



Bureau of Justice Statistics

# Civil Justice Data Brief

*Civil Justice Survey of State Courts, 2001*

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# Medical Malpractice Trials and Verdicts in Large Counties, 2001

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Of the 1,156 medical malpractice trials litigated in the Nation's 75 most populous counties during 2001, most were disposed of by jury trial (96%) (not shown in a table). In an estimated 9 out of 10 medical malpractice trials, the alleged harm involved either a permanent injury (57%) or a death claim (33%) (figure 1).

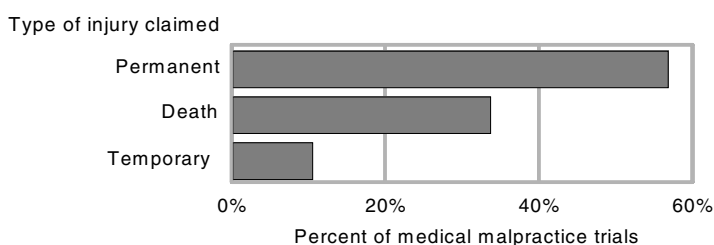
About half of the sampled medical malpractice trials were brought against surgeons, while a third were against nonsurgeons. Dentists accounted for 5% of medical malpractice defendants (table 1).

Medical malpractice trials with nonsurgeons had the highest estimated percentage of injuries involving a death claim (43%). Death claims arose in 30% of trials with a surgeon defendant (not shown in a table).

The overall win rate for medical malpractice plaintiffs (27%) was about half of that found among plaintiffs in all tort trials (52%). Plaintiffs prevailed in nearly 39% of trials against dentist defendants and in about a quarter of trials against nonsurgeon (23%) and surgeon (27%) defendants (table 1).

The median award of \$425,000 in medical malpractice trials was nearly 16 times greater than the overall median award in all tort trials (\$27,000). Median award amounts were higher among plaintiffs who won

**90% of medical malpractice trials involved plaintiffs who claimed malpractice had caused death or permanent injury**



Note: Injury data were available for 78.2% (904) of medical malpractice trials. Trials include bench and jury trials, trials with a directed verdict, judgments notwithstanding the verdict, and jury trials for defaulted defendants.

Figure 1

**Table 1. Awards in medical malpractice cases decided by a bench or jury trial in State courts in the Nation's 75 largest counties, 2001**

Case and defendant type <sup>a</sup>	Number of trials	Percent of plaintiff winners <sup>b</sup>	Final awards to plaintiff winner		Percent of plaintiff winners with awards		
			Number <sup>c</sup>	Total	Over \$250,000 or more	Over \$1 million	
<b>Medical malpractice trials</b>	1,038	27.1%	278	\$448,219,000	\$425,000	65.7%	29.4%
Doctor – nonsurgeon	361	23.0	82	122,841,000	511,000	76.6	29.7
Doctor – surgeon	533	26.5	140	245,587,000	575,000	70.5	36.4
Dentist	54	38.9	20	2,867,000	53,000	20.6	--
Other	90	40.0	36	76,924,000	224,000	47.5	17.5

Note: Includes bench and jury trials, trials with a directed verdict, judgments notwithstanding the verdict, and jury trials for defaulted defendants. Detail may not sum to total because of rounding.

--No cases recorded.

<sup>a</sup>Data on type of defendant were available for 89.8% of the sampled medical malpractice trials.

<sup>b</sup>Data on plaintiff winners were available for 100.0% of the sampled medical malpractice trials in which the defendant type was known.

<sup>c</sup>Data on final awards were available for 98.9% of medical malpractice trials in which the type of defendant and the winner was known.



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malpractice trials against medical doctors, both surgeons (\$575,000) and nonsurgeons (\$511,000), than against dentists (\$53,000) (table 1).

Plaintiff winners were awarded \$1 million or more in approximately a third of medical malpractice trials brought against nonsurgeon and surgeon defendants (table 1).

The type of injury giving rise to the medical malpractice trial also had an impact on damage awards. Median award amounts for medical malpractice trials arising from death claims (\$837,000) and permanent injuries (\$412,000) were higher than the median awards for medical malpractice trials that stemmed from temporary injuries (\$77,000) (table 2).

The number of medical malpractice jury trials since 1992 has remained stable as the reported differences were not statistically significant. Since 1992 the percentage of plaintiff winners ranged from 22% to 30%.

After remaining stable in 1992 and 1996, the median amount awarded in jury trials to plaintiff winners increased from \$287,000 in 1996 to \$431,000 in 2001. The percentage of plaintiff winners receiving awards of \$1 million or more also rose from an estimated 25% in 1992 and 1996 to 32% in 2001 (table 3).

Punitive damages remained rare in medical malpractice jury trials. From 1992 to 2001, 1% to 4% of plaintiff winners in medical malpractice jury trials received punitive damages (not

shown in table). The median punitive damage awards for medical malpractice jury trials in two of the three study periods (1992 and 2001) were around \$250,000.

**Table 2. Medical malpractice awards, by type of injury, in State courts in the Nation's 75 largest counties, 2001**

Type of injury claimed <sup>a</sup>	Number of medical malpractice trials with plaintiff winner <sup>b</sup>	Final amount awarded to plaintiff winners		Percent of plaintiff winner cases with final awards	
		Total	Median	Over \$250,000	\$1 million or more
Death	69	\$163,391,000	\$837,000	79.4%	43.3%
Permanent	141	215,545,000	412,000	68.8	31.7
Temporary	19	2,688,000	77,000	15.6	--

Note: Includes bench and jury trials, trials with a directed verdict, judgments notwithstanding the verdict, and jury trials for defaulted defendants.  
--No cases recorded.

<sup>a</sup>Injury data were available for 78.2% of medical malpractice trials.

<sup>b</sup>Data on final awards were available for 99.2% of cases in which the injury type was known.

**Table 3. Trends in plaintiff winners and awards for medical malpractice jury trials in State courts in the Nation's 75 largest counties, 1992-2001**

Year	Medical malpractice jury trials		Final amount awarded to plaintiff winners (in 2001 dollars)		Percent of plaintiff winner cases with final awards	
	Total	With plaintiff award winner	Total	Median	Over \$250,000	\$1 million or more
1992	1,356	403	\$753,667,000	\$253,000	53.4%	25.3%
1996	1,118	249	371,262,000	287,000	52.2	25.1
2001	1,112	292*	596,329,000	431,000*	67.6*	31.5*

Note: Medical malpractice award data were available for plaintiff winners in 97.6% of jury trials in 1992, 97.3% of jury trials in 1996, and 98.9% of jury trials in 2001. Since the 1992 dataset does not contain award information for bench trials, the trend table only examines jury trial cases. Award amounts are rounded up to the nearest thousand.

1992 and 1996 award amounts are adjusted for inflation and presented in 2001 dollars.

The inflation adjustment was calculated by utilizing the CPI inflation calculator on the U.S. Department of Labor's web page at <<http://www.bls.gov/cpi/home.htm>>.

Data Sources: *Civil Justice Survey of State Courts, 1992* (ICPSR 6587), *Civil Justice Survey of State Courts, 1996* (ICPSR 2883), and *Civil Justice Survey of State Courts, 2001* (ICPSR 3957).

\*The 2001 estimate differs significantly (with a 95%-confidence interval) from the estimate for 1992.