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Civil Justice Survey of State Courts, 1996

Tort Trials and Verdicts in Large Counties, 1996

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Tort claims comprised over 65% of the estimated 15,000 tort, contract, and real property rights cases decided by a trial in the Nation's 75 largest counties in 1996. In tort cases plaintiffs allege injury, loss, or damage from negligent or intentional acts of defendants. About 85% of the estimated 10,278 tort trials during 1996 were decided by a jury.

This Bulletin focuses on trials because the availability of compensation data is generally limited to cases decided by trial. When civil cases are settled, compensation amounts are routinely not reported to the court. Award information, particularly jury awards, have been a central focus of tort reform.¹

This is the third in a series of reports based on the *Civil Justice Survey of State Courts, 1996*, which collected sample data about tort, contract, and real property rights cases decided by a

¹B. Ostrom, D. Rottman, and J. Goerd, "Step above Anecdote: A Profile of the Civil Jury in the 1990s," *Judicature*, 79(5), 1996, p. 233; Erik Moller, *Trends in Civil Jury Verdicts since 1985*, RAND, MR-694-ICJ, 1996.

Highlights

Median final award amounts (compensatory and punitive) to plaintiff winners in tort trial cases in the Nation's 75 largest counties, 1996

Asbestos	\$308,755
Medical malpractice	\$285,576
Other product liability	\$176,787
Professional malpractice	\$85,525
Other negligence	\$76,363
Premises liability	\$57,340
Intentional tort	\$32,000
All tort cases	\$30,500
Slander/libel	\$21,759
Automobile	\$17,931

- During 1996 an estimated 10,278 tort cases were decided by a trial in the Nation's 75 largest counties. A jury decided about 85% of these tort trial cases, including nearly all (93%) of the medical malpractice trials.

- Forty-two percent of tort trials involved a private individual suing another individual. About 39% of tort claims involved an individual suing a business.

- Plaintiffs won in 48% of tort trial cases. Plaintiffs were more likely to win in tort trials decided by a judge (57%) than a jury (48%). Plaintiffs won in 58% of automobile accident trials, 57% of intentional tort trials, and 23% of medical malpractice trials.

- The median final award to plaintiff winners in tort trials during 1996 was about \$31,000. Seventeen percent of final awards exceeded \$250,000 and 6% were \$1 million or more.

- About 3% of plaintiff winners in tort trials were awarded punitive damages. The median punitive damage award was \$38,000. Twenty-four percent of plaintiff winners were awarded punitive damages when defendants acted with general or specific intent (intentional tort).

- The median case processing time for tort cases from filing to the verdict or final judgment was 22 months for jury trials and 19 months for bench trials.

trial in State courts of general jurisdiction in the Nation's 75 largest counties.²

The sample of civil trial cases excluded civil cases that were not tort, contract, or real property rights cases. Also excluded were Federal trials, trials in counties outside the 75 largest, and trials in State courts of limited jurisdiction.

Types of torts trials

Automobile accident cases accounted for 49% of all tort trials in courts of general jurisdiction during 1996 and premises liability cases 22% (table 1). Approximately 12% of tort trials were medical malpractice cases, and 6% were other negligence cases.

Type of trial verdict

Most tort trial cases were decided by a jury (85%) rather than a judge (12%).³ Forty-seven State constitutions guarantee the right to a jury trial in civil cases in State courts.⁴ Similar to the Federal rule (Fed. R. Civ. P. 38) most States require either the plaintiff or the defendant to demand a jury trial, otherwise they forfeit the right to a jury and the case is decided by a judge.

The frequency of jury verdicts varied by the kind of tort case (table 1). Asbestos trial cases were most likely

to be decided by a jury verdict (99%), followed by medical malpractice cases (93%) and automobile accident cases (89%).

Litigants

An estimated 37,561 litigants (plaintiffs and defendants) were involved in the 10,278 tort trials in the Nation's 75 largest counties during 1996. There

were an estimated 15,600 plaintiffs and 22,000 defendants (table 2). Thirty-eight percent of tort trials involved one plaintiff and one defendant (not shown in a table).

The median number of plaintiffs and defendants differed little by the type of tort case. Asbestos cases provided an exception with a median of 18 defendants per case.

Table 1. Tort cases decided by a trial in the Nation's 75 largest counties, 1996

Case type	All tort trials		Type of trial verdict		
	Number	Percent	Jury	Bench	Other ^a
All tort trials	10,278	100.0%	85.3%	12.4%	2.3%
Automobile	4,994	48.6%	88.9%	9.6%	1.6%
Premises liability	2,232	21.7	80.5	15.8	3.7
Asbestos	183	1.8	98.9	--	1.1
Other product liability ^b	238	2.3	84.3	14.3	1.4
Intentional tort	491	4.8	71.6	26.1	2.3
Medical malpractice	1,201	11.7	93.1	4.4	2.5
Professional malpractice	186	1.8	59.8	36.5	3.7
Slander/libel	109	1.1	71.8	23.2	5.0
Other negligence	645	6.3	76.6	20.5	2.9

Note: Details may not sum to total due to rounding.

--No cases recorded in the sample.

^aOther trial cases include trials with a directed verdict, judgments notwithstanding the verdict, and jury trials for defaulted defendants.

^bIncludes breast implant trials, other product liability trials as described on page 3, and product liability trials with unknown product type.

Table 2. Number of litigants in tort trial cases, by case type in the Nation's 75 largest counties, 1996

Case type	Total number of litigants	Plaintiffs		Defendants	
		Number	Median	Number	Median
All tort trials	37,561	15,592	1.0	21,969	1.0
Automobile	15,170	7,097	1.0	8,073	1.0
Premises liability	7,841	3,843	1.0	3,998	1.0
Asbestos	3,679	308	2.0	3,371	18.0
Other product liability*	904	361	1.0	543	2.0
Intentional tort	1,667	606	1.0	1,061	2.0
Medical malpractice	4,889	1,905	1.0	2,984	2.0
Professional malpractice	673	265	1.0	408	1.0
Slander/libel	458	146	1.0	312	2.0
Other negligence	2,279	1,061	1.0	1,218	1.0

Note: Data on the number of plaintiffs were available for 99.9% of all sampled cases. Data on number of defendants were available for 99.8% of all sampled cases. Detail may not sum to total due to rounding.

*Includes breast implant trials, other product liability trials as described on page 3, and product liability trials with unknown product type.

²*Civil Trial Cases and Verdicts in Large Counties, 1996* (NCJ 173426) and *Contract Trials and Verdicts in Large Counties, 1996* (NCJ 179451). These BJS Bulletins are available on the Internet at <http://www.ojp.usdoj.gov/bjs/civil.htm>.

³The term verdict is used throughout the report to refer to jury verdicts and judgments entered by a judge. For size and verdict rule for civil trial juries in State courts of general jurisdiction, see *State Court Organization, 1998* (NCJ 178932).

⁴Paul Mogin, "Why Judges, Not Juries, Should Set Punitive Damages," *University of Chicago Law Review*, 65, 1998, p. 179.

Litigant pairings

For each case, data were collected on whether the plaintiff was an individual, government, business, or hospital. Similar information was collected for each defendant.

A typical tort trial case involved an individual suing another individual (42%) or a business (39%) (table 3). In relatively few tort trial cases did an

individual sue a government (7%) or a hospital (8%) (table 3).

A business, government, or hospital was the plaintiff in only about 4% of tort trials during 1996. Nonindividual plaintiffs were more common among bench tort trial cases than in tort jury trials. Twelve percent of tort bench trials had a nonindividual plaintiff, compared to 3% of tort jury trials (not shown in a table.)

Automobile cases

Automobile accident torts, which comprised about half of all tort trials, had a distinctive profile of litigant pairings. The proportion of cases in which an individual sued another individual was 61%. Most (89%) automobile accident tort trials were decided by a jury.

Defective products in product liability cases, 1996

- Of the estimated 359 product liability cases for which the type of defective product was known, 52% dealt with asbestos or other toxic chemicals.
- Cases involving defective vehicles such as automobiles, motorcycles, or boats accounted for about 8% of tort trials.
- Defective construction, electrical, manufacturing, or other equipment was involved in about 15% of tort trial cases in the Nation's 75 largest counties during 1996.
- Punitive damages were awarded to plaintiff winners in 5 of the 359 cases (not shown in a table).

Type of defective product	Product liability trials for which the type of defective product was known ^a	
	Number	Percent
Total	359	100.0%
Toxic chemicals		
Asbestos	183	51.0
Other chemicals	5	1.4
Medical ^b	22	6.1
Equipment ^c	55	15.4
Food		
Restaurant food	3	0.8
Other foods	5	1.3
Home items and appliances	32	9.0
Vehicles	29	8.2
Other products	26	7.3

Note: The estimated total number of product liability cases is 421. See table 1, asbestos and other product liability cases. Of these, an estimated 359 have a known type of product.

Detail may not sum to total due to rounding.

^aNumber of cases include bench and jury trials, trials with a directed verdict, judgments notwithstanding the verdict, and jury trials for defaulted defendants.

^bIncludes nonprescription and prescription drugs, cosmetics, breast and other internal implants, and other medical devices.

^cIncludes construction, electrical, manufacturing, and other equipment.

Table 3. Pairings of primary litigants in tort trial cases in State courts in the Nation's 75 largest counties, 1996

Plaintiff versus defendant ^a	All tort trials for which the type of litigant was known ^b		Automobile tort trials		All other tort trials	
	Number	Percent	Number	Percent	Number	Percent
All tort trials	10,252	100%	4,980	100%	5,272	100%
Individual versus —						
Individual	4,312	42.1%	3,046	61.2%	1,266	24.0%
Government	698	6.8	294	5.9	403	7.6
Business	4,022	39.2	1,435	28.8	2,587	49.1
Hospital	798	7.8	17	0.3	780	14.8
Nonindividual^c versus —						
Individual	135	1.3%	76	1.5%	60	1.1%
Government	25	0.2	12	0.2	13	0.2
Business	245	2.4	100	2.0	146	2.8
Hospital	18	0.2	0	0.0	18	0.3

Note: Data for litigant pairings were available for 99.8% of all sampled trial cases. Detail may not sum to total due to rounding.

^aPlaintiff and defendant type for each case is whichever type appears first in this list: (1) hospital/medical company; (2) corporate/business litigants; (3) government agencies; (4) individuals. For example, any case involving a hospital defendant is categorized as a case with a "hospital defendant" even if there were also business, individual, and government defendants in the case. Business litigants include insurance companies, banks, other businesses, and other organizations.

^bAll tort trials include bench and jury trials, trials with a directed verdict, judgments notwithstanding the verdict, and jury trials for defaulted defendants.

^cNonindividuals may include government, business, and/or hospital litigants.

Table 4. Type of business plaintiff and defendant in tort trials in the Nation's 75 largest counties, 1996

Type of case	Number of tort trials with a business plaintiff	Type of business plaintiffs							
		Insurance company	Bank	Con-struction company	Real estate development company	Service seller	Goods seller	Manu-facturer	Other ^a
Total	374	100%	100%	100%	100%	100%	100%	100%	100%
Automobile	167	67.1%	--	44.4%	--	32.2%	14.0%	--	16.4%
Premises liability	62	16.7	--	25.6	50.9	18.9	18.5	--	6.7
Product liability ^b	23	6.1	16.2	--	--	1.4	6.6	12.5	13.2
Intentional tort	23	2.7	--	--	--	5.6	25.0	--	12.6
Medical malpractice	8	3.0	12.7	--	--	--	--	--	2.2
Professional malpractice	17	1.3	--	15.0	8.5	11.8	6.6	--	5.5
Slander/libel	10	--	--	--	10.7	4.8	12.9	--	2.2
Other negligence	65	3.0	71.1	15.0	29.9	25.3	16.4	87.5	41.3

Type of case	Number of tort trials with a business defendant	Type of business defendants							
		Insurance company	Bank	Con-struction company	Real estate development company	Service seller	Goods seller	Manu-facturer	Other ^a
Total	4,268	100%	100%	100%	100%	100%	100%	100%	100%
Automobile	1,535	91.6%	31.6%	29.8%	5.1%	41.8%	19.5%	8.1%	26.4%
Premises liability	1,590	3.5	40.5	45.8	71.9	33.1	59.2	7.9	42.0
Product liability ^b	412	--	--	3.0	--	1.3	4.7	76.0	18.1
Intentional tort	184	0.4	17.9	3.7	9.0	5.0	5.4	--	4.1
Medical malpractice	33	2.3	--	--	--	0.9	0.4	0.8	0.3
Professional malpractice	88	0.6	--	--	1.7	5.0	0.3	0.8	0.9
Slander/libel	68	--	8.0	2.7	--	1.4	2.1	1.2	2.0
Other negligence	357	1.4	2.0	14.9	12.4	11.5	8.5	5.0	6.3

Note: Detail may not sum to 100% due to rounding. Data on type of business were available for 100% of business plaintiffs and defendants.

--No cases recorded in the sample.

^aIncludes other businesses, other organizations, and other combinations of businesses such as a construction company and real estate development company as defendants.

^bIncludes asbestos and breast implant trials, other product liability trials as described on page 3, and product liability trials with unknown product type.

Businesses in tort trials

Businesses were plaintiffs in an estimated 374 tort trial cases and defendants in an estimated 4,268 tort trials in general jurisdiction courts in the Nation's 75 largest counties during 1996 (table 4).

The type of business involved in civil trial litigation generally corresponded to the type of case. For example,

- Insurance companies were most likely to be involved in automobile tort trial cases as either plaintiffs (67%) and/or defendants (92%).
- Real estate development companies were most likely to be defendants (72%) in premises liability trials.
- Manufacturers were most likely to be sued in product liability (76%) trials.
- Banks were more likely (18%) than insurance companies, construction companies, service sellers, or goods

sellers to be defendants in trials in which plaintiffs alleged that the tort was committed with some general or specific intent (intentional tort).

Plaintiff winners

Plaintiffs prevailed in about half of all tort trials in the Nation's 75 largest counties during 1996 (table 5).

Table 5. Plaintiff winners in tort trial cases in the Nation's 75 largest counties, 1996

Case type	All tort trials with a known winner ^a		Jury trials		Bench trials	
	Number	Percent plaintiff winners	Number	Percent plaintiff winners	Number	Percent plaintiff winners
All tort trials	10,259	48.2%	8,751	47.5%	1,271	56.9%
Automobile	4,994	57.5%	4,437	57.3%	479	62.9%
Premises liability	2,229	39.6	1,796	37.9	352	52.4
Asbestos	174	55.6	172	55.1	--	--
Other product liability ^b	238	37.1	200	31.0	34	70.3
Intentional tort	491	57.0	351	55.9	128	62.9
Medical malpractice	1,195	23.4	1,112	23.0	53	38.2
Professional malpractice	185	42.6	110	36.2	68	54.3
Slander/libel	109	34.2	78	36.0	25	35.9
Other negligence	645	50.8	494	51.9	132	50.9

Note: Data for trial winners were available for 99.8% of all sampled trial cases. Detail may not sum to total due to rounding.

--No cases recorded in the sample.

^aAll trials include bench and jury trials, trials with a directed verdict, judgments notwithstanding the verdict, and jury trials for defaulted defendants.

^bIncludes breast implant trials, other product liability trials as described on page 3, and product liability trials with unknown product type.

Plaintiffs won more often in tort trials decided by a bench verdict (57%) than by a jury verdict (48%).

The likelihood of a plaintiff winning varied among the different kinds of torts. Plaintiffs were winners in more than half of automobile accident (58%), intentional tort (57%), and asbestos (56%) tort trials. Plaintiffs in other kinds of tort trials fared less well. Plaintiffs were successful, for example, in 23% of medical malpractice trials and 34% of trials for slander or libel.

Plaintiffs experienced different outcomes depending on whether the case was decided by a jury or bench trial. The rate of plaintiff success was greater in bench trials than in jury trials

Bodily injury claims by plaintiffs in tort trials, 1996

- Plaintiffs in tort cases often claim bodily injury due to the defendants' careless or reckless behavior. Plaintiffs seek compensation for medical treatment, lost wages, and other forms of monetary and emotional loss.
- In 1996 plaintiffs claimed bodily injury in 94% of tort cases decided by a trial in general jurisdiction courts in

the 75 largest counties. Plaintiffs claimed bodily injury in all automobile accident, premises and product liability, and medical malpractice trials.

- Bodily injury was claimed in 58% of intentional tort and 72% of other negligence trials, while such claims were rare in professional malpractice (12%) and slander/libel trials (3%).

among premises liability, other product liability, and medical malpractice cases.

Verdicts were in favor of the plaintiff in 52% of the premises liability cases

decided by a bench trial and in 38% of jury trials. A similar difference is found between plaintiff win rates in bench trials (70%) and in jury trials (31%) for other product liability torts.

Medical and professional malpractice cases decided by a trial in the Nation's 75 largest counties, 1996

- Of the 1,021 malpractice trials for which the type of defendant was known, 900 or 88% dealt with medical malpractice, and 121 or 12% dealt with professional malpractice in the 75 largest counties during 1996.

- Overall, plaintiffs won more often in malpractice trials brought against professional defendants (41%) such as attorneys, than they did against medical professionals (26%) such as doctors or dentists.

- The median award in medical malpractice trials (\$318,000) was higher than the median award in professional malpractice trials (\$86,000) that generally do not

entail personal injury. Median award amounts were higher among plaintiffs who won malpractice trials against medical doctors, both surgeons (\$398,000) and nonsurgeons (\$390,000), than against dentists (\$80,000) or attorneys (\$58,000).

- Plaintiff winners were awarded \$1 million or more in about a quarter of malpractice trials brought against surgeons. Such high award amounts were rare, however, when plaintiffs won against dentists, attorneys, or other professionals.

Case type and type of defendant	Number of malpractice tort trials for which the type of defendant and winner was known	Percent plaintiff winners	Final awards to plaintiff winners			Percent of plaintiff winners with awards —	
			Number	Total (in thousands)	Median	Over \$250,000	\$1 million or more
Medical malpractice trials^a	900	25.9%	229	\$309,033	\$318	52.9%	21.0%
Doctor - nonsurgeon	339	23.4	78	98,055	390	58.2	21.5
Doctor - surgeon	462	25.1	113	196,165	398	57.4	26.6
Dentist	56	34.6	19	2,816	80	10.3	0.0
Other professional	44	43.1	19	11,996	176	47.1	6.7
Professional malpractice trials^b	121	40.6%	49	\$41,107	\$86	28.5%	5.5%
Attorney	80	42.2	34	7,054	58	19.8	5.0
Other professional	41	37.5	16	7,054	161	47.3	6.4

Note: Data on final awards were available for 98.6% of sampled medical malpractice trials and 100% of sampled professional malpractice trials in which the type of defendant and the winner was known. Detail may not sum to total due to rounding.

^aData on type of defendant were known for 76.3% of the sampled medical malpractice trials in which the winner was known.

^bData on type of defendant were known for 69.0% of the sampled professional malpractice trials in which the winner was known.

Final awards

Juries and judges awarded an estimated \$2 billion dollars to plaintiff winners in general jurisdiction courts in the Nation's 75 largest counties during 1996 (table 6). The median award was an estimated \$31,000.

Final award amounts may include compensatory awards for *economic damages* associated with actual financial losses, *noneconomic damages* related to, for instance, emotional pain and suffering,

inconvenience, or mental anguish, and *punitive damages* which are intended to punish defendants whose actions were grossly negligent or intentional.⁵

Half of plaintiff winners received \$18,000 or more in automobile accident cases and about \$22,000 in slander/libel cases.

The median final award of \$30,000 in tort jury trials and \$34,000 in tort bench trials did not differ statistically.

⁵Economic and noneconomic damages cannot be distinguished in the data for detailed analysis.

Final damages of over \$250,000 were awarded to 17% of plaintiff winners of tort trials in the Nation's 75 largest counties during 1996. About 6% of plaintiff winners were awarded over \$1 million.

Awards of over \$1 million were received by plaintiff winners in 24% of other product liability jury trials and 22% of medical malpractice jury trials.

Table 6. Final award amounts to plaintiff winners in tort trial cases in the Nation's 75 largest counties, 1996

Type of case	Number of tort trials with damages awarded to plaintiff winners	Final amounts awarded to plaintiff winners (in thousands)			Percent of plaintiff winner cases with final awards —	
		Median	Maximum	Total	Over \$250,000	Over \$1 million
All tort trials^a	4,879	\$31	\$143,400	\$2,099,723	16.9%	5.8%
Automobile	2,853	\$18	\$38,079	\$557,564	8.7%	3.4%
Premises liability	871	57	21,280	329,289	22.0	5.1
Asbestos	81	309	7,305	46,230	50.6	12.1
Other product liability ^b	82	177	8,315	58,254	41.2	16.3
Intentional tort	280	32	10,000	81,616	19.3	7.8
Medical malpractice	272	286	32,000	336,315	51.0	20.2
Professional malpractice	79	86	3,750	21,712	23.2	7.6
Slander/libel	37	22	2,130	10,412	23.1	9.0
Other negligence	323	76	143,400	658,330	27.2	10.5
Jury trials	4,107	\$30	\$143,400	\$1,828,026	17.2%	6.0%
Automobile	2,526	\$18	\$38,079	\$474,921	8.4%	3.0%
Premises liability	677	57	19,214	178,085	22.2	5.3
Asbestos	79	227	7,305	43,430	49.4	9.8
Other product liability ^b	57	379	8,315	55,882	57.6	23.5
Intentional tort	197	31	10,000	69,474	23.0	8.2
Medical malpractice	249	254	32,000	328,551	50.0	22.1
Professional malpractice	40	87	3,750	13,970	31.2	9.9
Slander/libel	28	25	2,130	9,317	23.4	11.9
Other negligence	254	108	143,400	654,397	33.9	13.4
Bench trials	713	\$34	\$21,280	\$259,556	13.8%	5.2%
Automobile	299	\$20	\$10,383	\$80,985	12.2%	7.1%
Premises liability	177	57	21,280	145,374	18.0	4.5
Asbestos	--	--	--	--	--	--
Other product liability ^b	24	56	305	2,362	4.2	0.0
Intentional tort	81	32	1,076	11,714	9.4	7.0
Medical malpractice	20	454	503	6,527	55.4	0.0
Professional malpractice	37	86	1,643	7,680	15.9	5.4
Slander/libel	9	15	500	1,094	22.1	0.0
Other negligence	66	36	310	3,820	2.9	0.0

Note: Data for case type and final awards were available for 98.8% of all sampled trial cases. Final amount awarded includes both compensatory (reduced for contributory negligence) and punitive damage awards. Detail may not sum to total due to rounding.

--No cases recorded in the sample.

^aAll tort trials include bench and jury trials, trials with a directed verdict, judgments notwithstanding the verdict, and jury trials for defaulted defendants.

^bIncludes breast implant trials, other product liability trials as described on page 3, and product liability trials with unknown product type.

Punitive damage awards

Punitive damages were awarded in about 3% of tort trials with a plaintiff winner in the Nation's 75 largest counties during 1996 (table 7). About \$463 million in punitive damages was awarded to 162 plaintiff winners in tort trials. The median punitive damage award was \$38,000.

Plaintiff winners were more likely to be awarded punitive damages in bench (8%) than jury (3%) trials. While judges were more likely to award punitive damages, the amounts they awarded did not differ from those of juries.

The median punitive damage awards for tort jury trials (\$27,000) and for tort bench trials (\$75,000) are not statistically different.

Monetary awards and the role of plaintiff negligence

A plaintiff's own negligence may play a part in causing the plaintiff's injury. In 6 States (Alabama, Maryland, South Carolina, Delaware, North Carolina, and Virginia)⁶ any negligence on the part of the plaintiff bars recovery

⁶*American Jurisprudence*, 2nd edition (1989, supp. 1995), 57B, pp. 1131-49.

of any damages from defendants, referred to as *contributory negligence*.⁷ All other States, however, abide by some form of *comparative negligence*, in which damages recoverable by the plaintiff are proportionally reduced according to the level of the plaintiff's negligence. For a description of the different types of comparative negligence and how States are classified see *Civil Trial Cases and Verdicts in Large Counties, 1996* (NCJ 173426).

⁷Garner, Bryan A. (ed.), *Black's Law Dictionary*, West Publishing Co., 1996.

Table 7. Punitive damages awarded to plaintiff winners in tort trial cases in the Nation's 75 largest counties, 1996

Type of case	Plaintiff winners awarded punitive damages				
	Number	Percent	Amount awarded (in thousands)		
			Median	Maximum	Total
All tort trials^a	162	3.3%	\$38	\$138,000	\$462,650
Automobile	20	0.7%	\$25	\$540	\$2,347
Premises liability	40	4.5	75	2,000	13,501
Asbestos	3	3.2	1,100 ^c	1,100 ^c	1,100 ^c
Other product liability ^b	11	12.5	462	750	4,407
Intentional tort	67	24.0	16	2,500	7,035
Medical malpractice	3	1.1	2,500 ^c	2,500 ^c	2,500 ^c
Professional malpractice	4	4.9	75	75	227
Slander/libel	6	17.0	15	28	89
Other negligence	8	2.4	148	138,000	423,993
Jury trials	104	2.5%	\$27	\$138,000	\$446,884
Automobile	18	0.7%	\$25	\$540	\$1,722
Premises liability	9	1.4	1	215	315
Asbestos	3	3.2	1,100 ^c	1,100 ^c	1,100 ^c
Other product liability ^b	9	14.6	471	750	4,397
Intentional tort	46	23.5	4	2,500	5,196
Medical malpractice	3	1.2	2,500 ^c	2,500 ^c	2,500 ^c
Professional malpractice	4	9.7	75	75	227
Slander/libel	6	22.5	15	28	89
Other negligence	5	2.0	138,000	138,000	423,887
Bench trials	58	7.9%	\$75	\$2,000	\$15,766
Automobile	1	0.4%	\$500 ^c	\$500 ^c	\$500 ^c
Premises liability	30	16.5	100	2,000	13,187
Asbestos	--	--	--	--	--
Other product liability ^b	2	8.4	5	5	10
Intentional tort	21	26.1	25	250	1,839
Medical malpractice	--	--	--	--	--
Professional malpractice	--	--	--	--	--
Slander/libel	--	--	--	--	--
Other negligence	3	4.3	37 ^c	37 ^c	37 ^c

Note: Data for case type and amount of punitive damages awarded were available for 94.8% of sampled cases in which the plaintiff winner was awarded punitive damages. Detail may not sum to total due to rounding.

-- No cases recorded in the sample.

^aAll tort trials include bench and jury trials, trials with a directed verdict, judgments notwithstanding the verdict, and jury trials for defaulted defendants.

^bIncludes breast implant trials, other product liability trials as described on page 3, and product liability trials with unknown product type.

^cNot a median but the actual amount awarded.

The largest punitive damage awards in the 45 sampled counties

- The largest punitive damage amount of \$138 million was awarded by a jury to 22 individual plaintiff winners in a negligence case against service seller defendants. The trial lasted 21 days resulting in a final award amount of \$143,400,000 — the largest in the sample.

- The largest punitive damage awarded in a bench verdict was \$2 million to 2 plaintiff winners in a premises liability trial involving a bodily injury claim against service seller defendants. The case lasted over 5 years from filing to the final judgment. The final award of \$21,280,000 was awarded to the plaintiff winners after a 1-day trial.

Table 8. Plaintiff winners with awards reduced due to contributory negligence in the Nation's 75 largest counties, 1996

Type of case	Number of tort trials with a plaintiff winner*	Cases with awards reduced		
		Percent	Number	Mean percent reduction
All tort trials^a	4,842	15.6%	755	43.0%
Automobile	2,822	13.5%	381	42.1%
Premises liability	871	29.0%	253	44.9%
Asbestos	81	13.1%	11	58.1
Other product liability ^b	82	12.1%	17	38.7
Intentional tort	280	3.6%	10	24.8
Medical malpractice	267	9.6%	26	35.9
Professional	79	3.8%	3	27.6
Slander/libel	35	--	--	--
Other negligence	324	16.8%	54	45.7
Jury trials	4,075	17.8%	727	43.3%
Automobile	2,501	14.5%	362	42.3%
Premises liability	677	36.2%	245	45.6
Asbestos	79	13.4%	11	58.1
Other product liability ^b	57	30.4%	17	38.7
Intentional tort	197	5.1%	10	24.8
Medical malpractice	244	10.2%	25	35.8
Professional	40	7.5%	3	27.6
Slander/libel	26	--	--	--
Other negligence	254	21.4%	54	45.7
Bench trials	707	3.0%	21	31.6%
Automobile	294	4.0%	12	35.7%
Premises liability	177	4.5%	8	24.5
Asbestos	--	--	--	--
Other product liability ^b	24	--	--	--
Intentional tort	81	--	--	--
Medical malpractice	20	4.9%	1	40.0
Professional	37	--	--	--
Slander/libel	9	--	--	--
Other negligence	66	--	--	--

*Data for case type and whether awards were reduced for contributory negligence were available for 99.4% of sampled cases with a plaintiff winner and known final award amount. Detail may not sum to total due to rounding.

--No cases recorded in the sample.

^aAll tort trials include bench and jury trials, trials with a directed verdict, judgments notwithstanding the verdict, and jury trials for defaulted defendants.

^bIncludes breast implant trials, other product liability trials as described on page 3, and product liability trials with unknown product type.

Compensatory damages awarded to plaintiff winners were reduced in 16% of tort trials in general jurisdiction courts in the Nation's 75 largest counties during 1996 (table 8). These awards were reduced by about 43%, on average.

Compensatory damage awards were reduced in 36% of premises liability cases decided by a jury verdict. Compensatory award amounts were not reduced in any of the slander/libel

plaintiff winners were more common among jury than bench tort trials in the Nation's 75 largest counties during 1996. Among tort jury trials alone, about 18% of awards to plaintiff winners were reduced by 43% on average. About 3% of damages awarded to plaintiff winners in bench trials were reduced by an average of 32%.

Case processing time

Half of the 10,047 jury and bench tort trial cases for which case processing

Table 9. Case processing time from filing of complaint to verdict or final judgment in State courts in the Nation's 75 largest counties, 1996

Type of case	Number of tort trials*	Number of months		Percent disposed in —	
		Median	Maximum	Less than 2 years	4 years or more
All tort trials^a	10,047	21.9	180.3	55.9%	12.7%
Jury trials	8,677	22.2	180.3	54.9%	13.1%
Automobile	4,416	19.1	180.3	66.5%	7.1%
Premises liability	1,773	25.2	153.9	47.0	15.0
Asbestos	175	49.7	144.7	23.2	54.1
Other product liability ^b	190	30.5	112.9	29.9	29.1
Intentional tort	346	22.0	120.0	54.3	8.3
Medical malpractice	1,098	31.1	156.6	34.4	24.1
Professional malpractice	109	25.9	83.5	44.3	22.4
Slander/libel	77	23.5	100.5	52.2	16.2
Other negligence	492	23.9	142.6	50.3	15.6
Bench trials	1,137	18.6	106.3	71.4%	9.0%
Automobile	432	17.1	69.1	64.5%	9.2%
Premises liability	326	21.4	81.0	52.7	12.0
Asbestos	--	--	--	--	--
Other product liability ^b	30	17.3	47.0	55.7	--
Intentional tort	107	16.4	63.6	70.7	8.1
Medical malpractice	47	18.8	67.5	71.8	8.3
Professional malpractice	64	18.7	69.5	75.3	3.1
Slander/libel	20	17.0	56.8	94.9	5.1
Other negligence	112	22.6	106.3	54.2	9.6

*Data for case type and time to disposition were available for 98.8% of all sampled tort jury trial cases. Data for case type and time to disposition were available for 84.1% of all sampled tort bench trial cases. Detail may not sum to total due to rounding.

--No cases recorded in the sample.

^aAll trial cases include bench and jury trials, trials with a directed verdict, judgments notwithstanding the verdict and jury trials for defaulted defendants.

^bIncludes breast implant trials, other product liability trials as described on page 3, and product liability trials with unknown product type.

trials won by plaintiffs. On average, monetary awards were reduced by about 58% in asbestos cases, 45% in premises liability cases, and 42% in automobile accident cases.

Reduced compensatory damages awarded to

time is known went from filing of the complaint to verdict or final judgment in an estimated 21.9 months or more (table 9).

Among bench trials, the median time to disposition was 18.6 months, compared to a median of 22.2 months among jury trials. Half of the intentional tort trials decided by a jury went from filing of the complaint to verdict in 22.0 months or more compared to 16.4 months when decided by a judge.

Fifty-five percent of tort jury trials were decided in less than 2 years compared to 65% of tort bench trials. Thirteen percent of tort jury trials took 4 years or more. Asbestos jury trials, in particular, tended to take somewhat longer. Of the 175 asbestos jury trials, 54% lasted 4 years or more from filing of the complaint to the verdict.

Trial length

Bench trial proceedings tended to conclude in less time than jury trials. Except for professional malpractice trials, the median bench trial began and ended on the same day (not shown in a table).

The median length of jury trials was 3 days overall (not shown in a table). Half of asbestos jury trials lasted nearly 2 weeks or more (a median of 11 days). Half of medical malpractice and professional malpractice trials lasted 6 days or more.

The longest case processing time in the 45 sampled counties

The longest case in the sample was an automobile accident case with a bodily injury claim filed by two individual plaintiffs against four business defendants. The case took about 15 years from filing of the complaint to the final jury verdict. The trial lasted 11 days. The plaintiffs won \$115,275 in compensatory damages. No punitive damages were awarded.

Tort jury trials in 1992

- The number of tort cases decided by jury verdict in State courts of general jurisdiction in the 75 largest counties did not differ significantly from 1992 (9,431) to 1996 (8,768).
- Overall, plaintiffs were no more likely to win tort jury trials in 1996 (48%) than they were in 1992 (50%). They were less successful, however, in malpractice trials decided by a jury. Plaintiffs won 23% of medical mal-

practice jury trials in 1996, down from 30% in 1992. Similarly, they won 36% of professional malpractice jury trials in 1996, down from 53% in 1992.

- Half of plaintiff winners in tort jury trials won \$30,000 or more during 1996 compared to \$57,000 during 1992. This decline is due, in part, to smaller median amounts awarded by juries to plaintiff winners in automobile accident trials.

Case type	Number of jury trials for which the winner was known	Percent plaintiff winners ^a	Final awards to plaintiff winners		
			Number of cases	Median (thousands)	Percent over \$1 million
All jury tort trials	9,377	50.3%	4,574	\$57	8.3%
Automobile	3,880	60.4%	2,280	\$33	4.4%
Premises liability	1,944	44.5	841	65	6.1
Product liability ^b	637	55.7	342	124	15.6
Intentional tort	435	46.6	195	58	6.6
Medical malpractice	1,354	30.5	403	225	24.8
Professional malpractice	176	53.4	92	174	16.7
Slander/libel	66	41.6	27	28	13.9
Other negligence	885	46.9	393	72	11.1

Note: The number of trials excludes cases with a directed verdict and cases in which the trial winner was not known. Data on jury trial winners and final award amounts were available for 96.6% of sampled jury tort trials. The 1992 final award amounts are adjusted for inflation and presented in 1996 dollars. Final award amounts include both compensatory and punitive damages. In this study, cases are classified by the primary case type, though many cases have multiple claims (contract and tort). Under laws in almost all States, only tort claims qualify for punitive damages. If a contract or real property case involved punitive damages, it involved a related tort claim. For additional information, see *Tort Cases in Large Counties, 1992* (NCJ 153177).

^aExcludes cases with a directed verdict, cases in which the plaintiff and defendant won damages and cases in which the plaintiff won the liability trial.

^bIncludes asbestos, breast implant, and other product liability trials.

Data source: *Civil Justice Survey of State Courts, 1992* (ICPSR 6587). Data can be obtained from the National Archive of Criminal Justice Data (NACJD):

<http://www.icpsr.umich.edu/NACJD/home.html>

Tort cases in U.S. district courts, 1996

- Of the 250,387 civil cases terminated in U.S. district courts* during fiscal year 1996, 20% (49,063) were tort claims. About 3% (1,507) of these tort claims were terminated by a jury or bench trial.
- A jury decided tort trials less often in U.S. district courts (73%) than they did in State general jurisdiction courts in the 75 largest counties during 1996 (85%).

- Plaintiffs won just under half of tort trials in both U.S. district courts (45%) and State general jurisdiction courts in the 75 largest counties (48%). Plaintiff winners, however, were awarded less monetary damages in the State courts, with a median of \$32,000, compared to the median of \$132,500 awarded to plaintiff winners of tort trials decided in U.S. district courts during 1996.

*U.S. district courts exercise jurisdiction in civil actions between private parties arising from the interpretation and application of the U.S. Constitution, acts of Congress, or treaties; actions between residents of different States; and cases where the U.S. Government is the plaintiff or defendant.

Source: Administrative Office of the U.S. Courts, Civil Master File, 1996. See also *Federal Tort Trials and Verdicts, 1996-97*, BJS Bulletin, NCJ 172855, February 1999.

Tort reform in the States

Data from general jurisdiction courts in 16 States for which information was available indicate that tort filings rose 43% between 1975 and 1998. Most of this increase occurred between 1975 and 1986.¹ To deal with this increase, most States enacted some sort of tort reform to discourage litigation. The long-term impact of these reforms on reducing tort caseloads has been mixed.² Most tort reform in the States falls into the following issue areas:

Joint and several liability

The most common reform, enacted in 33 States, has sought to make each defendant in a tort lawsuit responsible for the damages caused by his or her own negligence (*proportionate liability*). In about a third of the States, however, each defendant in a tort lawsuit is liable for the entire amount of the plaintiff's damages regardless of a defendant's degree of fault (*joint and several liability*).

Punitive damages

Punitive damage reforms have been enacted in 30 States. Reforms include placing caps on the amount of punitive damages that can be awarded, requiring clear and convincing evidence to establish punitive damage liability, and making punitive damages proportional to the type of offense alleged.

Collateral sources

In 21 States tort reforms have been enacted that allow defendants to admit into court evidence that a plaintiff has received damages from an independent source, such as an insurance policy, wages or medical services, or worker's compensation. In more than half the States, however, defendants are prohibited from introducing evidence of outside benefits received by plaintiffs.

Pre-judgment interest

In 11 States tort reforms have been enacted to either limit or prohibit plaintiffs from receiving compensation for the time lag between the tort action or filing of the lawsuit and the actual payment of damages. Most States, however, allow such pre-judgment interest, intending to encourage early settlements and reduce congestion in the courts.

Noneconomic damages

Seven States have enacted reforms that limit awards to plaintiffs for noneconomic damages such as pain and suffering or emotional distress. The amount of these caps and how they are applied vary across these States. Maryland, for example, caps noneconomic damages at \$500,000, while Kansas has a cap of \$250,000 for pain and suffering only.

¹B. Ostrom and N. Kauder, *Examining the Work of State Courts, 1998: A National Perspective from the Court Statistics Project*, National Center for State Courts, Williamsburg, VA, 1999.

²Thomas B. Marvell, "Tort Caseload Trends and the Impact of Tort Reforms," *The Justice System Journal*, 17, 1994, pp.193-206.

Tort reforms enacted by State legislatures since 1986, by issue area

	Joint and several liability	Punitive damages	Collateral sources	Pre-judgment interest	Non-economic damages
Alabama		■	■		
Alaska	■	■	■	■	■
Arizona	■	■	■		
Arkansas					
California	■	■			
Colorado	■	■	■		■
Connecticut	■		■		
Delaware					
District of Columbia					
Florida	■	■	■		
Georgia	■	■			
Hawaii	■		■		■
Idaho	■	■	■		■
Illinois		■	■		
Indiana		■	■		
Iowa	■	■	■	■	
Kansas		■			■
Kentucky	■		■		
Louisiana	■			■	
Maine				■	
Maryland					■
Massachusetts					
Michigan	■		■	■	
Minnesota	■	■	■	■	■
Mississippi	■	■			
Missouri	■	■	■		
Montana	■	■	■		
Nebraska	■			■	
Nevada	■	■			
New Hampshire	■	■		■	
New Jersey	■	■	■		
New Mexico	■				
New York	■		■		
North Carolina		■			
North Dakota	■	■	■		
Ohio	■	■	■		
Oklahoma		■		■	
Oregon	■	■	■		
Pennsylvania					
Rhode Island				■	
South Carolina		■			
South Dakota	■	■			
Tennessee					
Texas	■	■		■	
Utah	■	■			
Vermont	■				
Virginia		■			
Washington	■				
West Virginia					
Wisconsin	■	■			
Wyoming	■				
State totals	33	30	21	11	7

Note: In 1992 the Tennessee Supreme Court abolished the doctrine of joint and several liability in the case of *Hodges v. Toof*. In addition to New Hampshire, which prohibits punitive damages by statute, there are common law restrictions on punitive damages in Louisiana, Massachusetts, Nebraska, and Washington.

Source: *Tort Reform Record*. American Tort Reform Association, 1999.

Methodology

Definitions of disposition types:

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).

Bench trial (non jury 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).

Directed verdict — In a case in which the party with the burden of proof has failed to present a prima facie case for jury consideration, a trial judge may order the entry of a verdict without allowing the jury to consider it, because, as a matter of law, there can be only one such verdict.

Judgment notwithstanding the verdict (“JNOV” or judgment non obstante veredicto) — A judgment rendered in favor of one party despite the finding of a jury verdict in favor of the other party.

Jury trials for defaulted defendants — Some States make provisions for a jury to be empaneled even if the defendants in a case fail to appear and enter a defense. The purpose of a trial is to decide issues such as amount of damages. See *Florida Rules of Civil Procedure*, Rule 1.500, section (e).

Definitions of civil case types:

Torts — Claims arising from personal injury or property damage caused by negligent or intentional acts of another person or business. Specific tort case types include: *automobile accident*; *premises liability* (injury caused by the dangerous condition of residential or commercial property); *medical malpractice* (by doctor, dentist, or medical professional); *other professional malpractice* (for example by lawyers, engineers, architects); *product liability* (injury or damage caused by defective products; injury caused by toxic substances such as asbestos); *libel/slander* (injury to reputation); *intentional tort* (vandalism, intentional personal injury); and *other negligent*

acts (negligence against another party for an act not represented by the other case categories used in this study such as the negligent supervision of a dog resulting in an attack).

Source: Definitions were developed by the National Center for State Courts through consultation with NCSC staff attorneys, law professors, and from *Black’s Law Dictionary*.

Sample

The sample design for the 1996 civil trial study was the same one used for the 1992 civil jury study. The sample is a 2-stage stratified sample with 45 of the 75 most populous counties selected at the first stage. The 75 counties were divided into 4 strata based on the number of civil dispositions for 1990 obtained through telephone interviews with court staff in the general jurisdiction trial courts. Stratum 1 consisted of the 14 counties with the largest number of civil case dispositions. Every county in stratum 1 was selected with certainty for the sample. Stratum 2 consisted of 15 counties with 12 chosen for the sample. From strata 3, 10 of the 20 counties were selected. Nine of the 26 counties in stratum 4 were included in the sample.

For the 1996 study, the second stage of the sample design involved generating lists of cases that would be collected and coded. Prior to drawing the 1996 case sample, each participating jurisdiction was asked to identify a roster of cases that had been decided by jury trial or bench trial between January 1, 1996, and December 31, 1996. Trial cases were to meet the definitional criteria for jury and bench trials as defined in *Black’s Law Dictionary*: (1) A jury trial was defined as “a trial held before and decided by a jury of laypersons and presided over by a judge culminating in a verdict for the plaintiff(s) or defendant(s), and (2) A bench trial was defined as “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).” Cases that did not meet these definitional criteria were not to be included in the jury and bench lists.

The study plan was to obtain approximately 300 jury and 300 bench cases from the court of general jurisdiction in each of the counties selected for the study. In courts that reported approximately 300 or less jury or bench trials, all trials were to be coded. In courts that reported more than 300 jury or 300 bench trials, a list of cases was to be provided to project staff and a random sample of 275 drawn from the jury and bench trial case list. For jury and bench case lists in which the case type was known, any remaining medical malpractice, professional malpractice and product liability cases not initially selected were to be included in the sample in order to over sample these case types.

At the second stage of sampling for jury cases, in 39 of the 45 jurisdictions all tort, contract, and real property rights cases decided by jury verdict between January 1, 1996, and December 31, 1996 were selected. In an additional 3 jurisdictions, where the total number of jury cases exceeded 300 and where case type could be identified, a random sample of about 275 cases was drawn from a list of tort, contract, and real property jury trials provided by the court. Any remaining medical malpractice, professional malpractice, and product liability cases not initially chosen in the initial sample were also included. In the remaining 3 jurisdictions where the total number of jury cases exceeded 300 and case type could not be identified, a random sample of about 275 cases was selected from the list of jury trials.

At the second stage of sampling for bench cases, in 41 of the 45 jurisdictions all tort, contract, and real property rights cases decided by bench verdict between January 1, 1996, and December 31, 1996, were selected. In 1 jurisdiction where the total number of bench cases exceeded 300 and the case type could be identified, a random sample of about 275 cases was drawn from a list of tort, contract, and real property bench trials. Any remaining medical malpractice, professional malpractice, and product liability cases not initially chosen in the random sample also were included. In the remaining 3 jurisdictions where the total number of bench cases exceeded 300 and case type

could not be identified, a random sample of about 275 cases were selected from the list of bench trials.

During the coding process in all sites, it was discovered that some courts included in their list some jury and bench trials that did not meet the study definitional criteria of a trial. These cases were excluded from the database. By excluding cases that did not meet the study criteria, some jurisdictions in which sampling was utilized have final sample sizes of less than 275 cases.

Data on 6,713 civil jury trial cases and 2,312 civil trial bench cases that met the study criteria were collected in the 45 courts. The final sample consisted of 9,025 tort, contract, and real property rights case decided by jury or bench verdict.

Populations of jury and bench trials

In jurisdictions where second stage case sampling was not used, the populations of jury and bench trials reported are based on applying the study criteria in each site and excluding cases that did not meet the study definitions.

In the jurisdictions where second stage sampling was used, the true population of trial verdicts according to the study definitions could not be known. It was impossible to know the number of cases that failed to meet the definitional criteria of a trial among the cases that did not make it into the sample. The true population within each of these jurisdictions, therefore, was estimated by applying the same rejection rate generated from the selected sample after it was coded. For example, Orange County reported 340 jury trials in 1996. A random sample of 275 cases was chosen and when coded according to study criteria produced 221 jury trial verdicts. This translates into a rejection rate of 20% of the cases since 20% did not meet the definitional criteria of a jury trial. Applying this rejection rate to the original list of 340 jury trial cases provided by the jurisdiction resulted in an estimated population of 301 jury trials.

Sampling error

Since the data in this report came from a sample, a sampling error (standard error) is associated with each reported number. The *standard error* indicates how closely the sample results reflect the true values in the population. In general, if the difference between 2 numbers is greater than twice the standard error for that difference, there is confidence that for 95 out of 100 possible samples a real difference exists and that the apparent difference is not simply the result of chance, or of using a sample rather than the entire population. All differences discussed in the text of this report were statistically significant at or above the 95% confidence level.

Based on the sample estimates presented in this report, it is possible to calculate a range of values that, with a 95% level of confidence, includes the true value. This range is called a *confidence interval*. Selected estimates, their standard errors, and confidence intervals are provided in *Appendix C*.

Data recoding and unobtainable information

For each sampled case, a standard coding form was manually completed by on-site court staff to record information about the litigants, case type, processing time and award amounts.

Information for which data were not available or collected included the cost of litigation for the parties involved, as well as for others; the actual disbursement of awards; and the number of cases appealed.

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

This BJS Bulletin presents the third release of findings in a series of reports from the Civil Justice Survey of State Courts, 1996.

Marika F. X. Litras, Sidra Lea Gifford, and Carol J. DeFrances of the Bureau of Justice Statistics, and David B. Rottman, Neil LaFountain, and Brian J. Ostrom of the National Center for State Courts wrote this report. Greg W. Steadman provided statistical review. Data collection was supervised by the National Center for State Courts (NCSC); David B. Rottman and Brian J. Ostrom were the project co-directors. John Goerd, formerly with the NCSC, was the initial project director. Tina Dorsey produced and edited the report. Jayne Robinson administered final production.

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This report and others from the Bureau of Justice Statistics, as well as graphical figures and spreadsheets, are available through the Internet —
<http://www.ojp.usdoj.gov/bjs/>

Data from the Civil Justice Survey of State Courts, 1996 (ICPSR 2883) can be obtained from the National Archive of Criminal Justice Data at the University of Michigan, 1-800-999-0960. The archive can also be accessed through the BJS website.

Appendix A. Types of tort cases decided by a trial in State courts, by sampled counties, 1996

County	1996 population estimate	Total tort trials per 100,000 population		Automobile	Premises liability	Product liability ^a	Medical malpractice	Other negligence
		All tort trials						
Maricopa, AZ	2,611,327	11	282	149	63	9	26	15
Pima, AZ	767,873	10	73	40	14	1	7	6
Alameda, CA	1,328,139	4	50	23	12	3	3	3
Contra Costa, CA	881,490	5	46	22	11	1	8	0
Fresno, CA	751,272	5	38	20	3	2	3	4
Los Angeles, CA ^b	3,544,666	5	185	62	41	8	16	14
Orange, CA	2,636,888	10	254	98	61	9	53	11
San Bernardino, CA	1,598,358	3	50	25	10	3	7	3
San Francisco, CA	735,315	15	111	51	21	16	10	7
Santa Clara, CA	1,599,604	4	69	31	12	0	5	6
Ventura, CA	714,733	13	95	42	18	2	13	10
Fairfield, CT ^c	298,469	13	39	24	10	0	1	1
Hartford, CT ^d	841,777	7	63	25	19	2	4	6
Dade, FL	2,076,175	15	316	177	82	3	11	30
Orange, FL	758,980	8	61	33	9	1	6	6
Palm Beach, FL	992,840	19	189	119	32	4	8	9
Fulton, GA	718,336	10	69	36	8	2	9	5
Honolulu, HI	871,766	3	28	14	5	0	4	3
Cook, IL	5,096,540	9	480	217	107	12	81	45
Du Page, IL	859,310	10	88	64	8	1	7	4
Marion, IN	817,525	8	62	30	10	4	5	5
Jefferson, KY	673,040	19	128	78	24	7	10	5
Essex, MA	686,774	7	47	20	15	0	6	4
Middlesex, MA	1,412,561	7	101	31	29	7	15	9
Norfolk, MA	637,388	10	62	21	13	2	14	8
Suffolk, MA	645,068	12	79	21	29	3	11	7
Worcester, MA	719,545	6	41	13	15	0	5	6
Oakland, MI	1,162,098	10	115	39	31	2	31	6
Wayne, MI	2,039,819	9	184	70	37	4	33	26
Hennepin, MN	1,058,746	19	197	120	22	7	9	14
St. Louis, MO	1,003,807	12	123	67	21	2	15	5
Bergen, NJ	846,498	16	133	57	31	3	32	5
Essex, NJ	755,089	15	114	65	23	4	14	6
Middlesex, NJ	702,458	26	185	82	49	10	24	9
New York, NY	1,533,774	20	303	68	151	10	51	11
Cuyahoga, OH	1,401,552	15	210	121	26	2	36	6
Franklin, OH	1,013,724	8	77	50	4	2	10	6
Allegheny, PA	1,296,037	17	215	85	53	5	49	9
Philadelphia, PA	1,478,002	24	353	89	84	79	66	15
Bexar, TX	1,318,322	20	260	152	62	9	16	5
Dallas, TX	2,000,192	12	242	124	63	9	16	13
Harris, TX	3,126,966	30	924	317	310	76	70	91
Fairfax, VA	902,492	20	185	133	14	0	21	4
King, WA	1,619,411	11	176	116	15	6	13	4
Milwaukee, WI	922,243	19	171	104	31	5	13	8

Note: All tort trials may not equal the sum of the other categories of cases listed in this table because it includes intentional tort, professional malpractice, and slander/libel which were not listed separately in this table.

^aProduct liability included 117 asbestos trials, 4 breast implant trials, and 156 other product liability trials.

^bThe 1996 population estimate is only for the city of Los Angeles. 1996 civil trial data were only collected for the central district of Los Angeles County Superior Court. Los Angeles suburban courts were not included.

^cThe 1996 population estimate is for Fairfield judicial district. Towns in Fairfield County, CT, are located in 4 judicial districts: Ansonia-Milford, Danbury, Stramford-Norwalk, and Fairfield. 1996 civil trial data were collected only for Fairfield judicial district. The 1996 population estimate for Fairfield County, CT, was 833,761.

^dThe 1996 population estimate for the Hartford-New Britain judicial district. The 1996 population estimate for Hartford County was 831,694.

Sources: 1996 population estimates for each county came from the U.S. Census Bureau website,

<http://www.census.gov/population/www/estimates/countypop.html>.

1996 population estimates for the city of Los Angeles and the towns in the Fairfield and

Hartford-New Britain judicial districts came from the U.S. Census Bureau website,

<http://www.census.gov/population/www/estimates/mcdplace.html>.

Appendix B. Final and punitive damage awards for plaintiff winners in tort trials, by sampled counties, 1996

County	Total number of tort trials	Final amount awarded to plaintiff winners		Punitive damages awarded to plaintiff winners			
		Number of plaintiff winners	Total award	Median award	Number of plaintiff winners	Total award	Median award
Maricopa, AZ	282	150	\$61,298,953	\$22,784	4	\$1,331,200	\$450,000
Pima, AZ	73	51	15,908,874	21,400	1	15,000	15,000*
Alameda, CA	50	25	10,246,638	36,366	--	--	--
Contra Costa, CA	46	21	6,953,392	44,093	2	28,376	14,188
Fresno, CA	38	16	1,863,937	13,000	2	303,107	151,554
Los Angeles, CA ^a	185	90	61,649,291	69,550	8	308,886	8,180
Orange, CA	254	96	80,400,518	31,650	2	52,040	17,020
San Bernardino, CA	50	19	10,155,345	65,000	--	--	--
San Francisco, CA	111	54	13,363,028	56,608	1	27,000	27,000*
Santa Clara, CA	69	31	17,102,970	66,822	2	96,752	48,376
Ventura, CA	95	35	2,941,746	11,700	2	56,718	28,359
Fairfield, CT ^b	39	26	3,057,842	24,630	--	--	--
Hartford, CT ^c	63	31	890,177	13,886	1	5,000	5,000*
Dade, FL	316	200	70,534,103	37,384	9	701,635	15,000
Orange, FL	61	38	4,255,457	19,283	--	--	--
Palm Beach, FL	189	124	20,232,045	31,134	2	450,000	225,000
Fulton, GA	69	38	10,492,920	23,350	2	753,300	376,650
Honolulu, HI	28	12	569,332	12,281	--	--	--
Cook, IL	480	218	163,610,496	79,624	2	45,000	45,000*
Du Page, IL	88	51	3,520,693	12,660	2	15,000	7,500
Marion, IN	62	36	3,214,681	29,969	2	3,850	3,850*
Jefferson, KY	127	72	5,948,675	12,776	4	494,093	11,250
Essex, MA	47	15	1,092,250	27,510	--	--	--
Middlesex, MA	101	22	13,667,262	191,642	1	75,000	75,000*
Norfolk, MA	62	12	1,178,291	16,170	--	--	--
Suffolk, MA	79	28	19,449,082	28,189	--	--	--
Worcester, MA	41	8	342,196	23,486	--	--	--
Oakland, MI	115	42	13,652,753	55,638	--	--	--
Wayne, MI	184	72	39,125,856	67,284	--	--	--
Hennepin, MN	197	83	34,555,778	27,835	1	2,500,000	2,500,000*
St. Louis, MO	123	58	3,707,705	12,000	6	797,796	35,898
Bergen, NJ	133	59	9,393,811	40,000	--	--	--
Essex, NJ	112	37	9,741,243	17,205	--	--	--
Middlesex, NJ	185	56	8,520,447	47,792	3	253,000	85,000
New York, NY	303	151	152,714,630	208,500	1	75,000	75,000*
Cuyahoga, OH	210	101	10,144,891	23,436	3	69,680	26,000
Franklin, OH	77	44	3,085,951	8,250	1	75,000	75,000*
Allegheny, PA	215	86	19,330,721	14,090	--	--	--
Philadelphia, PA	348	171	93,312,326	150,000	2	264,800	132,400
Bexar, TX	260	69	4,981,814	17,033	--	--	--
Dallas, TX	242	93	35,921,612	10,638	2	55,500	27,750
Harris, TX	914	472	725,228,285	37,141	46	449,091,705	100,000
Fairfax, VA	185	92	10,138,400	17,551	2	3,000	1,500
King, WA	176	97	4,247,245	10,957	1	3,000	3,000*
Milwaukee, WI	171	108	9,152,988	9,616	1	200	200*

Notes: Excludes cases with missing final award amounts. Final amount awarded includes both compensatory (reduced for contributory negligence) and punitive damage awards. Eminent domain cases are not calculated among final awards because there is always an award; the issue is how much the defendant (whose property is being condemned) will receive for the property.

--No cases recorded in the sample.

*Not a median but the actual amount awarded.

^aIncludes only the central district of the Los Angeles County Superior Court.

Los Angeles suburban courts are not included.

^bIncludes only cases for Fairfield judicial district.

^cIncludes only cases for Hartford-New Britain judicial district.

Appendix C. Selected estimates, standard errors, and confidence intervals, 1996 survey

	Estimate	One standard error	95%-confidence interval	
			Lower	Upper
Number of tort trials				
Automobile	4,994	436	4,129	5,858
Premises liability	2,232	119	1,996	2,468
Asbestos	183	30	124	242
Other product liability	238	20	198	277
Intentional tort	491	48	397	586
Medical malpractice	1,201	61	1,081	1,322
Professional malpractice	186	21	145	227
Slander/libel	109	18	73	144
Other negligence	645	33	579	711
Percent decided by a —				
Jury trial	85.3%	0.88%	83.6%	87.1%
Bench trial	12.4	0.81	10.8	14.0
Percent of tort trials with a plaintiff winner	48.2%	0.98%	46.2%	50.1%
Months from filing to final verdict	21.9 mo	1.0 mo	20.0 mo	23.9 mo
Median award to plaintiff winners				
Final	\$31,000	\$1,512	\$27,505	\$33,505
Punitive	38,000	13,392	21,961	75,099

Note: See *Sampling error* on page 12 for a brief discussion of sample estimates, standard errors, and confidence intervals.