



Revised 4/9/09

Bureau of Justice Statistics Special Report

October 2008, NCJ 223851

Civil Justice Survey of State Courts, 2005

Civil Bench and Jury Trials in State Courts, 2005

by Lynn Langton, M.A. and Thomas H. Cohen, Ph.D.
BJS Statisticians

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.¹ 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.²

¹Approximately 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).

²The 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

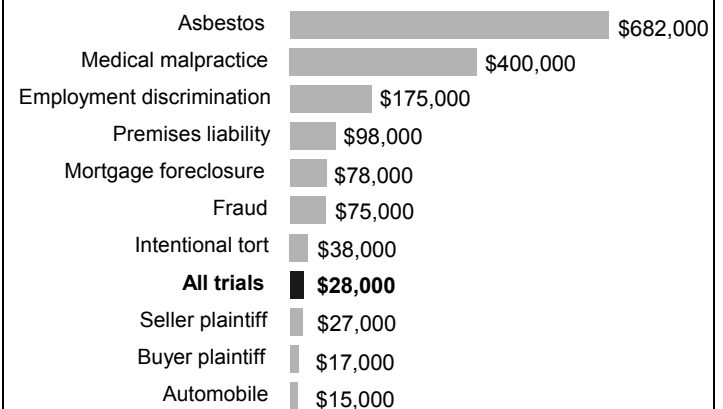


Figure 1

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	
All cases	26,948	100.0%	68.3%
Tort cases	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
Contract cases	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
Real property cases	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 notwithstanding the verdict, and jury trials for defaulted defendants. See *Methodology* for case type definitions.