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Federal Tort Trials and Verdicts, 1996-97

By Marika F.X. Litras, Ph.D.
and Carol J. DeFrances, Ph.D.
BJS Statisticians

During each fiscal year, 1996 and 1997, U.S. district courts terminated an average of 296,000 cases. Approximately 84% of these cases were civil, and 16% were criminal cases. Of the nearly 500,000 civil cases terminated during fiscal years 1996-97, 19% (96,284) were tort claims in which plaintiffs claimed injury, loss, or damage from defendants' negligent or intentional acts.

This report presents data on the 3,023 tort cases that a jury or bench trial decided during this 2-year period. Data on tort cases from 1996 and 1997 were combined to provide a larger number of cases for detailed analysis. Previously, the Bureau of Justice Statistics (BJS) reported findings from a study of 1994-95 tort trial cases.¹

Compared to fiscal years 1994-95, during 1996-97 —

- the overall number of tort cases terminated in U.S. district courts increased 17%
- the number of tort cases terminated by a trial verdict declined 10%
- the percentage of plaintiff winners in tort trial cases increased slightly from 43% to 45%
- the median award amount to plaintiff winners remained about \$141,000.

¹Federal Tort Trials and Verdicts, 1994-1995, BJS Special Report (NCJ 165810).

Highlights

Tort cases terminated in U.S. district courts, 1996-97

Federal tort cases terminated 96,284	Jury or bench trials—	Plaintiff winner	Monetary awards
	3,023 (3% of 96,284)	1,249 (45% of 2,795 known cases)	1,073 (86% of 1,246 known cases)
	Nontrial cases		
	93,261 (97% of 96,284)		

- During fiscal years 1996-97, over 80% of cases terminated in U.S. district courts dealt with civil matters. Of the 250,000 civil cases terminated per year, 19% were tort cases.

- During 1996-97 U.S. district courts terminated 96,284 tort cases, an increase of 17% from 1994-95 when 82,333 tort cases were terminated.

- Compared to 1994-95, tort cases terminated by trial verdict decreased 10% from 3,356 to 3,023 cases in 1996-97.

- Of the 96,284 tort cases terminated during fiscal years 1996-97, a jury or bench trial decided 3% or 3,023 cases. Tort trial verdicts provide the most complete data to examine award amounts at the Federal level.

- Nearly three-fourths of tort trials in U.S. district courts resulted from a dispute between citizens and/or corporations from different States (diversity of citizenship).

- A jury decided 75% of all tort cases brought to trial in U.S. district courts. A jury trial decided a majority of diversity of citizenship cases (88%) and Federal question cases (63%).

- Plaintiffs won 45% of all tort trial cases in which a judgment was known, 44% of personal injury cases, 29% of product liability cases, and 54% of cases involving property damage.

- Of the 1,249 tort trial cases won by plaintiffs, 86% (1,073) received monetary damages with a median award of \$141,000. The award was \$1 million or more in 17% of these cases in 1996-97 and in 18% of the cases in 1994-95.

- The average case processing time from filing to termination in 1996-97 was 20.2 months, down from 21.8 months in 1994-95.



This report contains information about tort cases terminated by trial verdict in U.S. district courts during fiscal years 1996 and 1997 as well as general trends in tort cases terminated in U.S. district courts since 1990. For this report only those cases terminated after the completion of a trial by jury or trial before a judge or magistrate were used. According to the Administrative Office of the U.S. Courts (AOUSC), a trial is considered complete when a verdict is returned by a jury or a decision is rendered by the court. Jury or bench trials terminated before or during the trial are excluded from this analysis. Tort trial cases appealed as well as the outcomes of appeal are not reported. Data for this report were obtained from information compiled by the AOUSC.

Nontrial tort cases terminated in U.S. district courts, 1996-97

Of the 93,261 nontrial tort cases terminated in 1996-97, 65% were terminated after the issue was joined. An issue is considered joined after the defendant has answered the complaint or has otherwise responded in accordance with Rule 12, *Federal Rules of Civil Procedure*, or as mandated by the court. Of the 60,376 nontrial tort cases joined during 1996-97, 17% were terminated with no court action, 17% at the pretrial conference, 18% by a judicial action by a judge or magistrate judge but before any pretrial conference, and 1% by a request for a new trial on the entire case before a final judgment was entered (trial de novo).

Nearly 6 in 10 nontrial tort cases terminated after the issue was joined originated in a U.S. district court, while about 3 in 10 were removed from a State court. The majority (53%) of these nontrial tort cases were brought to a U.S. district court based on a diversity of citizenship issue and 39% because of a Federal question. Of the 5,330 nontrial tort cases for which a winner was known, defendants won in 71% and plaintiffs in 22% of cases. Monetary awards were given in 16% of the cases after the issue was joined.

Tort trial cases terminated in U.S. district courts since 1990

The overall number of tort cases terminated fluctuated between fiscal years 1990 and 1997 (figure 1). During 1991 the overall number of tort cases that were terminated increased because a backlog of cases from the early 1980's was processed. These cases had been filed by the U.S. Government to recover overpayments of veterans' benefits and defaulted student loans. Another reason for the 1991 increase was a rise in asbestos filings during 1990 that were terminating in 1991. Civil case terminations rose again in 1996 because of an increase in Federal question case terminations attributed mostly to breast implant cases that were transferred to a single U.S. district court as part of a multi-district litigation.²

Overall, the number of tort cases terminated by a trial verdict in U.S. district courts declined by an annual average of about 4% between 1990 and 1997. Over 2,000 tort cases were terminated by trial verdict in 1990, dropping to 1,714 in 1993, and reaching just over 1,500 in 1997 (figure 1). Tort cases terminated by a trial verdict as a percentage of all tort cases also have declined slightly from 5% in 1990 to 3% in 1997. Over the past 7 years, an increasing percentage of tort cases were disposed of before trial.

U.S. district court jurisdiction

Jurisdiction refers to the basis for filing a civil action in a U.S. district court.

²Northern District of Alabama multidistrict litigation docket number 926. Source: Administrative Office of the U.S. Courts, *Judicial Business of the United States*, 1996.

U.S. district courts exercise jurisdiction in civil actions that —

- deal with a Federal question arising from the interpretation and application of the U.S. Constitution, acts of Congress, or treaties ("Federal question")
- exceed \$75,000 and are between parties (citizens and/or corporations) residing in different States or parties of a State and citizens, corporations, or subjects of a foreign country ("diversity of citizenship")³
- are initiated by the U.S. Government ("U.S. plaintiff")⁴, or
- are brought against the U.S. Government for alleged negligent or wrongful acts resulting in personal injury or property damage ("U.S. defendant").⁵

³The minimum value required was \$10,000 until 1989 and \$50,000 until 1996, when it was raised to \$75,000 in P.L. 104-317, Federal Courts Improvement Act of 1996.

⁴Title 28 U.S.C. § 1345 and 1348.

⁵Title 28 U.S.C. § 1346.

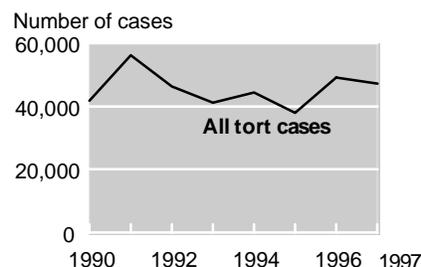
Table 1. Type of jurisdiction for tort cases terminated by trial in U.S. district courts, 1996-97

Jurisdiction	Tort cases terminated by trial	
	Number	Percent
Total	3,023	100.0%
U.S. plaintiff	6	0.2%
U.S. defendant	365	12.1
Federal question	473	15.6
Diversity of citizenship	2,178	72.0
Local question (U.S. territories)	1	0

Note: Detail may not sum to 100% due to rounding.

Source: Federal Judicial Center, Integrated Data Base (Civil), fiscal years 1996-97.

Overall, 47,221 tort cases were terminated in U.S. district courts during 1997



About 3% (1,516) of all tort cases were terminated by a bench or jury trial in U.S. district courts in 1997

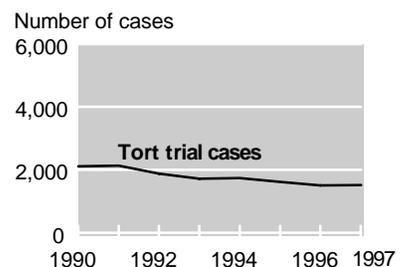


Figure 1

During fiscal years 1996-97, 72% of tort trial cases were tried in U.S. district courts because of the diversity of citizenship between the parties in the case (table 1).

Federal questions provided the basis for jurisdiction in 16% of the cases, while 12% were filed in U.S. district courts because the U.S. Government was the defendant. Jurisdiction based on local questions or where the U.S. Government was the plaintiff accounted for less than 1% of tort trial cases terminated in U.S. district courts.

Federal jurisdiction in tort trials over time

Since 1994 the decline in the number of tort trial cases terminated in U.S. district courts occurred across all areas of Federal jurisdiction. During fiscal years 1994 through 1997, the number of Federal question cases terminated by trial decreased from 329 to 226, and cases in which the U.S. Government was a defendant from 209 to 174 (table 2).

Federal question cases as a proportion of all tort trials, however, declined steadily from 19% in 1994 to 15% in 1997 (figure 2). The proportion of diversity of

Table 4. Tort trial cases terminated in U.S. district courts, 1996-97

Type of tort cases	Jury and bench cases terminated	
	Number	Percent
All tort cases	3,023	100.0%
Personal injury		
Total	2,803	92.7%
Airplane	45	1.5
Assault, libel, and slander	68	2.2
Federal employers' liability	136	4.5
Marine	211	7.0
Motor vehicles	586	19.4
Medical malpractice	223	7.4
Product liability	480	15.9
Airplane	12	0.4
Marine	10	0.3
Motor vehicle	76	2.5
Asbestos	13	0.4
Other	369	12.2
Other personal injury	1,054	34.9
Property damage		
Total	220	7.3%
Fraud	84	2.8
Truth-in-lending	11	0.4
Product liability	35	1.2
Other property damage	90	3.0

Source: Federal Judicial Center, Integrated Data Base (Civil), fiscal years 1996-97.

Table 2. Type of jurisdiction for tort cases terminated by trial in U.S. district courts, 1994-97

Jurisdiction	Jury and bench cases terminated			
	1994	1995	1996	1997
Total	1,740	1,616	1,507	1,516
U.S. plaintiff	9	5	3	3
U.S. defendant	209	204	191	174
Federal question	329	277	247	226
Diversity of citizenship	1,187	1,130	1,066	1,112
Local question (U.S. territories)	6	0	0	1

Source: Federal Judicial Center, Integrated Data Base (Civil), fiscal years 1994-97.

citizenship cases climbed annually from 68% in 1994 to 73% in 1997. The annual proportion of cases in which the United States was the defendant remained steady at about 12% of tort trials terminated between 1994 and 1997.

Origin of tort trial cases

The majority (62%) of tort trial cases terminated in fiscal years 1996-97 originated in U.S. district court (table 3). An additional 28% of all tort trial cases were civil actions initiated in State courts but removed to a U.S. district court, 6% were reopened or reinstated, and 3% were transferred from another district. Less than 1% of cases were either remanded from appellate court, appealed to a district judge from a magistrate judge judgment, or originated from a multi-district litigation.

Table 3. The origin of tort trial cases terminated in U.S. district courts, 1996-97

Origin	Tort cases terminated by trial in U.S. district courts	
	Number	Percent
Total	3,023	100.0%
Original processing in district courts	1,880	62.2%
Removed from State court	843	27.9
Remanded from appellate court	19	0.6
Reopened or reinstated	178	5.9
Transferred from another district	83	2.7
Multidistrict litigation	2	0.1
Appeal to district judge from a magistrate judge judgment	18	0.6

Note: Detail may not sum to 100% due to rounding.

Source: Federal Judicial Center, Integrated Data Base (Civil), fiscal years 1996-97.

The nature of tort trial cases

For the purposes of this report, tort cases are organized into two categories: personal and property. Personal tort cases involve injury to a person or to the reputation of a person. Property tort cases involve damage to one's personal property.

During 1996-97 personal injury cases accounted for 9 out of 10 tort trial cases terminated in U.S. district courts (table 4). Motor vehicle (19%) and product liability (16%) cases were the most frequent types of personal injury cases, followed by medical malpractice cases (7%). By comparison,

The proportion of tort trial cases based on diversity of citizenship increased 5% between 1994 and 1997, while cases based on Federal questions declined 4%

Year	Diversity of citizenship	Federal questions	U.S. Government as defendant
1994	68.2%	18.9%	12.0%
1995	69.9	17.1	12.6
1996	70.7	16.4	12.7
1997	73.4	14.9	11.5

Figure 2

property damage cases constituted the remaining 7% of tort trials terminated in U.S. district courts. The largest portion of property damage cases involved fraud (3%) and other property damage (3%). Property damage associated with product liability constituted 1% of tort trial cases terminated in U.S. district courts.

Over the 4 years between 1994 and 1997, the overall number of tort trials declined 13%, with more than 200 fewer tort cases terminated by a trial verdict in 1997 compared to 1994 (table 5). This drop in the number of tort trial cases is due largely to a decline in certain types of personal injury cases. Between 1994 to 1997 the number of marine cases declined from 146 to 96, medical malpractice cases from 151 to 108, and personal injury cases dealing with motor vehicles from 318 to 278 cases.

Trial terminations

Federal civil trial cases can be decided by either a jury comprised of 6 to 12 members (jury trial) or a Federal judge or magistrate judge (bench trial). The plaintiff or the defendant may request the case be decided by a jury trial. If no request for a jury trial is made by either party, the case is tried by a bench trial. However, in most cases in which the United States is named as the defendant, Federal law stipulates that only a bench trial is allowed.⁶ Jury verdicts in a Federal civil case must be unanimous and cannot be taken from a jury of fewer than six members.

Jury or bench trial?

Three-quarters of tort trial cases terminated in U.S. district courts were decided by a jury trial and a quarter by a bench trial during fiscal years 1996-97 (table 6). The balance of jury trials differed across case jurisdiction. The majority of diversity of citizenship (88%) and Federal question (63%) cases were decided by a jury trial, while 67% of cases involving the U.S. Government as a plaintiff and 92% as a defendant were decided by a bench trial.

The type of trial termination differed according to the nature of the case (table 7). Jury trials were held in three-quarters of personal injury cases compared to just over half of property damage cases. About 90% of personal injury product liability cases were disposed of by jury trial. Bench trials decided 43% of property damage cases compared to 24% of personal injury cases.

Trial winners and awards

During fiscal years 1996-97, plaintiffs won in 45% of all trial cases decided in U.S. district courts (table 8). Plaintiffs, however, won in 54% of property damage cases compared to 44% of personal injury cases. Plaintiffs won most often (71%) in cases involving Federal employers' liability but least

often (23%) in personal injury cases dealing with the product liability of motor vehicles.

Tort cases typically involved a compensatory award for economic damages. This includes all financial losses resulting from the defendant's conduct. Tort cases also can include a compensatory award for noneconomic damages such as pain, suffering, and emotional distress.

Distinct from compensatory damages are punitive damages. Punitive damages are reserved, almost exclusively, for tort claims in which the defendant's conduct was grossly negligent or intentional. In the tables and text presented below, award amounts include compensatory and punitive damages. Because of the nature of the data, the award amounts for each type

Table 5. Tort trial cases terminated in U.S. district courts, 1994-97

Type of tort cases	Jury and bench cases terminated			
	1994	1995	1996	1997
All tort cases	1,740	1,616	1,507	1,516
Personal injury				
Total	1,618	1,482	1,405	1,398
Airplane	27	26	18	27
Assault, libel, and slander	33	28	27	41
Federal employers' liability	94	98	69	67
Marine	146	114	115	96
Motor vehicles	318	307	308	278
Medical malpractice	151	132	115	108
Product liability	279	248	221	259
Airplane	4	6	6	6
Marine	3	4	5	5
Motor vehicle	31	36	35	41
Asbestos	3	4	5	8
Other	238	198	170	199
Other personal injury	570	529	532	522
Property damage				
Total	122	134	102	118
Fraud	47	33	41	43
Truth-in-lending	2	5	1	10
Product liability	21	40	17	18
Other property damage	52	56	43	47

Source: Federal Judicial Center, Integrated Data Base (Civil), fiscal years 1994-97.

Table 6. Type of termination, by jurisdiction, for tort trial cases in U.S. district courts, 1996-97

Type of termination	Tort cases terminated in U.S. district courts		
	Number of tort trial cases	Jury trial	Bench trial
Total	3,023	74.5%	25.5%
U.S. plaintiff	6	33.3%	66.7%
U.S. defendant	365	7.7	92.3
Federal question	473	62.6	37.4
Diversity of citizenship	2,178	88.4	11.6
Local question in U.S. territories	1	100.0	--

Note: Row percentages sum to 100%.

--None recorded.

Source: Federal Judicial Center, Integrated Data Base (Civil), fiscal years 1996-97.

⁶Title 28 U.S.C. § 2402.

of damage cannot be identified separately. Additionally, information presented is for tort cases in which the judgment was a monetary award for damages. Tort trial cases awarding court costs only or court costs and attorney fees were excluded from the award analysis.

In 86% or 1,073 of tort trial cases in which plaintiffs won, the jury or court awarded damages. This varied little across the type of case. Plaintiff winners were awarded damages in 87% of personal injury cases and 78% of property damage cases. In 84% of the medical malpractice cases, 88% of personal injury motor vehicle cases, and 82% of fraud cases, plaintiff winners were awarded damages.

The median award for all tort cases was \$141,000. The median differed, however, by type of case. Among plaintiff winners awarded damages, half of those in personal injury cases received at least \$136,000 and half of those in property damage cases at least \$154,000. The median award for plaintiff winners in personal injury

motor vehicle cases was \$91,000 and product liability cases \$527,000.

One million dollars or more were awarded to 17% of all plaintiff winners who received damages in tort trial

cases. Forty-four percent of plaintiff winners in airplane personal injury cases, 31% of personal injury product liability, and 26% of medical malpractice cases were awarded damages of \$1 million or more.

Table 7. Type of tort trial cases, by type of termination in U.S. district courts, 1996-97

Type of tort cases	Jury and bench tort trials terminated		
	Number	Jury	Bench
All tort cases	3,023	74.5%	25.5%
Personal injury			
Total	2,803	75.9%	24.1%
Airplane	45	53.3	46.7
Assault, libel, and slander	68	76.5	23.5
Federal employers' liability	136	86.0	14.0
Marine	211	38.9	61.1
Motor vehicles	586	78.0	22.0
Medical malpractice	223	66.8	33.2
Product liability	480	89.8	10.2
Airplane	12	91.7	8.3
Marine	10	70.0	30.0
Motor vehicle	76	90.8	9.2
Asbestos	13	92.3	7.7
Other	369	90.0	10.0
Other personal injury	1,054	77.3	22.7
Property damage			
Total	220	56.8%	43.2%
Fraud	84	64.3	35.7
Truth-in-lending	11	45.5	54.5
Product liability	35	82.9	17.1
Other property damage	90	41.1	58.9

Source: Federal Judicial Center, Integrated Data Base (Civil), fiscal years 1996-97.

Table 8. Plaintiff winners, by type of tort trial case terminated by trial in U.S. district courts, 1996-97

Type of tort cases	Number of jury and bench cases terminated	Number of plaintiff winners	Percent of cases won by plaintiff	Number of cases with monetary awards to plaintiff	Monetary awards		
					Median	\$1 million or more	\$10 million or more
All tort cases	2,795	1,249	44.7%	1,073	\$141,000	17.1%	8.0%
Personal injury							
Total	2,592	1,139	43.9%	987	\$136,000	17.0%	8.1%
Airplane	41	16	39.0	16	937,000	43.8	18.8
Assault, libel, and slander	64	24	37.5	21	50,000	14.3	9.5
Federal employers' liability	119	85	71.4	77	175,000	11.7	9.1
Marine	198	113	57.1	99	183,000	16.2	7.1
Motor vehicles	537	316	58.8	278	91,000	11.2	6.1
Medical malpractice	212	73	34.4	61	355,000	26.2	13.1
Product liability	447	130	29.1	107	527,000	30.8	13.1
Airplane	7	3	42.9	3	727,000	33.3	33.3
Marine	10	6	60.0	6	65,000	--	--
Motor vehicle	74	17	23.0	15	258,000	26.7	13.3
Asbestos	13	5	38.5	3	700,000	--	--
Other	343	99	28.9	80	666,000	35.0	13.8
Other personal injury	974	382	39.2	328	79,000	16.2	6.7
Property damage							
Total	203	110	54.2%	86	\$154,000	17.4%	7.0%
Fraud	77	45	58.4	37	151,000	16.2	10.8
Truth-in-lending	11	5	45.5	3	10,000	--	--
Product liability	33	8	24.2	5	175,000	--	--
Other property damage	82	52	63.4	41	152,000	22.0	4.9

Note: Data for tort trial winners were missing in 228 cases.

--None recorded.

Source: Federal Judicial Center, Integrated Data Base (Civil), fiscal years 1996-97.

In 8% of tort trial cases, plaintiff winners were awarded \$10 million or more. About 13% of plaintiffs in medical malpractice cases and personal injury product liability cases received awards of \$10 million or more for damages.

Tort trials with the U.S. Government

The Federal Tort Claims Act governs tort actions against the U.S. Government. This act provides the legal mechanism for compensating persons injured by the negligent or wrongful acts of Federal employees committed within the scope of their employment. An administrative claim to the appropriate Federal agency is a prerequisite before filing suit in U.S. district court. If the claim is denied by the Federal agency in writing or if the Federal agency does not make a decision about the claim within 6 months, then the claimant can file suit in U.S. district court. Lawsuits under the act can only be tried by bench trial.⁷

The Torts Branch of the Civil Division within the Department of Justice represents the United States, its agencies, and its officers sued in tort actions. This includes suits against the United States under the Federal Tort Claims Act, the Public Vessels Act, all admiralty suits, and common-law suits against individual government employees.⁸

⁷Title 28 U.S.C. § 2671-2680.

⁸Urban A. Lester and Michael F. Noone, *Litigation with the Federal Government*, 3rd edition. Philadelphia: The American Law Institute, 1994.

Table 9. U.S. Government as defendant in tort trial cases terminated by trial in U.S. district courts, 1996-97

Type of tort case	U.S. Government as defendant				
	Number of jury and bench cases terminated	Percent of defendant winners	Number of defendant winners ^a	Number of defendant monetary awards	Median award
All tort cases	343	51.3%	176	9	\$70,000
Personal injury					
Total	313	51.4%	170	8	\$99,000
Airplane	13	76.9	10	--	--
Assault, libel, and slander	5	60.0	3	1	1,000*
Federal employers' liability	3	66.7	2	--	--
Marine	25	44.0	11	--	--
Motor vehicles	83	32.5	27	3	13,000
Medical malpractice	70	50.0	35	--	--
Product liability	6	16.7	1	--	--
Airplane	--	--	--	--	--
Marine	1	0.0	0	--	--
Motor vehicle	2	0.0	0	--	--
Asbestos	--	--	--	--	--
Other	3	33.3	1	--	--
Other personal injury	126	64.3	81	4	578,000
Property damage					
Total	12	50.0%	6	1	\$6,000*
Fraud	--	--	--	--	--
Truth-in-lending	--	--	--	--	--
Product liability	--	--	--	--	--
Other property damage	12	50.0	6	1	6,000*

Note: Data for tort trial winners were missing in 22 cases.

^aNumber of cases for which a winner was known.

*Not a median but the actual amount awarded.

--None recorded.

Source: Federal Judicial Center, Integrated Data Base (Civil), fiscal years 1996-97.

During fiscal years 1996-97, the U.S. Government was party to 371 tort trial cases terminated in U.S. district courts. Six of these cases involved the U.S. Government as a plaintiff. The U.S. Government won four of the six cases and received a monetary award in three of the cases (not shown in a table).

The U.S. Government was a defendant in the remaining 365 tort trial cases in which the U.S. Government was party (table 9). These cases were mostly personal injury cases related to motor vehicles, medical malpractice, and other personal injury. The U.S. Government won about half of the cases in which it was named as a defendant. In nine of the tort trial cases in which the United States as a defendant won the judgment, monetary damages were awarded. The median award for these cases was \$70,000.

Federal question cases

During fiscal years 1996-97, U.S. district courts terminated 473 tort trial cases that involved a Federal question. Nine out of every ten of these cases dealt with personal injury matters, relating particularly to marine personal injury (165 cases) and Federal employers' liability (133 cases). Of tort trials based on Federal question jurisdiction, plaintiffs won in 53% or 231 cases and received monetary awards in 203 cases. The median award among plaintiff winners in these cases was \$175,000 (table 10).

Diversity of citizenship cases

About 72% of the tort trial cases terminated in U.S. district courts involved diversity of citizenship. Of these 2,178 cases, about 60% involved a U.S. citizen as the plaintiff and a U.S. business as the defendant. An additional 29% dealt with U.S. citizens from different States, and about 3% were between U.S. businesses. A foreign citizen was the plaintiff in about 1% of diversity of citizenship cases, while a foreign nation was the plaintiff in one case during fiscal years 1996-97 (table 11).

Plaintiffs won in 42% or 853 of diversity of citizenship cases (table 12). Plaintiff

won in 42% or 853 of diversity of citizenship cases (table 12). Plaintiff

with a median award of \$135,000. Monetary awards to plaintiffs varied,

Table 10. Plaintiffs in tort trial cases involving a Federal question terminated by trial in U.S. district courts, 1996-97

Type of tort case	Federal question cases terminated in U.S. district courts				
	Number of jury and bench cases	Percent of plaintiff winners	Number of plaintiff —		
			Winners	Monetary awards	Median award
All tort cases	433	53.3%	231	203	\$175,000
Personal injury					
Total	388	53.4%	207	186	\$182,500
Airplane	4	50.0	2	2	4,000
Assault, libel, and slander	20	15.0	3	3	50,000
Federal employers' liability	116	72.4	84	76	177,500
Marine	154	59.7	92	83	200,000
Motor vehicles	15	33.3	5	4	139,500
Product liability	17	35.3	6	5	413,000
Airplane	--	--	--	--	--
Marine	3	66.7	2	2	356,500
Motor vehicle	2	50.0	1	1	200,000*
Asbestos	1	0.0	0	--	--
Other	11	27.3	3	2	950,000
Other personal injury	62	24.2	15	13	150,000
Property damage					
Total	45	53.3%	24	17	\$35,000
Fraud	11	63.6	7	5	35,000
Truth-in-lending	9	44.4	4	2	5,500
Product liability	1	0.0	0	--	--
Other property damage	24	54.2	13	10	92,500

Note: Data for tort trial winners were missing in 40 cases.

*Not a median but the actual amount awarded.

--None recorded.

Source: Federal Judicial Center, Integrated Data Base (Civil), fiscal years 1996-97.

Table 12. Plaintiffs in tort trial cases involving diversity of citizenship terminated by trial in U.S. district courts, 1996-97

Type of tort case	Diversity of citizenship cases terminated in U.S. district courts				
	Number of jury and bench cases	Percent of plaintiff winners	Number of plaintiff —		
			Winners	Monetary awards	Median award
All tort cases	2,012	42.4%	853	726	\$135,000
Personal injury					
Total	1,871	41.4%	775	663	\$125,000
Airplane	24	45.8	11	11	1,023,000
Assault, libel, and slander	39	51.3	20	18	67,500
Federal employers' liability	--	--	--	--	--
Marine	19	42.1	8	6	1,233,000
Motor vehicles	439	58.8	258	226	100,000
Medical malpractice	142	27.5	39	32	450,000
Product liability	424	28.1	119	97	600,000
Airplane	7	42.9	3	3	727,000
Marine	6	50.0	3	3	47,000
Motor vehicle	70	20.0	14	12	354,000
Asbestos	12	41.7	5	3	700,000
Other	329	28.6	94	76	665,500
Other personal injury	784	40.8	320	273	67,000
Property damage					
Total	141	55.3%	78	63	\$175,000
Fraud	64	56.3	36	31	151,000
Truth-in-lending	2	50.0	1	1	408,000*
Product liability	32	25.0	8	5	175,000
Other property damage	43	76.7	33	26	176,000

Note: Data for tort trial winners were missing in 166 cases.

*Not a median but the actual amount awarded.

--None recorded.

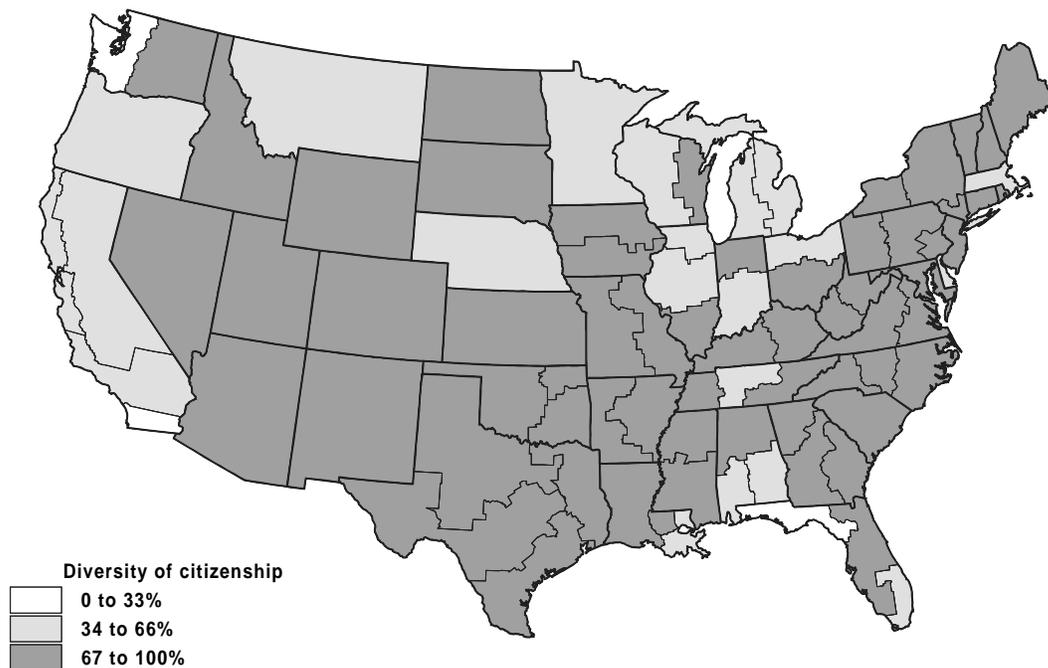
Source: Federal Judicial Center, Integrated Data Base (Civil), fiscal years 1996-97.

Table 11. Plaintiffs and defendants in diversity of citizenship tort trials, 1996-97

Plaintiff/defendant	Diversity of citizenship cases in U.S. district courts	
	Number	Percent
All tort cases	2,178	100.0%
U.S. citizen versus:		
U.S. citizen	637	29.2%
U.S. business	1,310	60.0
Foreign citizen	80	3.7
Foreign nation	11	0.5
U.S. business versus:		
U.S. citizen	42	1.9%
U.S. business	58	2.7
Foreign citizen	6	0.3
Foreign nation	1	0.0
Foreign citizen versus:		
U.S. citizen	16	0.7%
U.S. business	16	0.7
Foreign nation versus:		
U.S. citizen	1	0.0%

Source: Federal Judicial Center, Integrated Data Base (Civil), fiscal years 1996-97.

Percentage of tort trials based on diversity of citizenship within U.S. judicial districts, 1996-97



Note: Alaska (14%) and Hawaii (33%) are not shown.

Figure 3

however, across the type of case. Among the 3 out of 12 plaintiff winners involved in asbestos cases, the median award was \$700,000. In personal injury motor vehicle cases, the median monetary award among 226 plaintiff winners was \$100,000. The median plaintiff award for medical malpractice cases was \$450,000, while airplane and marine personal injury cases had median plaintiff awards of more than \$1 million.

U. S. judicial districts varied in the proportion of diversity of citizenship cases terminated during fiscal years 1996-97. Among the districts with the greatest proportion of diversity of citizenship cases terminated were

Arkansas-Western and Kansas (100%), Missouri-Western (96%), Tennessee-Western and Arkansas-Eastern (95%), as well as West Virginia-Northern and Louisiana-Middle (94%) (figure 3). Among those districts with the lowest proportion of diversity of citizenship cases terminated were California-Southern (7%), Alaska (14%), Washington-Western (22%) and Florida-Northern (29%).

In most States, diversity of citizenship cases accounted for between 67% and 100% of tort trials terminated within any judicial district. This was true, for example, among the judicial districts located within Texas, Oklahoma, Arkansas, Mississippi, Georgia, and North Carolina.

In some instances, however, U.S. judicial districts within a State varied in their proportions of diversity of citizenship cases terminated. In Florida 78% of tort trial cases were terminated in the Florida-Middle District, compared to 29% in the Florida-Northern District. Similarly in Louisiana, 94% of tort trial cases terminated in the Louisiana-Middle District were diversity of citizenship cases while 48% were diversity of citizenship cases in the Louisiana-Eastern District.

Case processing time

Tort trial cases terminated in U.S. district courts during 1996-97 went from filing to termination in an average of 20.2 months — just over 1½ years (table 13). All 13 asbestos cases terminated in less than 2 years, as well as a large majority of personal injury motor vehicle cases (83%) and other personal injury cases (79%). Airplane cases tended to have a longer case processing time. About 1 in 10 airplane personal injury cases took 4 or more years to terminate. More than half (58%) of airplane product liability cases terminated within 2 to 4 years.

Overall, 72% of all tort trial cases were terminated in less than 2 years, and an additional 24% within 2 to 4 years. Four percent of tort trial cases took 4 or more years to terminate (figure 4).

Methodology

The primary source of data presented in this report is the Federal Judicial Center's Integrated Data Base (Civil). Data tabulations were prepared from the BJS staff analysis of source agency data sets. The Federal civil tort categories used in this report are based primarily on the codes established by the Administrative Office of the United States Courts (AOUSC). Case level information is provided by individual U.S. district courts, which submit data to the AOUSC. The categories for types of cases in this report are based on those defined by the AOUSC. As a result, no detailed information is available on the number of "other personal injury" cases and "other product liability cases." For tort cases that involved more than one type of action filed, the AOUSC instructs the plaintiff's attorney if the cause fits more than one nature of suit, to select the most definitive. It is the first nature of the suit code that was used in the analysis for this report.

For tort cases where more than one basis of jurisdiction applies, the case was coded according to the highest priority jurisdiction that applies. Cases in which the U.S. Government is the plaintiff have the highest priority, followed by the U.S. Government as defendant, Federal questions, diversity of citizenship cases, then local questions.

Table 13. Case processing time for tort trial cases terminated by trial in U.S. district courts, 1996-97

	Number of jury and bench cases terminated	Time from filing to termination of case		Percent of tort cases concluded in—		
		Median months	Mean months	Less than 2 years	2 to 4 years	4 years or more
All tort cases	3,023	17.3	20.2	72.4%	23.9%	3.7%
Personal injury						
Total	2,803	17.2	20.1	72.8%	23.8%	3.4%
Airplane	45	24.3	26.7	42.2	48.9	8.9
Assault, libel, and slander	68	20.5	22.5	57.4	36.8	5.9
Federal employers' liability	136	18.6	21	69.9	27.2	2.9
Marine	211	18.6	21.5	66.4	30.3	3.3
Motor vehicles	586	15.2	17.5	82.6	15.5	1.9
Medical malpractice	223	20.0	22.6	64.6	31.8	3.6
Product liability	480	20.6	23.6	59.8	33.8	6.5
Airplane	12	30.1	28.8	41.7	58.3	--
Marine	10	25.3	29.1	40.0	50.0	10.0
Motor vehicle	76	20.7	25.6	59.2	28.9	11.8
Asbestos	13	18.3	14.3	100.0	--	--
Other	369	20.1	23.2	59.6	34.7	5.7
Other personal injury	1,054	15.8	18.5	78.9	18.5	2.6
Property damage						
Total	220	17.4	22.3	67.3%	25.9%	6.8%
Fraud	84	19.0	25.6	56.0	33.3	10.7
Truth-in-lending	11	21.6	21.1	63.6	36.4	--
Product liability	35	17.9	20.3	74.3	22.9	2.9
Other property damage	90	16.2	20.1	75.6	18.9	5.6

--None recorded.

Note: Case processing time for cases appealed was not included in the analysis for this table.

Source: Federal Judicial Center, Integrated Data Base (Civil), fiscal years 1996-97.

Cumulative percent of tort trials terminated in U.S. district courts, by case processing time, 1996-97



Figure 4

Calculations pertaining to winners and their award amounts were based on cases for which the winner was known. This differs from the 1994-95 Federal tort trial study (NCJ 165810) in which these

calculations were based on the total number of tort trial cases terminated. Plaintiff and defendant winner categories do not include instances where both parties won the case.

Definitions

After court trial — An action disposed of after the completion of a trial before a judge or magistrate judge.

After jury trial — An action disposed of after the completion of a trial before a jury.

Procedural progress at termination — The point to which an action progressed when it was disposed of. When used as part of these definitions, a trial is defined as a "contested proceeding where evidence is introduced." A trial is considered completed when a verdict is returned by a jury or a decision is rendered by the court.

Tort — A civil wrong or breach of a duty to another person, as outlined by law. A very common tort is negligent operation of a motor vehicle that results in property damage and personal injury in an automobile accident.

U.S. Government defendant — An action against agencies and officers of the United States.

U.S. Government plaintiff — An action by agencies and officers of the United States.

Federal question cases — Cases involving the interpretation and application of the U.S. Constitution, acts of Congress, or treaties.

Diversity of citizenship cases — Cases involving actions in which the amount in controversy exceeds \$75,000 between citizens or corporations of different States; citizens or corporations of a state and citizens or subjects of a foreign country; citizens or corporations of different states where citizens or subjects of a foreign country are additional parties; or a foreign state as defined in Title 28 U.S.C. § 1603(a), as plaintiff, and citizens of a State or different States.

Local question — cases involving non-Federal civil procedures based on local civil law in territorial districts.

Source of definitions:

"Glossary of Terms Used in the Federal Courts," prepared by the Administrative Office of the U.S. Courts.

"Statistics Manual, Chapter V: Instructions for Completing District Court Report Forms." *Guide to Judiciary Policies and Procedures, Volume XI*, published and distributed by the Administrative Office of the U.S. Courts.

Examples of civil statutes under which a suit was filed

Other personal injury — Consumer Products Safety Act: Personal Injury; Flammable Fabrics Act (if personal injury); Industrial Accident Board (workman's compensation); Oil Pollution Act 33:431-437, 1001-1015.

Assault, libel, and slander — Consumer Credit Protection Act: Bad Credit Reporting; Wiretap 47:605.

Marine — Jones Act (Merchant Marine) 46:688; Longshoremen's and Harbor Worker's Compensation Act 33:901-950; Outer Continental Shelf Lands Act, Personal Injury; Public Vessels Act 46:781-790.

Medical malpractice — Medicare Act 42:1395.

Other fraud — Anti-Kickback Act; Consumer Credit Protection Act: Interest Rates 15:1600; Fair Credit Reporting Act 15:1681; False Claims Act 31:231; Federal Odometer Disclosure Act 49:404, 408b; Franking Mail Privilege; Interstate Land Sales Full Disclosure Act 15:1701; Motor Vehicle Information and Cost Savings Act: Odometer Fraud.

Other personal property damage — Limitation of Liability (Exoneration from) 46:189-196; Limited Liability Acts (Shipping) 46:182-196.

Source of examples:

Civil Codebook for data set ICPSR 8429.

The Bureau of Justice Statistics is the statistical agency of the U.S. Department of Justice. Jan M. Chaiken, Ph.D., is director.

BJS Bulletins present the first release of findings from permanent data collections programs such as the Integrated Data Base. Marika F.X. Litras, Ph.D., and Carol J. DeFrances, Ph.D., wrote this report. Greg W. Steadman and Todd Minton provided statistical assistance and review. Yvonne Boston produced the report, under the supervision of Marilyn Marbrook. Tom Hester and Ms. Boston edited the report.

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February 1999, NCJ 172855

The primary source of data for tables presented in this report is the Federal Judicial Center's Integrated Data Base (Civil). The Center derives the data for the integrated data base (civil, criminal and appeals) from files provided by the Administrative Office of the U.S. Courts (AOUSC).

The AOUSC data are based on information received from the U.S. district courts regarding the filing and termination of cases and appeals in the Federal courts. The integrated data base is archived at the National Archive of Criminal Justice Data (NACJD) "Federal Court Cases: Integrated Data Base" (Study # 8429). Data can be obtained from the archive through 1-800-999-0960 or <http://www.icpsr.umich.edu/NACJD/home.html>

The archive may also be accessed through the BJS website, where the report, data, and supporting documentation are available: <http://www.ojp.usdoj.gov/bjs/>



Bureau of Justice Statistics Bulletin

November 1998, NCJ 172855

Federal Justice Statistics Program

Federal Tort Trials and Verdicts, 1996-97

Correction Notice

Issued May 3, 1999

This report contains a corrected page 5 with new data for monetary awards of \$1 million or more in the last paragraph and in table 8.

Page 1:

Highlights —

The award was \$1 million or more in 17% of these cases in 1996-97 and in 18% of the cases in 1994-95.

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