*Without Prejudice*

Introduction

1. Dismissals Without Prejudice on Paper
   1. The Purposes Behind Dismissing Without Prejudice (With Prejudice vs. Without Prejudice)
   2. Formal Law of Dismissals Without Prejudice
      1. Interpreting Complaints (*Twombly*, *Iqbal*, & the liberal pleading standard)
      2. Pro Se Rules
      3. Finality & Appealability
   3. Types of Dismissals Without Prejudice
      1. Stipulated Following Settlement
      2. “For Cause”: 12(b), failure to prosecute
      3. Pre-service Screening
   4. Dismissals Without Prejudice & Amendments
2. Dismissals Without Prejudice in Practice: Data on Dismissals Without Prejudice
   1. The Dataset and Methods
   2. The Basic Landscape
      1. Nationwide
      2. Pro Se vs. Represented (and maybe more granular – e.g. MDLs?)
      3. Prescreening
      4. …
   3. Re-filing
   4. Qualitative Review and Additional Evidence
      1. Docket orders vs. opinions? . . .
      2. Appeals?
3. Implications: Adjudication in the Procedural Backwaters
   1. Baselining Re-filing
   2. Experimental Options (e.g. plain language summaries)
   3. Interpretative Procedural Judging (e.g. compare with statutes?) . . .
   4. The Educative Function of Litigation

3/26/2025 convo

* Use intro to preview ideas like responsiveness and finality
* Part I is super simplified, basically just laying out dismissals w/ w/o prejudice and different ways of being dismissed w/o prejudice
  + And different rules/standards e.g. 12(b)(1)/(2) is almost always without prejudice
* Part III
  + Key hypothesis is around heterogeneity
* Educative function
  + Lexi Lahav stuff around immediate resolution
* Inquisition vs. adversarialism
  + Something like a relevance analysis in evidence