OVERVIEW
THE LEGAL ACADEMY

JD Education Ingrains Process Orientation

Case Method Predominates with Emphasis on Doctrine

Quantitative Methods and Orientation in Classroom is Remedial

Influx of Ph.D.s into Academy is Dispersed Across Curriculum

Currency in Realm = Not High Theory Alone, so…
  Tech Up
  Partner
  Be a Ph. D.
CLASSIC HIGH-THEORY APPROACH


EVALUATING EFFICACY OF ENFORCEMENT SYSTEMS
PRIVATE-1


Baker, Perino & Silver, Is the Price Right?, 115 Colum. L. Rev. 1371 (2015) (competition to be the lead plaintiff in 71 percent of the cases, but in only 11 percent of those instances was the existence of an ex ante fee agreement discussed by the court in making the appointment; fees are lower (as a percentage of the settlement) when there was an ex ante fee agreement between the lead plaintiff and class counsel, and public pension funds are more likely to negotiate ex ante fee agreements).


Prior to PSLRA of 1995 did we have a system of Type I or Type II Errors?

After the PSLRA, do we have a system of Type I or Type II Errors?
Choi & Pritchard, SEC Investigations and Securities Class Actions: An Empirical Comparison, 13 J. Legal Studies 27 (2016) (class action attorneys target disclosure violations more precisely than the SEC and they produce more resignations of senior officers likely connected to the violation than do SEC initiated suits that are not accompanied by any private actions).


Velinkonja, Reporting Agency Performance: Behind the SEC’s Enforcement Statistics, 101 Cornell L. Rev. 901 (2016) (setting forth a variety of misstatements in the SEC’s annual enforcement statistics)
Grundfest, Why Disimply?, 108 Harv. L. Rev. 727 (1995) (private litigation currently negatively impacts capital formation and SEC can better reform contours of private suit through its rulemaking than can Congress or courts).


Rose, Reforming Securities Litigation: Restructuring the Relationship Between Public and Private Enforcement of Rule 10b-5, 108 Colum. L. Rev. 1301 (2008) (suggesting an intermediate approach of interjecting the SEC into an oversight role for private suits so that the agency’s approval would be a precondition to the suit proceeding).

Park, Rules, Principles, and the Competition to Enforce the Securities Laws, 100 Cal. L. Rev. 115 (2012) (defending the status quo, reasoning there are benefits of melding SEC enforcement with politically and socially inspired enforcement by state attorney generals and entrepreneurial class action lawyers).
SLIPPAGE WITHIN THE SEC REGULATORY NET


Cohen, Jackson & Mitts, The 8-K Trading Gap, Columbia working paper (2015) (reflecting gains harvested by insiders during the 4-day grace period between significant event and its required disclosure on Form 8-K).


Bliss, Partnoy & Furchtgott, Information Bundling and Securities Litigation, working paper (2016) (reporting on the frequency and impact on litigation settlements of artful releases of additional information when disclosing an earnings restatement).
SURVEY ARTICLES
