

ERRATUM FOR “GRIEVANCES, CLAIMS, AND DISPUTES: ASSESSING THE ADVERSARY CULTURE”

RICHARD E. MILLER

In preparing the article “Grievances, Claims, and Disputes: Assessing the Adversary Culture,” which appeared in *Law & Society Review* (1981), Austin Sarat and I divided the outcome of individuals’ claims for the redress of middle-range grievances into three categories: no recovery of the claim, partial recovery, or full recovery. In the course of a recent further analysis of the data, I discovered that for the 467 tort claims the coding of the latter two categories—full versus partial recovery—had been reversed by a programming error during data preparation. When the outcomes data were correctly classified, our description and explanation of success rates among tort claims and among all claims taken together were altered.

Table 1 compares the corrected outcomes to those originally reported. Tort claims are now seen to be the most successful by far when compared to other types of problems. Fully 85 percent result in claimants obtaining everything they sought. Considering that tort claims also were very unlikely to become disputes, this finding reinforces the conclusion that tort claims enter a highly institutionalized and routinized remedy

Table 1. The Success of Tort Claims and All Claims

Outcome	Tort Claims		All Claims	
	Original ^a	Corrected	Original ^a	Corrected
1. No Agreement	2.6%	2.6%	32.0%	32.0%
Compromise	85.4	11.9	34.2	13.3
Obtained Whole Claim	11.9	85.4	33.8	54.8
2. Success Scale Mean ^b	1.09	1.82	1.02	1.23
(Number of Cases)	(479)		(1782)	

^a Reported in Table 2, page 537.

^b The success of claims was coded zero if no agreement was reached, one if the agreement was a compromise, and two if the entire claim was recovered.

system (1981: 563) that stands in striking contrast to the patterns observed for other types of claims. The fact that tort claims, when correctly classified, have a low rather than a high compromise rate means that our suggestion that tort claims were commonly inflated for negotiating purposes must be abandoned.

Another inference must also be reversed. The original text reported that “claimants who reached an agreement after some difficulty—and so had disputes—were more successful than claimants reporting no difficulty. . . . Conflicts, disputes, and difficulties are often engendered by the desire for, and are necessary in order to obtain, complete satisfaction” (1981: 544). Tort claims were a large proportion of the non-disputes and, with tort outcomes correctly categorized, I now find that disputants who got a settlement were *less* likely than non-disputants to recover all, rather than part, of their claim. While seven of ten claimants in the former group eventually got all they asked for, almost nine of ten (87.9 percent) in the latter group fully recovered their claims. Considering that about a third of the claimants got nothing, it is clear now that disputes are engendered more by the resistance of opposing parties than by an unwillingness on the part of claimants to accept compromise solutions.

Table 2 presents regression analyses of the success of claims as originally reported (in Tables 8 and 9) and with the torts’ outcomes correctly coded. Considering first the new results for success over all claims, I found that, as in the reported models, claimant capabilities account for very little variation: all background and general and specific resource variables “explained” 2.5 percent of the variation in successes. However, grievance characteristics—dominated by the type of problem—are now useful explanatory variables; about a fifth of the success scale’s variance is accounted for by the full model. The tort claims are now seen to be significantly more successful than all other types, and larger claims of whatever kind are significantly less successful than smaller ones.

The original results indicated that lawyers were a significant advantage: claimants who used them were more successful; claimants opposed by them were less successful. I now find that, over all claims, people were neither significantly advantaged if they used a lawyer nor disadvantaged if their opponent did so. Of course, we were unable to measure and

Table 2. Regression Coefficients for Success Scale: All Claims and Tort Claims

	All Claims ^a		Tort Claims ^b	
	Original	Corrected	Original	Corrected
<i>Independent Variables</i>				
Constant	1.22	1.92	.89	1.85
<i>A. Background and General Resources</i>				
Family Income (1-8)	.04**	.04**	.03**	.01
Head of Household:				
Education (1-4)	-.01**	.00	.00	.01
Age (Years)	-.004**	-.002	-.004**	.002
Female	.00	-.01	-.09**	.05
Ethnicity: (White)				
Black	-.17**	-.14*	-.08	.11
Hispanic	.04	.00	.05	-.05
<i>B. Specific Resources</i>				
Has Used Lawyer	-.09**	-.07	-.06**	-.01
Knows Legal Worker	.02	.01	-.02	.02
Previous Problem of This Type	-.05	-.01	.00	.05
Previous Serious Disagreement	.03	.02	.04	-.08
Used Lawyer for This Problem:				
Household	.13**	.03	.14**	-.18**
Opposing Party	-.09*	-.12	-.10**	-.12
<i>C. Grievance Characteristics</i>				
Organizational Opposing Party	-.04	-.03		
Nonmonetary Claim	-.24**	-.20**		
Monetary Claim Scale (1-6)	-.02	-.05*	.08**	-.06**
Claim by Opposing Party Also	.00	-.01		
Type of Problem: (Tort)				
Consumer	-.03	-.69**		
Debt	.17**	-.56**		
Discrimination	-.20**	-1.03**		
Property	.31**	-.41**		
Government	-.06	-.41**		
Post-Divorce	-.16	-.73**		
Landlord	-.30**	-1.07**		
Other	-.26**	-1.04**		
R ²	.063	.217	.103	.107

^a Original coefficients were in Table 8 (1981: 558). The success of claims was coded zero if no agreement was reached, one if the agreement was a compromise, and two if the entire claim was recovered. The OLS coefficients are unstandardized; significance levels are .05(*) and .01(**). The 1757 observations are weighted by district populations. The effects of categorical variables are relative to the mean of the deleted category (labeled in parentheses).

^b This table revises the findings reported for torts in Table 9 (1981: 559). The OLS coefficients are unstandardized; significance levels are .05(*) and .01(**). The 467 observations were weighted by district populations. Some variables appearing in other models were deleted from the tort model because they had little or no variation among the tort cases: organizational opposing party, nonmonetary claim, and claim by opposing party.

control for such factors as the strength of claims and the resistance of the other parties. It seems reasonable to suppose that lawyers handle more difficult cases, so it is noteworthy that, when these cases are included with non-disputes, their outcomes are no worse on average.

When torts alone are considered, the revised findings indicate that claimants with lawyers do rather worse than those without, although the difference is only 0.18 on a zero-to-

two scale. Lawyers were used relatively frequently in tort disputes, but three of four tort claims were settled without disputing, and in 95 percent of those cases the claim was satisfied in full. Tort lawyers would have to be very effective indeed to equal those results with the more difficult cases brought to them. Of course, it may be that once lawyers are involved claims increase in size, so it is possible that partially satisfied claimants who go to lawyers recover more than they would have received had their demands before seeing a lawyer been fully met (Ross, 1970).

The original report that, over all claims, lower income and black claimants are less successful is unchanged by the corrected analysis, although these effects are now not found among the tort claims. Differences related to the age of claimants and to whether a lawyer had been used previously are also no longer statistically significant. Overall, we now see that our model is rather more successful than we originally indicated, but we would still wish for more information about the other party, about the relative power and the relationships between parties, and about the merit of the claim.

REFERENCES

- MILLER, Richard E. and Austin SARAT (1981) "Grievances, Claims, and Disputes: Assessing the Adversary Culture," 15 *Law & Society Review* 525.
ROSS, H. Laurence (1970) *Settled Out of Court: The Social Process of Insurance Claims Adjustments*. Chicago: Aldine Publishing Company.