

# Familiarity Breeds Contempt or Deference? Homage to Christoph Engel\*

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*Christoph Engel is a pioneer in assessing the impact of familiarities among judges on case outcomes. In particular, Engel finds that judges on the German Constitutional Court working together for more cases are more likely to declare statutes unconstitutional. Inspired by this work, we examine the behavioral pattern in a different context: whether judges in Taiwan's ordinary courts are more likely to reverse lower court decisions when they have sat in the same panel for more cases. Based on the random assignment of cases in the Taiwanese court and a rigid panel-formation rule, we estimate that a 1% increase in mean, median, minimum, or maximum co-working experience (about 1 to 3 cases sitting together) is associated with an increase in the probability of reversal by 0.02 to 0.05 percentage points. Personal-knowledge familiarity shapes judicial behavior.*

## A. Introduction

The common adage “familiarity breeds contempt” is often accepted as truth. However, in the context of the judiciary, does this maxim truly apply? Recent research in judicial behavior suggests otherwise, indicating that familiarity among judges can lead to deference, sometimes veering into favoritism (Lin and Chang 2025), and can also foster cooperation (Swalve 2022). This study, utilizing an extensive dataset spanning 16 years from a civil-law system with career judges, explores the complexities of judicial familiarity. Our goal is to unravel the paradox of familiarity, highlighting both its benefits, such as the acquisition of tacit knowledge, and its pitfalls, including the potential for slacking and cognitive biases. In

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\* An earlier version of this chapter is part of another longer paper with a similar title. All of our gratitude expressed there applies here. This chapter has also been delivered as part of Chang's keynote speech at the 2025 Asian Law & Economics Association Annual Meeting. We thank Ben Chen, Lauren Lin, John Liu, and Alan Miller for helpful comments.

doing so, we aim to provide a better understanding of familiarity's multi-faceted role within the judiciary.

Currently, the study of judicial behavior is informed by six primary, and at times intersecting, approaches: the attitudinal model, legalism, the “thinking fast” judging, identity accounts, the labor market model, and strategic accounts (Epstein and Knight 2024). This research specifically contributes to the discourse on familiarity within the ambit of the labor market model. A pioneer in the study of familiarity in court is none other than the man of the hour, Christoph Engel (2022).

Familiarity, while closely linked to a more well-known concept “collegiality,” can, in specific contexts such as ours, present a tension with it. Collegiality entails efforts to foster positive relationships among coworkers, notably among judges within the same court. The rich body of literature on collegiality (e.g., Cross and Tiller 1998; Epstein and Knight 2017: 327) demonstrates its significant effects, such as changing votes (Anwar, Bayer, and Hjalmarsson 2019) and reducing rates of dissent (e.g., Epstein, Landes, and Posner 2011). Unlike collegiality, which is fostered through deliberate or inadvertent efforts to enhance the work environment, familiarity refers to a scenario where key agents have a deep acquaintance with each other. Swalve (2022: 223) argues that familiarity is antecedent to collegiality, but Epstein and Knight (2024) highlight that judges often cannot choose their panel members or office locations – key factors for developing familiarity. Yet, they retain the autonomy to foster or withdraw from collegial efforts (see also Nash 2022: 1576–1582). Collegiality and familiarity, therefore, are distinct in specific scenarios.

Familiarity, as discussed in prior studies on judicial behavior, embodies two distinct interpretations leading to divergent normative consequences. These interpretations have been, at times, ambiguously amalgamated under the single concept of familiarity. The notion we designate as “social-identity familiarity” stems from social identification (Budziak 2016; Wu, Lin, and Chang 2026). On the other hand, “personal-knowledge familiarity” emerges from agents' implicit understanding of their collaborators (Littlepage, Robison, and Reddington 1997; Sanbonmatsu et al. 2012) and business matters (Ang, de Jong, and van der Poel 2014; Wang and Yin 2018), often nurtured through trust, diminished conflict, and enhanced communication during collaboration (Jones and George 1998; Swalve 2022: 225–226). Personal-knowledge familiarity arises from individuals' ongoing Bayesian updates of their perceptions of co-workers, leading to superior outcomes. These two facets

of familiarity can coexist. Our sister work (Wu, Lin, and Chang 2026) highlights the role of social-identity familiarity. This chapter instead explores whether personal-knowledge familiarity shapes judicial behavior.

This study analyzes over 80,000 substantive appellate civil decisions from second-instance courts in Taiwan to explore the impact of personal-knowledge familiarity on judicial outcomes. The random assignment of cases in Taiwan's court system provides a unique opportunity for causal inference. Our findings reveal that personal-knowledge familiarity significantly impact judicial decisions in the Taiwanese appellate courts, as panels comprising judges from different administrative sections reversed decisions less frequently than those from the same administrative section. Despite being part of the same court, judges from different administrative sections rarely work together, implying that their hesitancy to overturn lower court rulings stems from unfamiliarity rather than collegiality, highlighting the influence of personal-knowledge familiarity.

The rest of this chapter is structured as follows: Part II frames our hypothesis within existing literature. Part III details our regression model specifications. Part IV outlines the four datasets employed. Part V interprets our results. Part VI offers concluding remarks.

## B. Research Question and Literature Review

Our research question delves into the dynamics of judicial collaboration within panels, specifically examining whether judges who collaborate less frequently are less likely to reverse decisions compared to those who have a history of frequent collaboration and are, therefore, more familiar with one another. Insights from studies on other judicial systems, such as the German Constitutional Court, suggest that familiarity among judges can significantly impact their decision-making processes. For instance, Swalve (2022: 240) observes that justices who have served together longer on the German Constitutional Court tend to produce more detailed (and presumably higher quality) opinions, likely because these justices feel more comfortable sharing candid feedback and are less inclined to engage in conflicts. Similarly, Engel (2022) finds that the longer justices have served together on the same panel, the more likely they are to make bold decisions, such as declaring a law unconstitutional, indicating that familiarity fosters a conducive environment for making challenging rulings.

Translating these insights to the Taiwanese judicial context, where the culture among judges similarly disfavors reversals due to the stigma of being reversed,<sup>1</sup> we hypothesize that a reversal – analogous to a declaration of unconstitutionality on a smaller scale – is more probable among judges who are more familiar with each other. Through more regular interaction, judges familiar with one another have developed a level of trust that might embolden them to candidly express their concerns about defects in the lower court decisions. Personal-knowledge familiarity helps overcome the inertia of maintaining the lower court decisions – as writing an opinion that dismisses appeals is easier than writing an opinion that identifying errors in judicial decisions. Personal-knowledge familiarity thus pushes judges to undertake the more contentious act of reversing a decision – as judges are in the same career network with other judges, and no judges like being reversed. Hence, we expect to find the following:

*Hypothesis: The reversal rate among cases handled by panels with higher co-working experience is higher than those with lower co-working experience.*

### C. Empirical Strategy

This part elaborates our empirical method. Random assignment of judicial cases in Taiwan constitutes the core of our empirical strategy. We do not repeat the detail here due to word limitation – Lin and Chang (2025) has demonstrated that the data set we used contain randomly assigned cases. Below we lay out the specifications of our linear probability models. Only necessary institutional background regarding the Taiwanese legal system is contained here. For more explanation, see Wu, Lin, and Chang (2026).

We ran a linear probability model with robust standard errors clustered by assigned judges. Our regression models take the following form:

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<sup>1</sup> See the discussion of reversal aversion in the American context in Epstein, Landes, and Posner (2013: 49) and Posner (2008: 70–71).

$$\begin{aligned}
 D_{ihdt} = & \delta CoWork_{ihdt} + \sum_{j=\{A,P,S\}} (\beta_{1j} TP_{ihdt}^j + \beta_{2j} Home_{ihdt}^j) \\
 & + \beta_{3j} TP_{ihdt}^j \times Home_{ihdt}^j + \mu_h^j \\
 & + X_{ihdt} \gamma + \mu_d + \eta_t + \varepsilon_{ihdt}
 \end{aligned} \tag{1}$$

where the dependent variable  $D_{ihdt}$  is whether the case  $i$  appealed from District Court  $d$  at time  $t$  was reversed by a High Court (with judge  $h$  as the assigned, presiding, or side judges), with a complete or partial reversal coded as 1 and a dismissal of appeals coded as 0.<sup>2</sup>

Our treatment variable is a continuous measure of the co-working experience among the three panel judges. More specifically, we calculated the mean, median, maximum, and minimum number of cases in which each of the three pairs of judges had sat together. If a case in our dataset is the first time a pair has sat together, their co-working experience is coded as 1, and so forth. Each of the four measures is used separately in a regression model. We examine the effects of all four measures, rather than committing to a single one, because it is unclear which best reflects judicial familiarity. Perhaps the minimum co-working experience matters most because if even one pair of judges is unfamiliar with each other, they may prefer to withhold their true opinions. Perhaps the maximum co-working experience matters most because if one pair of judges has reached a high threshold of familiarity, they may be able to dominate panel dynamics. Perhaps the mean co-working experience is the most appropriate because it incorporates all three pairs of co-working experiences. Or perhaps the median co-working experience is preferable because it is less sensitive to outliers.

Our research design aims to causally identify the effect of judicial co-working experience on reversal rates. We rely on the random assignment of cases to judges and the pre-determined panel-formation rule for causal identification. Whether the three judges in a panel are familiar with one another should be independent of the probability of reversal. When one of the three judges determined by the case-assignment algorithm and pre-determined rule leaves the panel – due to recusal, illness, vacation, maternity leave, or similar circumstances – the judge is replaced by another

2 The Civil Division in High Courts review cases *de novo*; that is, High Courts can reverse lower court decisions on the basis of either questions of law or questions of fact.

judge, again pursuant to a pre-determined order. These substitutions are highly unlikely to be driven by a judge's predisposition toward reversal. Indeed, if a judge wished to influence the outcome, the most effective strategy would be to remain on the panel, rather than introducing a replacement. Our understanding is that there is also a strong norm against altering panel composition. Granted, we cannot rule out the possibility of strategic maneuvering entirely, but we note that such concerns equally affect all real-world random assignment of judicial cases. Moreover, even if a judge deliberately withdrew to bring in an unfamiliar replacement (for example, to maintain the lower court's decision), such a maneuver would not affect all four co-working measures simultaneously. For instance, by definition, a change in the minimum co-working experience would not alter the maximum co-working experience, and vice versa. We are therefore confident in the validity of our causal identification. Based on our hypothesis that greater familiarity among judges increases the likelihood of reversal, we expect all four measures to have positive and statistically significant coefficients.

We include several variables from our sister work (Wu, Lin, and Chang 2026). On the one hand, we explore whether co-working experience still matters after other factors related to judicial behavior are taken into account. On the other hand, we check whether taking into account the effect of familiarity among panel judges undercuts the transitorily promoted ("TP") judge effect and home court effect discussed in our sister work (Wu, Lin, and Chang 2026). More specifically, these variables include  $TP_{ihdt}^j$ ,  $j = \{A, P, S\}$ , which are dummy variables, representing whether assigned judges ( $A$ ), presiding judges ( $P$ ), and side judges ( $S$ ), respectively, are TP judges. That is, for instance,  $TP_{ihdt}^A$  is a dummy variable that equals 1 if the assigned judge in the case was at the time a transitorily promoted judge, and it equals 0 if the assigned judge was a permanent judge at High Court at the time of the case. In addition,  $Home_{ihdt}^j$ ,  $j = \{A, P, S\}$  are also all dummy variables representing whether the appealed decision comes from the (former) home court of assigned judges ( $A$ ), presiding judges ( $P$ ), and side judges ( $S$ ), respectively. That is, for instance,  $Home_{ihdt}^A$  equals 1 if the assigned judge served in district court  $d$  before being promoted to an appellate court, and the appealed case in question was rendered by district court  $d$ . Another set of variables,  $TP_{ihdt}^j \times Home_{ihdt}^j$ , is interaction terms of the previous two sets.  $X_{ihdt}$  represents other control variables and  $\mu_h^j$ ,  $\mu_d$ , and  $\eta_t$  represent judge, district court, and year fixed effects, respectively.

See Wu, Lin, and Chang (2026) for a more detailed explanation of our control variables.

#### D. Data

This article, like our sister work (Wu, Lin, and Chang 2026), uses all the substantive,<sup>3</sup> appellate<sup>4</sup> decisions rendered by the civil sections in the five High Courts in Taiwan between July 1, 2003, and June 30, 2019. Our data start in 2003 because the TP program started in 2003 and the administrative data in and after 2003 are more reliable. Our data end at mid-2019 because we only have full texts of all decisions before June 30, 2019. In total, our data set includes 84,335 court decisions, and here we use a subset of them (74,237 court decisions), which contains complete information.

The information required by our research design comes from multiple official sources. First, in 2019, the Judicial Yuan, the administrative organ of the judicial system in Taiwan, provided the full texts of all decisions rendered by the civil sections before June 30, 2019. Anyone may manually check and download cases from the official website of the Judicial Yuan.<sup>5</sup>

Second, the Judicial Yuan coded a plethora of variables regarding each dispute filed in courts. Its administrative data set can be freely downloaded from its website.<sup>6</sup> We take advantage of this data set to compute the number of times a pair of judges have sit in the same panel, and use this statistics in Table 1 and Figure 1. Included in the tallying of this co-working experience are appellate decisions (including procedural dismissals and substantive judgments but excluding settlements and plaintiff withdrawals) rendered by the civil sections in the High Courts in Taiwan between July 1, 2003, and the date each of the cases in our dataset was decided.

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3 Appeals that were procedurally dismissed or transferred for jurisdictional reasons are excluded. We also excluded cases that were remanded by the Supreme Court, as the appellate court does not have the full discretion regarding whether to reverse the district court decisions.

4 In a small set of cases, the High Courts are legally required to be the court of first instance. These cases are excluded.

5 See <https://judgment.judicial.gov.tw/FJUD/default.aspx>.

6 <https://opendata.judicial.gov.tw/>.

Table 1 LPM Regression Results for Continuous Treatment Variables  
 Dependent variable: Reverse District Court Decision =1; Dismiss Appeal =0.

	(1)	(2)	(3)	(4)
	Mean	Median	Max	Min
Mean number of cases sitting in panels (ln)	<b>0.050***</b> (0.004)			
Median number of cases sitting in panels (ln)		<b>0.023***</b> (0.002)		
Max number of cases sitting in panels (ln)			<b>0.049***</b> (0.004)	
Min number of cases sitting in panels (ln)				<b>0.020***</b> (0.002)
Other Treatment Variables	Yes	Yes	Yes	Yes
Fixed Effects and Other Controls	Yes	Yes	Yes	Yes
Observations	74237	74237	74237	74237
Reversal Rate	38.3	38.3	38.3	38.3
R <sup>2</sup>	0.053	0.052	0.053	0.051
Adjusted R <sup>2</sup>	0.040	0.039	0.040	0.039

Notes: Robust standard errors, clustered by assigned judges, are in parentheses. This table reports results from linear probability models (LPMs). Other treatment variables include the nine variables on TP status and home court used in our sister paper. Fixed effects for Case Types, Case Years, District Courts, Assigned Judges, Presiding Judges, and Side Judges are included. The reported reversal rate is the mean reversal rate for all the observations used in the regression. +  $p < 0.10$ , \*  $p < 0.05$ , \*\*  $p < 0.01$ , \*\*\*  $p < 0.001$ .

Third, to identify all the appellate judges and the district courts they have served in before moving to the appellate court, we cross-checked the court decision data with another source of information: the meeting minutes of the Personnel Review Committee at the Judicial Yuan,<sup>7</sup> which informed us of which judges were transferred or promoted to which courts at what time.

7 The meeting minutes are available on-line at <https://www.judicial.gov.tw/tw/lp-1915-1.html> and <https://jirs.judicial.gov.tw/GNNWS/Personnel.asp?page=10>. These links may only be available when viewers have a Taiwan IP address. Minutes for meetings held before 2002 are available in print only.

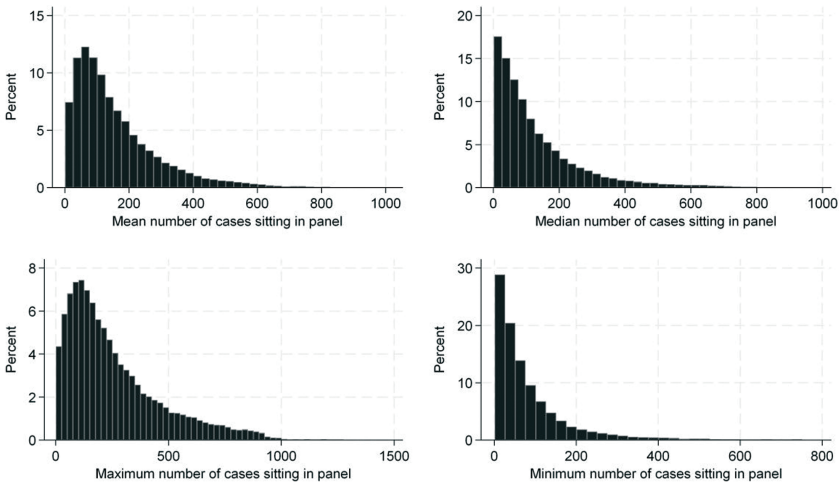


Figure 1 Frequency of Collaborations among Judges (Continuous Variable)  
*Notes:*  $N=84,335$  in each sub-plot. The unit of observations is the mean, median, maximum, or minimum number of cases of the three pair of judges sitting in a High Court panel. The number equals 1 if Judge A and Judge B sit in a panel for the first time.

Fourth, most High Courts are composed of multiple civil sections and generally section members form a three-judge panel to handle appealed cases. Each year, each High Court announced on its website the section affiliation of all judges, with whom each judge will form a panel, and the order of judges who will fill in for an absent judge in a panel. Such information from previous years has been removed from the websites of High Courts. We asked each High Court for such information and acquired it for most studied years.

There are three levels of courts in Taiwan that handle civil cases: 22 District Courts, 6 High Courts, and the Supreme Court. In this chapter, we refer to the former two as the district courts and the appellate courts or District Courts and High Courts. 20 District Courts and 5 High Courts are included in this study. Only the two small district courts not on the Island of Taiwan and their High Court are excluded because that High Court has only three judges, so it is not ideal for our research design.

We ran four linear probability models with almost the same specification. The main differences across the models are the continuous mea-

surement of judicial co-working experience. The observations used in the regression include the 69,422 “clean” observations used in Column (1) of each reported regression tables in our sister article, plus 4,815 cases not included there. These 4,815 cases were excluded there because they were handled by “mixed panels” which consist of judges from different administrative sections. By contrast, the 69,422 cases used there were handled by “pure panels” which consist of judges from the same administrative sections. As shown in Figure 2, assigned and side judges in mixed panels tend to be less familiar with each other than those in pure panels. Mixed panels are an important, but not exclusive, source of the unfamiliarity.

### E. Findings and Discussion

This Part discusses the effect of judicial co-working experience. As Table 1 and Figure 3 show, no matter how co-working experience among the three judges in a panel is measured (the mean, median, maximum, or minimum number of cases sitting together), the variables are statistically significant at the 0.1 % level and are positive. As the coefficients are between 0.02 and

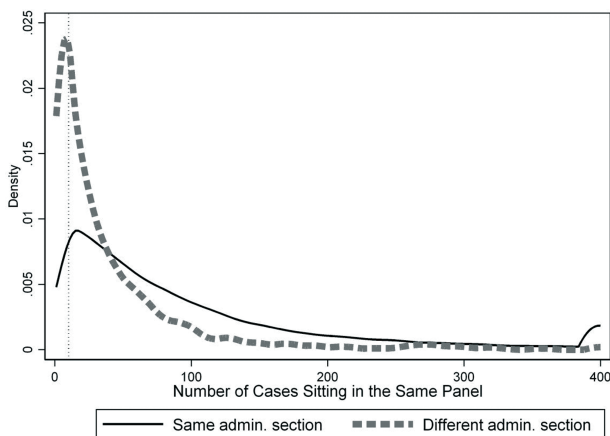


Figure 2 Frequency of Collaborations among Judges (Pure versus Mixed Panels)  
*Notes:* This kernel density plot shows the distribution of the number of cases the assigned judge in a case has sat with the first side judge in that case. There are 81,182 unique pairs of the judge combinations. 75,848 pairs of judges work in the same administrative sections at the time of the panel deliberations, whereas 5,334 pairs of judges work in different administrative sections. The vertical dotted line marks 10 cases.

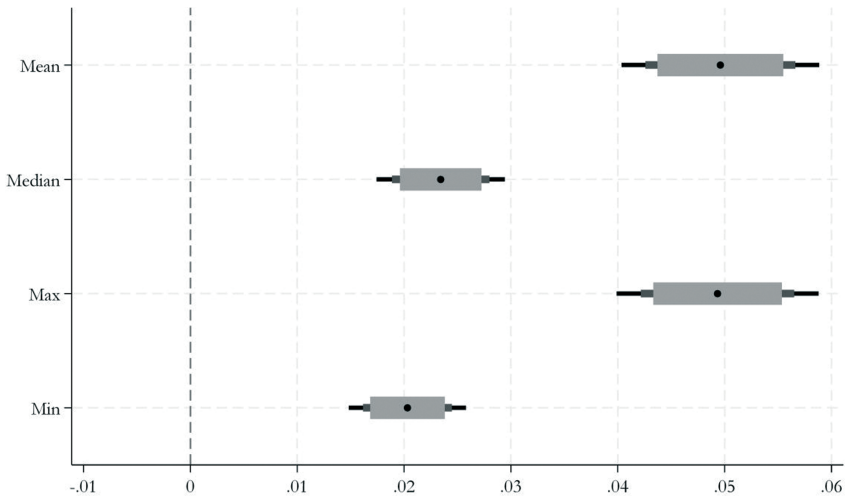


Figure 3 Coefficient Plots for Number of Cases Sitting Together in Panels  
 Notes: The thickest, shortest lines represent the 90% confidence interval; the thinner, longer lines represent the 95% confidence interval; the thinnest, longest lines represent the 99% confidence interval. Horizontal coefficient confidence intervals that cross the vertical, dashed line at 0 mean that the coefficient is not statistically significant at that level.

0.05, this means that a 1% increase in co-working experience (about 1 to 3 cases sitting together) is associated with an increase in the probability of reversal by 0.02 to 0.05 percentage points.

Familiarity does appear to shape judicial behavior. Judicial panels in which judges have worked together less often reverse less frequently, consistent with the theory of *personal-knowledge familiarity* – judges working together often know better one another’s working habit, presumably trusting one another more, and thus would be able to overcome the status quo bias by reversing lower court decisions. Our earlier work (Lin and Chang 2025) shows that the reversal rate of appealed decisions penned by a trial judge who has served with the reviewing appellate judges in the High Courts is lower than that authored by a trial judge who has not served with the reviewing appellate judges in the High Courts, despite having served in the High Court. *Personal-knowledge familiarity* again appears to be the most promising explanation. In this chapter, the personal-knowledge familiarity arises from a group of three judges knowing one another’s working habits, viewpoints, etc. and the decision to reverse or not does not directly affect these three reviewing judges. By contrast,

the personal-knowledge familiarity in our earlier work arises from the (net)working relationship between the reviewed judges and the reviewing judges. Among them, at least the reputation of the reviewed judges is at stake. The benevolent interpretation is that reviewing judges defer to good reviewed judges the former knows personally, while a darker interpretation is that the former gives the latter a favor, at the expense of the rule of law.

By contrast, our sister work demonstrates that *social-identity familiarity* shapes judicial behavior in Taiwan. Taken together, our three articles show that what has often been grouped under the umbrella term “familiarity” actually consists of two distinct forces: personal knowledge and social identity. Both have shaped judicial behavior in Taiwan. Moreover, familiarity can and should also be distinguished from “collegiality,” a well-studied topic. As this Chapter shows, collegiality – typically understood as the motivation to maintain an amicable working environment – does not fully explain why judges with more co-working experience are more likely to reverse lower-court decisions. If collegiality were the main driver, then judges who had worked together frequently might reverse more, reverse less, or reverse at the same rate.

In the context of our paper, personal-knowledge familiarity may or may not be normatively problematic. The key issue is the baseline: what is the appropriate level of deference? One view is that judges on a panel who have worked together for a long time exhibit the proper degree of deference to trial courts, whereas a panel of judges with little co-working experience show excessive deference and thereby wrong some appellants. We are inclined toward this view. If so, the solution would be to minimize the number of mixed panels or panels in which all three judges have rarely worked together. One way to achieve this is to expand court sections. Our sister paper (Table 1) shows that 12% of administrative sections have only three judges. If any one of them is unavailable, an out-of-section judge must be added to the panel. Increasing the size of an administrative section to at least four judges could mitigate this problem. Another strategy is to prioritize placing new judges into administrative sections with more senior judges, rather than grouping them together or pooling them with predominantly junior judges, in order to minimize reductions in the levels of paired working experience.

By contrast, if the proper baseline is that judges unfamiliar with one another demonstrate the correct level of deference, then the implication is that a panel composed entirely of long-term colleagues would reverse too

readily. Under this view, the court system might consider abandoning the administrative section hierarchy and placing all judges within a High Court into a single pool for panel formation, so that each judge would sit with all others – but none too frequently. Nonetheless, if there is a certain threshold of co-working experience beyond which panels take reversals too lightly, this design might have the undesirable effect of raising the overall reversal rate. Moreover, eliminating administrative sections would make it impossible to establish specialized panels that handle cases requiring expertise developed through consistent exposure to specific subject areas.

Compared with the personal-knowledge familiarity documented in our prior work (Lin and Chang 2025) – where a cynical observer might easily disparage the favoritism shown when reviewing judges favor trial judges they know – the most pessimistic interpretation of the phenomenon examined here, under the second baseline, is that judges familiar with one another become overly aggressive in reversing. This outcome is difficult both to evaluate normatively (since reversed cases may still be correctly decided upon remand) and to explain mechanistically. We currently see no clear way to address this potential problem head-on, to the extent it exists. Although we are not inclined to adopt the second baseline, it remains an open question requiring further empirical investigation.

In any event, the three collaborative works we have produced demonstrate that familiarity shapes judicial behavior in Taiwan, and this phenomenon warrants greater attention from both academics and policymakers.

## F. Conclusion

Drawing on all substantive High Court decisions in Taiwan between July 2003 and June 2019, randomly assigned to judges, we provide new evidence on familiarity and judicial behavior. Panels composed of judges with limited co-working experience reverse less often than panels with substantial co-working experience. Consistent with our recent work (Lin and Chang 2025), we find that personal-knowledge familiarity influences judicial decision-making.

Familiarity brings contempt or deference? Our study shows that unfamiliarity among panel judges lead to lower reversal rates of lower court decisions. This somewhat surprising phenomenon is first reported by Christoph Engel, a towering figure in many fields. With his long and dec-

orated career, he did not visit Asia until 2018, when we invited him to Taiwan. His first stop is Tainan, the ancient capital of Taiwan, and the hometown of one of us (Lin). Christoph was put in a unique house that encircles a tree. This was not by design. The owner of the B & B, after knowing Christoph's stature, upgraded him to the best property for free. Christoph, an opera fan, finds it amusing to stay in a house like Hund-ing's (see *Die Walküre* by Richard Wagner). Needless to say, Christoph's classy dressing style and academic insights left the Taiwanese audience with a great impression. Does familiarity breed contempt or deference? In Christoph's case, familiarity breeds affection.

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