contract, a dummy variable for whether the worker has tenure of at least 15 years in the firm, a dummy variable for the year in which the worker separated from the firm (seven dummies for the eight years in the data in each tribunal), and a dummy variable for the quarter in which the worker separated from the firm (three dummies for the four quarters).

The models for Tribunal 15 also include three dummy variables for the industry of the firm (the four categories are automotive, paper, chemical/pharmaceutical, and no industry information). Since all firms in Tribunal 6 are textile firms, the models for Tribunal 6 contain no industry dummies. For ease of exposition, we do not report the coefficients on the year, quarter, and industry dummies, although we are happy to provide these results on request. Our models allow for the possibility of heteroscedasticity and allow for a correlation of outcomes when we observe multiple plaintiffs in the same case file against the same defendant. We estimate these models separately for each tribunal and estimate them separately both including and excluding dropped cases from the analysis.

Two main results emerge from Table 5. First, there is only weak evidence that the worker's claim is correlated with the amount he or she receives. We observe a significant coefficient for Tribunal 15 only when dropped cases are excluded. We will present evidence later in this section that the worker's claim often contains highly dubious assertions that tend to be ignored by the judge. We also see that lawsuits that reach a final judgment pay substantially less than cases that do not reach a final judgment. This is a particularly interesting result when we include dropped lawsuits in the analysis, noting that all dropped lawsuits involve no payments at all. We emphasize the fact that the terms of settlement are typically not observed in data sets of this nature. Few empirical studies can compare the award amounts between lawsuits that reach a final judgment and those that do not.⁴⁶

⁴⁶We were surprised to see that the female dummy was insignificant in all models. In Tribunal 15, both the dummy for having an "at-will" contract and the dummy for tenure at the firm of at least 15 years have positive and significant coefficients when dropped cases are excluded. In Tribunal 6, the dummy for tenure at the firm of at least 15 years has a positive and significant coefficient regardless of whether dropped cases are included in the analysis.

Table 6 adds an additional independent variable that we believe is interesting. We include a dummy variable indicating whether the plaintiff is involved in a lawsuit that is grouped together with other plaintiffs against the same firm. These estimations may shed light on game-theoretic models involving repeat players. When the firm is taking its decision with regard to one plaintiff, the firm must take into account any inferences the other plaintiffs might make about the firm's willingness to be aggressive.

We see from Table 6 that when we include dropped lawsuits in the analysis, lawsuits involving multiple plaintiffs tend to pay less to the workers, although the result is not significant in Tribunal 6. We see no such evidence, however, when we exclude dropped lawsuits. One wonders, however, whether it is appropriate to control for the mode of termination of the lawsuit. If one believes that a firm would act more aggressively in lawsuits involving multiple plaintiffs, the effects on award amounts might work through the differences in settlement probabilities.

Table 7 investigates this possibility by estimating similar models without controlling for mode of termination. The results for Tribunal 15 now indicate that lawsuits involving multiple plaintiffs pay less to the worker, regardless of whether dropped lawsuits are included in the analysis. The pattern looks quite similar in Tribunal 6, although the results are not statistically significant. Taken together, Tables 6 and 7 present evidence that cases involving multiple plaintiffs end up paying less to the workers, and some of this effect is due to cases involving multiple plaintiffs differing in their modes of termination. This evidence is consistent with the theory that firms involved in multiple or repeated lawsuits will settle less and exert more effort to win at trial in order to build a reputation that will deter future lawsuits. Also, these findings may be consistent with a negative selection effect of multiple plaintiffs. A potential plaintiff may find suing less expensive given that other workers are involved in the same suit, and this may result in a lower average quality of multiple lawsuits.

Table 8 presents further evidence on this issue by explicitly examining the determinants of the mode of termination. When dropped lawsuits are included in the analysis, we estimate separate logit models for the three possible modes of termination. When dropped lawsuits are excluded from the analysis, we estimate one logit model of the probability of settlement. We control for the worker's claim at the time of filing the lawsuit and include a dummy variable indicating whether the lawsuit involved multiple plaintiffs in

Table 6: Effects of Worker’s Assertion, Mode of Termination, and Cases Involving Multiple Workers on Final Payment (Dependent Variable: Log of Final Payment)

	<i>Dropped Cases Included</i>							
	<i>Tribunal 15</i>				<i>Tribunal 6</i>			
	<i>Tobit</i>		<i>OLS</i>		<i>Tobit</i>		<i>OLS</i>	
	<i>coef</i>	<i>s.e.</i>	<i>coef</i>	<i>s.e.</i>	<i>coef</i>	<i>s.e.</i>	<i>coef</i>	<i>s.e.</i>
In(worker’s claim)	0.09	0.22	0.09	0.16	0.20	0.35	0.21	0.29
Trial	-4.68***	1.09	-3.09***	0.69	-2.94***	1.12	-2.18***	0.81
Multiple workers	-2.03**	0.82	-1.42**	0.56	-1.30	1.08	-0.91	0.81
Female	-0.40	0.58	-0.33	0.42	-0.80	0.74	-0.60	0.57
At-will worker	0.60	0.55	0.52	0.40	0.37	0.75	0.29	0.59
Tenure 15 years	1.15	0.84	0.95	0.65	1.61**	0.74	1.39**	0.60
<i>R</i> ²			0.16				0.12	
Number of obs	1,076		1,076		547		547	
Censored obs	288				122			

	<i>Dropped Cases Excluded</i>							
	<i>Tribunal 15</i>				<i>Tribunal 6</i>			
	<i>Tobit</i>		<i>OLS</i>		<i>Tobit</i>		<i>OLS</i>	
	<i>coef</i>	<i>s.e.</i>	<i>coef</i>	<i>s.e.</i>	<i>coef</i>	<i>s.e.</i>	<i>coef</i>	<i>s.e.</i>
In(worker’s claim)	0.30**	0.12	0.28***	0.11	0.22	0.20	0.23	0.19
Trial	-6.18***	0.69	-5.46***	0.56	-4.40***	0.85	-4.00***	0.74
Multiple workers	-0.23	0.38	-0.16	0.33	-0.09	0.63	-0.05	0.58
Female	0.32	0.30	0.28	0.26	-0.33	0.33	-0.30	0.31
At-will worker	0.72***	0.27	0.69***	0.25	0.28	0.33	0.26	0.31
Tenure 15 years	2.29***	0.40	2.16***	0.36	1.45***	0.47	1.39***	0.45
<i>R</i> ²			0.53				0.36	
Number of obs	882		882		457		457	
Censored obs	94				32			

NOTES: The dependent variable is the log of the amount awarded to the employee in December 1998 pesos. In cases in which the amount awarded was zero, we set the log of the award to zero. Additionally, these cases are treated as censored observations in the Tobit model. Standard errors are calculated allowing for heteroscedasticity and for the possibility that the outcomes in cases that have been grouped into the same proceeding may be correlated. We use the notation of *** to denote significance at the 0.01 level. Similarly, ** denotes significance at the 0.05 level and * denotes significance at the 0.10 level. All models include dummy variables for the year when the employee separated from the firm and the quarter when the employee separated from the firm. Industry dummies are included in the models for Tribunal 15. Each observation is given the weight of the inverse of its ex ante probability of being included in the sample. See text for details.

Table 7: Effects of Worker’s Assertion and Cases Involving Multiple Workers on Final Payment (Dependent Variable: Log of Final Payment)

	<i>Dropped Cases Included</i>							
	<i>Tribunal 15</i>				<i>Tribunal 6</i>			
	<i>Tobit</i>		<i>OLS</i>		<i>Tobit</i>		<i>OLS</i>	
	<i>coef</i>	<i>s.e.</i>	<i>coef</i>	<i>s.e.</i>	<i>coef</i>	<i>s.e.</i>	<i>coef</i>	<i>s.e.</i>
In(worker’s claim)	-0.15	0.23	-0.07	0.17	0.11	0.36	0.14	0.29
Multiple workers	-2.61***	0.89	-1.82***	0.60	-1.51	1.09	-1.08	0.81
Female	-0.75	0.58	-0.55	0.42	-0.73	0.74	-0.55	0.56
At-will worker	0.80	0.57	0.68	0.42	0.56	0.74	0.44	0.58
Tenure 15 years	1.08	0.79	0.95	0.61	1.61**	0.74	1.42**	0.60
<i>R</i> ²			0.10				0.09	
Number of obs	1,076		1,076		547		547	
Censored obs	288				122			

	<i>Dropped Cases Excluded</i>							
	<i>Tribunal 15</i>				<i>Tribunal 6</i>			
	<i>Tobit</i>		<i>OLS</i>		<i>Tobit</i>		<i>OLS</i>	
	<i>coef</i>	<i>s.e.</i>	<i>coef</i>	<i>s.e.</i>	<i>coef</i>	<i>s.e.</i>	<i>coef</i>	<i>s.e.</i>
In(worker’s claim)	-0.12	0.16	-0.08	0.14	0.04	0.27	0.06	0.26
Multiple workers	-1.51**	0.70	-1.29**	0.59	-0.58	0.74	-0.49	0.67
Female	-0.33	0.40	-0.29	0.35	-0.25	0.38	-0.23	0.36
At-will worker	0.96**	0.38	0.90***	0.34	0.62	0.38	0.56	0.35
Tenure 15 years	2.17***	0.36	2.05***	0.33	1.54***	0.48	1.49***	0.45
<i>R</i> ²			0.16				0.10	
Number of obs	882		882		457		457	
Censored obs	94				32			

NOTES: The dependent variable is the log of the amount awarded to the employee in December 1998 pesos. In cases in which the amount awarded was zero, we set the log of the award to zero. Additionally, these cases are treated as censored observations in the Tobit model. Standard errors are calculated allowing for heteroscedasticity and for the possibility that the outcomes in cases that have been grouped into the same proceeding may be correlated. We use the notation of *** to denote significance at the 0.01 level. Similarly, ** denotes significance at the 0.05 level and * denotes significance at the 0.10 level. All models include dummy variables for the year when the employee separated from the firm and the quarter when the employee separated from the firm. Industry dummies are included in the models for Tribunal 15. Each observation is given the weight of the inverse of its ex ante probability of being included in the sample. See text for details.

Table 8: Logit Models of Mode of Termination

	<i>Tribunal 15</i>							
	<i>Dropped Cases Included</i>						<i>Dropped Cases Excluded</i>	
	<i>Settlement</i>		<i>Dropped Case</i>		<i>Trial</i>		<i>Settlement</i>	
	<i>coef</i>	<i>s.e.</i>	<i>coef</i>	<i>s.e.</i>	<i>coef</i>	<i>s.e.</i>	<i>coef</i>	<i>s.e.</i>
In(worker's claim at filing)	-0.26***	0.08	0.01	0.09	0.42***	0.10	-0.47***	0.11
Multiple workers	-1.06***	0.27	0.65**	0.32	1.02***	0.32	-1.46***	0.36
Female	-0.52**	0.20	0.26	0.26	0.56**	0.27	-0.73***	0.27
At-will worker	0.22	0.22	0.04	0.25	-0.48	0.35	0.34	0.34
Tenure 15 years	-0.29	0.28	0.38	0.32	0.07	0.39	-0.22	0.40
Pseudo R^2	0.08		0.05		0.12		0.15	
Number of obs	1,076		1,076		1,076		882	

	<i>Tribunal 6</i>							
	<i>Dropped Cases Included</i>						<i>Dropped Cases Excluded</i>	
	<i>Settlement</i>		<i>Dropped Case</i>		<i>Trial</i>		<i>Settlement</i>	
	<i>coef</i>	<i>s.e.</i>	<i>coef</i>	<i>s.e.</i>	<i>coef</i>	<i>s.e.</i>	<i>coef</i>	<i>s.e.</i>
In(worker's claim at filing)	-0.11	0.12	-0.07	0.19	0.25*	0.14	-0.29**	0.14
Multiple workers	-0.73*	0.41	0.53	0.41	0.62	0.57	-0.81	0.56
Female	-0.10	0.30	0.27	0.39	-0.19	0.35	0.12	0.34
At-will worker	0.31	0.33	0.02	0.44	-0.63	0.46	0.62	0.48
Tenure 15 years	0.14	0.34	-0.10	0.41	-0.15	0.41	0.20	0.41
Pseudo R^2	0.05		0.04		0.06		0.08	
Number of obs	547		487		547		409	

NOTES: Standard errors are calculated allowing for heteroscedasticity and for the possibility that the outcomes in cases that have been grouped into the same proceeding may be correlated. We use the notation of *** to denote significance at the 0.01 level. Similarly, ** denotes significance at the 0.05 level and * denotes significance at the 0.10 level. All models include dummy variables for the year when the employee separated from the firm and the quarter when the employee separated from the firm. Industry dummies are included in the models for Tribunal 15. Each observation is given the weight of the inverse of its ex ante probability of being included in the sample. See text for details.

the same case file.⁴⁷ In Tribunal 15, regardless of whether we exclude dropped lawsuits from the analysis, cases are less likely to be settled when they involve multiple plaintiffs.⁴⁸ Once again, the results for Tribunal 6 look similar but with weaker statistical significance.⁴⁹ Multinomial logit results produce very similar results.⁵⁰

Thus far we have not exploited our imputed claims of what the worker would be entitled to given the easily verifiable facts of the case. In Table 9, we return to our models of award amounts by adding the log of our imputed claim, assuming the dismissal was not justified. We generally find that neither the claim of the worker nor the imputed claim is significant. In Tribunal 15, however, the imputed claim is positively and significantly associated with the amount received when dropped cases are excluded.

In Table 10, we estimate the same models as in Table 9, but without controlling for mode of termination. If an exaggerated claim affects the probability of the mode of termination, excluding mode of termination may be a better way of estimating the overall effect of an exaggerated claim. Now that we are not controlling for mode of termination, the coefficient on the log of the total claim is negative in all models and statistically significant when dropped cases are excluded.⁵¹ That is, we find some evidence that workers are actually punished for exaggerating their claims. The coefficient on the imputed claim is positive and significant in all models, suggesting that it is a good indicator of the strength of the worker's case.

⁴⁷The worker's claim normally increases over time since "lost wages" continue to accumulate. We do not allow for this claim to increase over time in the logit models of mode of termination to avoid endogeneity problems. We also include the same additional controls used in previous tables.

⁴⁸It may also be worthwhile to note that for Tribunal 15, women are less likely to settle and more likely to go to trial. Results for Tribunal 6 are statistically insignificant.

⁴⁹When all three modes of termination are considered, we find that cases involving multiple plaintiffs are less likely to be settled and more likely to go to trial, with both results significant at the 10 percent level. When dropped cases are excluded, we find that cases involving multiple plaintiff are less likely to settle, but the estimated coefficient is not statistically significant.

⁵⁰The multinomial logit specification requires the standard "independence of irrelevant alternatives" assumption, which we believe is difficult to defend in our context. Since the multinomial logit produces the same results as separate logit specifications on each case outcome, we prefer to report the latter results.

⁵¹In Tribunal 15, when dropped cases are included, the coefficient on total claim is negative and significant at the 10 percent level.

Table 9: Effects of Worker's Assertion, Our Calculation of the Worker's Real Claim, and Mode of Termination on Final Payment (Dependent Variable: Log of Final Payment)

	<i>Dropped Cases Included</i>							
	<i>Tribunal 15</i>				<i>Tribunal 6</i>			
	<i>Tobit</i>		<i>OLS</i>		<i>Tobit</i>		<i>OLS</i>	
	<i>coef</i>	<i>s.e.</i>	<i>coef</i>	<i>s.e.</i>	<i>coef</i>	<i>s.e.</i>	<i>coef</i>	<i>s.e.</i>
ln(worker's claim)	-0.10	0.40	-0.08	0.30	-0.42	0.58	-0.35	0.46
ln(imputed claim)	0.40	0.51	0.33	0.38	0.81	0.60	0.73	0.49
Trial	-4.97***	1.12	-3.27***	0.70	-2.83**	1.15	-2.06**	0.83
Female	-0.41	0.61	-0.35	0.45	-1.02	0.82	-0.77	0.62
At-will worker	0.50	0.58	0.43	0.44	0.51	0.77	0.38	0.61
Tenure 15 years	1.18	0.87	0.96	0.67	1.25*	0.76	1.09*	0.62
R^2			0.14				0.12	
Number of obs	1,076		1,076		547		547	
Censored obs	288				122			
	<i>Dropped Cases Excluded</i>							
	<i>Tribunal 15</i>				<i>Tribunal 6</i>			
	<i>Tobit</i>		<i>OLS</i>		<i>Tobit</i>		<i>OLS</i>	
	<i>coef</i>	<i>s.e.</i>	<i>coef</i>	<i>s.e.</i>	<i>coef</i>	<i>s.e.</i>	<i>coef</i>	<i>s.e.</i>
ln(worker's claim)	-0.20	0.22	-0.18	0.20	-0.18	0.21	-0.17	0.20
ln(imputed claim)	0.75**	0.32	0.69**	0.28	0.53	0.34	0.53	0.33
Trial	-5.98***	0.73	-5.27***	0.60	-4.23***	0.90	-3.83***	0.78
Female	0.36	0.28	0.32	0.25	-0.36	0.32	-0.32	0.30
At-will worker	0.59**	0.29	0.57**	0.27	0.32	0.33	0.30	0.31
Tenure 15 years	2.14***	0.41	2.01***	0.37	1.30***	0.50	1.24***	0.47
R^2			0.54				0.36	
Number of obs	882		882		457		457	
Censored obs	94				32			

NOTES: The dependent variable is the log of the amount awarded to the employee in December 1998 pesos. In cases in which the amount awarded was zero, we set the log of the award to zero. Additionally, these cases are treated as censored observations in the Tobit model. Standard errors are calculated allowing for heteroscedasticity and for the possibility that the outcomes in cases that have been grouped into the same proceeding may be correlated. We use the notation of *** to denote significance at the 0.01 level. Similarly, ** denotes significance at the 0.05 level and * denotes significance at the 0.10 level. All models include dummy variables for the year when the employee separated from the firm and the quarter when the employee separated from the firm. Industry dummies are included in the models for Tribunal 15. Each observation is given the weight of the inverse of its ex ante probability of being included in the sample. See text for details.

Table 10: Effects of Worker’s Assertion and Our Calculation of the Worker’s Real Claim on Final Payment (Dependent Variable: Log of Final Payment)

	<i>Dropped Cases Included</i>							
	<i>Tribunal 15</i>				<i>Tribunal 6</i>			
	<i>Tobit</i>		<i>OLS</i>		<i>Tobit</i>		<i>OLS</i>	
	<i>coef</i>	<i>s.e.</i>	<i>coef</i>	<i>s.e.</i>	<i>coef</i>	<i>s.e.</i>	<i>coef</i>	<i>s.e.</i>
ln(worker’s claim)	-0.89*	0.46	-0.65*	0.33	-0.78	0.55	-0.61	0.43
ln(imputed claim)	1.24**	0.60	0.95**	0.43	1.17**	0.57	1.00**	0.47
Female	-0.75	0.62	-0.57	0.44	-1.01	0.82	-0.77	0.62
At-will worker	0.53	0.60	0.45	0.45	0.71	0.76	0.53	0.60
Tenure 15 years	0.96	0.81	0.84	0.63	1.12	0.76	1.02	0.62
<i>R</i> ²			0.08				0.09	
Number of obs	1,076		1,076		547		547	
Censored obs	288				122			

	<i>Dropped Cases Excluded</i>							
	<i>Tribunal 15</i>				<i>Tribunal 6</i>			
	<i>Tobit</i>		<i>OLS</i>		<i>Tobit</i>		<i>OLS</i>	
	<i>coef</i>	<i>s.e.</i>	<i>coef</i>	<i>s.e.</i>	<i>coef</i>	<i>s.e.</i>	<i>coef</i>	<i>s.e.</i>
ln(worker’s claim)	-1.37***	0.35	-1.21***	0.29	-0.87***	0.33	-0.81***	0.30
ln(imputed claim)	2.00***	0.49	1.81***	0.41	1.21***	0.40	1.16***	0.38
Female	-0.14	0.35	-0.12	0.30	-0.36	0.38	-0.32	0.35
At-will worker	0.62	0.40	0.59*	0.36	0.72*	0.39	0.65*	0.36
Tenure 15 years	1.84***	0.38	1.75***	0.35	1.16**	0.50	1.13**	0.47
<i>R</i> ²			0.20				0.14	
Number of obs	882		882		457		457	
Censored obs	94				32			

NOTES: The dependent variable is the log of the amount awarded to the employee in December 1998 pesos. In cases in which the amount awarded was zero, we set the log of the award to zero. Additionally, these cases are treated as censored observations in the Tobit model. Standard errors are calculated allowing for heteroscedasticity and for the possibility that the outcomes in cases that have been grouped into the same proceeding may be correlated. We use the notation of *** to denote significance at the 0.01 level. Similarly, ** denotes significance at the 0.05 level and * denotes significance at the 0.10 level. All models include dummy variables for the year when the employee separated from the firm and the quarter when the employee separated from the firm. Industry dummies are included in the models for Tribunal 15. Each observation is given the weight of the inverse of its ex ante probability of being included in the sample. See text for details.

Table 11: The Effects of “Noncredible” Claims on Mode of Termination

<i>Tribunal 15</i>								
	<i>Dropped Cases Included</i>						<i>Dropped Cases Excluded</i>	
	<i>Settlement</i>		<i>Dropped Case</i>		<i>Trial</i>		<i>Settlement</i>	
	<i>coef</i>	<i>s.e.</i>	<i>coef</i>	<i>s.e.</i>	<i>coef</i>	<i>s.e.</i>	<i>coef</i>	<i>s.e.</i>
In(worker’s claim/ imputed claim)	-0.61***	0.15	-0.32*	0.19	1.37***	0.20	-1.36***	0.21
Multiple workers	-0.99***	0.27	0.68**	0.32	0.95***	0.31	-1.28***	0.35
Female	-0.50**	0.21	0.27	0.26	0.59**	0.28	-0.70**	0.29
At-will worker	0.03	0.22	0.12	0.26	-0.26	0.34	0.08	0.33
Tenure 15 years	-0.47*	0.28	0.40	0.33	0.19	0.45	-0.45	0.45
Pseudo R^2	0.09		0.06		0.18		0.20	
Number of obs	1,076		1,076		1,076		882	

<i>Tribunal 6</i>								
	<i>Dropped Cases Included</i>						<i>Dropped Cases Excluded</i>	
	<i>Settlement</i>		<i>Dropped Case</i>		<i>Trial</i>		<i>Settlement</i>	
	<i>coef</i>	<i>s.e.</i>	<i>coef</i>	<i>s.e.</i>	<i>coef</i>	<i>s.e.</i>	<i>coef</i>	<i>s.e.</i>
In(worker’s claim/ imputed claim)	-0.64***	0.19	-0.01	0.33	1.08***	0.28	-1.31***	0.28
Multiple workers	-0.78*	0.40	0.53	0.42	0.71	0.60	-0.98*	0.57
Female	-0.12	0.31	0.28	0.39	-0.19	0.37	0.13	0.36
At-will worker	0.40	0.33	-0.05	0.41	-0.72	0.50	0.80	0.54
Tenure 15 years	0.00	0.33	-0.14	0.40	0.05	0.42	-0.04	0.44
Pseudo R^2	0.07		0.04		0.11		0.15	
Number of obs	547		487		547		409	

NOTES: Standard errors are calculated allowing for heteroscedasticity and for the possibility that the outcomes in cases that have been grouped into the same proceeding may be correlated. We use the notation of *** to denote significance at the 0.01 level. Similarly, ** denotes significance at the 0.05 level and * denotes significance at the 0.10 level. All models include dummy variables for the year when the employee separated from the firm and the quarter when the employee separated from the firm. Industry dummies are included in the models for Tribunal 15. Each observation is given the weight of the inverse of its ex ante probability of being included in the sample. See text for details.

To further address the point on how an exaggerated claim might affect the mode of termination, we return to logit analyses of the mode of termination in Table 11. We include an additional control variable of the log of the ratio between the worker’s claim and our imputed claim, assuming an

unjustified dismissal. In both tribunals, regardless of whether we include dropped lawsuits in the analysis, we find that cases involving “excessive” worker claims tend not to be settled.⁵²

Overall, Tables 9–11 present an interesting story. Some workers exaggerate their claims more than others. Additionally, workers who exaggerate their claims settle less often, presumably because they are either aggressive by nature or because they incorrectly estimate the strengths of their cases. In any event, the courts are not fooled by these exaggerated claims. In fact, the courts may punish workers for exaggerating their claims.

VI. CONCLUSIONS

Motivated by the previous theoretical and empirical literatures on the resolution of legal disputes, we use data from labor tribunals in Mexico to address three empirical issues. First, we compare final payments in cases that are settled to those in cases that go to trial, a comparison that is relatively rare in this literature since settlement amounts are infrequently observed. Second, we address differences between “high-stakes” players and others by examining differences between firms involved in cases involving multiple workers compared to firms in cases involving a single worker. Finally, we examine whether tried cases tend to be of higher or lower “quality” by examining workers who are apparently exaggerating their claims.

Perhaps our strongest result is that final payments to workers are significantly lower in cases that go to trial compared with cases that settle. We also find that firms involved in cases with multiple workers (firms with higher stakes) tend to settle less and make lower final payments to their workers. Finally, we find that workers who exaggerate their claims settle less often and may be punished for such exaggeration in the final award amounts.

We conclude by placing our results in the broader literature. Several theoretical models imply that final payments may be different in settled cases compared with tried cases due to a selection effect of going to trial. We do find substantial differences in final payments between cases that are settled and cases that go to trial. In fact, we find direct evidence of a case-selection effect by showing that workers who exaggerate their claims (and therefore have weaker cases) tend to settle less often.

⁵²Adding the worker’s claim to these models yields insignificant coefficients and does not change the main results.

Our results on firms involved in cases against multiple workers are also relevant for models involving repeat players or “high-stakes” players. These models predict that high-stakes litigants will be concerned about how their current actions affect their reputations. These firms would therefore be more aggressive in negotiations and would exert more effort at trial. Our results that firms involved in cases with multiple plaintiffs settle less often and end up making lower final payments are consistent with these theoretical predictions.

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