



Bureau of Justice Statistics Special Report

December 1997, NCJ-165810

Federal Justice Statistics Program

Federal Tort Trials and Verdicts, 1994-95

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During fiscal years 1994 and 1995, U.S. district courts terminated more than 458,000 civil cases. U.S. district courts have original jurisdiction in an array of civil matters including civil actions that —

- deal with a Federal question arising from the interpretation and application of the U.S. Constitution, acts of Congress, or treaties
- exceed \$50,000 and are between parties (citizens or corporations) residing in different States or parties of a State and citizens, corporations, or subjects of a foreign country¹
- are commenced by the U.S. Government
- involve claims arising from the personal injury or property damage caused by the negligent or wrongful act of the U.S. Government.²

About 18% of civil cases terminated in U.S. district courts involved tort claims in which plaintiffs alleged injury, loss, or damage from negligent or intentional acts of defendants. Of the

¹The minimum value required was \$10,000 until 1989 and \$50,000 until 1996, when it was raised to \$75,000 in P.L. 104-317, Federal Courts Improvement Act of 1996.

²28 U.S.C. § 1331, 1332, 1345, and 1346.

Highlights

- During 1994-95 U.S. district courts terminated an average of 229,000 civil cases per year. Of these, about 18% were tort cases.
- Of the 82,333 tort cases terminated (an average of 41,166 per year), 4.1% (3,356 cases) were decided by a jury or bench trial. Medical malpractice claims comprised 8% of trial tort cases, and product liability cases including asbestos suits, 16%.
- Sixty-nine percent of the tort trial cases involved citizens from different States (diversity of citizenship), 18% involved a Federal question, and 13% involved the U.S. Government as a plaintiff (0.4%) or a defendant (12.3%).
- A jury decided 72% of tort cases brought to trial — including 86% of diversity of citizenship trial cases. Bench trials terminated 93% of the trial cases in which the United States was a defendant.
- Overall, plaintiffs won in 43% of the tort cases decided by trials — 32% of the 283 medical malpractice cases and 27% of the 527 product liability cases. Plaintiffs also won 7 of the 10 airplane product liability cases and 4 of the 7 asbestos product liability cases.
- Of the 1,256 tort trial cases in which the plaintiff won monetary damages, the median award was \$140,000. In 18% of these cases, the amount awarded was \$1 million or more, and in 9%, \$10 million or more.
- The mean case processing time for all tort trial cases from filing to termination was 21.8 months, and the median was 18.1 months. Within 2 years, 68% of all tort trial cases were terminated; 5% of the cases lasted longer than 4 years.

Tort cases terminated in U.S. district courts, 1994-95

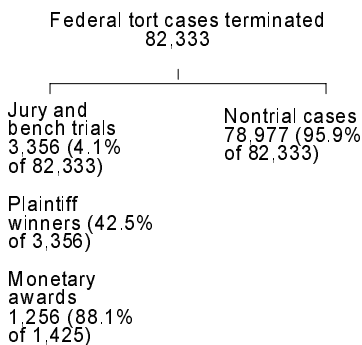


Table 1. Tort trial cases terminated in U.S. district courts, 1994-95

Type of tort case	Jury and bench cases terminated	
	Number	Percent
All tort cases	3,356	100 %
Personal injury		
Total	3,100	92.4%
Airplane	53	1.6
Assault, libel, and slander	61	1.8
Federal employers' liability	192	5.7
Marine	260	7.7
Motor vehicle	625	18.6
Medical malpractice	283	8.4
Product liability	527	15.7
Airplane	10	.3
Marine	7	.2
Motor vehicle	67	2.0
Asbestos	7	.2
Other	436	13.0
Other personal injury	1,099	32.7
Property damage		
Total	256	7.6%
Fraud	80	2.4
Truth-in-lending	7	.2
Product liability	61	1.8
Other property damage	108	3.2

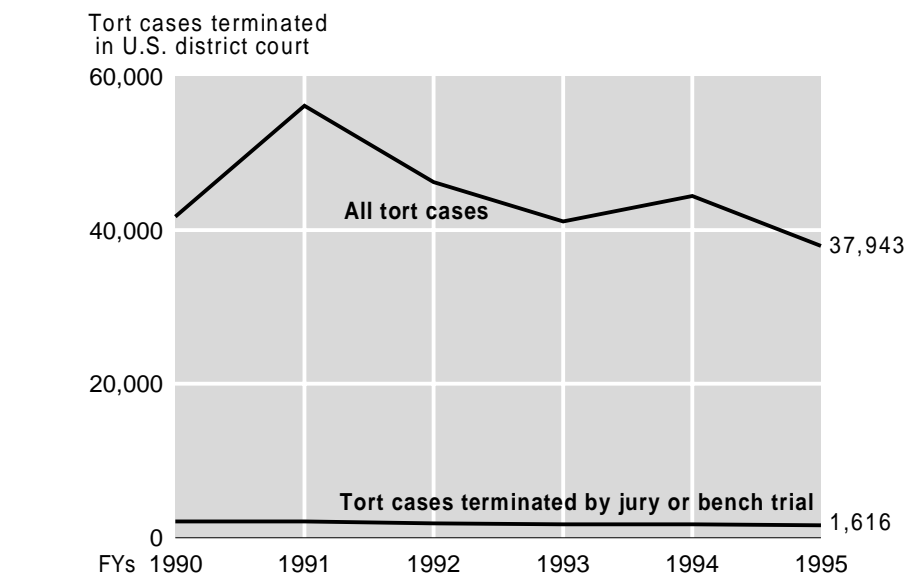
Source: Federal Judicial Center, Integrated Data Base (Civil), fiscal years 1994-95.

82,333 tort cases that were terminated, 3,356 or 4.1% were decided by a completed jury or bench trial.

Of the 78,977 nontrial tort cases, 68% were terminated after the issue was joined. An issue is considered joined after the defendant has answered the complaint or has otherwise responded with Rule 12, *Federal Rules of Civil Procedure*, or as mandated by the court. Of the 53,855 tort cases, 23% were terminated with no court action; 22% were terminated at the pretrial conference; 19% by some judicial action by a judge or magistrate but before any pretrial conference; 2% during a jury or bench trial; and 35% by other means.

This report presents findings from a study of tort cases terminated by trial verdict in U.S. district courts during fiscal years 1994 and 1995. BJS analyzed data from information compiled by the Administrative Office of the U.S. Courts (AOUSC).

From 1990 to 1995 an average of 1,800 tort case trials were conducted in U.S. district courts each year



According to the AOUSC, a trial is defined as "a contested proceeding where evidence is introduced." A trial is considered complete when a verdict is returned by a jury or a decision is rendered by the court. For this report, completed trials were determined by screening for cases whose procedural progress at termination was recorded as "terminated after the completion of a trial by jury or trial before a judge or magistrate." Jury and bench trials disposed of before the start of the trial or during the trial are excluded from the analysis. Award information presented is for tort cases in which the judgment was for monetary damages.

Tort trial cases awarding court costs only or court costs and attorney fees were excluded from the award analysis. The number of tort trial cases appealed and the outcomes of appeal are not reported here.

For purposes of this report, tort cases fall into two categories: personal and property. Personal tort cases involve injury to a person or to the reputation or feelings of a person. Property tort cases involve injury or damage to personal property.

Table 2. Type of jurisdiction for tort cases terminated by trial in U.S. district courts, 1994-95

Jurisdiction	Tort cases terminated by trial	
	Number	Percent
Total	3,356	100 %
U.S. plaintiff	14	.4
U.S. defendant	413	12.3
Federal question	606	18.1
Diversity of citizenship	2,317	69.0
Local question (U.S. territories)	6	.2

Source: Federal Judicial Center, Integrated Data Base (Civil), fiscal years 1994-95.

During 1994-95 in almost all (92%) tort trial cases terminated in U.S. district courts, plaintiffs cited personal injury as the type of damage (table 1). Of these, motor vehicle cases accounted for 19% of tort trial cases, product liability cases including asbestos 16%, and medical malpractice cases 8%.

Jurisdiction refers to the basis for filing the civil action in U.S. district courts as opposed to State courts. Diversity of citizenship was the reason why Federal rather than State courts handled 69% of the tort trial cases in U.S. district court (table 2). Eighteen percent of the cases involved a Federal question, and 13% involved the U.S. Government as a plaintiff or a defendant.

Trial terminations

Federal civil trial cases can be decided by either a jury comprised of 6 to 12 members or a Federal judge or magistrate (bench trial). The plaintiff or the

defendant may request the case be settled by a jury trial. If no request for jury trial is made by either party, the case is tried by bench trial. However, in most cases in which the United States is named as a defendant,

Federal law stipulates that only a bench trial is allowed.³ Jury verdicts in a Federal civil case must be unanimous and cannot be taken from a jury reduced to fewer than six members.

Jury trials

Almost three-quarters of tort trial cases were decided by jury verdict (table 3). Type of termination (jury or bench) varied by the nature of the Federal jurisdiction. A majority of diversity of citizenship (86%) and Federal question (64%) tort trial cases were decided by jury verdict.

Of the 2,422 tort cases decided by jury trial, 94% were personal injury cases. Ninety-two percent of other personal injury product liability cases were decided by jury trial; 84% of assault, libel, and slander cases; and 82% of motor vehicle product liability cases. All seven of the asbestos product liability cases were terminated by jury trial.

Bench trials

Twenty-eight percent of all tort trial cases were terminated by bench trial. Most (88%) of these cases were also personal injury cases. Bench trials decided 93% of the tort trial cases in which the United States was a defendant and 57% of the cases in which the United States was a plaintiff.

Over half of other property damage cases (59%) and marine cases (56%) were decided by bench trial (table 4).

³28 U.S.C. § 2402.

Table 3. Type of termination, by jurisdiction, for tort trial cases in U.S. district courts, 1994-95

Type of termination	Tort cases terminated in U.S. district courts					
	Total	U.S. plaintiff	U.S. defendant	Federal question	Diversity of citizenship	Local question in U.S. territories
Number of tort trial cases	3,356	14	413	606	2,317	6
Total	100 %	100 %	100 %	100 %	100 %	100 %
Jury trial	72.2	42.9	6.8	64.2	86.1	66.7
Bench trial	27.8	57.1	93.2	35.8	13.9	33.3

Source: Federal Judicial Center, Integrated Data Base (Civil), fiscal years 1994-95.

Table 4. Type of tort trial cases, by type of termination, in U.S. district courts, 1994-95

Type of tort case	Jury and bench tort trials terminated		
	Number	Jury	Bench
All tort cases	3,356	72.2%	27.8%
Personal injury			
Airplane	53	62.3%	37.7%
Assault, libel, and slander	61	83.6	16.4
Federal employers' liability	192	81.8	18.2
Marine	260	43.8	56.2
Motor vehicle	625	73.8	26.2
Medical malpractice	283	65.4	34.6
Product liability	527	89.8	10.2
Airplane	10	70.0	30.0
Marine	7	71.4	28.6
Motor vehicle	67	82.1	17.9
Asbestos	7	100.0	--
Other	436	91.5	8.5
Other personal injury	1,099	73.0	27.0
Property damage			
Fraud	80	61.3%	38.8%
Truth-in-lending	7	57.1	42.9
Product liability	61	80.3	19.7
Other property damage	108	40.7	59.3

--None recorded.

Source: Federal Judicial Center, Integrated Data Base (Civil), fiscal years 1994-95.

Jury verdicts in tort cases disposed in State courts in the 75 largest counties, 1992

Juries in State general jurisdiction courts in the Nation's 75 largest counties decided an estimated 9,500 tort cases during the 12-month period ending June 30, 1992. Automobile cases accounted for 41% of all tort cases settled by jury verdict, premise liability cases 21%, and medical malpractice cases 14%. Product liability and toxic substance cases were 7%.

In half of all tort jury cases, the plaintiff won the decision. Plaintiff success varied by type of tort case. Plaintiffs won in 74% of toxic substance cases, 60% of automobile cases, 41% of product liability cases, and 30% of medical malpractice cases.

Juries awarded altogether \$1.9 billion in compensatory and punitive damages to plaintiff winners in tort cases. The median recovery was \$51,000. Approximately 21% of the final awards to plaintiff winners in tort cases were over \$250,000. Half the plaintiff winners in product liability cases were awarded total damages in excess of \$250,000. About 8% of plaintiff winners received final awards of \$1 million or more. The largest proportion of these \$1-million-plus awards were in medical malpractice cases (25%), followed by product liability cases (15%).

Juries awarded punitive damages as a part of the overall award in 4% of the tort cases in which the plaintiff won. The median punitive damage

award in tort cases was \$36,000. Twenty-three percent of the punitive damage awards in tort cases were in excess of \$250,000, and 10% were \$1 million or more.

Plaintiffs won in 142 product liability cases and received punitive damages in 3 of the cases. Of the 403 medical malpractice cases with a plaintiff winner, punitive damages were awarded in 13 cases. In 4 of the 13 cases, the punitive damage award was over \$250,000.

Source: *Civil Jury Cases and Verdicts in Large Counties*, BJS Special Report, NCJ-154346, 1995.

Trial outcome

Overall, plaintiffs won in 43%, or 1,425, of the tort cases decided by trial verdict in U.S. district courts (table 5). Plaintiff success varied by type of case. Plaintiffs won in 7 of 10 airplane product liability cases and 4 of 7 asbestos product liability cases. In over 56% of personal injury cases, Federal employers' liability and motor vehicle cases, plaintiffs won the trial. Plaintiffs were least successful in medical malpractice cases (32%) and motor vehicle product liability cases (18%).

Trial awards

Tort cases typically involve a compensatory award for economic damages, which include all financial losses that are the result of the defendant's conduct. Tort cases also can include a compensatory award for noneconomic damages, which include awards for pain and suffering and emotional distress.

Distinct from compensatory damages are punitive damages, which are almost exclusively reserved for tort claims in which the defendant's conduct was grossly negligent or intentional. Under the provisions

of the Federal Tort Claims Act, the United States is not liable for punitive damages.⁴ In the tables and text presented below, award amounts include

⁴28 U.S.C. § 2674.

compensatory and/or punitive damages. Due to the nature of the data, award amounts for the two types of damages cannot be identified separately. Additionally, in cases won by

Table 5. Plaintiff winners and their award amount, by type of tort trial cases terminated by trial in U.S. district courts, 1994-95

Type of tort case	Number		Percent of cases won by plaintiff	Number of monetary awards to plaintiff	Median award	Percent of plaintiff winner cases with awards —	
	Jury and bench cases terminated	Plaintiff winners				Over \$1 million	\$10 million or more
All tort cases	3,356	1,425	42.5%	1,256	\$140,000	17.9%	8.6%
Personal injury							
Airplane	53	30	56.6%	28	\$655,000	46.4%	7.1%
Assault, libel, and slander	61	21	34.4	17	339,000	29.4	5.9
Federal employers' liability	192	108	56.3	94	225,000	12.8	7.4
Marine	260	127	48.8	113	132,000	15.0	8.8
Motor vehicle	625	358	57.3	324	83,000	11.7	6.5
Medical malpractice	283	90	31.8	76	463,000	28.9	13.2
Product liability	527	141	26.8	128	284,000	26.6	10.2
Airplane	10	7	70.0	7	999,000	42.9	14.3
Marine	7	4	57.1	3	54,000	--	--
Motor vehicle	67	12	17.9	12	250,000	16.7	--
Asbestos	7	4	57.1	3	327,000	33.3	--
Other	436	114	26.1	103	265,000	27.2	11.7
Other personal injury	1,099	430	39.1	368	89,000	15.5	8.4
Property damage							
Fraud	80	38	47.5%	33	\$389,000	24.2%	6.1%
Truth-in-lending	7	3	42.9	3	1,000	--	--
Product liability	61	24	39.3	20	256,000	20.0	10.0
Other property damage	108	55	50.9	52	162,000	28.8	17.3

--None recorded.

plaintiffs, monetary damages were not always awarded, as other forms of res-titution were also used.

In 88% of tort trial cases in which the plaintiffs won, the jury or court awarded damages. The median damage award for all tort cases was \$140,000. The amount of awarded damages varied by type of case. Half of the plaintiff winners in airplane product liability cases were awarded damages over \$999,000. The median award for plaintiff winners in airplane personal injury cases was \$655,000, for medical malpractice cases \$463,000, and for asbestos product liability cases \$327,000.

In 18% of the cases with a plaintiff winner, damages awarded were over \$1 million. An award of \$1 million or more was received in 46% of airplane personal injury cases and 29% of medical malpractice cases; assault, libel, and slander cases; and other property damage cases.

In 9% of tort trial cases with plaintiff winners, awards exceeded \$10 million. Thirteen percent of medical malprac-tice cases involved awards of \$10 million or more.

Tort trials with the U.S. Government

Litigation involving the U.S. Govern-ment is primarily under the control of the Attorney General. The U.S. Code states: "Except as otherwise author-ized by law, the conduct of litigation in which the United States, an agency, or officer thereof is a party, or is inter-ested, and securing evidence therefore, is reserved to officers of the Department of Justice, under the direc-tion of the Attorney General."⁵ In re-cent years Congress has enacted a number of separate grants of litigation authority allowing some Federal agencies to have or share responsibil-ity with the Justice Department for con-ducting their litigation. For example, lawsuits filed under the Longshore-men's and Harbor Workers' Compen-sation Act against the Secretary of Labor can be independently litigated by Department of Labor attorneys.⁶ The Environmental Protection Agency can litigate cases under the Clean Air Act independently only if the Attorney Gen-eral does not provide legal representation.⁷

⁵28 U.S.C. § 516.

⁶33 U.S.C. § 921(a).

⁷42 U.S.C. § 7605.

Between 1994 and 1995 the U.S. Gov-ernment was party to slightly more than 400 tort trial cases — most fre-quently as a defendant. As a plaintiff the U.S. Government was involved in 14 tort trial cases terminated in U.S. district courts, winning 5 cases (not shown in a table). The U.S. Govern-ment as a winning plaintiff received damages in 4 of these 5 cases. The median award was \$7,000.

Tort actions against the U.S. Govern-ment are governed by the Federal Tort Claims Act. This act provides the legal mechanism for compensating persons injured by the negligent or wrongful acts of Federal employees committed within the scope of their employment. An administrative claim to the appropri-ate Federal agency is a prerequisite before filing suit in U.S. district court. If the claim is denied by the Federal agency in writing or if the Federal agency does not make a decision about the claim within 6 months, then the claimant can file suit in U.S. district court. Lawsuits under the act can only be tried by bench trial.⁸

The Torts Branch of the Civil Division within the Department of Justice represents the United States, its agen-cies, and its officers sued in tort ac-tions. This includes suits against the United States under the Federal Tort Claims Act, the Public Vessels Act, all admiralty suits, and common-law suits against individual government employees.⁹

U.S. district courts terminated 413 tort trial cases in which the U.S. Govern-ment was the defendant (table 6). These cases primarily involved medi-cal malpractice and other types of per-sonal injury. In 46% of these tort trial cases, the verdict was in favor of the United States. In seven of the tort trial cases in which the United States as a defendant won the judgment, mone-y damages were awarded. The me-dian award for all cases was \$13,000.

⁸28 U.S.C. § 2671-2680.

⁹Urban A. Lester and Michael F. Noone, *Litigation With The Federal Government*, 3rd edition. Phila-delphia: The American Law Institute, 1994.

Table 6. U.S. Government as defendant in tort trial cases terminated by trial in U.S. district courts, 1994-95

Type of tort case	U.S. Government as defendant				
	Number		Percent of all tort cases	Defendant winner	Median award
	Jury and bench cases terminated	Defendant winner			
All tort cases	413	190	46.0%	7	\$13,000
Personal injury					
Airplane	9	3	33.3%		
Federal employers' liability	8	3	37.5		
Marine	26	13	50.0		
Motor vehicle	98	30	30.6	4	\$18,000
Medical malpractice	90	53	58.9		
Product liability	4	3	75.0		
Marine	1				
Other	3	3	100.0		
Other personal injury	158	76	48.1	1	\$13,000*
Property damage					
Fraud	2				
Truth-in-lending	1				
Other	17	9	52.9%	2	\$191,000

Note: Categories with no cases are omitted.

*Not a median but the actual amount awarded.

Source: Federal Judicial Center, Integrated Data Base (Civil), fiscal years 1994-95.

Federal question cases

U.S. district courts terminated 606 tort trial cases that involved a Federal question (table 7). Of these cases, plaintiffs won in 51% or 310 cases and received monetary awards in 271 cases. Half the plaintiff winners receiving damages in Federal question cases were awarded \$155,000 or more. Plaintiffs won the judgment in 57% of Federal employers' liability cases involving a Federal question. Plaintiff winners received awards in 87% of Federal liability cases; the median amount received was \$225,000.

Diversity of citizenship cases

The vast majority of tort trial cases terminated by U.S. district courts entailed diversity of citizenship in which citizens, including corporations, of different States were involved in a civil dispute with an amount in controversy exceeding \$50,000. Of the 2,317 diversity of citizenship cases terminated by trial verdict, plaintiffs won in 40%, or 917, of the cases (table 8). Plaintiffs received monetary awards in 821 cases; the median amount awarded was \$136,000.

Plaintiffs won in 57% of the 510 motor vehicle cases and were awarded damages in 258 cases. The median award in these cases was \$94,000. In medical malpractice cases, plaintiffs received damages in 49 cases; the median award amount was \$500,000. Plaintiffs won in 4 of 7 asbestos product liability cases. In the three asbestos cases in which the plaintiffs received damages, the median award amount was \$327,000.

Table 7. Plaintiffs in tort trial cases involving a Federal question terminated by trial in U.S. district courts, 1994-95

Nature of suit	Federal question cases in U.S. district courts				
	Number of jury and bench cases terminated	Number of cases in which plaintiff won	Percent of plaintiff winners	Number of plaintiff monetary awards	Median award
All tort cases	606	310	51.2%	271	\$155,000
Personal injury					
Airplane	7	5	71.4%	5	\$462,000
Assault, libel, and slander	18	3	16.7	2	3,566,000
Federal employers' liability	184	104	56.5	90	225,000
Marine	204	102	50.0	91	145,000
Motor vehicle	16	9	56.3	7	125,000
Product liability	16	5	31.3	5	667,000
Airplane	2	2	100.0	2	999,000*
Marine	1	1	100.0	1	667,000*
Motor vehicle	2	1	50.0	1	11,000*
Other	11	1	9.1	1	147,000*
Other personal injury	109	53	48.6	44	65,000
Property damage					
Fraud	16	10	62.5%	9	\$764,000
Truth-in-lending	5	1	20.0	1	1,000*
Product liability	3	1	33.3	1	34,000*
Other property damage	28	17	60.7	16	188,000

*Not a median but the actual amount awarded.

Source: Federal Judicial Center, Integrated Data Base (Civil), fiscal years 1994-95.

Table 8. Plaintiffs in tort trial cases involving diversity of citizenship terminated by trial in U.S. district courts, 1994-95

Nature of suit	Diversity of citizenship cases in U.S. district courts				
	Number of jury and bench cases terminated	Percent of cases in which plaintiff won	Number		
			Plaintiff winners	Plaintiff monetary awards	Median award
All tort cases	2,317	39.6%	917	821	\$136,000
Personal injury					
Airplane	37	56.8%	21	19	\$390,000
Assault, libel, and slander	43	41.9	18	15	339,000
Federal employers' liability					
Marine	28	42.9	12	10	72,000
Motor vehicle	510	56.5	288	258	94,000
Medical malpractice	193	28.5	55	49	500,000
Product liability	507	26.6	135	123	275,000
Airplane	8	62.5	5	5	2,000,000
Marine	5	40.0	2	2	28,000
Motor vehicle	65	16.9	11	11	250,000
Asbestos	7	57.1	4	3	327,000
Other	422	26.8	113	102	270,000
Other personal injury	824	37.5	309	278	91,000
Property damage					
Fraud	60	43.3%	26	22	\$213,000
Truth-in-lending	1	100.0	1	1	216,000*
Product liability	55	40.0	22	18	361,000
Other property damage	59	50.8	30	28	250,000

*Not a median but the actual amount awarded.

Source: Federal Judicial Center, Integrated Data Base (Civil), fiscal years 1994-95.

Examples of types of cases

Diversity of citizenship cases

Personal injury

A civil action was tried in Federal court because a plaintiff in New Jersey claimed he was struck by a motor vehicle owned by the defendant and operated by a defendant in Philadelphia. Inasmuch as the plaintiff is a citizen of New Jersey and the defendants are citizens of Pennsylvania, suit was filed in U.S. District Court, Eastern District of Pennsylvania.^a

Assault, libel, and slander

A plaintiff brought a defamation/invasion of privacy suit against the defendant to Federal court based on the parties' allegedly diverse citizenship. The plaintiff, a citizen of Maryland, contended that the defendant was a citizen of North Carolina. The defendant answered that he was in fact domiciled in and hence a citizen of Maryland, citing this State as his

^a*McNulty v. Travel Park*, 833 F. Supp. 144 (E.D.Pa. 1994).

domicile of origin and the fact that he owned and paid taxes on certain real estate.

The defendant was born and raised in Maryland and maintained a residence in the State. He inherited the residence upon his mother's death and paid property taxes to the State. The plaintiff, however, claimed that the defendant was physically located in and with his family in North Carolina. The suit was filed in U.S. District Court, District of Maryland.^b

Federal Tort Claims Act cases

Medical malpractice

A plaintiff filed suit against the United States of America alleging that physicians at the Veterans Administration Hospital were negligent when a piece of gastric tubing was left in the plaintiff's stomach during an operation. The plaintiff's complaint claimed medical negligence and/or malpractice.

^b*Dyer v. Robinson*, 853 F. Supp. 169 (D.Md. 1994).

The plaintiff's claim against the medical facility was limited solely to negligence or malpractice in treatment by the medical facility constituting negligence and/or malpractice within the meaning of the law. The suit was filed in U.S. District Court, Eastern District of Louisiana.^c

Asbestos

The plaintiffs (inmates) alleged that they were negligently exposed to asbestos at the USP-Terre Haute Institution and that this exposure endangered their lives and health. They alleged that the Bureau of Prisons (BOP) negligently permitted this condition to exist. Their administrative tort claims were denied by the BOP. The suit was filed in U.S. District Court, Southern District of Indiana.^d

^c*Branch v. United States of America*, 1994 WL 507416 (E.D.La.).

^d*Castor v. United States of America*, 883 F. Supp. 344 (S.D.Ind. 1995).

Note: All cases were selected for illustrative purposes only.

Case processing time

The mean case processing time for all tort trial cases from filing to termination exclusive of time on appeal was 21.8 months, and the median was 18.1 months (table 9). Within 2 years, 68% of all tort trial cases were terminated; 5% of the cases lasted longer than 4 years. Seventy-nine percent of assault, libel, and slander cases were terminated in less than 2 years. Medical malpractice cases took on average 25.3 months from the filing of the complaint to termination. Fifty-six percent of personal injury product liability cases took less than 2 years to terminate.

The case processing time for tort cases varied slightly by type of trial. The median case processing time for bench trials was 19.3 months compared to 17.7 months for jury trials (not shown in a table).

Class actions

During fiscal years 1994-95, four tort class action suits were terminated by trial in U.S. district courts. Three of the four cases were decided by jury trial. The nature of the case in two of the four suits was classified by AOUSC as "other personal injury." In the remaining two class action suits, one dealt with personal injury product liability and the other with fraud. Plaintiffs won and received monetary awards in 2 of the 4 class action suits. Plaintiffs were awarded over \$10 million in the diversity of citizenship other personal injury case and \$1,000 in the Federal question

Methodology

The primary source of data presented in this report is the Federal Judicial Center's Integrated Data Base (Civil). Data tabulations were prepared from the BJS staff analysis of source agency data sets. The Federal civil tort categories used in this report are based primarily on the codes established by the Administrative Office of the United States Courts. Case-level information is provided by individual U.S. district courts, which submit data to the AOUSC. The categories for types of cases used in this report are based on those defined by the AOUSC. Therefore, no further detailed information is available on the large number of "other personal injury cases and other product liability cases." For tort cases that involved more than one type of action filed, the AOUSC instructs the plaintiff's attorney if the cause fits more than one nature of suit, select the most definitive. It is this first nature of suit code that was used in the analysis for this report.

Table 9. Case processing time for tort trial cases terminated by trial in U.S. district courts, 1994-95

Nature of suit	Number of jury and bench cases terminated	Time from filing to termination of case		Percent of tort cases concluded in —		
		Median months	Mean months	Less than 2 years	2 to less than 4 years	4 years or more
All tort cases	3,356	18.1	21.8	68.4%	26.5%	5.1%
Personal injury						
Airplane	53	21.8	30.5	60.4%	22.6%	17.0%
Assault, libel, and slander	61	16.8	19.2	78.7	16.4	4.9
Federal employers' liability	192	18.2	20.1	75.5	21.9	2.6
Marine	260	18.7	21.8	69.2	26.5	4.2
Motor vehicle	625	15.9	17.7	78.4	20.3	1.3
Medical malpractice	283	22.0	25.3	55.1	38.2	6.7
Product liability	527	22.2	25.7	55.6	37.8	6.6
Airplane	10	33.8	30.8	30.0	60.0	10.0
Marine	7	23.2	33.6	57.1	28.6	14.3
Motor vehicle	67	22.5	24.9	55.2	40.3	4.5
Asbestos	7	15.8	23.6	71.4	14.3	14.3
Other	436	22.1	25.6	56.0	37.4	6.7
Other personal injury	1,099	17.1	20.8	72.7	21.9	5.4
Property damage						
Fraud	80	20.4	26.0	61.3%	26.3%	12.5%
Truth-in-lending	7	15.8	15.2	100.0	--	--
Product liability	61	22.8	26.6	55.7	34.4	9.8
Other property damage	108	20.9	23.7	58.3	37.0	4.6

Note: Case processing time for cases appealed was not included in the analysis for this table.

--None recorded.

Source: Federal Judicial Center, Integrated Data Base (Civil), fiscal years 1994-95.

Definitions

After court trial: The action was disposed of after the completion of a trial before a judge or magistrate.

After jury trial: The action was disposed of after the completion of a trial before a jury.

Procedural progress at termination: Indicates the point to which the action had progressed when it was disposed of. When used as part of these definitions, a trial is defined as "a contested proceeding where evidence is introduced." A trial is considered completed when a verdict is returned by a jury or a decision is rendered by the court.

Tort: A civil wrong or breach of a duty to another person, as outlined by law. A very common tort is negligent operation of a motor vehicle that results in property damage and personal injury in an automobile accident.

U.S. Government defendant:

Actions against agencies and officers of the United States.

U.S. Government plaintiff: Actions by agencies and officers of the United States.

Federal question cases involve the interpretation and application of the U.S. Constitution, acts of Congress, and treaties.

Diversity of Citizenship cases involve actions in which the amount in controversy exceeds \$50,000 between citizens or corporations of different States; citizens or corporations of a State and citizens or subjects of a foreign country; citizens or corporations of different States where citizens or subjects of a foreign country are additional parties; or a foreign state as defined in Title 28 U.S.C. § 1603(a), as plaintiff, and citizens of a State or different States.

Local question: Actions involving non-Federal civil procedures based on local civil law in territorial districts.

Source: "Statistics Manual — Chapter V: Instructions for Completing District Court Report Forms." *Guide to Judiciary Policies and Procedures Volume XI*, published and distributed by the Administrative Office of the U.S. Courts.

Source: "Glossary of Terms Used in the Federal Courts," prepared by the Administrative Office of the U.S. Courts.

Examples of U.S. civil statutes under which a suit is filed

Other personal injury: Consumer Products Safety Act: Personal Injury; Flammable Fabrics Act (if personal injury); Industrial Accident Board (workman's compensation); Oil Pollution Act 33:431-437, 1001-1015.

Assault, libel, and slander: Consumer Credit Protection Act: Bad Credit Reporting; Wiretap 47:605.

Marine: Jones Act (Merchant Marine) 46:688; Longshoremen's and Harbor Worker's Compensation Act 33:901-950; Outer Continental Shelf Lands Act, Personal Injury; Public Vessels Act 46:781-790.

Medical malpractice: Medicare Act 42:1395.

Other fraud: Anti-Kickback Act; Consumer Credit Protection Act: Interest Rates 15:1600; Fair Credit Reporting Act 15:1681; False Claims Act 31:231; Federal Odometer Disclosure Act 49:404, 408b; Franking Mail Privilege; Interstate Land Sales Full Disclosure Act 15:1701; Motor Vehicle Information and Cost Savings Act: Odometer Fraud.

Other personal property damage: Limitation of Liability (Exoneration from) 46:189-196; Limited Liability Acts (Shipping) 46:182-196.

Source: Civil Codebook for data set ICPSR 8429.

The primary source of data for tables presented in this report is the Federal Judicial Center's Integrated Data Base (Civil). The Center derives the data for the Integrated Data Base (Civil, Criminal, and Appeals) from files provided by the Administrative Office of the U.S. Courts (AOUSC). The AOUSC data are based on information received from the U.S. district courts regarding the filing and termination of cases and appeals in the Federal courts. The Integrated Data Base is archived at the Inter-University Consortium for Political and Social Research (ICPSR) as "Federal Court Cases: Integrated Data Base" (Study #8429). Data can be obtained from the ICPSR through 1-800-999-0960 or <http://www.icpsr.umich.edu>.

David Rauma, Ph.D., and George Cort of the Federal Judicial Center provided the data to BJS for

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 data sets that cover many topics.

Andrew H. Press and Carol J. DeFrances wrote this report. Greg W. Steadman provided statistical review. Special thanks go to Patricia Lombard, Senior Researcher of the Federal Judicial Center, for providing data assistance; Jeffrey Axelrad, Director of Federal Tort Claims Acts, Civil Division, for providing Federal tort cases; and Professor Kevin M. Clermont, Cornell Law School, for providing statistical assistance and comments. Tom Hester and Tina Dorsey edited the report. Marilyn Marbrook, assisted by Yvonne Boston, administered final production.

December 1997, NCJ-165810

Data can be obtained from the National Archive of Criminal Justice Data at the University of Michigan, 1-800-999-0960. The report, data, and supporting documentation are also available on the Internet: <http://www.ojp.usdoj.gov/bjs/>

The archive may be accessed through the BJS Web site. When at the archive site, search for data set ICPSR 8429.