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# Bureau of Justice Statistics Special Report

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## *Civil Justice Survey of State Courts, 2005*

# Civil Bench and Jury Trials in State Courts, 2005

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State courts of general jurisdiction disposed of approximately 26,950 general civil cases—tort, contract, and real property—through a jury or bench trial in 2005. These trials were a small percentage of the reported 7.4 million civil claims filed in all unified and general jurisdiction state courts nationwide.<sup>1</sup> Among jurisdictions that provided totals for both trial and non-trial general civil dispositions in 2005, trials collectively accounted for about 3% of all tort, contract, and real property dispositions in general jurisdiction courts.

Civil bench and jury trials are rare but important events. Records from civil trials are the primary source of information on civil cases in general. The terms of settlement agreements and other key information for civil cases resolved prior to trial may not be reported to the court or may not be publicly available.

The Civil Justice Survey of State Courts (CJSSC) examines tort, contract, and real property trials disposed of in general jurisdiction courts. It provides information such as the types of litigants involved in trials, who wins in civil trials, compensatory award amounts, punitive damages, and case processing times. The 2005 CJSSC was the first time that the series examined general civil trials concluded in a national sample of urban, suburban, and rural jurisdictions. Prior iterations of the CJSSC focused on general civil trial litigation in the nation's 75 most populous counties.<sup>2</sup>

<sup>1</sup>Approximately 7.4 million civil claims were filed in general jurisdiction and unified jurisdiction courts in 2005, with 4.5 million of those claims filed in courts of general jurisdiction and 2.9 million civil cases filed in states with a unified court structure. See 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).

<sup>2</sup>The 1992, 1996 and 2001 CJSSC reports are available at <<http://www.ojp.usdoj.gov/bjs/civil.htm#publications>>.

### Median compensatory and punitive final awards for plaintiff winners in select trial cases

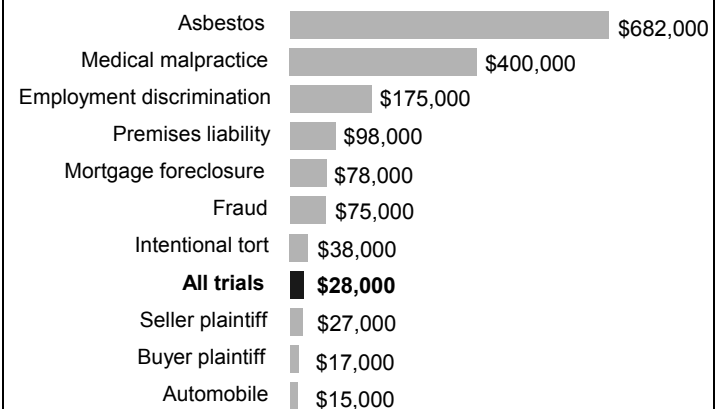


Figure 1

Major findings from the 2005 Civil Justice Survey of State Courts include—

- A jury decided almost 70% of the approximately 26,950 general civil trials disposed of in 2005.
- About 60% of the general civil trials included in the survey involved a tort claim and about a third involved contractual issues.
- Plaintiffs won in almost 60% of trials overall.
- The median damage award for plaintiffs who won monetary damages in general civil trials was \$28,000 (figure 1).
- Punitive damages were awarded to 5% of plaintiff winners in general civil trials in 2005.
- In the nation's 75 most populous counties, the number of general civil cases disposed of by jury or bench trial declined by about 50% from 1992 to 2005.

Detailed information is available in appendix tables in the online version of this report on the BJS Website at <<http://www.usdoj.gov/bjs/pub/pdf/cbjtsc05.pdf>>.

## Motor vehicle accident cases accounted for over a third of civil trials in 2005

The majority (61%) of the nation's civil cases disposed of by trial involved a tort claim, in which the plaintiff(s) alleged injury, loss, or damage from the negligent or intentional acts of the defendant(s) (table 1). Contract cases, concerning an alleged breach of a contractual agreement, accounted for 33% of all civil trials in state courts in 2005. Real property cases, involving disputes over land ownership, accounted for 6%.

The most common types of civil cases disposed of by trial were motor vehicle accident cases (35%), followed by seller plaintiff cases involving payments owed for the provision of goods or services (11%). Buyer plaintiff cases, in which the purchasers of goods or services sought the return of money, accounted for 10% of all civil cases disposed of by trial in 2005. Medical malpractice cases, involving the allegation of harm caused by a doctor, dentist, or other health care provider, accounted for 9%, and premises liability cases, concerning an alleged harm from inadequately maintained or dangerous property, accounted for 7% of the civil trials. Employment discrimination and product liability cases each accounted for less than 2% of all civil trials in 2005.

### Nine of every 10 tort trials resolved by juries in 2005

Civil trials involving tort claims of personal injury or damaged property were most often heard before a jury (90%), rather than a judge (10%). Medical malpractice (99%), alleged illness or harm due to asbestos (96%) or some other product (93%), premises liability (94%), and motor vehicle accident (92%) cases were among the most likely tort claims to be tried by a jury in 2005.

Judges decided a greater percentage of business-related civil trials—contract (64%) and real property (74%) cases—than juries. Litigants waived their rights to a jury trial and had their cases decided by a judge in more than 80% of contract cases involving seller plaintiff, mortgage foreclosure, rental lease agreement, and subrogation issues. In the category employment discrimination, the majority (91%) of contract trials were decided by a jury.

**Table 1. Civil trials in state courts, by case type, 2005**

| Case type                      | Total trials* |                         | Percent disposed through jury trial |
|--------------------------------|---------------|-------------------------|-------------------------------------|
|                                | Number        | Percent of total trials |                                     |
| <b>All cases</b>               | 26,948        | 100.0%                  | 68.3%                               |
| <b>Tort cases</b>              | 16,397        | 60.8%                   | 90.0%                               |
| Motor vehicle                  | 9,431         | 35.0                    | 92.1                                |
| Medical malpractice            | 2,449         | 9.1                     | 98.7                                |
| Premises liability             | 1,863         | 6.9                     | 93.8                                |
| Intentional tort               | 725           | 2.7                     | 78.3                                |
| Other or unknown tort          | 664           | 2.5                     | 71.6                                |
| Conversion                     | 378           | 1.4                     | 46.3                                |
| Product liability              | 354           | 1.3                     | 93.5                                |
| Asbestos                       | 87            | 0.3                     | 95.5                                |
| Other                          | 268           | 1.0                     | 92.7                                |
| Slander/libel                  | 187           | 0.7                     | 64.2                                |
| Professional malpractice       | 150           | 0.6                     | 59.9                                |
| Animal attack                  | 138           | 0.5                     | 80.6                                |
| False arrest, imprisonment     | 58            | 0.2                     | 63.9                                |
| <b>Contract cases</b>          | 8,917         | 33.1%                   | 36.0%                               |
| Seller plaintiff               | 2,883         | 10.7                    | 16.6                                |
| Buyer plaintiff                | 2,591         | 9.6                     | 44.1                                |
| Fraud                          | 1,114         | 4.1                     | 50.2                                |
| Rental/lease                   | 605           | 2.2                     | 19.2                                |
| Other employment dispute       | 558           | 2.1                     | 62.9                                |
| Employment discrimination      | 319           | 1.2                     | 91.2                                |
| Mortgage foreclosure           | 249           | 0.9                     | 3.5                                 |
| Other or unknown contract      | 245           | 0.9                     | 52.2                                |
| Tortious interference          | 152           | 0.6                     | 61.7                                |
| Partnership dispute            | 119           | 0.4                     | 32.3                                |
| Subrogation                    | 82            | 0.3                     | 7.4                                 |
| <b>Real property cases</b>     | 1,633         | 6.1%                    | 26.4%                               |
| Title or boundary dispute      | 963           | 3.6                     | 15.0                                |
| Eminent domain                 | 542           | 2.0                     | 50.7                                |
| Other or unknown real property | 129           | 0.5                     | 9.0                                 |

Note: Detail may not sum to 100% because of rounding.

\*Trial cases include all bench and jury trials, trials with a directed verdict, judgments not withstanding the verdict, and jury trials for defaulted defendants. See *Methodology* for case type definitions.

## Judges hear business litigation more often than juries

Civil cases tried before juries and judges in state courts differed in terms of the litigants, plaintiff win rates, damage awards, and case processing times (table 2). Bench trials (57%) had a higher percentage of business litigants than jury trials (39%) and were likely to be decided in less time than jury trials. Judges were more likely than juries to find for plaintiffs. Plaintiffs won in 66% of bench trials, compared to about 53% of jury trials.

**Table 2. Bench and jury trials in state courts, by selected characteristics, 2005**

|  | Jury     | Bench    |
|--|----------|----------|
| <b>How many civil trials were decided by a jury or judge?</b>  | 18,404   | 8,543*   |
| <b>Who were the litigants?<sup>a</sup></b>   |          |          |
| Individual vs. individual  | 45.5%    | 33.7%*   |
| Individual vs. business  | 30.4     | 22.2*    |
| Business vs. individual  | 1.8      | 17.9*    |
| Business vs. business  | 6.4      | 16.8*    |
| <b>Who won?<sup>b</sup></b>  |          |          |
| Plaintiffs overall   | 53.2%    | 65.7%*   |
| Plaintiffs in torts  | 51.3     | 56.2     |
| Plaintiffs in contracts  | 61.9     | 68.5     |
| <b>What was the median final award?<sup>c</sup></b>  |          |          |
| In all cases   | \$30,000 | \$24,000 |
| In tort cases  | 24,000   | 21,000   |
| In contract cases  | 75,000   | 25,000*  |
| <b>What percent of prevailing plaintiffs were awarded \$1 million or more?</b>                               |          |          |
| In all cases   | 6.3%     | 1.6%*    |
| In tort cases  | 5.7      | 3.7      |
| In contract cases  | 8.3      | 1.0*     |
| <b>What percent of plaintiff winners seeking punitive damages were awarded punitive damages?<sup>d</sup></b> | 33.6%    | 19.5%*   |
| <b>What percent of cases were terminated within two years?<sup>e</sup></b>                                   | 53.9%    | 72.8%*   |

Note: Plaintiff winner, damage awards, and punitive damages analyses exclude jury trials in which the jury presided over the case but did not determine liability or damages. The jury trials excluded from the plaintiff winner, damage awards, and punitive damages categories include trials with a directed verdict, judgments notwithstanding the verdict (JNOV), and jury trials for defaulted defendants. These "other" jury trials are included in the trial count, litigant characteristics, and case processing time analyses.

\*Jury-bench difference is significant at the 95% confidence level.

<sup>a</sup>Data on litigant pairings were available for 99.8% of jury and 99.7% of bench trials. Bench and jury percentages do not add to 100% due to the exclusion of hospital and government litigants.

<sup>b</sup>Data on plaintiff winners were not applicable to real property trials. Data were available for 99.7% of tort and contract jury trials and 99.4% of tort and contract bench trials.

<sup>c</sup>There were 9,376 jury and 4,794 bench trials in which the plaintiff won an award. Median award amounts were calculated for plaintiff winners in tort and contract cases.

<sup>d</sup>Includes only the 1,824 plaintiff winners who sought punitive damages. Data were available for 96.6% of trials.

<sup>e</sup>Case processing data were available for 99.9% of jury and 99.5% of bench trials.

The median damage awards in 2005 were statistically similar for both jury and bench trials overall. Contract cases tried before a jury (\$75,000), however, had significantly higher median final awards than contract cases decided by a judge (\$25,000).

## Individuals accounted for the majority of plaintiffs in tort trials; businesses were more heavily represented as plaintiffs in contract disputes

In 2005, individuals accounted for the largest percentage of plaintiffs (81%) and defendants (50%) in civil trials (table 3). This held true in both tort and real property trials. For contract trials, the majority of defendants were businesses (58%). Also in contract trials, a larger percentage of plaintiffs were businesses (43%) than in tort (4%) or real property (9%) cases.

Real property cases involved the highest percentage of government plaintiffs (26%) and defendants (11%). A hospital or medical company was the plaintiff in less than 1% and the defendant in less than 6% of all civil bench and jury trials in 2005.

**Table 3. Primary litigants in civil trials in state courts, by case type, 2005**

| Litigant by case type <sup>a</sup> | Total | Primary litigant |                       |                         |                       |
|------------------------------------|-------|------------------|-----------------------|-------------------------|-----------------------|
|                                    |       | Individual       | Business <sup>b</sup> | Government <sup>c</sup> | Hospital <sup>d</sup> |
| <b>All cases</b>                   |       |                  |                       |                         |                       |
| Plaintiff                          | 100%  | 80.5             | 17.3                  | 2.1                     | 0.1                   |
| Defendant                          | 100%  | 50.1             | 38.1                  | 6.0                     | 5.8                   |
| <b>Tort</b>                        |       |                  |                       |                         |                       |
| Plaintiff                          | 100%  | 95.8             | 4.0                   | 0.1                     | /                     |
| Defendant                          | 100%  | 55.0             | 29.3                  | 7.0                     | 8.8                   |
| <b>Contract</b>                    |       |                  |                       |                         |                       |
| Plaintiff                          | 100%  | 55.0             | 43.3                  | 1.3                     | 0.3                   |
| Defendant                          | 100%  | 36.9             | 58.4                  | 3.3                     | 1.4                   |
| <b>Real property</b>               |       |                  |                       |                         |                       |
| Plaintiff                          | 100%  | 64.6             | 9.4                   | 25.9                    | /                     |
| Defendant                          | 100%  | 73.8             | 15.7                  | 10.5                    | /                     |

Note: Plaintiff or defendant type for each case is whichever type appears first in this list: 1. hospital/medical company, 2. governmental agencies, 3. corporate/business, and 4. individuals. A case with a hospital defendant was categorized as such even if a business, individual, or government was also a defendant in the case.

/No cases reported.

<sup>a</sup>0.1% of plaintiff types and 0.2% of defendant types are unknown.

<sup>b</sup>Includes insurance companies and other businesses not involved in the medical industry.

<sup>c</sup>Includes government organizations and law enforcement agencies.

<sup>d</sup>Includes any organization or medical practice that provides health care and dental treatment. Individual doctors are counted as individuals.

**Seventy percent of civil trials involved individuals suing other individuals or businesses; 40% of trials involved one plaintiff and one defendant**

The most common civil trials involved an individual suing either another individual (42%) or a business (28%) (table 4). Businesses sued other businesses in about 10% of all civil trials. In 2% of all civil trials, a government entity initiated the lawsuit.

Excluding class action lawsuits, almost 86,000 litigants were involved in general civil trials in 2005. Forty percent (10,800) of all civil trials disposed of in state courts in 2005 involved one plaintiff and one defendant. Almost half (47%) of all civil bench and jury trials in 2005 had multiple defendants, and more than a quarter (29%) had multiple plaintiffs (not shown in a table).

**Table 4. Civil trials in state courts, by litigant pairings, 2005**

| Litigants                             | Number of total trials <sup>a</sup> |
|---------------------------------------|-------------------------------------|
| <b>All trials</b>                     | 26,984                              |
| <b>Individual versus—</b>             |                                     |
| Individual                            | 11,224                              |
| Business                              | 7,472                               |
| Hospital                              | 1,546                               |
| Government                            | 1,383                               |
| <b>Business versus—</b>               |                                     |
| Individual                            | 1,852                               |
| Business                              | 2,604                               |
| Hospital                              | 9                                   |
| Government                            | 198                                 |
| <b>Hospital versus<sup>b</sup>—</b>   |                                     |
| Individual                            | 13                                  |
| Business                              | 16                                  |
| Hospital                              | 7                                   |
| <b>Government versus<sup>b</sup>—</b> |                                     |
| Individual                            | 384                                 |
| Business                              | 151                                 |
| Government                            | 22                                  |

<sup>a</sup>Litigant data were available for 99.7% of trials.

<sup>b</sup>There were no reported cases in which a hospital/medical company filed against the government or in which the government filed against a hospital/medical company.

**Plaintiffs won in the majority of tort and contract trials**

Plaintiffs won in more than half (56%) of all general civil trials concluded in state courts (table 5). In 2005, a higher percentage of plaintiffs won in contract (66%) than in tort (52%) cases.

Among tort trials, plaintiffs were most likely to win in cases involving an animal attack (75%), followed by motor vehicle accident (64%), asbestos (55%), and intentional tort (52%) cases. Plaintiffs had the lowest percentage of wins in medical malpractice trials (23%), product liability trials that did not involve asbestos (20%), and false arrest or imprisonment trials (16%), compared to plaintiffs in other tort cases.

In contract cases, plaintiffs won in the majority of trials for all case types except subrogation (28%), which involves an insurance company seeking to recover the amount paid on behalf of a client. Mortgage foreclosure cases, in which the plaintiff was either a mortgage company or other financial lending institution, had the highest percentage of plaintiff winners (89%) of all tort and contract cases in 2005.

**Table 5. Percent of plaintiff winners in civil trials in state courts, by case type, 2005**

| Case type                    | Total trials |                    |
|------------------------------|--------------|--------------------|
|                              | Number       | Plaintiff winners* |
| <b>All cases</b>             | 23,445       | 56.4%              |
| <b>Tort cases</b>            | 15,428       | 51.6%              |
| Animal attack                | 125          | 75.2               |
| Motor vehicle                | 8,844        | 64.3               |
| Product liability (asbestos) | 82           | 54.9               |
| Intentional tort             | 609          | 51.6               |
| Conversion                   | 296          | 48.3               |
| Other or unknown tort        | 606          | 41.1               |
| Slander/libel                | 175          | 39.4               |
| Professional malpractice     | 143          | 39.2               |
| Premises liability           | 1,827        | 38.4               |
| Medical malpractice          | 2,397        | 22.7               |
| Product liability (other)    | 265          | 19.6               |
| False arrest, imprisonment   | 58           | 15.5               |
| <b>Contract cases</b>        | 8,016        | 65.6%              |
| Mortgage foreclosure         | 245          | 89.4               |
| Seller plaintiff             | 2,610        | 74.6               |
| Partnership dispute          | 102          | 65.7               |
| Rental/lease                 | 531          | 62.5               |
| Buyer plaintiff              | 2,252        | 62.3               |
| Employment discrimination    | 307          | 60.9               |
| Tortious interference        | 146          | 60.3               |
| Other or unknown contract    | 214          | 59.3               |
| Fraud                        | 1,041        | 59.1               |
| Other employment dispute     | 519          | 50.9               |
| Subrogation                  | 51           | 27.5               |

Note: Data on plaintiff winners were not applicable to real property cases. Data on plaintiff winners were available for 99.6% of all tort and contract trials.

\*Includes cases in which both the plaintiff and defendant won damages and the plaintiff award amount was greater than the defendant award amount. Excludes the 1,884 bifurcated trials in which the plaintiff litigated only the damage claim.

**Over 60% of plaintiff winners were granted final awards of \$50,000 or less**

Plaintiff winners in civil bench and jury trials were awarded an estimated sum of \$6 billion in compensatory and punitive damages in 2005 (not shown in a table). Among the 14,000 plaintiffs awarded monetary damages, the median final award amount was \$28,000 (table 6). Contract cases in general had higher median awards (\$35,000) than tort cases (\$24,000).

Almost two-thirds (62%) of all plaintiff award winners were awarded \$50,000 or less. A small percentage (about 4%) of all plaintiff award winners were awarded \$1 million or more. Plaintiff winners in asbestos cases tended to win the highest award amounts. The median final award in asbestos

cases was almost \$700,000. More than three-quarters of all award amounts in asbestos cases were greater than \$250,000.

Cases with median final awards over \$150,000 included other product liability (\$500,000), medical malpractice (\$400,000), false arrest or imprisonment (\$259,000), employment discrimination (\$175,000), and tortious interference (\$169,000).

Motor vehicle accident cases accounted for more than 40% of all plaintiff award winners in 2005. The median award in motor vehicle accident cases was \$15,000. Forty percent of plaintiff winners in motor vehicle accident trials were awarded \$10,000 or less.

**Table 6. Plaintiff award winners in civil trials in state courts, by case type, 2005**

| Case type                  | Number of trials with plaintiff winner <sup>a</sup> | Median final award amount <sup>b</sup> | Percent of plaintiff winners with final awards |                   |                    |                       |              |
|----------------------------|---|--|--|-------------------|--------------------|-----------------------|--------------|
|                            |   |  | <\$10,000                                      | \$10,001-\$50,000 | \$50,001-\$250,000 | \$250,001-\$1 million | >\$1 million |
| <b>All cases</b>           | 14,170  | \$28,000                               | 28.7%  | 33.0%             | 24.1%              | 9.9%                  | 4.4%         |
| <b>Tort cases</b>          | 8,455   | \$24,000                               | 32.7%  | 30.6%             | 21.3%              | 10.4%                 | 5.0%         |
| Product liability          | 99  | 567,000                                | 4.0  | 17.2              | 13.1               | 35.4                  | 30.3         |
| Asbestos                   | 47  | 682,000                                | 2.1  | 0.0               | 19.1               | 53.2                  | 25.5         |
| Other                      | 52  | 500,000                                | 5.8  | 32.7              | 7.7                | 17.3                  | 36.5         |
| Medical malpractice        | 584   | 400,000                                | 0.7  | 5.3               | 29.1               | 43.8                  | 21.1         |
| False arrest, imprisonment | 8   | 259,000                                | 37.5   | 0.0               | 12.5               | 12.5                  | 37.5         |
| Professional malpractice   | 63  | 129,000                                | 3.2  | 31.7              | 22.2               | 28.6                  | 14.3         |
| Premises liability         | 666   | 98,000                                 | 5.6  | 30.9              | 32.9               | 23.3                  | 7.4          |
| Other or unknown tort      | 305   | 83,000                                 | 36.1   | 8.9               | 27.2               | 12.5                  | 15.4         |
| Intentional tort           | 429   | 38,000                                 | 28.7   | 23.8              | 36.1               | 7.0                   | 4.4          |
| Conversion                 | 148   | 27,000                                 | 24.3   | 31.8              | 37.2               | 4.1                   | 2.7          |
| Slander/libel              | 80  | 24,000                                 | 22.5   | 40.0              | 2.5                | 22.5                  | 12.5         |
| Animal attack              | 107   | 21,000                                 | 37.4   | 32.7              | 29.0               | 0.9                   | 0.0          |
| Motor vehicle              | 5,964   | 15,000                                 | 40.0   | 34.8              | 17.7               | 5.4                   | 2.1          |
| <b>Contract cases</b>      | 5,715   | \$35,000                               | 22.7%  | 36.5%             | 28.3%              | 9.1%                  | 3.5%         |
| Employment discrimination  | 183   | 175,000                                | 3.3  | 7.1               | 70.5               | 14.8                  | 4.4          |
| Tortious interference      | 90  | 169,000                                | 8.9  | 12.2              | 34.4               | 24.4                  | 20.0         |
| Partnership dispute        | 82  | 120,000                                | 7.3  | 24.4              | 41.5               | 22.0                  | 4.9          |
| Mortgage foreclosure       | 222   | 78,000                                 | 1.4  | 15.3              | 71.6               | 10.4                  | 1.4          |
| Fraud                      | 660   | 75,000                                 | 16.1   | 24.1              | 34.1               | 18.3                  | 7.4          |
| Other employment dispute   | 282   | 45,000                                 | 8.9  | 45.7              | 26.6               | 13.1                  | 5.7          |
| Rental/lease               | 293   | 35,000                                 | 25.6   | 38.2              | 27.3               | 7.8                   | 1.0          |
| Subrogation                | 44  | 30,000                                 | 25.0   | 70.5              | 4.5                | 0.0                   | 0.0          |
| Other or unknown contract  | 134   | 30,000                                 | 21.6   | 29.9              | 20.9               | 11.2                  | 16.4         |
| Seller plaintiff           | 2,177   | 27,000                                 | 23.0   | 45.2              | 24.9               | 4.9                   | 2.0          |
| Buyer plaintiff            | 1,549   | 17,000                                 | 34.2   | 35.6              | 19.9               | 8.2                   | 2.1          |

Note: Data on plaintiff winners were not applicable to real property cases.

<sup>a</sup>Excludes bifurcated trials in which the plaintiff won on the liability only claim. Includes cases in which both the plaintiff and defendant won damages and the plaintiff award amount was larger. Also includes damages only trials in which the plaintiff was awarded a greater damage amount. Number of plaintiffs awarded damages may be different from the number of plaintiffs who successfully litigated the case. This difference is primarily due to the exclusion of plaintiff winners who receive no award because of award reductions and to the inclusion of bifurcated damage trials.

<sup>b</sup>Award data rounded to the nearest thousand. Median amounts calculated for compensatory plus punitive damage awards, after adjustments for contributory negligence, prior settlement, high/low agreement and damage caps but prior to post-trial activity and appeals.

## Punitive damages were awarded to 5% of plaintiff winners in general civil trials in 2005

Punitive damages are awarded to punish and deter the defendant. Punitive damages were sought in 13% of the approximately 14,000 general civil trials with plaintiff winners in 2005 (table 7). Plaintiffs were awarded punitive damages in 700 of the 14,000 trials (5%).

The median overall punitive damage amount awarded to plaintiff winners was \$64,000. About a quarter (27%) of the punitive damage awards in 2005 were over \$250,000 and 13% were \$1 million or more. Of the approximately 450 contract cases in which punitive damages were awarded, plaintiffs were awarded punitive amounts of \$250,000 or more in 40% of the trials.

Tortious interference (\$6,900,000) and medical malpractice (\$2,800,000) cases had among the highest median punitive damage awards for specific contract and tort case types. During 2005, there were less than 20 of each case type in which punitive damages were awarded. Among the case types in which punitive damages were awarded most frequently—intentional torts, fraud, and buyer plaintiff cases—the median punitive damage awards were \$100,000 or less.

## Largest damage award was \$172 million

Of the civil trials sampled in state courts nationwide in 2005, the largest damage award was granted to approximately 116,000 California employees who brought a class-action lawsuit against a large retail corporation.

The lawsuit was originally filed in 2001 by several former employees and was expanded to cover California employees working for the retailer between 2001 and 2005. The employees claimed that the retailer had violated a California state law requiring that employees working six hours or more be given a 30-minute, unpaid lunch break. Under the law, if an employee was not permitted the break, the company was required to pay a full hour's wages in compensation. The employees maintained that they were owed more than \$66 million plus interest.

After four months of testimony and three days of deliberation, an Alameda County jury awarded the plaintiffs \$57 million in general damages and \$115 million in punitive damages.

**Table 7. Plaintiff winners who sought and were awarded punitive damages in civil trials, by selected case types, 2005**

| Case type                         | Number of plaintiffs who sought punitive damages <sup>a</sup> | Punitive damages awarded <sup>b</sup> |               | Number of cases with punitive damages |                     |
|-----------------------------------|---|---------------------------------------|---------------|---------------------------------------|---------------------|
|                                   |   | Number                                | Median amount | Over \$250,000                        | \$1 million or more |
| <b>All cases</b>                  | 1,823   | 700                                   | \$64,000      | 191                                   | 93                  |
| <b>Tort cases<sup>c</sup></b>     | 822   | 254                                   | \$55,000      | 59                                    | 43                  |
| Medical malpractice               | 56  | 6                                     | 2,835,000     | 5                                     | 5                   |
| Intentional tort                  | 141   | 126                                   | 81,000        | 13                                    | 4                   |
| Conversion                        | 31  | 12                                    | 50,000        | 5                                     | 2                   |
| Slander/libel                     | 38  | 24                                    | 13,000        | 9                                     | 6                   |
| Motor vehicle                     | 417   | 67                                    | 7,500         | 9                                     | 8                   |
| Animal attack                     | 23  | 0                                     | /             | /                                     | /                   |
| <b>Contract cases<sup>c</sup></b> | 1,001   | 446                                   | \$69,000      | 132                                   | 50                  |
| Tortious interference             | 42  | 18                                    | 6,888,000     | 12                                    | 11                  |
| Employment discrimination         | 84  | 10                                    | 115,000       | 1                                     | 1                   |
| Fraud                             | 259   | 151                                   | 100,000       | 67                                    | 7                   |
| Seller plaintiff                  | 88  | 14                                    | 86,000        | 2                                     | 0                   |
| Buyer plaintiff                   | 372   | 138                                   | 53,000        | 20                                    | 3                   |
| Other employment disputes         | 93  | 86                                    | 10,000        | 12                                    | 10                  |

/No cases reported.

<sup>a</sup>Data on punitive damages sought are available for 99.9% of total trial cases with a plaintiff winner.

<sup>b</sup>Data on punitive damages awarded are available for 97.5% of total trial cases with a plaintiff winner. Median amounts are reported prior to adjustments, post-trial activity, or appeals and are rounded to the nearest thousand.

<sup>c</sup>Specific case types will not sum to tort and contract totals because not all case types are shown in the table.

## Punitive damages exceeded compensatory awards in over half of the cases in which they were awarded

In a number of cases since 1996 the United States Supreme Court has examined the issue of what constitutes a *grossly excessive*<sup>3</sup> ratio between plaintiff compensatory and punitive damage award amounts. In 2003, the Supreme Court opined that “few awards exceeding a single-digit ratio between punitive and compensatory damages...will satisfy due process.”<sup>4</sup>

In 2005, punitive damages exceeded compensatory awards in 37% of tort and 62% of contract trials (table 8). Punitive awards were at least four times greater than compensatory awards in 26% of all applicable trials. In 17% of applicable trials, punitive awards exceeded compensatory awards by a ratio of 10 to 1 or greater (not shown in table).

## Damage awards were adjusted in about 16% of all civil trials

The initial compensatory and punitive damage amounts awarded to plaintiff winners were adjusted prior to trial end in about 16% of all trials (not shown in a table). Of the approximately 2,300 adjusted awards, over half (56%) were reduced due to findings of contributory negligence on the part of the plaintiff. A small percentage (about 1%) were adjusted because of damage caps. Thirty percent of the adjustments were due to miscalculation of cost, payment of additional fees, set-off claims, collateral source reductions, and other reasons.

<sup>3</sup>In *BMW of North America, Inc. v. Gore*, the U.S. Supreme Court ruled that the punitive damages of more than 500 times the amount of compensatory damages was *grossly excessive* and unconstitutional (517 U.S. 559, May 20, 1996).

<sup>4</sup>*State Farm Automobile Insurance Company v. Campbell* (123 S.Ct. 1513:1524, April 7, 2003).

## Class action lawsuits

A case must meet the following criteria if it is to be class action certified:

- The case must involve plaintiffs so numerous that it would be impractical to bring them all before court;
- The case must have a named representative(s) who can fairly represent all members of the class;
- The case must have class members with a well defined common interest in the questions of law or fact to be resolved (Black's Law Dictionary).

Within the jurisdictions included in the 2005 Civil Justice Survey of State Courts, 14 trials were identified as being class action certified. Over half (8) of the trials occurred in Philadelphia County, Pennsylvania.

Class action cases are unique in that they tend to take longer to process than regular civil trials. In 2005, the 14 class action trials lasted 17 days on average. The total time from filing to disposition averaged 3.5 years.

Of the 14 class action certified trials in 2005, ten were heard before a jury. Nine of the 14 involved a product liability claim: three were asbestos cases, four involved a well-known prescription drug combination, one was a non-prescription drug case, and one involved a defective automobile part. Another tort case involved a class of neighbors alleging discomfort as a result of a nearby factory's release of a chemical into the air. There were also four contract cases that were class action certified.

The defendants in all 14 class action certified cases were businesses. The plaintiffs prevailed in ten of the 14 class action trials. The median final award in the ten trials was \$1 million.

**Table 8. Award amounts for plaintiffs who were awarded punitive damages in civil trials in state courts, by case type, 2005**

|                  | Cases with plaintiff winner awarded punitive damages | Sum total of damage award amounts (in thousands) |             |              | Percent of punitive damage cases with punitive awards— |   |   |
|------------------|--|--|-------------|--------------|--|---|---|
|                  |  | Total  | Punitive    | Compensatory | Greater than compensatory damage awards                | At least 2 times greater than compensatory awards | At least 4 times greater than compensatory awards |
| <b>All cases</b> | 700  | \$2,170,338                                      | \$1,231,764 | \$914,371    | 52.8%  | 38.2%   | 26.1%   |
| Tort cases       | 254  | \$802,227  | \$335,550   | \$454,781    | 37.4%  | 20.8%   | 8.3%  |
| Contract cases   | 446  | 1,368,111  | 896,214     | 459,589      | 61.7   | 48.2  | 36.1  |

Note: Punitive and compensatory damage data will not sum to total because costs, fees, and interest have been excluded.

\*Compensatory and total award damages do not include post-trial activity or appeals. Total award damage amounts include adjustments for contributory negligence, damage caps, high/low agreements and prior settlements. Compensatory amounts are adjusted to reflect award amounts after any counterclaim damage awards have been subtracted.

### Jury trials lasted two days longer on average than bench trials

In 2005, jury trials for general civil cases lasted almost four days on average (table 9). Bench trials lasted almost two days. Thirteen percent of jury trials and 70% of bench trials were completed within one day (not shown in a table). Among bench and jury trials, contract cases lasted slightly longer on average than both tort and real property cases.

Asbestos jury trials tended to take the most time, averaging 13 days in trial. Although less than 10% of employment discrimination, medical malpractice, and other product liability cases were bench trials, these cases took the longest for judges to hear and dispose (about three days). The longest trial recorded in the 2005 CJSSC sample was a premises liability case, in which the trial lasted for 69 days (not shown in a table).

### Majority of bench and jury trials were disposed within two years of filing

Cases heard before a jury took more time from filing of the complaint to rendering of the verdict than those heard before a judge. On average, the processing of a case required an additional half year for a jury trial (27 months), compared to a bench trial (21 months). Nearly three-fourths (73%) of bench trials and more than half (54%) of jury trials were disposed of within two years of filing.

Overall, there was little difference in the average number of months needed for tort and contract case processing. Real property jury trials took about four months longer from filing to verdict than tort and contract jury trials. Real property bench trials took two months less time on average to process, compared to other general civil bench trials. Among jury trials, mortgage foreclosure (48 months), false arrest and imprisonment (40 months), and tortious interference (37 months) cases took the longest to process on average. Partnership dispute cases averaged the longest time from filing to bench trial judgment (43 months) (not shown in a table).

### Litigants filed notices of appeal in nearly 1 in 5 civil trials

Litigants who seek to overturn or modify a verdict or judgment that they believe does not comply with state law have the option of filing a notice of appeal. Appeals were filed with the trial court in 17% of general civil trials concluded in 2005 (not shown in a table).

The rate of appeal for civil bench and jury trials varied depending on the case outcome. Plaintiffs filed appeals in 5% of general civil trials in which they prevailed, and in 15% of civil trials in which they did not win any monetary award (not shown in a table). Defendants gave trial court notice of appeal in 12% of civil trials with a plaintiff winner, and in 2% of trials in which the plaintiff did not receive an award.

**Table 9. Case processing time and days in trial, by case and trial type, 2005**

| Case Type           | Mean days in trial |       | Mean months from filing to disposition* |       |
|---------------------|--------------------|-------|---|-------|
|                     | Jury               | Bench | Jury                                    | Bench |
| <b>All cases</b>    | 3.9                | 1.7   | 26.6                                    | 20.8  |
| Tort cases          | 3.7                | 1.5   | 26.5                                    | 21.0  |
| Contract cases      | 4.8                | 1.7   | 26.7                                    | 21.1  |
| Real property cases | 2.9                | 1.6   | 30.8                                    | 19.2  |

Note: Data on the number of days in trial were available for 94% of jury trials and 96% of bench trials. Data on the number of months from complaint filing to case disposition were available for 99.9% of jury trials and 99.5% of bench trials.

\*Disposition refers to the date the verdict was rendered for jury trials and the date the decision was announced for bench trials.

### In the nation's 75 most populous counties, the total number of civil trials declined by over 50% from 1992 to 2005

Prior to the 2005 CJSSC, BJS funded three surveys that examined general civil trial litigation. The surveys focused on general civil trials concluded in a sample of the nation's 75 most populous counties in 1992, 1996, and 2001.<sup>5</sup>

For the purpose of discussing trends in this report, this section focuses on civil trial litigation in the nation's 75 most populous counties rather than on the national sample examined in 2005. The trends analyses has been restricted to the nation's 75 most populous counties as data from previous BJS civil justice surveys cannot be used to generate national level estimates.

In the nation's 75 most populous counties, the number of civil trials decreased 52%, from 22,451 in 1992 to 10,813 in 2005 (table 10). Tort cases decreased the least (40%), while real property (77%) and contract (63%) cases registered the largest declines. Among tort cases, product and premises liability experienced the sharpest declines, while decreases in medical malpractice cases were not statistically significant from 1992 to 2005. In terms of contract trial litigation, seller plaintiff cases saw the largest declines (73%) and the number of fraud and buyer plaintiff cases dropped by about 50%.

Data from the two most recent BJS civil trial surveys showed stabilization in the number of general civil trials. From 2001 to 2005, the number of general civil trials concluded in the nation's 75 most populous counties declined by 9%, a decrease that was not statistically significant.

<sup>5</sup>For a discussion of findings and methodologies for the earlier BJS studies on general civil trials, see *Civil Jury Cases and Verdicts in Large Counties, 1992* (NCJ 154346), *Civil Trial Cases and Verdicts in Large Counties, 1996* (NCJ 173426), and *Civil Trial Cases and Verdicts in Large Counties, 2001* (NCJ 202803) at <<http://www.ojp.usdoj.gov/bjs/civil.htm>>.



Although the number of product liability trials declined from 1992 to 2005, a comparison of the two most recent surveys (2001 and 2005) showed a 42% increase in those trials.

In terms of incoming caseload filings, the Court Statistics Project of the National Center for State Courts (NCSC) reported that the number of civil cases filed in state courts increased by 5% in the unified/general jurisdiction courts of 43 states from 1996 to 2005. NCSC also reported a 21% decline in tort filings in 30 states and a 25% increase in contract filings in 13 states from 1996 to 2005.<sup>6</sup>

#### Percentage of plaintiffs prevailing in general civil trials remained stable in the nation's 75 most populous counties

The percentage of plaintiff winners in general civil trials concluded in the nation's 75 most populous counties remained relatively stable between 1992 and 2005. On average, plaintiffs won in about 53% of trials concluded during this period (not shown in a table). Overall plaintiff win rates ranged from 52% in 1992 and 1996 to 55% in 2001. In 2005, plaintiffs prevailed in 53% of civil trials. Among tort cases, about half the plaintiffs prevailed at trial from 1992 (47%) through 2005 (48%). The percentage of plaintiff winners in contract trials varied from 57% in 1992 to 65% in 2001. The plaintiff win rate for contract trials concluded in 2005 was 63%.

<sup>6</sup>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).

#### Trials accounted for 3% of all general civil dispositions

One hundred and sixteen of the surveyed jurisdictions were able to provide counts of both trial and non-trial dispositions in 2005. Non-trial dispositions include 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.

Among the 116 jurisdictions that could provide the total number of general civil dispositions, the rate of cases disposed through trial was about 3%. Among the various case types, the highest percentage of cases disposed through trial were real property cases (5%), followed by tort (4%) and contract (2%) cases.

|                     | Total dispositions | Trial dispositions | Trial dispositions as a percent of total dispositions |
|---------------------|--------------------|--------------------|---|
| <b>All cases</b>    | 439,341            | 14,812             | 3.4%  |
| Tort cases          | 140,929            | 4,986              | 3.5   |
| Contract cases      | 189,619            | 4,014              | 2.1   |
| Real property cases | 16,758             | 769                | 4.6   |

Note. The percent 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 trial and non-trial dispositions for all civil cases. Fewer jurisdictions provided counts of trial and non-trial dispositions by tort, contract, and real property case types. Numbers shown in table will not sum to totals because not all 116 jurisdictions were capable of providing non-trial and trial counts by case types.

**Table 10. Civil trials in state courts in the nation's 75 most populous counties, by selected case types, 1992, 1996, 2001, and 2005**

| Case type                         | Number of civil trials |        |        |        | Percent change in number of trials |           |
|-----------------------------------|------------------------|--------|--------|--------|------------------------------------|-----------|
|                                   | 1992                   | 1996   | 2001   | 2005   | 1992-2005                          | 2001-2005 |
| <b>All cases</b>                  | 22,451                 | 15,638 | 11,908 | 10,813 | -51.8%*                            | -9.2%     |
| <b>Tort cases<sup>a</sup></b>     | 11,660                 | 10,278 | 7,948  | 7,038  | -39.6%*                            | -12.0%    |
| Automobile                        | 4,980                  | 4,994  | 4,235  | 3,545  | -28.8*                             | -16.3*    |
| Premises liability                | 2,648                  | 2,232  | 1,268  | 1,067  | -59.7*                             | -15.8*    |
| Product liability                 | 657                    | 421    | 158    | 225    | -65.8*                             | 42.2*     |
| Medical malpractice               | 1,347                  | 1,201  | 1,156  | 1,219  | -9.5                               | 5.5       |
| <b>Contract cases<sup>a</sup></b> | 9,477                  | 4,850  | 3,698  | 3,474  | -63.3%*                            | -6.0%     |
| Fraud                             | 1,116                  | 668    | 625    | 591    | -47.1*                             | -5.5      |
| Seller plaintiff                  | 4,063                  | 1,637  | 1,208  | 1,101  | -72.9*                             | -8.9      |
| Buyer plaintiff                   | 1,557                  | 832    | 793    | 760    | -51.2*                             | -4.2      |
| Employment                        | 468                    | 621    | 453    | 422    | -9.8                               | -6.9      |
| <b>Real property cases</b>        | 1,315                  | 510    | 262    | 301    | -77.1%*                            | 14.8%     |

Note: The number of trials includes all bench and jury trials concluded in a sample of the nation's 75 most populous counties. The 2005 numbers include information on only those trials concluded in a sample of the nation's 75 most populous counties and not the national sample. Since trial data from the 1992, 1996, and 2001 civil trial surveys were from the nation's 75 most populous counties, the 2005 civil trial numbers were restricted for comparability purposes. Data sources: Civil Justice Survey of State Courts, 1992 (ICPSR 6587), 1996 (ICPSR 2883), 2001 (ICPSR 3957). Data can be obtained from the University of Michigan Inter-University Consortium for Political and Social Research (ICPSR).

\*Difference is significant at the 95% confidence level.

<sup>a</sup>Specific case types will not sum to tort and contract totals because not all case types are shown in the table.

**Since 1992, the overall median jury awards declined by 40%**

When adjusted for inflation, the median damages awarded in general civil jury trials declined from \$72,000 in 1992 to \$43,000 in 2005, a decrease of 40% (table 11). For tort jury trials, the median damages declined by about 50% from \$71,000 to \$33,000 during the 1992 to 2005 period. The reduction in jury awards for tort trials can be attributed mostly to the decline in median damage awards in automobile accident trial litigation. From 1992 to 2005, the median awards in automobile accident trials declined by almost 60%, from \$41,000 to \$17,000. Since automobile accident cases accounted for approximately 64% of tort jury trials with plaintiff winners, these cases drove the overall tort award trend (not shown in a table).

In comparison to automobile accident cases, several tort case categories had marked increases in their median jury awards. This trend was apparent in product liability jury trials in which the median award amounts were about 5 times

higher in 2005 (\$749,000) than they were in 1992 (\$154,000). For medical malpractice trials, the median damage awards were nearly 2.5 times higher in 2005 (\$682,000) than they were in 1992 (\$280,000).

The years 2001 and 2005 were marked by stability in the median damage awards for general civil jury trials. Overall, the median damage awards increased by almost 5% but this increase was not statistically significant. One exception to the stabilization trend was medical malpractice trials. For medical malpractice trials, the median damage awards increased by 44% during this period.

**Punitive damages awarded infrequently in civil jury trials in the nation's 75 most populous counties**

The percentage of jury trials in which the plaintiff winners received punitive damages remained stable, ranging from 4% in 1996 to 6% in 1992 and 2001 (not shown in a table). In 2005, plaintiff winners were awarded punitive damages in about 5% of general civil jury trials concluded in the nation's 75 most populous counties.

**Table 11. Jury trial awards in state courts in the nation's 75 most populous counties, by selected case types, 1992, 1996, 2001, and 2005**

| Case type                         | Median jury award amounts adjusted for inflation <sup>a</sup> |          |          |          | Percent change in median award amounts |             |
|-----------------------------------|---|----------|----------|----------|--|-------------|
|                                   | 1992  | 1996     | 2001     | 2005     | 1992 - 2005                            | 2001 - 2005 |
| <b>All cases</b>                  | \$72,000  | \$44,000 | \$41,000 | \$43,000 | -40.3%*                                | 4.9%        |
| <b>Tort cases<sup>b</sup></b>     | \$71,000  | \$37,000 | \$31,000 | \$33,000 | -53.5%*                                | 6.5%        |
| Automobile                        | 41,000  | 22,000   | 18,000   | 17,000   | -58.5*                                 | -5.6        |
| Premises liability                | 81,000  | 70,000   | 67,000   | 94,000   | 16.0                                   | 40.3        |
| Product liability                 | 154,000   | 409,000  | 597,000  | 749,000  | 386.9*                                 | 25.5        |
| Medical malpractice               | 280,000   | 315,000  | 474,000  | 682,000  | 143.6*                                 | 43.9*       |
| <b>Contract cases<sup>b</sup></b> | \$77,000  | \$99,000 | \$90,000 | \$92,000 | 19.5%                                  | 2.2%        |
| Fraud                             | 98,000  | 98,000   | 96,000   | 106,000  | 6.2                                    | 10.4        |
| Seller plaintiff                  | 48,000  | 76,000   | 75,000   | 84,000   | 75.0*                                  | 12.0        |
| Buyer plaintiff                   | 61,000  | 61,000   | 69,000   | 61,000   | 0.0                                    | -11.6       |
| Employment                        | 196,000   | 256,000  | 140,000  | 114,000  | -41.8*                                 | -18.6       |

Note: The 2005 numbers include information on only those trials concluded in a sample of the nation's 75 most populous counties and not the national sample. Since trial data from the 1992, 1996, and 2001 civil trial surveys were from the nation's 75 most populous counties, the 2005 civil trial numbers were restricted for comparability purposes. Because award data were available for jury trials in 1992 and not bench trials, table 11 includes only jury trial award data. Trials with a directed verdict, judgement notwithstanding the verdict, and jury trials with defaulted defendants were excluded.

\*Difference is significant at the 95% confidence level.

<sup>a</sup>Median jury awards adjusted for inflation in 2005 dollars and rounded to the nearest thousand.

<sup>b</sup>Specific case types will not sum to tort and contract totals because not all case types are shown in the table.

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## Methodology

### *Collection of data on civil bench and jury trials*

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. The sample is a stratified sample with 46 of the 75 most populous counties selected.

In addition to sampling civil trial litigation in the nation's 75 most populous counties, a sample of non-metropolitan counties, from which to estimate the civil trial litigation in counties 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 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.

From the 50 strata, a total of 100 PSUs containing 110 counties were selected for the supplemental sample of counties outside the nation's 75 most populous. 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.

The second stage of the sample design involved generating lists of cases that would be coded. Each participating jurisdiction was asked to identify a list of cases that had been disposed of by jury trial or bench trial between January 1, 2005, and December 31, 2005. Trial cases were to meet the definitional criteria for jury and bench trials developed by the National Center for State Courts. Civil trials that occurred in federal district courts and civil trials in state courts of limited jurisdiction were excluded from the sample.

For the sample of civil trials occurring in the nation's 75 most populous counties, data on 5,613 civil jury trials and 2,069 civil bench trials met the study criteria. When these trials are weighted to the nation's 75 most populous counties, they represent 10,813 general civil bench and jury trials.

For the sample of civil trials occurring outside the nation's 75 most populous counties, data on 814 civil jury trials and 376 civil bench trials met the study criteria. When these

trials are weighted, they represent 16,135 general civil bench and jury trials disposed in counties outside the nation's 75 most populous counties.

### *Collection of counts of trial and non-trial dispositions*

In conjunction with collecting detailed case level information on general civil trials, the counties participating in this survey were asked to complete a matrix 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 plaintiff claim type.

Information on all civil dispositions was obtained from a variety of sources including state administrative court offices, annual reports, or the actual trial courts. Some trial courts were able to provide specific information on the exact types of non-trial dispositions including the number of cases concluded by summary judgment, dismissal, settlement, etc. Other courts could not provide a detailed breakdown of manner of disposition types. Forty-three courts were unable to provide any data on counts of general civil trial and non-trial dispositions.

### *Definitions of disposition types<sup>7</sup>*

*Jury trial:* A trial held before and decided by a group of laypersons selected according to the law presided over by a judge culminating in a verdict for the plaintiff(s) and/or defendant(s). Unless noted, the term jury trial includes trials with a directed verdict, judgment notwithstanding the verdict (JNOV), and jury trials for defaulted defendants.

*Bench trial (nonjury trial):* A trial held in the absence of a jury and decided by a judge culminating in a judgment for the plaintiff(s) or defendant(s).

### *Definitions of civil case types<sup>7</sup>*

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

*Contracts:* Cases that include all allegations of breach of contract.

*Real property:* Cases concerning ownership or division of real property (excluding mortgage foreclosures which are included under contracts).

<sup>7</sup>Definitions were developed by the National Center for State Courts (NCSC) through consultation with NCSC staff attorneys, law professors, and from Black's Law Dictionary.



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This BJS Bulletin presents the first release of findings in a series of reports from the Civil Justice Survey of State Courts, 2005.

Lynn Langton and Thomas H. Cohen wrote this Special Report. Sean P. Rosenmerkel verified the report.

Georgette Walsh edited the report, Tina Dorsey produced the report, and Jayne E. Robinson prepared the report for final printing, under the supervision of Doris J. James.

Data design and collection was conducted by the National Center for State Courts (NCSC); Dr. Nicole L. Waters was the project director and provided comments. Shauna M. Strickland, Paula L. Hannaford-Agor, Cynthia G. Lee and Chantal G. Bromage of the NCSC also provided comments. James L. Green, M.A., Senior Statistician at Westat, designed the sample used for this data collection.

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This report in portable document format (includes five appendix tables) and in ASCII and its related statistical data and tables are available at the BJS World Wide Web Internet site: <<http://www.ojp.usdoj.gov/bjs/abstract/cbjtsc05.htm>>.

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**Appendix table 1. Standard errors and confidence intervals for civil trials, by selected characteristics, 2005 Civil Justice Survey of State Courts**

|  | Estimate* | One standard error | 95%-confidence interval |          |
|--|-----------|--------------------|-------------------------|----------|
|  |           |                    | Lower                   | Upper    |
| <b>Number of civil trials</b>                    |           |                    |                         |          |
| All cases  | 26,948    | 1,453              | 24,054                  | 29,841   |
| Tort   | 16,397    | 896                | 14,613                  | 18,182   |
| Contract   | 8,917     | 648                | 7,628                   | 10,207   |
| Real property                                    | 1,633     | 260                | 1,115                   | 2,151    |
| <b>Number decided by a—</b>                      |           |                    |                         |          |
| Jury trial                                       | 18,404    | 950                | 16,513                  | 20,296   |
| Bench trial                                      | 8,543     | 817                | 6,916                   | 10,171   |
| <b>Percent of trials with a plaintiff winner</b> |           |                    |                         |          |
| All cases  | 56.4%     | 1.3%               | 53.8%                   | 59.1%    |
| Torts  | 51.6      | 1.8                | 48.1                    | 55.2     |
| Contracts  | 65.6      | 1.7                | 62.3                    | 69.0     |
| <b>Percent of trials with plaintiff type</b>     |           |                    |                         |          |
| Individual                                       | 80.5%     | 1.1%               | 78.3%                   | 82.7%    |
| Business   | 17.3      | 1.0                | 15.4                    | 19.3     |
| <b>Percent of trials with defendant type</b>     |           |                    |                         |          |
| Individual                                       | 50.1%     | 1.5%               | 47.1%                   | 53.2%    |
| Business   | 38.1      | 1.2                | 35.6                    | 40.6     |
| <b>Median final award to plaintiff winner</b>    |           |                    |                         |          |
| All cases  | \$27,998  | \$2,281            | \$23,185                | \$34,417 |
| Torts  | 23,597    | 2,807              | 18,819                  | 29,996   |
| Contracts  | 35,177    | 3,739              | 27,919                  | 42,808   |
| <b>Median punitive award to plaintiff winner</b> |           |                    |                         |          |
| All cases  | \$61,705  | \$17,532           | \$28,014                | \$97,821 |
| Torts  | 52,814    | 18,582             | 23,493                  | 97,483   |
| Contracts  | 68,104    | 42,146             | 25,052                  | 192,863  |
| <b>Mean months from filing to final verdict</b>  |           |                    |                         |          |
| All bench trials                                 | 20.8      | 0.7                | 19.3                    | 22.3     |
| All jury trials                                  | 26.6      | 0.8                | 25.1                    | 28.2     |
| <b>Mean days in trial</b>                        |           |                    |                         |          |
| All bench trials                                 | 1.7       | 0.1                | 1.5                     | 1.8      |
| All jury trials                                  | 3.9       | 0.1                | 3.6                     | 4.2      |

Note: Standard errors were calculated by using a replication method (i.e., jackknife, specifically JKN) available in WESTVAR PC.

\*Estimates may vary slightly from those reported in the report due to the use of WESTVAR PC instead of SPSS for sample estimation.

**Appendix table 2. Standard errors and confidence intervals for civil trials, by case type, 2005 Civil Justice Survey of State Courts**

|                                | Estimate* | One standard error | 95%-confidence interval |        |
|--------------------------------|-----------|--------------------|-------------------------|--------|
|                                |           |                    | Lower                   | Upper  |
| <b>Number of civil trials</b>  | 26,948    | 1,453              | 24,054                  | 29,841 |
| <b>Tort cases</b>              | 16,397    | 896                | 14,613                  | 18,182 |
| Motor vehicle                  | 9,430     | 622                | 8,193                   | 10,668 |
| Premises liability             | 1,863     | 130                | 1,604                   | 2,123  |
| Product liability              |           |                    |                         |        |
| Asbestos                       | 87        | 21                 | 46                      | 128    |
| Other                          | 268       | 41                 | 186                     | 349    |
| Intentional tort               | 725       | 112                | 501                     | 948    |
| Medical malpractice            | 2,449     | 264                | 1,924                   | 2,974  |
| Professional malpractice       | 150       | 25                 | 100                     | 201    |
| Slander/libel                  | 187       | 35                 | 116                     | 257    |
| Animal attack                  | 138       | 33                 | 72                      | 205    |
| Conversion                     | 378       | 108                | 163                     | 593    |
| False arrest, imprisonment     | 58        | 20                 | 19                      | 97     |
| Other or unknown tort          | 664       | 94                 | 476                     | 852    |
| <b>Contract cases</b>          | 8,917     | 648                | 7,628                   | 10,207 |
| Fraud                          | 1,114     | 91                 | 933                     | 1,295  |
| Seller plaintiff               | 2,883     | 281                | 2,323                   | 3,442  |
| Buyer plaintiff                | 2,591     | 311                | 1,972                   | 3,211  |
| Mortgage foreclosure           | 249       | 115                | 21                      | 477    |
| Employment discrimination      | 319       | 60                 | 199                     | 439    |
| Other employment dispute       | 558       | 75                 | 409                     | 707    |
| Rental/lease                   | 605       | 160                | 287                     | 924    |
| Tortious interference          | 152       | 27                 | 98                      | 207    |
| Partnership dispute            | 119       | 31                 | 57                      | 182    |
| Subrogation                    | 82        | 52                 | 142                     | 349    |
| Other or unknown contract      | 245       | 40                 | 2                       | 161    |
| <b>Real property cases</b>     | 1,633     | 260                | 1,115                   | 2,151  |
| Eminent domain                 | 542       | 174                | 195                     | 888    |
| Title or boundary dispute      | 963       | 157                | 650                     | 1,275  |
| Other or unknown real property | 129       | 44                 | 42                      | 216    |

Note: Standard errors were calculated by using a replication method (i.e., jackknife, specifically JKN) available in WESTVAR PC.

\*Estimates may vary slightly from those reported in table 1 due to the use of WESTVAR PC instead of SPSS for sample estimation.

**Appendix table 3. Total number of general civil cases disposed of by bench and jury trial, by sampled counties, 2005**

| County   | Primary city/county seat | 2005 population estimate | Total number of cases disposed of by bench and jury trials | Number of trials by case type |          |               |
|--|--------------------------|--------------------------|--|-------------------------------|----------|---------------|
|  |                          |                          |  | Tort                          | Contract | Real property |
| <b>Sample of 75 most populous counties</b>             |                          |                          |  |                               |          |               |
| Maricopa, AZ   | Phoenix                  | 3,646,569                | 256  | 164                           | 75       | 17            |
| Pima, AZ   | Tucson                   | 927,084                  | 79   | 55                            | 20       | 4             |
| Alameda, CA  | Oakland                  | 1,446,608                | 176  | 105                           | 62       | 9             |
| Contra Costa, CA                                       | Martinez                 | 1,005,106                | 29   | 12                            | 13       | 4             |
| Fresno, CA   | Fresno                   | 873,364                  | 52   | 30                            | 21       | 1             |
| Los Angeles, CA  | Los Angeles              | 9,891,484                | 383  | 138                           | 218      | 27            |
| Orange, CA   | Santa Ana                | 2,982,262                | 273  | 105                           | 149      | 19            |
| San Bernardino, CA                                     | San Bernardino           | 1,953,229                | 72   | 58                            | 12       | 2             |
| San Francisco, CA                                      | San Francisco            | 751,461                  | 121  | 79                            | 37       | 5             |
| Santa Clara, CA  | San Jose                 | 1,698,642                | 54   | 32                            | 20       | 2             |
| Ventura, CA  | Ventura                  | 790,868                  | 78   | 39                            | 33       | 6             |
| Fairfield, CT  | Bridgeport               | 895,169                  | 72   | 55                            | 16       | 1             |
| Hartford, CT   | Hartford                 | 872,242                  | 79   | 53                            | 22       | 4             |
| Dade, FL   | Miami                    | 2,356,378                | 216  | 176                           | 38       | 2             |
| Orange, FL   | Orlando                  | 1,030,456                | 71   | 50                            | 19       | 2             |
| Palm Beach, FL   | West Palm Beach          | 1,259,234                | 116  | 77                            | 37       | 2             |
| Fulton, GA-<br>Superior Court                          | Atlanta                  | 934,242                  | 40   | 17                            | 19       | 4             |
| Honolulu, HI   | Honolulu                 | 902,034                  | 18   | 12                            | 6        | 0             |
| Cook, IL   | Chicago                  | 5,299,071                | 686  | 498                           | 183      | 5             |
| DuPage, IL   | Wheaton                  | 927,309                  | 82   | 58                            | 23       | 1             |
| Marion, IN-<br>Superior Court                          | Indianapolis             | 868,735                  | 128  | 88                            | 38       | 2             |
| Jefferson, KY  | Louisville               | 701,062                  | 113  | 76                            | 35       | 2             |
| Essex, MA  | Salem                    | 730,922                  | 57   | 40                            | 15       | 2             |
| Middlesex, MA  | Cambridge                | 1,465,097                | 109  | 77                            | 26       | 6             |
| Suffolk, MA  | Boston                   | 707,170                  | 130  | 90                            | 36       | 4             |
| Worcester, MA  | Worcester                | 777,238                  | 73   | 52                            | 17       | 4             |
| Oakland, MI  | Pontiac                  | 1,208,822                | 152  | 90                            | 57       | 5             |
| Wayne, MI  | Detroit                  | 2,027,238                | 187  | 104                           | 68       | 15            |
| Hennepin, MN   | Minneapolis              | 1,124,933                | 182  | 121                           | 57       | 4             |
| St. Louis, MO  | St. Louis                | 1,001,281                | 143  | 94                            | 47       | 2             |
| Mecklenburg, NC  | Charlotte                | 802,400                  | 42   | 18                            | 20       | 4             |
| Bergen, NJ   | Hackensack               | 893,935                  | 161  | 103                           | 55       | 3             |
| Essex, NJ  | Newark                   | 783,188                  | 135  | 100                           | 33       | 2             |
| Middlesex, NJ  | New Brunswick            | 784,437                  | 221  | 171                           | 49       | 1             |
| New York, NY   | New York                 | 1,606,275                | 359  | 267                           | 92       | 0             |
| Cuyahoga, OH   | Cleveland                | 1,327,494                | 235  | 172                           | 60       | 3             |
| Franklin, OH   | Columbus                 | 1,101,432                | 135  | 89                            | 46       | 0             |
| Allegheny, PA  | Pittsburgh               | 1,234,319                | 221  | 122                           | 97       | 2             |
| Philadelphia, PA                                       | Philadelphia             | 1,460,301                | 612  | 539                           | 71       | 2             |
| Bexar, TX  | San Antonio              | 1,515,820                | 76   | 56                            | 19       | 1             |
| Dallas, TX   | Dallas                   | 2,303,568                | 204  | 138                           | 61       | 5             |
| El Paso, TX  | El Paso                  | 712,422                  | 40   | 20                            | 20       | 0             |
| Harris, TX   | Houston                  | 3,750,573                | 518  | 284                           | 226      | 8             |
| Fairfax, VA  | Fairfax                  | 1,005,616                | 166  | 105                           | 61       | 0             |
| King, WA   | Seattle                  | 1,805,028                | 199  | 119                           | 64       | 16            |
| Milwaukee, WI  | Milwaukee                | 949,511                  | 131  | 90                            | 38       | 3             |
| <b>Sample of counties outside of 75 most populous*</b> |                          |                          |  |                               |          |               |
| Madison, AL  | Huntsville               | 299,662                  | 36   | 24                            | 12       | 0             |
| Marshall, AL   | Guntersville             | 85,050                   | 5  | 0                             | 4        | 1             |
| Montgomery, AL   | Montgomery               | 222,302                  | 25   | 19                            | 5        | 1             |
| Garland, AR  | Hot Springs              | 93,278                   | 5  | 5                             | 0        | 0             |
| Polk, AR   | Mena                     | 20,024                   | 2  | 2                             | 0        | 0             |
| Yuma, AZ   | Yuma                     | 180,575                  | 2  | 2                             | 0        | 0             |
| Marin, CA  | San Rafael               | 245,272                  | 13   | 8                             | 5        | 0             |
| Plumas, CA   | Quincy                   | 20,990                   | 1  | 0                             | 1        | 0             |
| Santa Barbara, CA                                      | Santa Barbara            | 402,740                  | 24   | 11                            | 10       | 3             |
| Teller, CO   | Cripple Creek            | 21,318                   | 1  | 1                             | 0        | 0             |
| Middlesex, CT  | Middlesex                | 162,123                  | 43   | 9                             | 26       | 8             |

**Appendix table 3. Total number of general civil cases disposed of by bench and jury trial, by sampled counties, 2005 (cont.)**

| County   | Primary city/county seat | 2005 population estimate | Total number of cases disposed of by bench and jury trials | Number of trials by case type |          |               |
|--|--------------------------|--------------------------|--|-------------------------------|----------|---------------|
|  |                          |                          |  | Tort                          | Contract | Real property |
| <b>Sample of counties outside of 75 most populous* (cont.)</b> |                          |                          |  |                               |          |               |
| Gulf, FL   | Port St. Joe             | 13,989                   | 1  | 0                             | 1        | 0             |
| Volusia, FL  | Deland                   | 486,369                  | 43   | 28                            | 14       | 1             |
| Bacon, GA  | Alma                     | 10,292                   | 1  | 0                             | 0        | 1             |
| DeKalb, GA-<br>Superior Court                                  | Decatur                  | 719,412                  | 10   | 7                             | 3        | 0             |
| DeKalb, GA-<br>State Court                                     | Decatur                  | 719,412                  | 41   | 39                            | 2        | 0             |
| Douglas, GA  | Douglasville             | 112,442                  | 5  | 3                             | 2        | 0             |
| Fulton, GA-<br>State Court                                     | Atlanta                  | 934,242                  | 44   | 34                            | 10       | 0             |
| Polk, GA   | Cedartown                | 40,294                   | 3  | 0                             | 0        | 3             |
| Stephens, GA   | Toccoa                   | 25,070                   | 1  | 1                             | 0        | 0             |
| Butte, ID  | Arco                     | 2,788                    | 1  | 0                             | 1        | 0             |
| Kootenai, ID   | Coeur d'Alene            | 126,843                  | 13   | 6                             | 5        | 2             |
| Marion, IN-<br>Circuit Court                                   | Marion                   | 30,644                   | 8  | 5                             | 3        | 0             |
| Noble, IN-<br>Circuit Court                                    | Albion                   | 47,304                   | 1  | 0                             | 1        | 0             |
| Orange, IN-<br>Circuit Court                                   | Paoli                    | 19,581                   | 10   | 3                             | 7        | 0             |
| Orange, IN-<br>Superior Court                                  | Paoli                    | 19,581                   | 1  | 0                             | 1        | 0             |
| Des Moines, IA   | Burlington               | 40,668                   | 4  | 1                             | 3        | 0             |
| Cowley, KS   | Winfield                 | 34,508                   | 3  | 3                             | 0        | 0             |
| Kenton, KY   | Independence             | 153,521                  | 7  | 2                             | 5        | 0             |
| Vernon Parish, LA  | Leesville                | 50,296                   | 3  | 3                             | 0        | 0             |
| Aroostook, ME  | Houlton                  | 72,359                   | 4  | 1                             | 3        | 0             |
| York, ME   | Alfred                   | 201,011                  | 21   | 12                            | 8        | 1             |
| Dorchester, MD   | Cambridge                | 31,140                   | 4  | 0                             | 4        | 0             |
| Antrim, MI   | Bellaire                 | 24,249                   | 1  | 0                             | 0        | 1             |
| Ionia, MI  | Ionia                    | 63,891                   | 1  | 0                             | 0        | 1             |
| Ramsey, MN   | St. Paul                 | 498,369                  | 65   | 37                            | 26       | 2             |
| Scott, MN  | Shakopee                 | 118,629                  | 12   | 5                             | 7        | 0             |
| Sherburne, MN  | Elk River                | 81,207                   | 4  | 2                             | 2        | 0             |
| Boone, MO  | Columbia                 | 146,430                  | 10   | 7                             | 2        | 1             |
| Buchanan, MO   | St. Joseph               | 85,259                   | 16   | 8                             | 3        | 5             |
| Greene, MO   | Springfield              | 254,698                  | 23   | 22                            | 1        | 0             |
| Harrison, MO   | Bethany                  | 8,774                    | 2  | 1                             | 1        | 0             |
| Maries, MO   | Vienna                   | 9,000                    | 2  | 1                             | 0        | 1             |
| Mercer, MO   | Princeton                | 3,522                    | 1  | 0                             | 1        | 0             |
| Phelps, MO   | Rolla                    | 42040                    | 2  | 1                             | 0        | 1             |
| St. Charles, MO  | St. Charles              | 327,679                  | 42   | 18                            | 17       | 7             |
| Covington, MS  | Collins                  | 20,056                   | 1  | 1                             | 0        | 0             |
| Lauderdale, MS   | Meridian                 | 77,168                   | 4  | 4                             | 0        | 0             |
| Flathead, MT   | Kalispell                | 82,601                   | 5  | 3                             | 1        | 1             |
| Lewis & Clark, MT  | Helena                   | 58,150                   | 5  | 2                             | 2        | 1             |
| Sanders, MT  | Thompson Falls           | 10,744                   | 1  | 1                             | 0        | 0             |
| Cass, NE   | Plattsmouth              | 25,394                   | 7  | 1                             | 3        | 3             |
| Union, NJ  | Elizabeth                | 525,502                  | 60   | 41                            | 19       | 0             |
| Bernalillo, NM   | Albuquerque              | 607,721                  | 38   | 22                            | 14       | 2             |
| Delaware, NY   | Delhi                    | 46,884                   | 2  | 2                             | 0        | 0             |
| Dutchess, NY   | Poughkeepsie             | 292,018                  | 35   | 30                            | 5        | 0             |
| Genesee, NY  | Batavia                  | 58,795                   | 6  | 5                             | 1        | 0             |
| Madison, NY  | Wampsville               | 69,595                   | 7  | 4                             | 3        | 0             |
| Stokes, NC   | Danbury                  | 45,418                   | 1  | 1                             | 0        | 0             |
| Randolph, NC   | Asheboro                 | 136,938                  | 8  | 4                             | 1        | 3             |
| Clermont, OH   | Batavia                  | 188,955                  | 19   | 15                            | 3        | 1             |
| Lucas, OH  | Toledo                   | 446,970                  | 73   | 59                            | 13       | 1             |
| Morrow, OH   | Mount Gilead             | 34,053                   | 5  | 3                             | 2        | 0             |
| Seneca, OH   | Tiffin                   | 57,289                   | 2  | 1                             | 1        | 0             |



**Appendix table 3. Total number of general civil cases disposed of by bench and jury trial, by sampled counties, 2005 (cont.)**

| County   | Primary city/county seat | 2005 population estimate | Total number of cases disposed of by bench and jury trials | Number of trials by case type |          |               |
|--|--------------------------|--------------------------|--|-------------------------------|----------|---------------|
|  |                          |                          |  | Tort                          | Contract | Real property |
| <b>Sample of counties outside of 75 most populous* (cont.)</b> |                          |                          |  |                               |          |               |
| Garvin, OK   | Pauls Valley             | 26,889                   | 5  | 1                             | 4        | 0             |
| Grady, OK  | Chickasha                | 49,007                   | 4  | 2                             | 1        | 1             |
| Blair, PA  | Hollidaysburg            | 125,963                  | 10   | 3                             | 6        | 1             |
| Franklin, PA   | Chambersburg             | 137,028                  | 9  | 6                             | 3        | 0             |
| Pike, PA   | Milford                  | 55,419                   | 4  | 1                             | 2        | 1             |
| Providence, RI   | Providence               | 634,872                  | 35   | 29                            | 6        | 0             |
| Oconee, SC   | Walhalla                 | 69,302                   | 7  | 5                             | 2        | 0             |
| Richland, SC   | Columbia                 | 345,167                  | 38   | 31                            | 7        | 0             |
| Cannon, TN   | Woodbury                 | 13,156                   | 1  | 1                             | 0        | 0             |
| Carter, TN   | Elizabethton             | 58,684                   | 7  | 3                             | 2        | 2             |
| Fentress, TN   | Jamestown                | 17,037                   | 2  | 2                             | 0        | 0             |
| Putnam, TN   | Cookeville               | 67,102                   | 3  | 2                             | 1        | 0             |
| Scott, TN  | Huntsville               | 21,699                   | 4  | 3                             | 1        | 0             |
| Sullivan, TN   | Blountville              | 152,092                  | 4  | 3                             | 1        | 0             |
| Washington, TN   | Jonesborough             | 112,724                  | 8  | 3                             | 5        | 0             |
| Denton, TX   | Denton                   | 556,479                  | 23   | 9                             | 14       | 0             |
| Galveston, TX  | Galveston                | 275,229                  | 29   | 18                            | 11       | 0             |
| Hood, TX   | Granbury                 | 46,861                   | 8  | 2                             | 5        | 1             |
| Orange, TX   | Orange                   | 83,619                   | 11   | 9                             | 1        | 1             |
| Smith, TX  | Tyler                    | 190,336                  | 8  | 6                             | 2        | 0             |
| Somervell, TX  | Glen Rose                | 7,434                    | 1  | 0                             | 0        | 1             |
| Tom Green, TX  | San Angelo               | 105,063                  | 6  | 5                             | 1        | 0             |
| Accomack, VA   | Accomac                  | 38,743                   | 3  | 0                             | 3        | 0             |
| Chesapeake, VA   | Chesapeake               | 216,644                  | 38   | 26                            | 12       | 0             |
| Giles, VA  | Pearisburg               | 17,002                   | 1  | 1                             | 0        | 0             |
| Louisa, VA   | Louisa                   | 29,866                   | 5  | 3                             | 1        | 1             |
| Suffolk, VA  | Suffolk                  | 77,951                   | 6  | 4                             | 2        | 0             |
| Grant, WA  | Ephrata                  | 79,903                   | 6  | 2                             | 4        | 0             |
| Mason, WA  | Shelton                  | 53,294                   | 5  | 0                             | 1        | 4             |
| Berkeley, WV   | Martinsburg              | 92,608                   | 10   | 7                             | 3        | 0             |
| Racine, WI   | Racine                   | 193,841                  | 43   | 27                            | 14       | 2             |

Note: Population estimates obtained through U.S. Census Bureau, from July 1, 2005.

\* The following counties were included in the sample of 156 but reported no civil trials disposed of in 2005: Jackson, GA; Jefferson, ID; Randolph, IL; Montgomery, IA; Manistee, MI; Dodge, MN; Dent, MO; Teton, MT; Thurston, NE; Wayne, NE; Madison, NC; Roberts, SD; Pickett, TN; Foard, TX; Irion, TX; Schleicher, TX; Wilbarger, TX; Skamania, WA; and Mason, WV.

**Appendix table 4. Median final damage awards for plaintiff winners in jury and bench trials, by sampled counties, 2005**

| County  | Jury trials            |  |                                 | Bench trials           |  |                                 |
|---|------------------------|--|---------------------------------|------------------------|--|---------------------------------|
|   | Total number of trials | Number of plaintiff winners <sup>a</sup> | Median final award <sup>b</sup> | Total number of trials | Number of plaintiff winners <sup>a</sup> | Median final award <sup>b</sup> |
| <b>Sample of 75 most populous counties</b>                        |                        |  |                                 |                        |  |                                 |
| Maricopa, AZ  | 202                    | 93                                       | \$40,000                        | 54                     | 24                                       | \$19,000                        |
| Pima, AZ  | 59                     | 36                                       | 44,000                          | 20                     | 10                                       | 36,000                          |
| Alameda, CA   | 117                    | 62                                       | 34,000                          | 59                     | 36                                       | 58,000                          |
| Contra Costa, CA  | 18                     | 5  | 178,000                         | 11                     | 5  | 50,000                          |
| Fresno, CA  | 39                     | 26                                       | 60,000                          | 13                     | 9  | 41,000                          |
| Los Angeles, CA   | 212                    | 101                                      | 245,000                         | 171                    | 88                                       | 73,000                          |
| Orange, CA  | 134                    | 55                                       | 122,000                         | 139                    | 74                                       | 75,000                          |
| San Bernardino, CA  | 69                     | 38                                       | 46,000                          | 3                      | 2  | 125,000                         |
| San Francisco, CA   | 100                    | 58                                       | 69,000                          | 21                     | 6  | 148,000                         |
| Santa Clara, CA   | 44                     | 20                                       | 38,000                          | 10                     | 5  | 71,000                          |
| Ventura, CA   | 41                     | 14                                       | 75,000                          | 37                     | 21                                       | 56,000                          |
| Fairfield, CT   | 52                     | 33                                       | 30,000                          | 20                     | 15                                       | 18,000                          |
| Hartford, CT  | 51                     | 33                                       | 21,000                          | 28                     | 11                                       | 52,000                          |
| Dade, FL  | 211                    | 130                                      | 106,000                         | 5                      | 4  | 51,000                          |
| Orange, FL  | 65                     | 32                                       | 46,000                          | 6                      | 5  | 59,000                          |
| Palm Beach, FL  | 94                     | 57                                       | 116,000                         | 22                     | 16                                       | 111,000                         |
| Fulton, GA - Superior Court                                       | 39                     | 22                                       | 38,000                          | 1                      | 0  | ^                               |
| Honolulu, HI  | 10                     | 4  | 61,000                          | 8                      | 6  | 53,000                          |
| Cook, IL  | 520                    | 239                                      | 75,000                          | 166                    | 126                                      | 59,000                          |
| DuPage, IL  | 66                     | 43                                       | 6,000                           | 16                     | 10                                       | 10,000                          |
| Marion, IN -Superior Court  | 82                     | 49                                       | 15,000                          | 46                     | 36                                       | 13,000                          |
| Jefferson, KY   | 89                     | 35                                       | 41,000                          | 24                     | 10                                       | 9,000                           |
| Essex, MA   | 53                     | 14                                       | 66,000                          | 4                      | 2  | 133,000                         |
| Middlesex, MA   | 97                     | 22                                       | 65,000                          | 12                     | 5  | 80,000                          |
| Suffolk, MA   | 110                    | 30                                       | 90,000                          | 20                     | 8  | 210,000                         |
| Worcester, MA   | 61                     | 13                                       | 56,000                          | 12                     | 5  | 34,000                          |
| Oakland, MI   | 119                    | 57                                       | 134,000                         | 33                     | 19                                       | 42,000                          |
| Wayne, MI   | 149                    | 52                                       | 91,000                          | 38                     | 20                                       | 50,000                          |
| Hennepin, MN  | 134                    | 70                                       | 29,000                          | 48                     | 27                                       | 21,000                          |
| St. Louis, MO   | 117                    | 66                                       | 14,000                          | 26                     | 16                                       | 91,000                          |
| Mecklenburg, NC   | 30                     | 20                                       | 12,000                          | 12                     | 9  | 23,000                          |
| Bergen, NJ  | 121                    | 38                                       | 61,000                          | 40                     | 19                                       | 18,000                          |
| Essex, NJ   | 109                    | 48                                       | 84,000                          | 26                     | 13                                       | 19,000                          |
| Middlesex, NJ   | 193                    | 63                                       | 77,000                          | 28                     | 18                                       | 30,000                          |
| New York, NY  | 301                    | 132                                      | 192,000                         | 58                     | 36                                       | 128,000                         |
| Cuyahoga, OH  | 203                    | 101                                      | 18,000                          | 32                     | 23                                       | 20,000                          |
| Franklin, OH  | 101                    | 72                                       | 15,000                          | 34                     | 24                                       | 26,000                          |
| Allegheny, PA   | 127                    | 44                                       | 25,000                          | 94                     | 72                                       | 9,000                           |
| Philadelphia, PA  | 379                    | 193                                      | 59,000                          | 233                    | 165                                      | 15,000                          |
| Bexar, TX   | 63                     | 30                                       | 33,000                          | 13                     | 3  | 27,000                          |
| Dallas, TX  | 149                    | 55                                       | 19,000                          | 55                     | 30                                       | 43,000                          |
| El Paso, TX   | 21                     | 10                                       | 202,000                         | 19                     | 17                                       | 28,000                          |
| Harris, TX  | 324                    | 138                                      | 45,000                          | 194                    | 123                                      | 56,000                          |
| Fairfax, VA   | 124                    | 69                                       | 20,000                          | 42                     | 33                                       | 31,000                          |
| King, WA  | 118                    | 81                                       | 29,000                          | 81                     | 46                                       | 55,000                          |
| Milwaukee, WI   | 96                     | 61                                       | 22,000                          | 35                     | 18                                       | 11,000                          |
| <b>Sample of counties outside of 75 most populous<sup>c</sup></b> |                        |  |                                 |                        |  |                                 |
| Madison, AL   | 21                     | 12                                       | 15,000                          | 15                     | 9  | 18,000                          |
| Marshall, AL  | 2                      | 2  | 15000*                          | 3                      | 0  | ^                               |
| Montgomery, AL  | 21                     | 9  | 30,000                          | 4                      | 2  | 38,000                          |
| Garland, AR   | 5                      | 4  | 13,000                          | 0                      | 0  | ^                               |
| Polk, AR  | 2                      | 1  | 9,000*                          | 0                      | 0  | ^                               |
| Yuma, AZ  | 2                      | 1  | 23,000*                         | 0                      | 0  | ^                               |
| Marin, CA   | 7                      | 4  | 215,000                         | 6                      | 3  | 30,000                          |
| Plumas, CA  | 1                      | 0  | ^                               | 0                      | 0  | ^                               |
| Santa Barbara, CA   | 13                     | 7  | 49,000                          | 11                     | 4  | 18,000                          |
| Teller, CO  | 1                      | 1  | 394,000*                        | 0                      | 0  | ^                               |
| Middlesex, CT   | 5                      | 2  | 848,000                         | 38                     | 17                                       | 14,000                          |

**Appendix table 4: Median final damage awards for plaintiff winners in jury and bench trials, by sampled counties, 2005 (cont.)**

| County  | Jury trials            |  |                                 | Bench trials           |  |                                 |
|---|------------------------|--|---------------------------------|------------------------|--|---------------------------------|
|   | Total number of trials | Number of plaintiff winners <sup>a</sup> | Median final award <sup>b</sup> | Total number of trials | Number of plaintiff winners <sup>a</sup> | Median final award <sup>b</sup> |
| <b>Sample of counties outside of 75 most populous<sup>c</sup> (cont.)</b> |                        |  |                                 |                        |  |                                 |
| Gulf, FL  | 0                      | 0  | ^                               | 1                      | 1  | 0                               |
| Volusia, FL   | 25                     | 18                                       | 250,000                         | 18                     | 13                                       | 36,000                          |
| Bacon, GA   | 1                      | 0  | ^                               | 0                      | 0  | ^                               |
| DeKalb, GA - Superior Court   | 9                      | 5  | 9,000                           | 1                      | 1  | 16,000                          |
| DeKalb, GA - State Court  | 41                     | 28                                       | 14,000                          | 0                      | 0  | ^                               |
| Douglas, GA   | 5                      | 2  | 49,000                          | 0                      | 0  | ^                               |
| Fulton, GA - State Court  | 39                     | 30                                       | 15,000                          | 5                      | 5  | 28,000                          |
| Polk, GA  | 2                      | 0  | ^                               | 1                      | 0  | ^                               |
| Stephens, GA  | 1                      | 1  | 48,000*                         | 0                      | 0  | ^                               |
| Butte, ID   | 1                      | 0  | ^                               | 0                      | 0  | ^                               |
| Kootenai, ID  | 9                      | 5  | 125,000                         | 4                      | 1  | 17,000*                         |
| Marion, IN- Circuit Court   | 7                      | 4  | 28,000                          | 1                      | 0  | ^                               |
| Noble, IN- Circuit Court  | 0                      | 0  | ^                               | 1                      | 1  | 99,000*                         |
| Orange, IN- Circuit Court   | 4                      | 0  | ^                               | 6                      | 4  | 4,000                           |
| Orange, IN- Superior Court  | 0                      | 0  | ^                               | 1                      | 1  | 1,000*                          |
| Des Moines, IA  | 3                      | 2  | 50,000                          | 1                      | 1  | 34,000*                         |
| Cowley, KS  | 3                      | 3  | 2,000                           | 0                      | 0  | ^                               |
| Kenton, KY  | 4                      | 3  | 100,000                         | 3                      | 2  | 11,000                          |
| Vernon Parish, LA   | 0                      | 0  | ^                               | 3                      | 3  | 41,000                          |
| Aroostook, ME   | 0                      | 0  | ^                               | 4                      | 1  | 7,000*                          |
| York, ME  | 10                     | 7  | 53,000                          | 11                     | 8  | 17,000                          |
| Dorchester, MD  | 2                      | 1  | 15,000*                         | 2                      | 1  | 8,000*                          |
| Antrim, MI  | 0                      | 0  | ^                               | 1                      | 0  | ^                               |
| Ionia, MI   | 0                      | 0  | ^                               | 1                      | 0  | ^                               |
| Ramsey, MN  | 41                     | 28                                       | 52,000                          | 24                     | 14                                       | 16,000                          |
| Scott, MN   | 7                      | 6  | 68,000                          | 5                      | 4  | 70,000                          |
| Sherburne, MN   | 2                      | 2  | 398,000*                        | 2                      | 1  | 12,000*                         |
| Boone, MO   | 9                      | 4  | 111,000                         | 1                      | 1  | 90,000*                         |
| Buchanan, MO  | 8                      | 5  | 15,000                          | 8                      | 3  | 37,000                          |
| Greene, MO  | 22                     | 18                                       | 90,000                          | 1                      | 0  | ^                               |
| Harrison, MO  | 1                      | 0  | ^                               | 1                      | 1  | 73,000*                         |
| Maries, MO  | 2                      | 0  | ^                               | 0                      | 0  | ^                               |
| Mercer, MO  | 1                      | 0  | ^                               | 0                      | 0  | ^                               |
| Phelps, MO  | 2                      | 1  | 1,000*                          | 0                      | 0  | ^                               |
| St. Charles, MO   | 24                     | 16                                       | 10,000                          | 18                     | 11                                       | 28,000                          |
| Covington, MS   | 1                      | 1  | 400,000*                        | 0                      | 0  | ^                               |
| Lauderdale, MS  | 3                      | 2  | 206,000                         | 1                      | 0  | ^                               |
| Flathead, MT  | 5                      | 3  | 15,000                          | 0                      | 0  | ^                               |
| Lewis & Clark, MT   | 2                      | 1  | 7,000*                          | 3                      | 1  | 8,000*                          |
| Sanders, MT   | 1                      | 1  | 8,000*                          | 0                      | 0  | ^                               |
| Cass, NE  | 1                      | 0  | ^                               | 6                      | 2  | 8,000                           |
| Union, NJ   | 45                     | 20                                       | 72,000                          | 15                     | 10                                       | 17,000                          |
| Bernalillo, NM  | 25                     | 8  | 76,000                          | 13                     | 8  | 23,000                          |
| Delaware, NY  | 2                      | 0  | ^                               | 0                      | 0  | ^                               |
| Dutchess, NY  | 30                     | 4  | 542,000                         | 5                      | 3  | 129,000                         |
| Genesee, NY   | 5                      | 3  | 25,000                          | 1                      | 0  | ^                               |
| Madison, NY   | 6                      | 1  | 1,412,000*                      | 1                      | 1  | 27,000*                         |
| Randolph, NC  | 4                      | 2  | 31,000                          | 4                      | 2  | 9,000                           |
| Stokes, NC  | 1                      | 1  | 1*                              | 0                      | 0  | ^                               |
| Clermont, OH  | 16                     | 12                                       | 20,000                          | 3                      | 3  | 22,000                          |
| Lucas, OH   | 58                     | 30                                       | 23,000                          | 15                     | 11                                       | 25,000                          |
| Morrow, OH  | 4                      | 3  | 20,000                          | 1                      | 1  | 336,000*                        |
| Seneca, OH  | 2                      | 2  | 13,000                          | 0                      | 0  | ^                               |

**Appendix table 4: Median final damage awards for plaintiff winners in jury and bench trials, by sampled counties, 2005 (cont.)**

| County  | Jury trials            |  |                                 | Bench trials           |  |                                 |
|---|------------------------|--|---------------------------------|------------------------|--|---------------------------------|
|   | Total number of trials | Number of plaintiff winners <sup>a</sup> | Median final award <sup>b</sup> | Total number of trials | Number of plaintiff winners <sup>a</sup> | Median final award <sup>b</sup> |
| <b>Sample of counties outside of 75 most populous<sup>c</sup> (cont.)</b> |                        |  |                                 |                        |  |                                 |
| Garvin, OK  | 0                      | 0  | ^                               | 5                      | 5  | 39,000                          |
| Grady, OK   | 0                      | 0  | ^                               | 4                      | 2  | 41,000                          |
| Blair, PA   | 3                      | 2  | 1,920,000                       | 7                      | 3  | 29,000                          |
| Franklin, PA  | 6                      | 1  | 41,000*                         | 3                      | 2  | 11,000                          |
| Pike, PA  | 1                      | 0  | ^                               | 3                      | 1  | 78,000*                         |
| Providence, RI  | 30                     | 13                                       | 22,000                          | 5                      | 4  | 68,000                          |
| Oconee, SC  | 5                      | 2  | 49,000                          | 2                      | 1  | 7,000*                          |
| Richland, SC  | 37                     | 21                                       | 16,000                          | 1                      | 0  | ^                               |
| Cannon, TN  | 1                      | 1  | 5,000*                          | 0                      | 0  | ^                               |
| Carter, TN  | 4                      | 2  | 3,555,000                       | 3                      | 2  | 1,000                           |
| Fentress, TN  | 2                      | 2  | 33,000                          | 0                      | 0  | ^                               |
| Putnam, TN  | 1                      | 1  | 6,000*                          | 2                      | 2  | 24,000                          |
| Scott, TN   | 4                      | 3  | 6,000                           | 0                      | 0  | ^                               |
| Sullivan, TN  | 3                      | 2  | 27,000                          | 1                      | 1  | 33,000                          |
| Washington, TN  | 2                      | 1  | 44,000*                         | 6                      | 5  | 3,000                           |
| Denton, TX  | 11                     | 2  | 382,000                         | 12                     | 8  | 27,000                          |
| Galveston, TX   | 27                     | 12                                       | 33,000                          | 2                      | 2  | 64,000                          |
| Hood, TX  | 4                      | 2  | 284,000                         | 4                      | 2  | 7,000                           |
| Orange, TX  | 10                     | 5  | 11,000                          | 1                      | 0  | ^                               |
| Smith, TX   | 6                      | 2  | 279,000                         | 2                      | 1  | 22,000*                         |
| Somervell, TX   | 1                      | 0  | ^                               | 0                      | 0  | ^                               |
| Tom Green, TX   | 6                      | 3  | 5,000                           | 0                      | 0  | ^                               |
| Accomack, VA  | 0                      | 0  | ^                               | 3                      | 2  | 17,000                          |
| Chesapeake, VA  | 28                     | 18                                       | 9,000                           | 10                     | 5  | 22,000                          |
| Giles, VA   | 1                      | 1  | 125,000*                        | 0                      | 0  | ^                               |
| Louisa, VA  | 3                      | 3  | 200,000                         | 2                      | 1  | 22,000*                         |
| Suffolk, VA   | 5                      | 4  | 75,000                          | 1                      | 1  | 160,000*                        |
| Mason, WA   | 1                      | 1  | 245,000*                        | 4                      | 0  | ^                               |
| Grant, WA   | 1                      | 1  | 2,000*                          | 5                      | 1  | 187,000*                        |
| Berkeley, WV  | 10                     | 8  | 50,000                          | 0                      | 0  | ^                               |
| Racine, WI  | 25                     | 17                                       | 15,000                          | 18                     | 13                                       | 11,000                          |

<sup>a</sup> Not applicable.

<sup>b</sup> Not a median but the actual awarded amount.

<sup>c</sup> Includes tort and contract cases only. Plaintiff win data was not applicable to the 202 real property cases.

<sup>d</sup> Median final award amount was calculated prior to any post-trial adjustments or appeals. The final award includes monetary amounts awarded to plaintiff winners for compensatory and punitive damages, costs and fees, and interest. Real property cases were not included. Awards less than \$1,000 were not rounded.

<sup>e</sup> The following counties were included in the sample of 156 but reported no civil trials disposed of in 2005: Jackson, GA; Jefferson, ID; Randolph, IL; Montgomery, IA; Manistee, MI; Dodge, MN; Dent, MO; Teton, MT; Thurston, NE; Wayne, NE; Madison, NC; Roberts, SD; Pickett, TN; Foard, TX; Irion, TX; Schleicher, TX; Wilbarger, TX; Skamania, WA; and Mason, WV.