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Contract Cases in Large Counties

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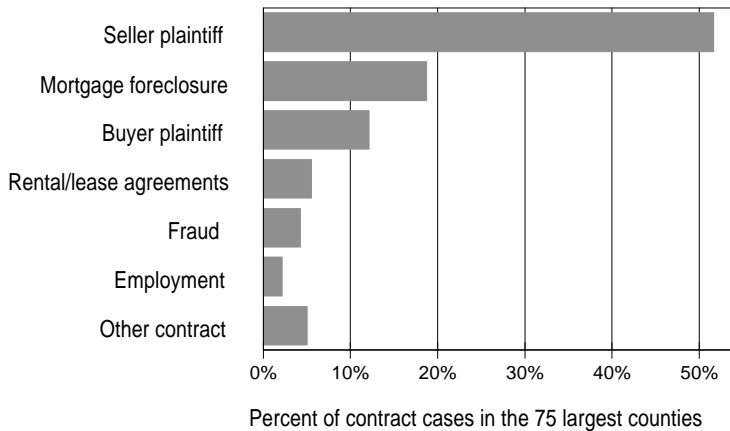
During a 1-year period ending in June 1992, State courts of general jurisdiction in the Nation's 75 largest counties disposed of an estimated 366,000 civil contract disputes involving 1.3 million plaintiffs and defendants. Contract cases include allegations of unfulfilled written or oral agreements made between such parties as buyers and sellers, lenders and borrowers, or landlords and tenants.

A representative sample of 11,000 contract cases was drawn from files of general jurisdiction courts in 45 of the Nation's 75 largest counties. The sample excluded contract cases disposed of in Federal courts and in State courts outside the 75 largest counties. Also excluded were contract cases disposed of in States' limited jurisdiction courts.

Between July 1, 1991, and June 30, 1992, State courts of general jurisdiction in the Nation's 75 largest counties disposed of an estimated 764,000 tort, contract, and real property rights cases (table 1). Contract cases accounted for approximately half (48%) of all the disposed cases.

Highlights

Plaintiffs trying to recover payment for goods or services made up half the contract cases in the Nation's 75 largest counties, 1992



- State courts of general jurisdiction in the Nation's 75 most populous counties disposed of approximately 366,000 contract cases in 1992.
- Cases involving contract disputes comprised about half of all the tort, contract, and real property cases disposed in these jurisdictions.
- The most frequent type of contract dispute involved the plaintiff as a seller seeking compensation from a buyer or borrower.
- In contract cases, businesses made up about two-thirds of the plaintiffs, and individuals about a quarter.
- Defendants in contract cases were most frequently businesses, followed by individuals.
- Almost two-thirds of the contract cases were disposed within 1 year of filing the complaint.
- About half the contract cases were resolved through an agreed judgment by the litigating parties. Less than 3% were concluded by a jury or bench trial. In an additional quarter of the cases, the court issued a default judgment because the defendant(s) failed to respond to the complaint or make a court appearance.

Types of contract cases

About half (51.7%) of the contract cases in this study were complaints filed by a seller charging a defendant with failure to comply with an agreement (table 2). The next most frequent kinds of contract cases involved mortgage foreclosures (18.8%) and cases in which the buyer of goods or services was the plaintiff seeking return of money, rescission of the contract, or delivery of the goods ordered (12.2%). Additional types of cases included rental or lease agreements (5.6%) and employment-related cases (2.2%).

For an overview of contract and tort cases disposed in State courts in the Nation's 75 largest counties, see table on page 8.

Case type	Number	Percent
All civil cases	764,008	100.0%
Tort cases	378,314	49.5%
Automobile	227,515	29.8
Premises liability	65,492	8.6
Product liability	12,857	1.7
Intentional tort	10,879	1.4
Medical malpractice	18,452	2.4
Professional malpractice	6,860	.9
Slander/libel	3,159	.4
Toxic substance	6,045	.8
Other tort	27,055	3.5
Contract cases	366,336	48.0%
Fraud	15,927	2.1
Seller plaintiff	189,246	24.8
Buyer plaintiff	44,744	5.9
Mortgage foreclosure	68,919	9.0
Employment	8,159	1.1
Rental/lease agreements	20,687	2.7
Other contract	18,656	2.4
Real property cases	19,358	2.5%
Eminent domain	4,631	.6
Title dispute	8,021	1.0
Other real property	6,707	.9

Note: Data on type of case were available for 99.7% of the 766,000 cases disposed. Detail may not sum to 100% because of rounding.

Type of litigants: Plaintiffs

In 68% of the contract cases, the plaintiff was a business (table 3).¹ Individuals were plaintiffs in 26% of the cases; the remainder were hospitals and government agencies. Businesses made up a majority of plaintiffs in seller, mortgage foreclosure, and rental/lease agreement cases. By contrast, individuals were the most common type of plaintiff in employment and fraud cases

¹Plaintiff type for each case is whichever type appears first in this list: (1) hospital/medical company, (2) business, (3) government agency, and (4) individual. For example, any case involving a hospital plaintiff is categorized as a case with a "hospital plaintiff" even if there were also business, individual, or government plaintiffs in the case.

Table 2. Contract case types in State courts in the Nation's 75 largest counties, 1992

Case type	Number	Percent
All contract cases	366,336	100.0%
Fraud	15,927	4.3
Seller plaintiff	189,246	51.7
Buyer plaintiff	44,744	12.2
Mortgage foreclosure	68,919	18.8
Employment	8,159	2.2
Rental/lease agreements	20,687	5.6
Other contract	18,656	5.1

Note: See page 9 for a detailed description of case types. Detail may not sum to 100% because of rounding.

Contract cases in Federal district courts

Contract cases in Federal district court consist of those involving private parties and those in which the U.S. Government is a party to the suit as either plaintiff or defendant. In fiscal year 1992 (October 1991-September 30, 1992) a total of 49,434 contract cases were commenced in U.S. district courts. This dropped to 31,254 in fiscal year 1994.

In fiscal year 1992 litigants filed 28,467 private civil cases without the U.S. Government as a party to the complaint. In fiscal year 1994 the number was 26,439 cases.

Contract cases in which the Federal Government was either a plaintiff or defendant have ranged from over 65,600 in fiscal year 1985 to 4,800 in fiscal year

and in those cases in which a buyer was seeking a remedy.

Type of litigants: Defendants

In most categories of contract cases, businesses predominated as defendants.² Businesses made up three-quarters or more of the defendants in buyer plaintiff and employment cases. In fraud, rental or lease agreements, and other contract cases, businesses made up at least half of the defendants. A government agency was the defendant in 13% of the employment cases.

Who sues whom?

Relatively few contract cases (8%) involved an individual suing another individual (table 4). Contract cases most frequently (37%) involved a business or other organization such as a hospital or government agency suing a business. An additional 31% of all the contract cases involved a nonindividual (business, hospital, or government agency) suing an individual.

²Defendant type for each case is whichever type appears first in this list: (1) hospital/medical company, (2) business, (3) government agency, and (4) individual.

1994. The fluctuation in the number of Federal Government contract cases is primarily the result of changes in the number of cases involving student loan defaults and recovery of overpayments to veterans. Student loan filings decreased in 1993 and were expected to decline further as the collection of delinquent student loans through wage garnishment was authorized in 1991. Likewise, the Department of Veterans Affairs has instituted administrative remedies to settle overpayment of veteran benefits to reduce claims filed in U.S. district courts.

Source: *Judicial Business of the United States Courts: Annual Reports of the Director 1985-93*. Administrative Office of the U.S. Courts.

Over 40% of seller plaintiff, mortgage foreclosure, and rental/lease cases involved a business, a government agency, or a hospital suing a business. By contrast, in 58% of the buyer plaintiff cases, an individual sued a business.

Multiple plaintiffs and defendants

The estimated 366,000 contract cases disposed in the State general jurisdiction courts of the 75 largest counties involved a total of approximately 1.3 million litigants. The median number of litigants per case was 3.0; the average was 3.6. Cases with multiple

defendants were more prevalent than multiple plaintiffs. The average number of defendants in contract cases was 2.4. The average number of plaintiffs for all contract cases was 1.2 per case. On average, mortgage foreclosure cases had 3.9 defendants per case, followed by fraud cases with 3.1 defendants per case.

Table 3. Types of plaintiffs or defendants, by types of contract cases in the Nation's 75 largest counties, 1992

Selected case type	Plaintiffs					Defendants				
	Total	Individual	Government	Business ^a	Hospital ^b	Total	Individual	Government	Business ^a	Hospital ^b
All contract cases	100%	25.7%	4.1%	67.5%	2.7%	100%	40.4%	2.2%	55.8%	1.7%
Fraud	100	67.1	2.2	29.9	.8	100	29.9	1.1	65.5	3.5
Seller plaintiff	100	14.6	3.1	78.0	4.3	100	49.3	.6	49.3	.8
Buyer plaintiff	100	66.9	2.3	30.1	.6	100	11.4	.6	86.2	1.8
Mortgage foreclosure	100	9.3	10.1	80.6	0	100	41.6	7.2	48.0	3.2
Employment	100	80.0	3.1	16.8	.1	100	10.1	12.6	75.2	2.1
Rental/lease agreements	100	24.2	1.5	73.7	.6	100	38.3	1.3	58.7	1.7
Other contract	100	43.7	.7	49.9	5.7	100	39.5	.4	57.7	2.3

Note: Plaintiff or defendant type for each case is whichever type appears first in this list: (1) hospital/medical company, (2) business, (3) government agency, and (4) individual. For example, any case involving a hospital defendant is categorized as a hospital even if there were also business, individual, or government defendants in the case. Zero indicates no cases in the sample.

Detail may not sum to 100% because of rounding.

^aIncludes insurance companies, banks and financial companies, other businesses, and other organizations.

^bIncludes medical companies.

Table 4. Pairings of primary litigants in contract cases in the Nation's 75 largest counties, 1992

Plaintiff versus primary defendant	All contract cases		Seller plaintiff		Buyer plaintiff		Mortgage foreclosure		Rental/lease agreements	
	Number of cases	Percent	Number of cases	Percent	Number of cases	Percent	Number of cases	Percent	Number of cases	Percent
All contract cases	365,221	100.0%	188,608	100.0%	44,611	100.0%	68,779	100.0%	20,545	100.0%
Individual versus:										
Individual	28,990	7.9%	13,284	7.0%	3,041	6.8%	2,902	4.2%	2,306	11.2%
Government	1,866	.5	338	.2	90	.2	448	.7	18	.1
Business ^a	61,049	16.7	13,657	7.2	26,068	58.4	2,786	4.1	2,525	12.3
Hospital ^b	1,902	.5	143	.1	626	1.4	183	.3	96	.5
Nonindividual versus:										
Individual	114,645	31.4%	77,549	41.1%	1,653	3.7%	25,313	36.8%	5,315	25.9%
Government	5,924	1.6	830	.4	105	.2	4,465	6.5	249	1.2
Business ^a	136,333	37.3	77,279	41.0	11,024	24.7	29,921	43.5	8,902	43.3
Hospital ^b	3,977	1.1	1,334	.7	129	.3	1,988	2.9	249	1.2
Other litigant pairings ^c	10,536	3.0	4,194	2.2	1,875	4.2	774	1.1	884	4.3

Note: Data on litigant pairings were available for 99.7% of all cases.

See note on table 3. Detail may not sum to 100% because of rounding.

^aIncludes insurance companies, banks and financial companies, other businesses, and other organizations.

^bIncludes medical companies.

^cIncludes contract cases with an individual and a nonindividual as the plaintiffs and a single defendant.

Insurance companies and contract cases

Insurance companies as plaintiff

An insurance company was the plaintiff in 13,290 contract cases. In about 12,000, or 90% of these cases, an insurance company was the only plaintiff. In the remainder an insurance company was one of at least two plaintiffs.*

Who do insurance companies sue in contract cases?

Insurance companies as a single plaintiff sued:

		<u>Number of cases</u>
Individual only	47%	5,642
Business only	24	2,910
Insurance company only	4	515
Other single defendants	2	222
Business and individual only	15	1,762
Other multiple defendants	8	964
Total	100%	12,015

What types of contract cases were insurance company plaintiffs involved in?

Three-fourths of the 12,000 contract cases in which an insurance company was the single plaintiff involved contract seller cases. Generally, these were cases in which the insurance company was seeking payment for damages.

How were contract cases brought by insurance company plaintiffs disposed?

Among the contract suits brought by an insurance company acting alone —

- 46% were disposed by agreed judgment
- 28% by default judgment
- 10% by dismissal
- 9% by summary judgment
- 7% by other means such as arbitration, jury or bench trial, or transfer to another court.

Insurance companies as defendant

An insurance company was named as a defendant in about 25,400 contract cases. In about half of these lawsuits, the insurance company was the sole defendant. Another 16% involved an insurance company and a business as co-defendants, and 12% involved an insurance company and a bank.

Who sues insurance companies?

In the 13,000 contract cases in which an insurance company was named as the sole defendant, 84% were initiated by an individual, 7% by a business, 4% by another insurance company, 3% by multiple plaintiffs, and 2% by a bank, other organization, or hospital.

*In cases with insurance companies as one of multiple plaintiffs or defendants, a variety of plaintiff and defendant combinations occurred. Consequently, it is not possible to determine the specific role of the insurance company relative to the other plaintiffs or defendants in these cases. Therefore, where possible, data are presented for those cases in which an insurance company is the sole plaintiff or defendant.

What types of suits were insurance company defendants involved in?

As defendants, insurance companies were primarily involved in buyer plaintiff cases. Generally, these were cases in which an insurance company was sued for refusal to pay a claim. Insurance companies were also defendants in seller plaintiff cases which may have involved matters such as real estate or finance. Overall, insurance companies named as the only defendant were involved in the following types of cases:

		<u>Number of cases</u>
Buyer plaintiff	71%	9,275
Seller plaintiff	20	2,570
Fraud	4	461
Mortgage foreclosure	--	--
Employment	--	--
Rental/lease agreements	--	--
Other contract	4	467
Total	100%	12,996

--Less than 1%.

How were cases filed against insurance company defendants disposed?

In contract cases with an insurance company as the only defendant, 72% were resolved by agreed judgment, 9% by transfer to another court, 6% by summary judgment, 6% by dismissal, and 7% by other means such as arbitration, jury or bench trial, or default judgment.

Jury cases

How did insurance companies fare as plaintiffs in jury trial cases?

An insurance company was the sole plaintiff in an estimated 61 contract cases resolved by jury trial in the Nation's 75 largest counties during the year ending June 30, 1992. As the only plaintiff, insurance companies won 74% of the jury trial verdicts in contract cases. Juries awarded altogether \$9 million in compensatory and punitive damages. The average final amount awarded was \$192,000, and the median recovery was \$22,000.

How did insurance companies fare as defendants in jury trial cases?

In an estimated 155 contract cases disposed by jury trial in the top 75 counties, an insurance company was named as the sole defendant. In 59% of these cases, the jury found the insurance company liable for damages and awarded a total of \$45 million in compensatory and punitive damages to the plaintiff winners. The average final amount awarded was \$492,000, and the median recovery was \$26,000.

Punitive damages

Punitive damages are reserved for claims in which the defendant's conduct was grossly negligent or intentional. Under the laws in almost all States, only tort claims qualify for punitive damages. If a contract case involved punitive damages, it involved a related tort claim. In 5 of the 155 contract cases disposed by jury trial in which an insurance company was the sole defendant, plaintiffs were awarded punitive damages. The total amount of punitive damages awarded in these 5 cases was \$15 million. The average punitive damage award was \$3 million, and the median award was \$200,000.

Banks and financial companies and contract cases

Banks as plaintiff

In approximately 97,000 contract cases, a bank or financial company was a plaintiff. In 91% of these cases, the bank or financial company was the sole plaintiff.*

Who do banks and financial companies sue in contract cases?

A bank or financial company as a single plaintiff sued:

		<u>Number of cases</u>
Individual only	61%	54,091
Business only	5	4,112
Other single defendants	1	924
Business and individual only	14	12,290
Government and individual only	5	3,979
Other multiple defendants	<u>14</u>	<u>12,779</u>
Total	100%	88,175

What types of contract cases were bank or financial company plaintiffs involved in?

Half of the 88,200 cases in which a bank or financial company was the only plaintiff involved contract seller cases, 42% involved contract mortgage foreclosure cases, 4% rental/lease cases, and 3% other types of contract cases.

How were contract cases brought by a bank or financial company disposed?

Of the 88,200 contract lawsuits in which a bank or financial company was the sole plaintiff —

- 39% were disposed by agreed judgment
- 38% by default judgment
- 11% by dismissal
- 8% by summary judgment
- 4% by other means such as jury or bench trial, arbitration, or transfer to another court.

Banks as defendant

About 36,000 contract cases involved a bank or financial company as a defendant. In 13% of these cases, the bank or financial company was named as the only defendant. Banks as defendants in contract cases were most frequently involved in cases with multiple defendants.

*In cases with a bank or a financial company as one of multiple plaintiffs or defendants, a variety of plaintiff and defendant combinations occurred. Consequently, it is not possible to determine the specific role of the bank or the financial company relative to other plaintiffs or defendants in these cases. Therefore, where possible, data are presented for those cases in which a bank or financial company was the sole plaintiff or defendant.

What types of cases were bank or financial company defendants involved in?

A bank or financial company named as a single or one of multiple defendants were involved in the following types of contract cases:

		<u>Number of cases</u>
Mortgage foreclosure	55%	19,686
Seller plaintiff	19	6,695
Buyer plaintiff	12	4,314
Fraud	5	1,913
Employment	1	499
Rental/lease agreements	5	1,688
Other contract	<u>3</u>	<u>1,147</u>
Total	100%	35,941

How were cases filed against a bank or financial company disposed?

Fifty-eight percent of the 36,000 cases with a bank or financial company named as at least one of the defendants were disposed of by agreed judgment, 20% by default judgment, 9% by dismissal, 8% by summary judgment, and 6% by other means such as jury or bench trial, arbitration, or transfer to another court.

Jury cases

How did banks or financial companies fare as plaintiffs in jury trial cases?

In an estimated 54 contract cases disposed by jury trial in the Nation's 75 largest counties, a bank was the only type of plaintiff who brought the suit. In two-thirds of these cases, the bank won the jury trial verdict. Juries awarded a total of \$12 million in compensatory and punitive damages to bank plaintiff winners. The average amount awarded was \$333,000, and the median amount was \$63,000.

How did banks or financial companies fare as defendants in jury trial cases?

A bank was the only defendant in an estimated 26 contract cases concluded by jury trial. In 48% of these cases, the jury found in favor of the plaintiff. Juries awarded \$1.6 million in damages to these plaintiff winners. The average award was \$130,000, and the median recovery was \$145,000.

Trial verdicts

About 3% of the contract cases were resolved by trial (jury or bench) in the Nation's 75 most populous counties during the 1-year period. Of the 9,500 cases that did go to trial, about a quarter were disposed of by a jury verdict.

Bench trial verdicts

About 2% of contract cases were disposed by bench trial (trial by a judge rather than a jury). In the contract cases that did receive a bench verdict, the plaintiff was the winner in 73% of the cases (table 5). Among types of contract cases with sufficient data to permit estimation, plaintiffs won in 90% of rental/lease cases, 85% of seller plaintiff cases, and 66% of buyer plaintiff cases.

Jury trial verdicts

Of the contract cases disposed by a jury trial in State general jurisdiction courts in the Nation's 75 largest counties during the 1-year period ending June 30, 1992, the plaintiff won 63% of the cases (table 6). The median final amount (compensatory and punitive damages reduced for contributory negligence, if applicable) awarded to these plaintiff winners was \$56,000, and the mean amount awarded was \$620,000. The likelihood of plaintiff success varied by type of contract case, as did the final amounts awarded.

Table 5. Percent of bench trial verdicts in favor of plaintiffs or defendants in the Nation's 75 largest counties, 1992

Winner	All cases*	Seller plaintiff	Buyer plaintiff	Rental/lease agreements
Plaintiff	73%	85%	66%	90%
Defendant	24	11	35	10
Mixed	3	3	0	0
Number of cases	5,295	2,446	816	631

Note: Data were available for 75.3% of contract cases that were disposed of by a bench trial. Zero indicates no cases in the sample. Detail may not sum to 100% because of rounding.

*Includes mortgage foreclosure, employment, fraud, and other contract cases that could not be estimated separately because of too few sample cases.

Table 6. Jury trial verdicts for contract cases with plaintiff winners in State courts in the Nation's 75 largest counties, 1992

Case type	Number of jury cases	Plaintiff winners		Final amount awarded to plaintiff winners ^a		
		Number of cases	Percent	Total	Median	Mean
All contract cases ^b	2,205	1,387	62.9%	\$820,098,000	\$56,000	\$620,000
Fraud	317	181	57.1	117,209,000	70,000	678,000
Seller plaintiff	610	433	70.9	88,368,000	35,000	212,000
Buyer plaintiff	593	380	64.0	173,965,000	45,000	479,000
Employment	308	172	56.1	249,206,000	141,000	1,462,000
Rental/lease agreements	132	97	73.3	159,734,000	71,000	1,881,000
Other contract	239	123	51.3	31,616,000	49,000	280,000

Note: Data presented in this box are drawn from the civil jury dataset collected in the BJS Civil Justice Survey of State Courts, 1992. Data on case type and jury award winners were available for 99.5% of all contract cases. Detail may not sum to total because of rounding.

^aFinal amount awarded to plaintiff winners excludes cases in which the data were missing. Data on final award amounts were available for 95.3% of plaintiff winners. Final amount awarded includes both compensatory awarded (reduced for contributory negligence, if applicable) and punitive damage awards.

^bIncludes mortgage foreclosure cases that could not be estimated separately because of too few sample cases.

Table 7. Types of civil judgment, by selected types of contract cases in the Nation's 75 largest counties, 1992

Selected case type	Total	Percent of cases, by type of judgment								
		Jury trial verdict	Bench trial verdict	Summary judgment	Default judgment	Arbitration award	Agreed judgment ^a	Dismissed ^b	Transfer	Other disposition ^c
All contract cases	100%	.7%	1.9%	5.5%	26.0%	1.7%	49.4%	12.0%	2.6%	.2%
Fraud	100	2.0	5.1	3.5	7.8	1.5	61.9	13.3	4.1	1.0
Seller plaintiff	100	.5	1.7	4.8	30.6	2.0	44.8	13.9	1.7	.2
Buyer plaintiff	100	1.1	2.4	4.2	8.5	2.8	65.9	8.8	6.1	.3
Mortgage foreclosure	100	.1	1.0	10.0	37.3	.2	43.5	7.2	.7	0
Employment	100	4.0	1.8	4.4	3.1	.2	65.1	15.6	5.8	0
Rental/lease agreements	100	.4	3.6	3.6	19.0	2.2	54.6	13.6	2.7	.2
Other contract	100	1.3	2.6	4.4	12.4	1.7	55.0	14.2	8.1	.4

Note: Data on case type and type of judgment were available for 99.7% of all cases. Zero indicates no cases in the sample. Detail may not sum to 100% because of rounding.

^aIncludes voluntary dismissals.

^bIncludes those cases dismissed for lack of prosecution or failure to serve the complaint on the defendant.

^cIncludes directed verdicts and cases that were settled after a trial started or after a jury or bench verdict was entered.

Types of contract case dispositions

The majority of contract cases were resolved either through an agreed judgment (49%) or by default judgment (26%) (table 7). Courts dismissed 12% of the cases. Less than 3% of the cases were disposed by a trial (bench or jury).

Legal representation

In the vast majority of contract cases, plaintiffs and defendants had professional legal representation. About 6% of contract cases had at least one pro se litigant who represented himself or herself. Rental or lease agreement cases had a pro se litigant in about 8% of cases.

Approximately a third of seller plaintiff and mortgage foreclosure cases received a default judgment because the defendant failed to respond to the complaint or appear at a scheduled hearing.

Uncontested contract cases

In half (51%) of all the contract cases, the defendant failed to file an answer to the complaint. Failure to answer in a timely manner (usually within 30 to 45 days) gives the plaintiff the right to file a motion for default judgment. About 45% of the uncontested cases were disposed of by default judgment, 37% by agreed judgment, 16% by dismissal, and 2% by transfer to another State or Federal court. The median case processing time for uncontested cases was 5 months.

Case processing time

The average processing time from filing of the complaint to disposition for contract cases was 13 months (table 8). The median time was 8.3 months. Among the different kinds of contract cases, employment and fraud cases had a mean case processing time of about 20 months, and mortgage foreclosure cases had a mean time of 10 months from filing to disposition.

Contract cases disposed by jury trial had a mean processing time of over 2.5 years (table 9). Agreed judgment cases took on average just over 1 year to dispose. Cases disposed of by default judgment took approximately 7 months from the filing of the complaint to the disposition.

Table 8. Case processing time, by selected types of contract cases in the Nation's 75 largest counties, 1992

Selected case type	Number of cases	Case processing time for contract cases							
		Mean (months)	Median (months)	Percent of contract cases disposed					
				Less than 1 year	1 year to less than 2 years	2 years to less than 3 years	3 years to less than 4 years	4 or more years	
All contract cases	364,800	13.0 mo	8.3 mo	63.8%	22.5%	6.8%	3.2%	3.7%	
Fraud	15,927	20.4	13.8	41.7	31.8	9.5	5.8	11.1	
Seller plaintiff	188,385	11.9	7.7	66.9	21.3	6.4	2.5	2.9	
Buyer plaintiff	44,473	16.8	11.3	52.6	26.6	9.4	5.4	5.9	
Mortgage foreclosure	68,804	9.7	5.7	76.3	16.8	3.2	1.9	1.7	
Employment	8,116	20.2	13.6	41.3	31.8	10.6	7.0	9.4	
Rental/lease agreements	20,589	13.9	9.7	57.7	27.4	7.7	3.1	4.0	
Other contract	18,505	16.7	12.4	48.7	28.2	12.2	5.2	5.7	

Note: Data on case processing time were available for 99.6% of all cases. Detail may not sum to 100% because of rounding.

Table 9. Case processing time, by types of contract disposition in the Nation's 75 largest counties, 1992

Disposition type	Contract cases			
	Number of cases	Percent	Case processing time (months)	
			Mean	Median
All contract cases	363,923	100.0%	13.0 mo	8.3 mo
Judgment				
Default	94,775	26.0	7.0	4.5
Summary	19,894	5.5	10.8	8.4
Agreed judgment ^a	179,809	49.4	13.4	9.1
Dismissed	43,772	12.0	23.0	15.5
Transfer	9,464	2.6	9.6	5.1
Arbitration award	6,014	1.7	13.7	11.1
Trial				
Bench	7,035	1.9	22.5	17.3
Jury	2,441	.7	31.5	31.1
Other disposition ^b	719	.2	20.3	14.5

Note: Data on disposition type and case processing time were available for 99.3% of all cases. Detail may not sum to 100% because of rounding.

^aIncludes voluntary dismissals.

^bIncludes directed verdicts and cases that were settled after a trial started or after a jury or bench verdict was entered.

Overview of contract and tort cases disposed in State courts in the Nation's 75 largest counties, 1992

The following presents some basic characteristics of contract and tort cases.

Case type	Contract cases		Tort cases	
	Number of case	Percent	Number of case	Percent
Type of disposition:				
Agreed settlement	180,496	49.4%	277,168	73.4%
Bench trial	7,035	1.9	2,211	.6
Jury trial	2,441	.7	8,852	2.3
Summary judgment	20,236	5.5	6,504	1.7
Default judgment	94,860	26.0	11,799	3.1
Dismissed	43,813	12.0	35,604	9.5
Arbitration award	6,093	1.7	13,161	3.5
Transfer	9,570	2.6	19,295	5.1
Other disposition	719	.2	2,828	.7
Type of plaintiff litigants:^a				
Individual	94,280	25.7%	354,006	93.6%
Business	247,343	67.5	22,704	6.0
Government	14,966	4.1	1,281	.3
Hospital	9,748	2.7	322	.1
Type of defendant litigants:^a				
Individual	147,876	40.4%	190,872	50.5%
Business	204,397	55.8	149,937	39.6
Government	8,000	2.2	20,252	5.4
Hospital	6,063	1.7	17,253	4.6
Pairings of primary litigants:				
Individual v. individual	28,990	7.9%	176,815	46.9%
Individual v. business	61,049	16.7	139,156	36.9
Nonindividual v. individual	114,645	31.4	7,527	2.0
Nonindividual v. business	136,333	37.3	6,326	1.7
Other litigant pairings	24,205	6.7	46,965	12.4
Case processing time from filing of the complaint to disposition (in months):				
Median	364,781	8.3	378,313	13.7
Mean	364,781	13.0	378,313	19.3
Final amount awarded to plaintiff winners in civil jury cases:				
Median	1,322	\$56,000	4,584	\$51,000
Mean	1,322	\$620,000	4,584	\$408,000

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

^aSee note on table 3.

County-level data

The volume and composition of contract cases disposed, their average case processing time, and the types of litigants involved differed across the individual State courts sampled in this study (appendix tables 1-3). A variety of factors may contribute to these differences, including State contract law, court operations, and the type and level of commercial activity in the jurisdiction.

The 1992 data revealed that:

- In DuPage County, Illinois, primarily a residential county, 88% of the contract cases involved mortgage foreclosures.

- In Fresno County, California, the effect of a backlog relief program was reflected in longer overall case processing times as the court disposed of numerous older cases during the study period.

- In Cuyahoga County, Ohio, 48% of contract cases involved mortgage foreclosure, a sizable proportion of which were property tax delinquency cases in which the county was the plaintiff.

- In Wayne County, Michigan, 55% of the contract cases were buyer plaintiff. A substantial part of these cases were individuals suing an insurance company, possibly related to no-fault insurance claims.

Methodology

Sample

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 civil disposition data 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 for the sample. Stratum 2 consisted of 15 counties, with 12 chosen for the sample. From stratum 3, 10 of the 20 counties were selected. Nine of the twenty-six counties in stratum 4 were included in the sample.

At the second stage, either a systematic or random sample of 400-450 tort, contract, and real property rights cases disposed between July 1, 1991, and June 30, 1992, was selected within the State general jurisdiction trial court of each county. Data on 11,000 contract cases were collected in the 45 courts.

Sampling error

Since the data in this report came from a sample, a sampling error (standard error) is associated with each reported number. In general, if the difference between two numbers is greater than twice the standard error for that difference, there is 95 percent confidence of a real difference and that the apparent difference is not simply the result of using a sample rather than the entire population. All the differences discussed in this report were statistically significant at or above the 95 percent confidence level.

The 75 counties' estimate of 366,000 contract cases had a coefficient of variation of 7%. Standard error estimation took into account the survey's sample design features.

Data recording and unobtainable information

For each sampled case, a standard coding form was manually completed by court staff on-site to record information about the litigants, case type, disposition type, and processing time. Information for which data were not available included the cost of litigation for the parties involved, as well as for others, and the results of settlement.

Contract case type definitions

Contracts — Cases which include all allegations of breach of contract. Specific case types include *seller plaintiff* (seller of goods or services, including lenders, seek payment of money owed to them by a buyer, including borrowers); *buyer plaintiff* (purchasers of goods or services seek return of their money, rescission of the contract, or delivery of the specified goods ordered); *mortgage contract/foreclosure* (foreclosures on real property, commercial, or residential — because the title to real property is transferred to the lender if the claim is successful, it could be included under real property cases — and property tax delinquency cases); *fraud* (financial damages incurred because of intentional or negligent misrepresentation regarding a product or company; also considered a type of tort claim, but because it arises out of commercial transactions, it was included under contracts); *employment claim* (claim involving employment or hiring process, including claims of employment discrimination; worker's compensation claims, handled primarily through an administrative process, were not included); *rental/lease agreement*; and *other contract claims* (including partnership claims, stockholder claims, and subrogation issues).

Contract case disposition definitions

Default judgment — Occurs when a litigant has failed to file an answer to a complaint or failed to appear at a scheduled hearing.

Dismissal for lack of service or prosecution — Failure to obtain legal service of the complaint can lead to a dismissal after a stated period; most courts can also dismiss a case for the plaintiff's failure to prosecute after a case has been inactive for 18 to 24 months.

Summary judgment — Entered by a judge after considering evidence submitted by both parties and determining that no controversy exists about the facts in the case; the only issue is application of the law to the facts.

Other dispositions — Includes cases settled after a jury or bench trial started, settled after a jury or bench trial verdict was entered, or concluded with a directed verdict (a verdict that the jury returned at the direction of the court or that the court entered on the record after dismissal of the jury because the court found the evidence to be insufficient to support the jury's decision).

Arbitration award — Typically entered without appeal in jurisdictions with arbitration programs associated with the court.

Agreed judgment/voluntary dismissal — Primarily cases settled and dismissed and some cases voluntarily dismissed by plaintiffs without a settlement. Types of dismissals were not identified by many courts. This category could also include dismissals for lack of jurisdiction.

Trial verdict — Rendered by jury or bench (judge) trial.

This report is the third in a series based on data collected from the BJS Civil Justice Survey of State Courts, 1992. The first report, *Tort Cases in Large Counties*, NCJ-153177, and the second report, *Civil Jury Cases and Verdicts in Large Counties*, NCJ-154346, are available from the BJS Clearinghouse at 1-800-732-3277.

Data presented in this report can be obtained from the National Archive of Criminal Justice Data at the University of Michigan, 1-800-999-0960. The name of the dataset is Civil Justice Survey of State Courts, 1992 (ICPSR 6587).

A CD-ROM with the three reports, the datasets, questionnaire, and codebooks can be ordered by calling 1-800-732-3277 (NCJ-157771).

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

BJS Special Reports address a specific topic in depth from one or more datasets that cover many topics.

Carol J. DeFrances and Steven K. Smith of BJS wrote this report. John Scalia, Jr., provided statistical review. Carma Hogue of the Bureau of the Census designed the sample. Data collection was supervised by the National Center for State Courts (NCSC); John Goerd, NCSC Senior Research Associate, was the project director. The Bureau of the Census and the National Association of Criminal Justice Planners assisted the NCSC in the data collection. Tom Hester and Tina Dorsey edited the report. Marilyn Marbrook, assisted by Jayne Robinson and Yvonne Boston, administered production.

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Appendix table 1. Types of contract cases disposed in State courts, by sampled counties, 1992

County	All contract	Fraud	Seller plaintiff	Buyer plaintiff	Mortgage foreclosure	Employment	Rental/lease agreements	Other contract
Maricopa, AZ	12,911	857	7,832	1,163	673	184	1,652	551
Pima, AZ	3,611	178	2,101	370	385	163	266	148
Alameda, CA	2,396	509	910	359	100	192	167	159
Contra Costa, CA	1,691	165	777	548	27	37	91	46
Fresno, CA	1,108	118	641	108	26	72	51	92
Los Angeles, CA ^a	14,953	1,661	7,476	2,769	277	646	1,200	923
Orange, CA	7,972	731	3,876	2,194	73	110	256	731
San Bernardino, CA	2,723	442	1,222	501	59	147	221	132
San Francisco, CA	1,400	130	674	285	26	104	130	52
Santa Clara, CA	2,313	282	801	419	55	173	237	346
Ventura, CA	618	51	284	175	39	16	19	35
Fairfield, CT ^b	5,834	0	3,408	96	1,964	0	0	366
Hartford, CT ^b	8,057	0	5,802	120	1,864	0	0	271
Dade, FL	18,643	185	4,799	984	9,537	62	1,046	2,030
Orange, FL	5,782	0	2,369	201	2,630	60	60	462
Palm Beach, FL	6,397	110	4,191	303	1,655	0	83	55
Fulton, GA	1,222	242	441	238	60	103	75	64
Honolulu, HI	2,005	71	897	252	514	40	131	101
Cook, IL	7,909	337	5,048	673	168	337	463	883
DuPage, IL	1,387	56	11	0	1,219	34	11	56
Marion, IN	4,175	37	1,919	294	1,604	100	121	100
Jefferson, KY	2,960	22	1,590	133	906	55	144	110
Essex, MA	1,388	30	273	79	865	20	30	92
Middlesex, MA	2,909	850	1,115	246	416	57	76	151
Norfolk, MA	1,246	82	509	119	356	43	67	70
Suffolk, MA	3,784	499	1,722	181	612	91	159	521
Worcester, MA	1,442	82	288	66	816	58	41	91
Oakland, MI	6,497	254	3,813	1,469	141	141	282	395
Wayne, MI	8,460	68	3,452	4,670	68	68	135	0
Hennepin, MN	2,955	55	1,464	677	249	180	221	110
St. Louis, MO	1,267	91	671	197	8	99	122	79
Bergen, NJ	8,388	69	6,481	1,525	69	0	173	69
Essex, NJ	6,454	0	5,412	401	80	40	441	80
Middlesex, NJ	4,424	180	2,855	669	77	51	386	206
New York, NY	6,949	232	4,865	579	425	39	618	193
Cuyahoga, OH	12,091	0	4,011	1,413	5,763	283	283	339
Franklin, OH	8,235	157	2,295	1,257	2,546	251	1,477	251
Allegheny, PA	7,812	235	5,844	323	1,087	59	235	29
Philadelphia, PA	5,871	61	2,966	2,361	121	61	121	182
Bexar, TX	2,977	536	1,340	387	238	149	179	149
Dallas, TX	7,225	597	4,272	911	283	220	785	157
Harris, TX	7,179	420	4,237	1,132	291	162	356	582
Fairfax, VA	4,467	234	2,936	340	32	138	415	372
King, WA	7,371	275	5,138	551	306	275	306	520
Milwaukee, WI	5,510	120	4,908	120	24	120	120	96

Note: Zero indicates no cases in the sample. Detail may not sum to total because of rounding.

^aIncludes only the central district of the Los Angeles County Superior Court. Los Angeles suburban courts are not included.

^bEstimates for type of contract cases disposed are for the Fairfield and Hartford/New Britain judicial districts.

Appendix table 2. Case processing time for contract cases in State courts, by sampled counties, 1992

County	Mean (months)	Less than 1 year	1 year to less than 2 years	2 years to less than 3 years	3 years to less than 4 years	4 or more years
Maricopa, AZ	10 mo	55%	41%	3%	0%	0%
Pima, AZ	16	57	24	9	6	4
Alameda, CA	13	59	22	14	4	1
Contra Costa, CA	15	61	23	6	5	5
Fresno, CA	50	26	14	6	1	52
Los Angeles, CA ^a	14	52	34	9	2	2
Orange, CA	18	47	29	8	9	7
San Bernardino, CA	37	24	16	7	17	36
San Francisco, CA	16	50	26	11	11	2
Santa Clara, CA	20	50	21	12	6	11
Ventura, CA	18	52	17	13	9	9
Fairfield, CT ^b	13	57	33	6	2	2
Hartford, CT ^b	10	65	28	5	2	1
Dade, FL	9	70	23	6	1	0
Orange, FL	9	75	17	5	3	1
Palm Beach, FL	11	69	21	6	3	0
Fulton, GA	11	71	20	4	3	2
Honolulu, HI	12	65	20	10	4	1
Cook, IL	22	46	16	22	2	14
DuPage, IL	8	84	9	5	2	0
Marion, IN	9	78	15	5	2	1
Jefferson, KY	8	75	21	2	1	0
Essex, MA	11	76	10	6	2	6
Middlesex, MA	23	49	23	3	3	21
Norfolk, MA	14	65	19	9	2	6
Suffolk, MA	15	51	37	4	1	7
Worcester, MA	17	61	23	6	2	9
Oakland, MI	9	77	20	2	0	1
Wayne, MI	9	75	23	0	1	2
Hennepin, MN	10	69	25	4	1	1
St. Louis, MO	20	34	32	23	6	5
Bergen, NJ	11	72	17	10	0	1
Essex, NJ	14	60	22	4	14	0
Middlesex, NJ	11	67	25	6	2	0
New York, NY	15	56	26	10	2	6
Cuyahoga, OH	13	65	24	5	4	2
Franklin, OH	13	67	19	6	3	5
Allegheny, PA	8	85	9	3	1	2
Philadelphia, PA	13	70	17	6	1	5
Bexar, TX	15	51	28	16	4	3
Dallas, TX	11	67	24	7	1	0
Harris, TX	26	36	23	17	9	16
Fairfax, VA	13	62	17	15	4	2
King, WA	8	77	19	3	1	1
Milwaukee, WI	5	92	7	1	0	0

Note: Zero indicates no cases in the sample. Detail may not sum to 100% because of rounding.

^aIncludes only the central district of the Los Angeles County Superior Court. Los Angeles suburban courts are not included.

^bEstimates for case processing time are for the Fairfield and Hartford/New Britain judicial districts.

Appendix table 3. Primary plaintiff or defendant in contract cases in State courts, by sampled counties, 1992

County	Primary plaintiff ^a				Primary defendant ^a			
	Individual	Government	Business ^b	Hospital	Individual	Government	Business ^b	Hospital
Maricopa, AZ	19%	6%	74%	1%	62%	0%	37%	0%
Pima, AZ	30	1	68	0	48	2	50	1
Alameda, CA	46	3	50	1	25	1	71	2
Contra Costa, CA	52	1	46	0	25	3	71	1
Fresno, CA	44	4	50	2	31	2	64	2
Los Angeles, CA ^c	39	1	59	1	22	0	77	2
Orange, CA	42	2	55	1	31	0	68	1
San Bernadino, CA	45	3	49	3	33	2	64	2
San Francisco, CA	48	0	52	0	36	1	62	1
Santa Clara, CA	53	3	44	0	22	0	77	1
Ventura, CA	41	4	55	0	28	1	71	0
Fairfield, CT ^d	8	3	84	6	55	2	42	1
Hartford, CT ^d	11	1	82	5	52	0	47	1
Dade, FL	18	0	76	6	43	4	49	4
Orange, FL	14	0	84	1	48	2	48	1
Palm Beach, FL	26	2	71	2	38	1	59	1
Fulton, GA	50	0	49	1	27	3	56	14
Honolulu, HI	21	1	75	3	43	3	54	1
Cook, IL	28	0	69	3	18	2	77	3
DuPage, IL	12	2	85	0	32	5	63	1
Marion, IN	17	20	62	2	50	4	44	2
Jefferson, KY	19	1	72	8	55	3	40	1
Essex, MA	18	0	82	0	69	2	28	1
Middlesex, MA	31	1	68	0	36	3	59	1
Norfolk, MA	34	0	65	1	53	0	45	1
Suffolk, MA	25	4	71	1	29	1	69	1
Worcester, MA	18	3	79	0	48	2	49	1
Oakland, MI	27	1	69	3	23	0	75	2
Wayne, MI	48	4	47	1	25	1	72	2
Hennepin, MN	34	1	64	0	34	1	64	1
St. Louis, MO	36	0	58	5	39	0	59	2
Bergen, NJ	22	3	71	4	43	0	56	1
Essex, NJ	22	4	70	4	61	1	37	1
Middlesex, NJ	32	5	60	3	47	1	52	1
New York, NY	25	0	75	0	27	1	72	0
Cuyahoga, OH	20	24	54	2	42	5	50	3
Franklin, OH	21	11	65	4	31	10	58	2
Allegheny, PA	16	5	76	3	48	3	49	1
Philadelphia, PA	47	0	48	5	37	0	62	1
Bexar, TX	34	4	62	1	41	1	56	2
Dallas, TX	28	3	69	1	50	1	48	1
Harris, TX	31	0	68	1	39	0	59	1
Fairfax, VA	27	0	68	5	45	0	54	0
King, WA	26	1	73	1	44	0	55	1
Milwaukee, WI	13	3	80	4	66	0	34	0

Note: Zero indicates no cases in the sample. Detail may not sum to 100% because of rounding.

^aSee note on table 3.

^bIncludes insurance companies, banks and financial companies, other businesses, and other organizations.

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

Los Angeles suburban courts are not included.

^dEstimates for primary plaintiff or defendant are for the Fairfield and Hartford/New Britain judicial districts.