



Punitive Damage Awards in State Courts, 2005

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Punitive damages were sought in 12% of the estimated 25,000 tort and contract trials concluded in state courts in 2005. Punitive damages were awarded in 700 (5%) of the 14,359 trials where the plaintiff prevailed. Among the trials in which punitive damages were requested by plaintiff winners, 30% received these damages. The median punitive damage award for the 700 trials with punitive damages was \$64,000 in 2005, and 13% of these cases had punitive awards of \$1 million or more.

Damages awarded in civil trial litigation can take the form of compensatory or punitive awards. Punitive damages are not awarded for the purpose of compensating injured plaintiffs, but are almost exclusively reserved for civil claims in which the defendant's conduct was considered grossly negligent or intentional. Punitive damages are intended to serve as a means for punishing the defendant and deterring others from committing similar actions (*Black's Law Dictionary*, 1990).

This BJS special report examines tort and contract cases concluded by bench or jury trial in which punitive damages were sought or granted in a national sample of state trial courts in 2005. The report on punitive damages in civil trials is the

fourth in a series based on data collected from the 2005 Civil Justice Survey of State Courts (CJSSC). The CJSSC examines tort, contract, and real property cases disposed by bench and jury trials in general jurisdiction courts in 2005. Since the CJSSC is based on a 2005 disposition date, many of these cases were filed in prior years, but disposed in 2005. Cases were classified as trials for inclusion in the CJSSC if both litigants appeared at trial, both sides presented contested evidence, at least one litigating party sought monetary damages, and the trial was heard through completion.

The CJSSC provides case-level information about sampled civil trials, such as characteristics of litigants involved in trials, type of trial (i.e., bench or jury), civil trial winners, compensatory and punitive damage awards, and case processing times. The 2005 CJSSC examined tort, contract, and real property trials concluded in a national sample of urban, suburban, and rural jurisdictions. Prior iterations of the CJSSC focused on tort, contract, and real property trial litigation in a sample of the nation's 75 most populous counties. The 2005 CJSSC also represents the first time that information was collected on whether litigants requested punitive damages in civil trial litigation.

HIGHLIGHTS

- Litigants sought punitive damages in 12% of the estimated 25,000 civil trials concluded in 2005.
- Punitive damages were sought in 10% of all tort trials; however, for certain case types including slander or libel, conversion, and intentional tort cases, punitive damages were requested in approximately 30% of trials.
- Punitive damages were awarded in 700 (5%) of the 14,359 trials where plaintiffs prevailed.
- Plaintiffs received punitive damages in 30% of the 1,761 civil trials in which these damages were requested and the plaintiff prevailed.
- The median punitive damage award was \$64,000, and 13% of cases with punitive awards had damages of \$1 million or more.
- In 76% of the 632 civil trials with both punitive and compensatory damages, the ratio of punitive to compensatory damages was 3 to 1 or less.
- Differences in punitive damages between bench and jury trials were greater in contract cases than in tort cases.
- Litigants filed motions for post-trial relief in nearly half of civil trials with punitive damages and appeals in about a third of civil trials with punitive damages.

Punitive damages were sought in 12% of civil trials

Punitive damages were sought in 12% of the estimated 25,000 tort and contract trials concluded in the national sample of counties in 2005 (table 1). Real property trials are not analyzed in this report because information on plaintiff winners receiving punitive damages for this case type were not available.

Punitive damages were sought in 10% of the 16,057 tort trials; however, for certain tort case types, such as slander or libel, conversion, and intentional tort cases, punitive damages were requested in approximately 30% of trials. For the more common tort case types, including premises liability, automobile accident, and medical malpractice—which together accounted for 84% of tort trials—litigants requested punitive damages in 7% of these cases.

Punitive damages were sought in 16% of the 8,874 contract trials concluded in the national sample in 2005. For certain contract case types, such as tortious interference, fraud, and employment discrimination cases, punitive damages were sought in more than 30% of trials. In some of the more common contract case types, such as seller plaintiff cases, punitive damages were sought in less than 10% of trials.

The variation in punitive damage claims by case type might be influenced by the legal elements inherent in the CJSSC case categories. Certain civil claims, such as intentional torts (e.g., assault or battery) or slander or libel tend to have elements of willful or intentional behavior that would be expected to support a punitive damages request.¹ Other CJSSC case categories, such as automobile accident or premises liability, typically do not involve elements of intentional or reckless behavior that could be used to support a punitive damages award.

¹Eisenberg, Theodore; Heise, Michael; Waters, Nicole L.; and Wells, Martin T., The Decision to Award Punitive Damages: An Empirical Study (June 1, 2009). Cornell Legal Studies Research Paper No. 09-011, CELS 2009 4th Annual Conference on Empirical Legal Studies Paper. Available at SSRN: <http://ssrn.com/abstract=1412864>.

TABLE 1

Percentage of civil trials in state courts with litigants seeking punitive damages, by all trials and trials with plaintiff winners, 2005

Case type	All civil trials		Civil trials with plaintiff winners	
	Number	Punitive damages sought	Number	Punitive damages sought
All cases	24,929	12%	14,550	13%
Tort^a	16,057	10%	8,645	10%
Slander/libel	186	33	--	--
Conversion	377	31	--	--
Intentional tort	724	29	429	33
Other or unknown tort	642	24	305	27
Product liability ^b	350	12	101	4
Professional malpractice	143	15	--	--
Medical malpractice	2,448	8	591	10
Automobile accident	9,173	7	6,062	7
Premise liability	1,815	5	718	4
Contract^c	8,874	16%	5,904	17%
Tortious interference	151	42	--	--
Fraud	1,108	32	665	39
Employment ^d	873	32	491	36
Other or unknown contract	242	21	137	23
Buyer Plaintiff	2,574	17	1,642	23
Seller plaintiff	2,871	6	2,184	4
Rental/lease	605	4	342	4

Note: Information on whether punitive damages were sought indicates formal requests for punitive damages in the complaint or made by parties prior to trial verdict or judgment date. Data on the number of trials in which punitive damages were sought were available for 99.9% of all civil trials and 99.9% of civil trials with plaintiff winners. Several tort and contract case categories are not shown because there were too few cases of such types to obtain statistically reliable estimates. Detail may not sum to total due to rounding.

--Too few cases to obtain statistically reliable estimates.

^aIncludes all tort cases, including those not listed in this table.

^bIncludes asbestos and other product liability cases.

^cIncludes all contract cases, including those not listed in table.

^dIncludes employment discrimination and other employment dispute cases.

Report focuses on punitive damages in the 3% of civil cases concluded by trial

When examining punitive damage awards in civil trial litigation, it is important to consider that the number of cases being analyzed is relatively small compared to the entire universe of potential civil dispositions. The 2005 CJSSC included aggregate counts of civil trial and non-trial dispositions in 116 jurisdictions. In these jurisdictions, an estimated 3% of the 439,341 civil cases were disposed of by bench or jury trial (table 2). Trial rates varied slightly across the primary civil case categories with 4% of tort and 2% of contract cases being resolved through bench or jury trial. Although punitive award figures are available for the 3% of civil cases disposed through trial, no information is available about punitive damages as part of the settlement agreement for civil cases that settled.

TABLE 2

Number of trial and non-trial dispositions of civil cases, 2005

Case type	Jurisdictions reporting	Total dispositions	Disposition by trial	
			Number	Percentage
All civil cases	116	439,341	14,812	3.4%
Torts	104	140,929	4,986	3.5
Contacts	107	189,619	4,014	2.1

Note: The percentage of civil cases disposed of by trial were not calculated from all 156 jurisdictions participating in the 2005 CJSSC. A total of 116 jurisdictions were able to provide counts of both trial and non-trial dispositions for all civil cases. The tort and contract case categories will not sum to totals because fewer jurisdictions provided counts of trial and non-trial dispositions by these case types. Data presented only represent counts of dispositions in the reporting counties. They are not weighted to provide national-level estimates.

Punitive damages were sought in a fifth of trials involving individuals suing government defendants

The CJSSC data allow for an examination of punitive damage claims by the characteristics of plaintiffs and defendants involved in civil trial litigation. In more than 70% of civil trials, individuals sued either other individuals or businesses (table 3). For these trials, punitive damages were requested relatively infrequently. Punitive damages were sought in 10% of trials in which both the plaintiff and defendant were individuals and 16% of trials in which the plaintiff was an individual and the defendant a business. The third most common litigant pairing category involved businesses suing other businesses, and punitive damages were sought in 13% of these cases. Punitive damages were also sought in about 21% of trials with individual plaintiffs and government defendants.

TABLE 3
Percentage of civil trials in state courts with litigants seeking punitive damages, by litigant pairings and trials with plaintiff winners, 2005

Litigant pairings	All civil trials		Civil trials with plaintiff winners	
	Number	Punitive damages sought	Number	Punitive damages sought
Individual versus—				
Individual	10,280	10%	6,026	10%
Business	7,210	16	4,356	19
Hospital	1,564	9	442	8
Government	1,218	21	458	21
Business versus—				
Individual	1,709	7%	1,293	4%
Business	2,520	13	1,650	11

Note: Information on whether punitive damages were sought indicates formal requests for punitive damages in the complaint or made by parties prior to trial verdict or judgment date. Data on litigant pairings available for 99% of civil trials. Table excludes trials with litigant pairings involving businesses suing hospitals or governments or governments/hospitals suing various parties because there were too few trials in each category to produce reliable estimates.

Litigants sought punitive damages in 25% of trials with compensatory awards exceeding \$1 million

Compensatory damages are awarded for the purpose of compensating injured parties for economic (e.g., lost wages and medical expenses) or non-economic (pain and suffering) damages. Litigants sought punitive damages in 12% of civil trials with compensatory awards ranging from \$1 to \$100,000, and 15% of trials with compensatory awards ranging from \$100,001 to \$1 million (table 4). Punitive damages were sought in 25% of civil trials with compensatory awards above \$1 million.

TABLE 4
Percentage of civil trials in state courts with litigants seeking punitive damages, by compensatory damage award amounts, 2005

Amount of compensatory damages awarded	Number of civil trials	Punitive damages sought
None	9,733	11%
\$1 to \$50,000	9,462	12
\$50,001 to \$100,000	2,012	12
\$100,001 to \$250,000	1,527	15
\$250,001 to \$1,000,000	1,347	15
Over \$1 Million	638	25

Note: Information on whether punitive damages were sought indicates formal requests for punitive damages in the complaint or made by parties prior to the trial verdict or judgment date. Data on compensatory award amounts were available for 99% of civil trials with these damages.

Punitive damages were awarded in 5% of trials with plaintiff winners

Punitive damages were awarded in 700 (5%) of the 14,359 civil trials in which the judge or jury found for the plaintiff (table 5). By general case type, punitive damages were awarded in a higher percentage of contract trials (8%) than tort trials (3%). Several prevalent case categories, including medical malpractice, automobile accident, and premises liability, recorded punitive damages being awarded in 1% or less of cases.

In comparison to these case categories, several specific case types concluded with relatively higher rates of punitive damage awards. Among torts, punitive damages were awarded in nearly a third of intentional tort cases. For contracts, courts awarded punitive damages in more than a fifth of contractual fraud or employment discrimination cases.

TABLE 5
Plaintiff winners awarded punitive damages in civil trials in state courts, by case type, 2005

Case type	Number of trials	Percentage awarded punitive damages ^a
All cases	14,359	5%
Tort^b	8,519	3%
Intentional tort	426	30
Other or unknown tort	299	5
Product liability ^c	95	1
Medical malpractice	567	1
Automobile	5,984	1
Premise liability	712	...
Contract^d	5,840	8%
Fraud	661	23
Employment ^e	447	22
Other or unknown contract	132	15
Buyer plaintiff	1,642	8
Rental/lease	341	2
Seller plaintiff	2,175	1

Note: Table includes only those trials in which one or more plaintiffs prevailed. Data on awarding of punitive damages were available for 98.5% of all trials. Several tort and contract case categories are not shown because there were too few cases to obtain statistically reliable estimates. Detail may not sum to total due to rounding.

^aIncludes some trials in which litigants did not seek but were awarded punitive damages.

^bIncludes all tort cases, including those not listed in table.

^cIncludes asbestos and other product liability cases.

^dIncludes all contract cases, including those not listed in table.

^eIncludes employment discrimination and other employment dispute cases.

...Less than 0.5%.

Punitive damages were awarded in nearly 1 of every 3 trials in which these damages were requested

The overall percentage of civil trials with plaintiff winners awarded punitive damages increases to 30% when the base of trials is reduced to include only those 1,761 trials in which punitive damages were sought (table 6). Punitive damages were awarded in 23% of tort and 35% of contract trials in which these damages were requested.

Punitive damages were awarded in 7% of trials involving individual plaintiffs and business defendants

Overall, there was little difference in the percentage of trials with punitive damage awards when categorized by litigant pairings. The percentage of trials with punitive damages ranged from 3% in cases involving business litigants only to 7% in cases involving individual plaintiffs and business defendants (table 7). Among trials in which punitive damages were requested, damages were awarded in a third involving individual plaintiffs and business defendants (33%) (not shown in table).

TABLE 6
Plaintiff winners who requested and were awarded punitive damages in civil trials in state courts, by case type, 2005

Case type	Number of trials	Percentage awarded punitive damages
All cases	1,761	30%
Tort	790	23
Contract	971	35

Note: Table includes only those trials in which one or more plaintiffs prevailed and sought punitive damages. The number of trials with punitive damage awards in all cases (table 5) will not match the number with punitive damage awards in cases where these damages were requested (table 6). In some instances, statutory rules allow jury or judge to consider awarding punitive damages in cases where no formal request was made. Data on awarding of punitive damages were available for 96.6% of trials in which these damages were formally requested. Detail may not sum to total due to rounding.

TABLE 7
Plaintiff winners awarded punitive damages in civil trials in state courts, by litigant pairings, 2005

Litigant pairings	Number of trials	Percentage awarded punitive damages
Individual versus—		
Individual	5,994	4%
Business	4,236	7
Hospital	432	6
Government	445	5
Business versus—		
Individual	1,290	5%
Business	1,638	3

Note: Table includes only those trials in which the plaintiff prevailed. Table excludes trials with litigant pairings involving businesses suing hospitals or governments or governments/hospitals suing various parties because there were too few trials in these litigant pairing categories to produce statistically reliable estimates. Data on awarding of punitive damages were available for 98.3% of all trials.

Median punitive damage awards were \$64,000

The median damage amounts awarded to plaintiff winners in the 700 trials with punitive damages was \$64,000 (table 8). Nearly 30% of punitive awards equaled or exceeded \$250,000 and 13% were \$1 million or more. For the general civil case categories, the median punitive awards ranged from \$55,000 in tort to \$69,000 in contract cases.

In 76% of trials with punitive damages the ratio of punitive to compensatory awards was 3 to 1 or less

The relationship between the plaintiff's economic and non-economic losses and the amount of punitive damages awarded, as expressed by the ratio of compensatory and punitive damages, has been an area of interest in Supreme Court jurisprudence. In several cases—culminating in the 2003 decision of *State Farm Automobile Insurance Company*

v. Campbell (123 S.Ct. 1513: 1524, April 7, 2003)—the Court held that, “Few awards exceeding a single digit ratio between punitive and compensatory damages...will satisfy due process.” Eight percent of trials with punitive damages reported ratios of punitive to compensatory awards of greater than 10 to 1 (not shown in table).

In 76% of the 632 civil trials with both punitive and compensatory awards, the ratio of punitive to compensatory damages was 3 to 1 or less (table 9). In trials with a ratio of punitive to compensatory awards ranging between 1 to 1 and 3 to 1, the median punitive and compensatory awards were similar (\$100,000). About 24% of trials with punitive damages registered a ratio of punitive to compensatory awards of more than 3 to 1. In these trials, the median compensatory award was about \$22,000, while the median punitive award was \$352,000.

TABLE 8
Punitive damage award amounts in civil trials in state courts, by case type, 2005

Case type	Number of trials	Median punitive award	Percentage of trials with punitive damage awards				
			Under \$10,000	\$10,000-\$49,999	\$50,000-\$249,999	\$250,000-\$999,999	\$1 million or more
All cases	700	\$64,000	15%	27%	28%	16%	13%
Tort	254	55,000	23	18	35	7	17
Contract	446	69,000	10	33	25	22	11

Note: The 700 trials with punitive damages includes trials in which punitive damages were not formally requested. In some instances, statutory rules allow jury or judge to consider awarding punitive damages in cases where no formal request was made. Medians calculated from only those cases in which punitive damages were awarded. Detail may not sum to total due to rounding.

TABLE 9
Ratio of punitive to compensatory damage awards in civil trials in state courts, 2005

Punitive to compensatory awards ratio	Number of trials	Median damage awards	
		Punitive	Compensatory
All civil trials	632	\$76,000	\$58,000
1-to-1 ratio or less	280	26,000	76,000
>1-to-1 ratio and ≤ 3-to-1 ratio	200	100,000	100,000
>3-to-1 ratio	151	352,000	22,000

Note: The number of trials with punitive and compensatory awards (632) will not equal the total number with punitive damages (700). There were 68 trials with punitive damages in which no compensatory damages were awarded. Medians calculated from only those cases in which both punitive and compensatory damages were awarded. Detail may not sum to total due to rounding.

Differences in punitive damages between bench and jury trials were greater in contract than tort cases

Juries and judges differ more frequently in contract than in tort cases in terms of punitive damage award activity. Between tort bench and jury trials, no detectable differences were observed between the percent that requested or were awarded punitive damages (table 10). Even when the population of tort cases was restricted to those in which punitive damages were sought, the percentage of litigants awarded these damages in jury and bench trials were identical (22%) (not shown in table).

In contrast to tort cases, punitive damages were sought more frequently and awarded more often in contract jury trials than in contract bench trials. Punitive damages were sought in 28% of jury and 9% of bench trials involving contract claims. In cases with plaintiff winners, punitive damages were awarded in 20% of contract cases adjudicated before juries and 2% of contract cases tried before judges.

TABLE 10
Comparing punitive damages between bench and jury civil trials concluded in state courts, 2005

Cases and outcomes	Jury trials			Bench trials		
	Estimate	Confidence interval		Estimate	Confidence interval	
		Lower bound	Upper bound		Lower bound	Upper bound
Percent of all trials in which punitive damages were sought^a						
All cases	13%	10%	16%	11%	7%	14%
Tort	10	7	12	15	9	21
Contract	28	22	34	9	6	13
Percent of trials with plaintiff winners in which punitive damages were sought^b						
All cases	14%	10%	17%	10%	6%	14%
Tort	9	6	11	16	8	23
Contract	33	26	41	9	5	14
Percent of trials with plaintiff winners awarded punitive damages^c						
All cases	6%	4%	8%	3%	2%	3%
Tort	3	2	4	4	1	7
Contract	20	12	27	2	1	3

Note: Confidence intervals were calculated by using a replication method (i.e., jackknife, specifically JKN) available in WESVAR PC. Punitive damages analyses between bench and jury trials excludes jury trials in which the jury presided over the case but did not determine liability or damages including punitive awards. Among jury trials excluded are trials with a directed verdict, judgments notwithstanding the verdict (JNOV), and jury trials for defaulted defendants. The confidence interval is at a 95% level.

^aThe number of jury trials in which punitive damages could have been sought included 14,107 tort and 3,054 contract cases. The number of bench trials in which punitive damages could have been sought included 1,593 tort and 5,682 contract cases.

^bThe number of jury trials with plaintiff winners in which punitive damages could have been sought included 7,491 tort and 1,899 contract cases. The number of bench trials with plaintiff winners in which punitive damages could have been sought included 985 tort and 3,948 contract cases.

^cThe number of jury trials with plaintiff winners in which punitive damages could have been awarded included 7,376 tort and 1,838 contract cases. The number of bench trials with plaintiff winners in which punitive damages could have been awarded included 982 tort and 3,944 contract cases. The numbers in footnotes b and c differ because information on punitive damage awards was missing from 2% of civil trials.

Post-trial motions were filed in nearly half of trials with punitive damages

After a trial reaches final verdict or judgment, litigants can file post-trial motions seeking to modify or overturn the trial court outcome. These motions include motions for judgments notwithstanding the verdict, or motions for a new trial, to modify the award, or for some other form of relief. Overall, litigants filed post-trial motions in nearly half (47%) of the 700 civil trials with punitive damage awards (table 11). In comparison, post-trial motions were filed in about 30% of the 14,550 civil trials with plaintiff winners, including those with and without punitive awards (not shown in table).

TABLE 11
Post-trial motions filed in civil trials with punitive damages awarded to plaintiff winners in state courts, by case type, 2005

Case type	Number of trials	Percentage with post-trial motions
All cases	700	47%
Tort	254	50
Contract	446	45

Note: Post-trial relief includes motions for judgment notwithstanding the verdict (JNOV), new trial, award modification, or some other form of relief. Information on post-trial activity was available for all civil trials with punitive damage awards. Detail may not sum to total due to rounding.

Litigants filed appeals in nearly a third of trials with punitive damages

Filing a notice with the trial court to take an appeal to the state's intermediate appellate court or court of last resort represents another option for litigants seeking to overturn or modify a verdict or judgment that they believe does not comply with state law. Notices of appeal were filed with the trial court by one or both parties in 29% of the 700 civil trials with punitive damage awards (table 12). Among the 14,550 civil trials with plaintiff winners, the percent in which an appeal was filed by one or both parties was 17% (not shown in table). Notices of appeal were filed in a fifth of tort and a third of contract cases with punitive damages.

TABLE 12
Notices of appeal filed in civil trials with punitive damages awarded to plaintiff winners in state courts, by case type, 2005

Case type	Number of trials	Percentage of trials appealed
All cases	700	29%
Tort	254	21
Contract	446	33

Note: Appeals encompass cases in which the litigant filed a notice with the trial court judge to take an appeal. Information on appellate activity was available for all civil trials with punitive awards. Detail may not sum to total due to rounding.

Methodology

The Civil Justice Survey of State Courts (CJSSC) examines tort, contract, and real property trials disposed of in general jurisdiction courts. The 2005 CJSSC contained two sampling frames. First, the sample was designed so that inferences could be made about general civil trials litigated in the nation's 75 most populous counties. The 75 most populous counties design was maintained in order to compute trends in civil trial litigation. The sample design for the 75 most populous counties sample was the same as the ones used for the 2001, 1996, and 1992 BJS civil trial studies.

Selection of counties

The sample is a stratified sample with 46 of the 75 most populous counties selected. The 75 most populous counties were divided into five strata: four were based on civil disposition data obtained in 1992 through telephone interviews with court staff in the general jurisdiction trial courts, and one stratum was added in 2001 to reflect population changes. Stratum 1 consisted of the 14 counties with the largest number of civil case dispositions. Every county in stratum 1 was selected with certainty. Stratum 2 consisted of 13 counties with 11 chosen for the sample. From strata 3, 10 of the 18 counties were selected. Nine of the 26 counties in stratum 4 were included in the sample. Stratum 5 was added to the 2001 sample to replace Norfolk County, Massachusetts, a stratum 4 site that participated in the 1992 and 1996 studies but that fell out of the 75 most populous counties in the 2000 census. Mecklenburg County, North Carolina, and El Paso County, Texas, were randomly selected from the four counties whose population increased sufficiently that they joined the ranks of the 75 most populous counties.

In addition to sampling civil trial litigation in the nation's 75 most populous counties, a sample of counties from which to estimate the civil trial litigation outside the 75 most populous was developed. The sample of civil trial litigation outside the nation's 75 most populous counties was constructed by first forming 2,518 primary sampling units (PSUs) from 3,066 counties—3,141 U.S. counties total minus the 75 counties from the 2001 CJSSC. The PSUs were formed through use of the following criteria: (1) they respected state lines, (2) they were based on one or more contiguous counties, and (3) they required a minimum estimated 2004 population of 10,000 persons. The average number of counties in each PSU was 1.22, with a maximum of 5 counties per PSU.

The 2,518 PSUs were stratified into 50 strata according to census region, levels of urbanization, and population size, which was based on the square root of the estimated 2004 population in each of these PSUs. Two PSUs were selected with equal probability within each of the fifty strata for a total of 100 PSUs and 110 counties in the supplemental sample. Hence, a total of 156 counties, 46 representing the nation's 75 most populous and 110 representing the remainder of

the nation, were used for the sample. All PSUs selected for the CJSSC either participated or substitutes were found for non-responsive units from a shadow sample; therefore, non-response adjustments were not needed for this survey.

Selection of cases

The second stage of the sample design generated lists of cases for coding. Each participating jurisdiction identified cases disposed of by jury trial or bench trial between January 1, 2005, and December 31, 2005. Some jurisdictions produced a list covering 12 months of trials for a fiscal year. Trial cases sampled met the following criteria for jury and bench trials: both litigants appeared at trial, both sides presented contested evidence, at least one litigating party sought monetary damages, and the trial was heard through completion. These criteria excluded many cases initially classified as bench or jury trials from the sample. Civil trials in state courts of limited jurisdiction and small claim cases were also excluded.

Weighting

For the sample of civil trials occurring in the nation's 75 most populous counties, data on 7,682 civil trials met the study criteria. When these trials are weighted to the nation's 75 most populous counties, they represent 10,813 civil trials. For the sample of civil trials occurring outside the nation's 75 most populous counties, data on 1,190 civil trials met the study criteria. When these trials are weighted, they represent 16,135 civil trials disposed in counties outside the nation's 75 most populous (appendix table 1).

The weighted estimate of 26,948 civil trials represents a small percentage of the reported 7.5 million civil cases filed in all unified/general jurisdiction state courts nationwide in 2005. This nationwide count comprises all tort, contract, real property, small claims, probate/estate, mental health cases, and other civil cases filed in state courts of unified/general jurisdiction. Although no nationwide counts of tort and contract filings in state courts are available, the National Center for State Courts Court Statistics Project reports 425,611 tort cases being filed in the unified/general jurisdiction courts of 32 states and 1,121,979 contract cases being filed in the unified/general jurisdiction courts of 28 states in 2005 (LaFountain, R., Schauffler, R., Strickland, S., Raftery, W., & Bromage, C., *Examining the Work of State Courts, 2006; A National Perspective from the Court Statistics Project* (National Center for State Courts 2007)).

Confidence of intervals

Because the data come from a sample, a sampling error and confidence intervals are associated with each reported number. Confidence intervals and standard errors for several key variables are reported in table 10 and appendix table 2. These confidence intervals show where the reported CJSSC numbers would fall 95% of the time in repeated sampling. BJS statisticians examined the distribution of unweighted outcome statistics and the sampling error, confidence

intervals, and coefficients of variation associated with each to identify outcome statistics most prone to sampling error. Those statistics with a coefficient of variation twice the estimated mean were deemed to be statistically unreliable and were not included in this report.

Collection of counts of all civil dispositions

In conjunction with collecting detailed case level information on general civil trials, the counties participating in this survey were asked to complete a survey instrument constructed in a spreadsheet format that contained information on all general civil cases disposed in 2005. Frequency counts were obtained for trial and non-trial dispositions in these counties. The non-trial dispositions included cases dismissed for want of prosecution, granted default or summary judgments, settled or withdrawn prior to trial, settled through mediation or another method of alternative dispute resolution, or transferred to another court. This secondary data collection was used to gather disposition outcomes in trial and non-trial cases by case types.

GLOSSARY

Tort claims terms

Torts—Claims arising from personal injury or property damage caused by negligent or intentional acts of another person or business.

Automobile accident—Personal injury or death caused by the negligent operation of a motor vehicle (not boat or airplane).

Conversion—Personal injury or property damage caused by the unauthorized use or control of another's personal property.

Intentional tort—Personal injury, death, or property damage caused by another's intentional act.

Medical malpractice—Personal injury or death caused by a medical professional's negligent care.

Other professional malpractice—Personal injury, death, or property damage caused by the negligent act of a non-medical professional.

Other negligent acts—Negligence for an act not represented by other case categories.

Premises liability—Personal injury or death caused by dangerous condition of residential or commercial property.

Product liability—Personal injury or damage caused by the negligent manufacture or design of a product or exposure to toxic substances.

Slander, Libel, or Defamation—Damage caused to the career or reputation of an individual due to false accusations, comments, or statements made by another.

Contract cases terms

Contracts—Cases that include all allegations of breach of contract.

Buyer plaintiff—Buyer claims no delivery or delivery of incomplete, incorrect, or poor quality goods or services.

Employment discrimination—Firing, failure to promote, or failure to hire due to age, race, gender, or religion. Also, any dispute between employer and employee not based on an allegation of discrimination.

Fraud—Claim of negligent or intentional misrepresentation of the nature of a person, product, or service within a legal contract.

Other contract claim—Any contractual dispute other than the case categories used in this study, such as stockholder claims.

Rental/lease agreement—A dispute between a landlord and a tenant over the terms of a lease or rental property.

Seller plaintiff—Any debt collection for delivery of goods or services, including lenders seeking payment of money owed by a buyer or borrowers.

Tortious interference—Dispute alleging a defendant's intentional procuring of breach of a commercial or contractual relationship and damages.

Damage award terms

Compensatory damages—Damages awarded to compensate plaintiffs for financial losses, pain, suffering, or emotional distress resulting from defendants' negligence. Compensatory damages include both economic and non-economic damages:

Economic damages—Economic damages are awarded for actual financial losses (e.g., medical costs, lost wages, lost future earnings, property damages) suffered by litigant.

Non-economic damages—Non-economic damages are awarded for pain and suffering, emotional distress, or loss of consortium.

Punitive damages—Punitive damages are awarded as a punishment for intentionally or grossly negligent behavior. They are awarded for the purposes of punishment rather than compensation.

APPENDIX TABLE 1

2005 Civil Justice Survey of State Courts sampling framework

Sampling frame	75 most populous counties	Outside the 75 most populous counties
Number of U.S. counties with population of 10,000 or more	75	2,518
Counties sampled	46	110
Cases meeting study criteria	7,682	1,190
Weighted cases	10,813	16,135
Average weight	1.41	13.56

Note: Cases meeting study criteria will not match those in appendix table 3 because real property and bifurcated trials involving liability claims were included in this table, but excluded throughout this report.

APPENDIX TABLE 2

Standard errors and confidence intervals for civil trials in which punitive damages were requested or awarded, by selected characteristics, 2005 Civil Justice Survey of State Courts

Cases and outcomes	Estimate	Standard error	Confidence interval	
			Lower bound	Upper bound
Percent of trials in which punitive damages were sought				
All cases	12%	1.2%	10%	14%
Tort	10	1.2	8	13
Contract	16	1.6	13	19
Percent of trials with plaintiff winners in which punitive damages were sought				
All cases	13%	1.3%	10%	15%
Tort	10	1.1	7	12
Contract	17	2.1	13	21
Percent of trials in which plaintiff winners were awarded punitive damages				
All cases	5%	0.6%	4%	6%
Tort	3	0.6	2	4
Contract	8	1.3	5	10
Percent of trials with punitive awards from trials where punitive damages were sought				
All cases	30%	4.0%	22%	38%
Tort	23	5.3	13	34
Contract	35	5.6	24	46
Median punitive damage awards				
All cases	\$64,000	\$18,000	\$28,000	\$98,000
Tort	55,000	19,000	23,000	97,000
Contract	69,000	42,000	25,000	193,000

Note: Standard errors were calculated by using a replication method (i.e., jackknife, specifically JKN) available in WESVAR PC. Confidence interval is at 95% level.

APPENDIX TABLE 3

Percentage of civil trials in state courts with litigants seeking punitive damages, by the sampled CJSSC jurisdictions, 2005

Sampled counties	All civil trials		Civil trials with plaintiff winners	
	Number	Punitive damages sought	Number	Punitive damages sought
Sample of counties in 46 of nation's 75 most populous	7,373	8%	3,889	9%
Fulton, GA	36	36	22	46
Franklin, OH	131	32	93	23
Santa Clara, CA	51	31	25	36
Los Angeles, CA	354	27	189	32
Contra Costa, CA	25	24	10	30
Bexar, TX	75	24	33	39
Honolulu, HI	18	22	10	30
Fairfax, VA	166	21	102	23
Mecklenburg, NC	38	21	29	14
San Francisco, CA	116	21	64	19
Orange, CA	254	20	129	25
San Bernardino, CA	70	17	40	15
St. Louis, MO	141	16	82	13
Ventura, CA	71	16	35	11
Alameda, CA	167	14	98	19
Dupage, IL	81	12	53	13
Maricopa, AZ	238	11	116	15
El Paso, TX	40	8	27	11
Fairfield, CT	70	7	47	2
Jefferson, KY	110	6	45	13
Bergen, NJ	155	6	57	7
Cuyahoga, OH	230	6	124	5
Prima, AZ	75	5	46	7
Hartford, CT	75	5	44	5
Dade, FL	201	5	125	4
Orange, FL	69	4	37	8
New York, NY	346	4	161	4
Milwaukee, WI	117	4	73	3
Harris, TX	506	4	259	6
Philadelphia, PA	608	4	357	5
Middlesex, NJ	207	4	78	4
Hennepin, MN	167	4	93	5
Essex, NJ	129	3	59	3
Dallas, TX	199	3	85	2
Allegheny, PA	216	3	114	4
Marion, IN	126	2	85	2
Fresno, CA	51	2	35	3
Oakland, MI	147	2	76	1
Middlesex, MA	103	2	27	0
Palm Beach, FL	113	2	73	3
Cook, IL	681	2	365	3
Essex, MA	55	2	16	6
Suffolk, MA	125	2	37	3
King, WA	182	2	126	2
Worcester, MA	69	0	18	0
Wayne, MI	169	0	70	0
Sample of counties outside nation's 75 most populous	1,103	15%	665	16%

Note: Sample of counties outside the 75 most populous were combined because many of these counties had fewer than 10 trials, which precludes the generation of statistically reliable estimates. For a comprehensive view of civil trials concluded in the national sample of 156 counties, see Civil Bench and Jury Trials in State Courts, 2005 at <http://www.ojp.usdoj.gov/bjts/abstract/cbjtsc05.htm>. Detail may not sum to total due to rounding.

APPENDIX TABLE 4**Punitive damages awarded in civil trials in state courts,
by the sampled CJSSC jurisdictions, 2005**

Sampled counties	Number of trials with plaintiff winners	Percentage with punitive damage awards
Sample of counties in 46 of nation's 75 most populous	3,813	4%
Bexar, TX	33	18
Santa Clara, CA	24	17
Jefferson, KY	44	14
Alameda, CA	98	10
Contra Costa, CA	10	10
Fairfax, VA	102	10
St. Louis, MO	82	10
Fulton, GA	22	9
Los Angeles, CA	187	9
Franklin, OH	92	9
Ventura, CA	35	9
San Francisco, CA	64	8
Orange, CA	129	8
El Paso, TX	27	7
Essex, MA	16	6
Dupage, IL	53	6
Cuyahoga, OH	123	5
Allegheny, PA	110	5
Hennepin, MN	90	4
Harris, TX	258	4
Wayne, MI	51	4
Mecklenburg, NC	28	4
Maricopa, AZ	114	4
Dallas, TX	85	4
Milwaukee, WI	68	3
Orange, FL	36	3
Palm Beach, FL	72	3
Suffolk, MA	37	3
Dade, FL	125	2
Hartford, CT	44	2
Prima, AZ	46	2
Fairfield, CT	47	2
Essex, NJ	59	2
Cook, IL	338	2
Middlesex, NJ	78	1
Oakland, MI	75	1
Philadelphia, PA	357	1
King, WA	126	1
New York, NY	159	1
Sample of counties outside nation's 75 most populous	656	5%

Note: Sample of counties outside the 75 most populous were combined because many of these counties had fewer than 10 trials, which precludes the generation of statistically reliable estimates. For a comprehensive view of civil trials concluded in the national sample of 156 counties, see *Civil Bench and Jury Trials in State Courts, 2005* at <http://www.bjs.gov/bjs/abstract/cbjtsc05.htm>. Not all 46 of the nation's 75 most populous counties are shown in list because several reported no punitive damage awards. These counties were combined and included in the sub-total. Detail may not sum to total due to rounding.

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This report in portable document format and in ASCII and its related statistical data and tables are available at the website: <http://www.bjs.gov/index.cfm?ty=pbdetail&iid=2376>.