

CASELOAD HIGHLIGHTS

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EXAMINING THE WORK OF STATE COURTS

An Empirical Overview of Civil Trial Litigation

Forty-six counties tried over 8,300 general civil cases to conclusion in 2001

Despite the media attention and public interest civil trials command, these cases remain largely uninvestigated and empirically enigmatic. Capturing the com-

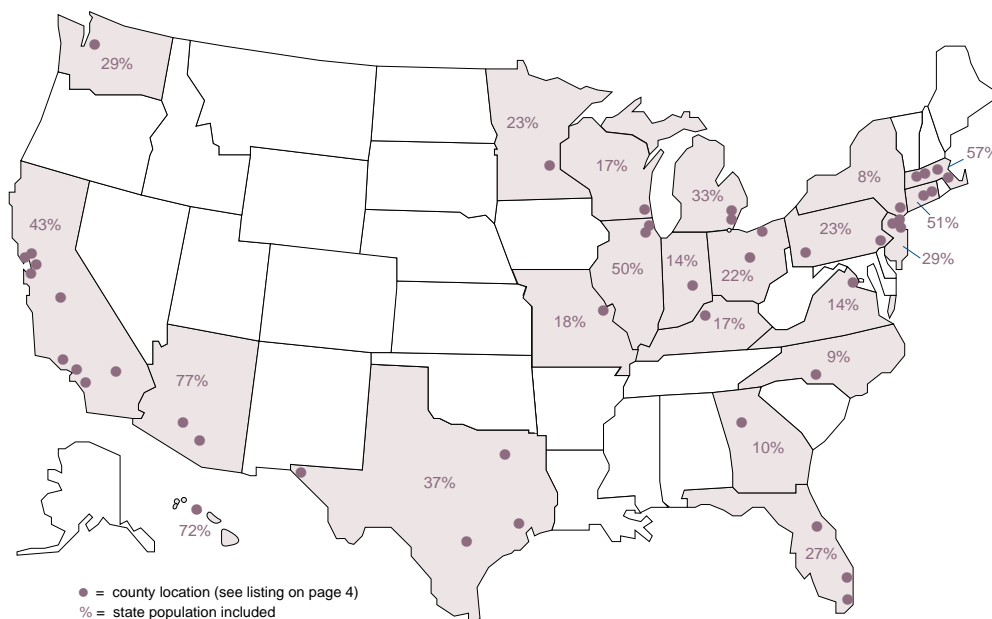
plexity of these cases is so resource intensive that trial courts rarely monitor or quantify these important events themselves. As a result, there is little compara-

tive research that lawyers, academics, lawmakers, tort reformers, and others can use as the basis for discussions about civil litigation.

In an effort to fill that

void, the National Center for State Courts, with support from the Bureau of Justice Statistics, has undertaken three detailed studies of civil litigation called the *Civil Justice Surveys of State Courts*. These studies examined general civil (i.e., tort, contract, and real property) cases disposed in 1992, 1996, and 2001, focusing exclusively on jury and bench trials in the latter two iterations.

This map shows the location of the 46 counties involved in the 2001 study (representing roughly 23 percent of the U.S. population) and the aggregate percentage of each state's population residing within the participating counties.



Juries almost always decide tort trials; judges are more likely to decide contract cases

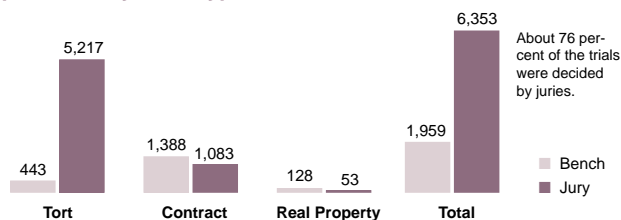
The first and most apparent feature of general civil trials is the predominance of tort jury trials. In the 46 counties examined, 63 percent of all trials were tort jury trials—nearly twice as many as all contract and real property trials combined. Further, tort litigants emphatically preferred having their

cases decided by a jury (12 to 1), whereas litigants in both contract and real property cases more often opted to have their cases decided by a judge. As real property trials are typically held to determine the value or boundary of real property (as opposed to damages or liability), and

because they number so few when compared with tort and contract cases,

these cases are excluded from further analysis in this report.

Type of Trial by Case Type, 2001



An Empirical Overview of Civil Trial Litigation, continued

A closer examination of type of trial by case type reveals dramatic differences within the general categories of tort and contract. The bar charts below show the proportion of jury to bench trials for each of the case types identified in the 2001

study. Among tort cases, plaintiffs alleging injuries caused by exposure to asbestos sought relief from juries exclusively. Juries were demanded in over 75 percent of all but two of the remaining case types.

Despite a much narrower gap between the

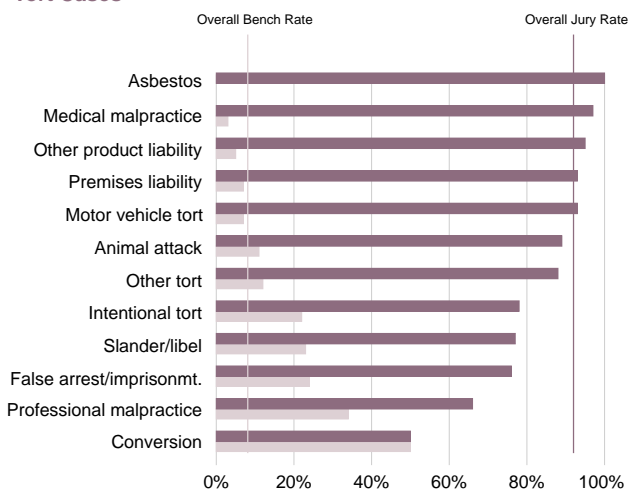
overall proportion of jury to bench trials in contract cases, wide variation still exists between individual case types. The highest proportion of jury trials occurred in employment discrimination cases, while every mortgage foreclosure trial was decided by a

judge. However, the overall contract bench trial rate is higher than in tort cases due to the disproportionately large number of seller plaintiff /debt collection trials decided by judges.

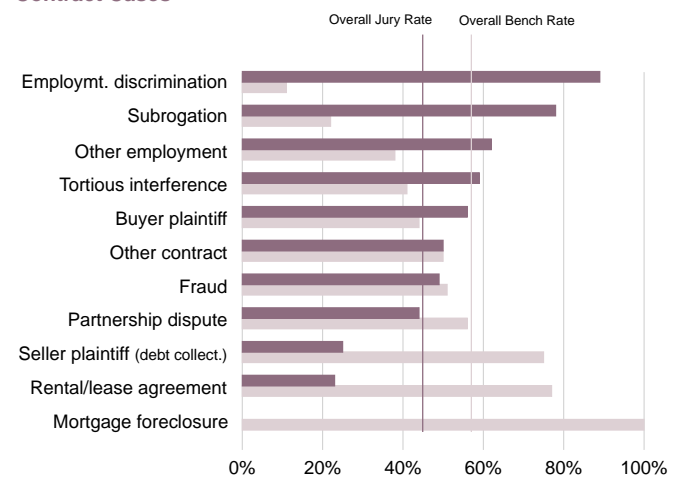
Proportion of Jury to Bench Trials, by Case Type, 2001

■ Jury ■ Bench

Tort Cases



Contract Cases



One in three civil trials involves motor vehicle liability

Motor vehicle torts dominated general civil trial caseloads, representing just over half of all tort trials and over one-third of all general civil trials. Premises liability and medical malpractice cases ranked second and third, followed by contract cases involving seller plaintiffs, buyer plaintiffs, and fraud.

Total Number of Tort and Contract Trials, 2001

Tort Cases	Total	Percent	Contract Cases	Total	Percent
Motor vehicle	2,967	52.4%	Seller plaintiff	801	32.4%
Premises liability	966	17.1	Buyer plaintiff	544	22.0
Medical malpractice	851	15.0	Fraud	433	17.5
Intentional tort	257	4.5	Rental/lease agreement	192	7.8
Other product liability	91	1.6	Other employment	178	7.2
Professional malpractice	68	1.2	Employment discrimination	107	4.3
Slander/libel	62	1.1	Tortious interference	82	3.3
Animal attack	62	1.1	Subrogation	45	1.8
False arrest, imprisonment	29	.5	Partnership dispute	27	1.1
Asbestos	26	.5	Mortgage foreclosure	14	.6
Conversion	16	.3	Other contract	48	1.9
Other tort	264	4.7			
Total	5,659	100.0%	Total	2,471	100.0%

Asbestos cases are disposed most quickly but have the longest trials

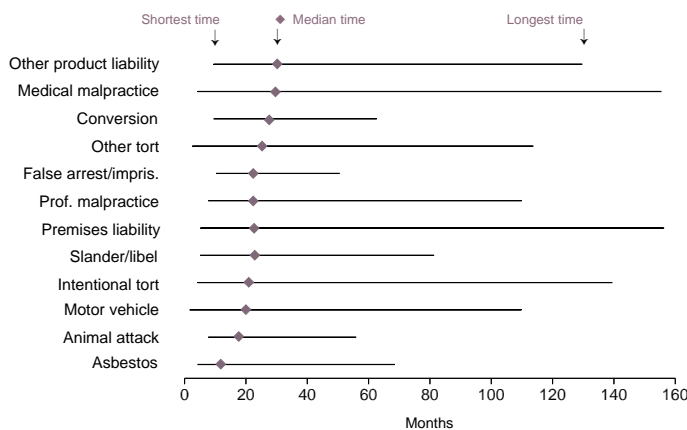
This chart shows the minimum, median, and maximum time from filing to verdict for each type of tort jury trial. Interestingly, asbestos cases typically reach a verdict in the fewest months (13 months), while product liability trials not concerning asbestos often

took the most time to reach a verdict (31 months). Although both types of cases are considered complex litigation, asbestos cases are often “fast-tracked” in trial courts due to the gravity of the plaintiff’s alleged injuries and defendant stipulations as to causation.

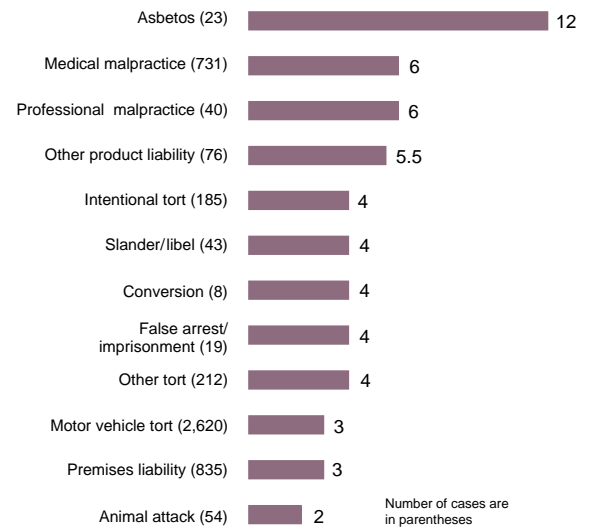
In contrast to their shorter overall case-processing times, asbestos trials tend to be the lengthiest. The median length of asbestos jury trials was 12 days—

twice as many as the next longest (medical malpractice). Eight of the 12 categories of torts had average trials lasting four days or less.

Time from Filing to Verdict in Tort Jury Trials, 2001



Median Duration of Tort Jury Trials, 2001 (in Days)



In jury trials, median tort awards are less than half of contract awards

Large monetary awards in tort cases are newsworthy events. However, the data from these studies indicate that jury awards in contract cases, where injury is not alleged, are typically higher than those in tort jury trials. The lower overall median award for tort jury trials is clearly attributable to the large proportion of prevailing plaintiffs in motor vehicle trials (62 percent), with a median award of less than \$18,000. The highest median award, stemming

from asbestos cases, is based on only 15 prevailing plaintiffs—less than 1 percent of all tort winners.

Additionally, asbestos cases had the highest average number of plaintiffs *per case*, indicating that

these large awards were often being divided among multiple plaintiffs.

Median Awards to Prevailing Plaintiffs in Tort and Contract Jury Trials, 2001

Tort Case Type	Median Award	Percent of Prevailing Plaintiffs	Contract Case Type	Median Award	Percent of Prevailing Plaintiffs
Asbestos	\$1,649,597	.6%	Employment discrimination	\$226,177	6.5%
Medical malpractice	491,781	8.8	Partnership dispute	139,968	1.4
Other product liability	405,483	1.4	Tortious interference	112,336	4.5
Professional malpractice	140,584	.9	Rental/lease agreement	88,961	4.3
Other tort	136,594	4.4	Fraud	85,476	19.1
Slander/libel	120,265	.8	Other employment dispute	81,019	10.1
False arrest/imprisonment	94,546	.4	Other contract	74,212	2.0
Premises liability	61,953	14.6	Seller plaintiff	64,974	21.2
Intentional tort	48,997	4.4	Buyer plaintiff	64,792	27.9
Conversion	23,871	.2	Subrogation	7,864	2.9
Animal attack	21,930	1.4			
Motor vehicle tort	17,544	62.0			
Overall	\$32,406	100.0%	Overall	\$78,627	100.0%

Fewer than 5 percent of prevailing plaintiffs are awarded punitive damages

Comparatively few civil trials generate punitive damage awards. The adjacent table displays the number and percentage of all prevailing plaintiffs that won punitive awards and the median award amount for the 10 categories in which more than five punitive damage awards occurred. The median punitive award to all contract plaintiffs (\$82,644) was about 75 percent higher than in torts (\$47,077). However, the

highest median awards among these ten categories occurred in tort cases labeled “other.” Many types of cases do not fit neatly into the more common tort and contract distinctions. The claims in this “other” tort category included wrongful use of civil process, unsafe working conditions, and unfair trade practices. Absent from this list are product liability cases (asbestos and “other”); each had only one case with punitive damages.

Punitive Damage Awards to Prevailing Plaintiffs, 2001

Case Type	Median Punitive Award	Number of Punitive Winners	Percent of All Winners
Torts			
Slander/libel	\$77,701	13	57%
Intentional tort	29,454	45	31%
Other tort	475,920	10	8%
Medical malpractice	200,000	9	4%
Motor vehicle tort	6,020	33	2%
All Torts	\$47,077	125	5%
Contracts			
Fraud	\$78,550	38	16%
Employment discrimination	350,000	7	15%
Tortious interference	91,500	6	13%
Other employment	117,500	10	10%
Buyer plaintiff	232,125	11	3%
All Contracts	\$82,644	88	6%

Counties that participated in the civil justice survey, 2001

Alameda, CA	Dade, FL	Fairfield, CT	Honolulu, HI	Middlesex, MA	Palm Beach, FL	Suffolk, MA
Allegheny, PA	Dallas, TX	Franklin, OH	Jefferson, KY	Middlesex, NJ	Philadelphia, PA	Ventura, CA
Bergen, NJ	Du Page, IL	Fresno, CA	King, WA	Milwaukee, WI	Pima, AZ	Wayne, MI
Bexar, TX	El Paso, TX	Fulton, GA	Los Angeles, CA	New York, NY	San Bernardino, CA	Worcester, MA
Contra Costa, CA	Essex, MA	Harris, TX	Maricopa, AZ	Oakland, MI	San Francisco, CA	
Cook, IL	Essex, NJ	Hartford, CT	Marion, IN	Orange, CA	Santa Clara, CA	
Cuyahoga, OH	Fairfax, VA	Hennepin, MN	Mecklenberg, NC	Orange, FL	St. Louis, MO	



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