

NONPROFIT ORGANIZATIONS AS PLAINTIFFS' ATTORNEYS:

SHAREHOLDER LITIGATION IN TAIWAN

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ABSTRACT

This study introduces alternative models of enhancing shareholder litigation. In addition to the attorney-driven model in the U.S., we observe a trend towards utilizing nonprofit organizations as plaintiffs' attorneys in East Asian countries. This study presents Taiwan as an example, where the government cooperates with nonprofits in promoting shareholder litigation, and examines the effects of nonprofits as plaintiffs' attorneys as well as government intervention.

This research reveals that the emergence of government-nonprofit partnership model in Taiwan is a response to market failures in the legal services market and the nonprofit sector, based on the economic theories of nonprofit organizations. Due to the constraints inherent in both the general enforcement environment and the special institutional design under the government-nonprofit partnership model, the shareholder litigation process in Taiwan is ineffective thus far.

Nevertheless, this study suggests that the nonprofit model is promising in the pursuit of shareholder litigation, because it not only serves a financing function for investors, but it also can effectively curb frivolous lawsuits that plague the attorney-driven model in the U.S. However, an experienced judiciary and sound procedural mechanisms for the promotion of individual investor claims are still essential for an effective national investor protection system.

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