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## Contract Bench and Jury Trials in State Courts, 2005

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In 2005, state courts of general jurisdiction disposed of approximately 26,950 tort, contract, and real property cases by bench or jury trial. Contract cases (8,917) accounted for about a third of all disposed trial cases.

This report provides an in-depth examination of contract cases decided by a judge or jury in 2005. Contract disputes involve fraud, employment discrimination or dispute, tortious interference, or allegations of unfulfilled agreements between buyers and sellers, lenders and borrowers, or landlords and tenants.

This report is the second in a series based on analysis of data collected from the 2005 Civil Justice Survey of State Courts (CJSSC). The first report in the series, *Civil Bench and Jury Trials in State Courts, 2005* (NCJ 223851), provides a general overview of tort, contract, and real property cases decided by a bench or jury trial. The CJSSC excluded civil cases that did not go to trial, trials in federal courts, and trials in state courts of limited jurisdiction.

The 2005 CJSSC marked the first time that the collection examined general civil trials concluded in a nationally representative sample of urban, suburban, and rural jurisdictions. The prior data collections in 1992, 1996, and 2001 had focused on general civil trial litigation in the nation's 75 most populous counties.

### Highlights

- 64% of contract cases in general jurisdiction courts were decided by a judge, and 36% were heard by a jury.
- Contract trials in the 75 most populous counties declined by more than a quarter from 1996 to 2005.
- Nearly two-thirds of contract trials in 2005 were seller plaintiff (32%) or buyer plaintiff (29%) cases.
- Contract trials in 2005 most commonly involved an individual suing a business (33%), followed by a business suing another business (25%).
- Plaintiffs won in 66% of contract trials. Plaintiffs had higher win rates in mortgage foreclosure, seller plaintiff, and partnership dispute cases (figure 1).
- The median damage award for plaintiff winners in contract trials was \$35,000. Juries awarded a median of \$75,000 and judges a median of \$25,000 in final award amounts.

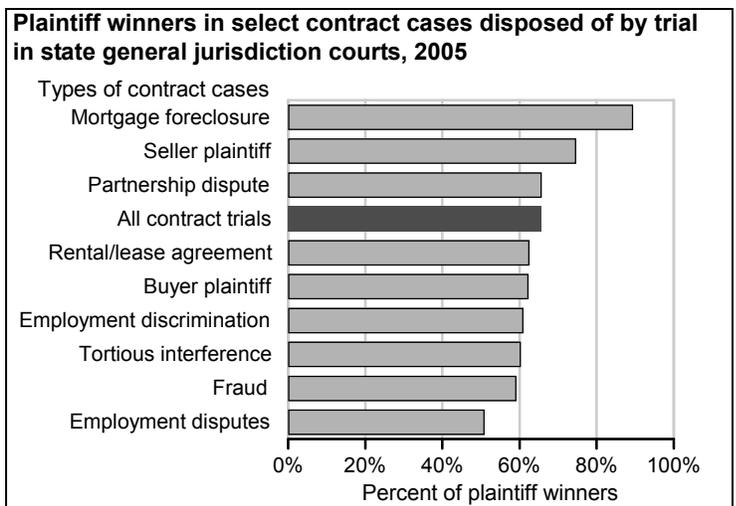


Figure 1

## In the 75 most populous counties, contract trials declined by a quarter between 1996 and 2005

Prior to the 2005 CJSSC, Bureau of Justice Statistics (BJS) funded three surveys that examined general civil trial litigation in the nation's 75 most populous counties in 1992, 1996, and 2001.<sup>1</sup> The 2005 study collected data from a nationally representative sample of courts.

All trend analyses in this report are based solely on the subset of 2005 civil trial litigation data that were collected in the nation's 75 most populous counties. Limiting analysis to data collected in the 75 most populous counties renders the data comparable to previous collections.

<sup>1</sup>See *Civil Jury Cases and Verdicts in Large Counties, 1992* (NCJ 154346), *Civil Trial Cases and Verdicts in Large Counties, 1996* (NCJ 173426), and *Civil Trial Cases and Verdicts in Large Counties, 2001* (NCJ 202803) at <<http://www.ojpdj.gov/bjs/civil/htm>>.

Characteristics	1996	2005	Percent change 1996-2005
<b>Number of contract trials</b>			
Total <sup>a</sup>	4,848	3,472	-28% <sup>†</sup>
Jury trials <sup>a</sup>	1,890	1,504	-20 <sup>†</sup>
Bench trials	2,958	1,968	-33 <sup>†</sup>
<b>Percentage of plaintiff winners</b>			
Total <sup>a</sup>	62.4%	62.7%	0%
Jury trials <sup>b</sup>	55.6	59.0	6 <sup>†</sup>
Bench trials	67.8	66.4	-2
<b>Median award to plaintiff winners<sup>c</sup></b>			
Total <sup>a</sup>	\$46,000	\$54,000	17% <sup>†</sup>
Jury trials <sup>b</sup>	98,000	92,000	-6
Bench trials	31,000	41,000	32 <sup>†</sup>
<b>Median case processing time</b>			
Total <sup>a</sup>	18.4mo	19.9mo	8% <sup>†</sup>
Jury trials <sup>a</sup>	22.6	22.9	1
Bench trials	16.1	17.9	11 <sup>†</sup>

Note: The 1996 civil trial survey sampled from the nation's 75 most populous counties. To allow comparability, 2005 data presented in this table include only the 75 most populous counties sample and not the entire national sample.

Data sources: *Civil Justice Survey of State Courts, 1996* (ICPSR 2883) and 2005 (ICPSR 23862). Data can be obtained from the University of Michigan Inter-University Consortium for Political and Social Research (ICPSR).

<sup>†</sup>Difference is significant at the 95% confidence level.

<sup>a</sup>Includes trials with a directed verdict or judgment notwithstanding the verdict and jury trials for defaulted defendants.

<sup>b</sup>Excludes jury trials that concluded with a directed verdict or judgment notwithstanding the verdict and jury trials for defaulted defendants.

<sup>c</sup>Includes punitive and compensatory damages. Award amounts are rounded to the nearest thousand dollars and adjusted for inflation.

The number of contract cases concluded in state courts in the nation's 75 most populous counties declined by over a quarter (28%) between 1996 and 2005 (table 1). Between 1996 and 2005, the number of bench trials declined at a greater rate (33%) than the number of jury (20%) trials.

## Seller plaintiff and buyer plaintiff cases accounted for 61% of contract trials in 2005

In 2005, 6 out of 10 (61%) contract trials disposed in state courts of general jurisdiction were either seller plaintiff cases involving payments owed for the provision of goods or services (32%) or buyer plaintiff cases in which the buyer of goods or services sought the return of money (29%) (table 2). Another 13% involved fraud. Subrogation, partnership dispute, and tortious interference cases were the least common contract case types. Similar patterns were found when examining the frequency of contract case types among the nation's 75 most populous counties in 2001, 1996, and 1992.

Mortgage foreclosure (96%), subrogation (93%), seller plaintiff (83%), and rental/lease agreement (81%) issues were most likely to be heard in a bench trial. The majority of cases were decided by a jury in employment discrimination (91%), tortious interference (62%), and other employment disputes (62%).

## Individuals comprised the majority of plaintiffs in contract trials, businesses the majority of defendants

Contract trials most commonly involved an individual suing a business (33%) or a business suing another business (25%) in 2005. Twenty percent of cases involved an individual suing another individual, and 17% involved a business suing an individual. In 1% of all contract trials, a government entity initiated the lawsuit (not shown in a table).

**Table 2. Contract trials disposed of in state courts, by case type, 2005**

Case type	All contract trials		Type of trial		
	Number	Percent of total trials	Total	Jury <sup>a</sup>	Bench
<b>Total</b>	8,917	100%	100%	36.0%	64.0%
Seller plaintiff	2,883	32.3%	100%	16.6%	83.4%
Buyer plaintiff	2,591	29.1	100%	44.1	55.9
Fraud	1,113	12.5	100%	50.1	49.9
Rental/lease	606	6.8	100%	19.3	80.7
Other employment dispute <sup>b</sup>	558	6.3	100%	62.9	37.1
Employment discrimination	319	3.6	100%	91.2	8.8
Mortgage foreclosure	249	2.8	100%	3.6	96.4
Other or unknown contract	245	2.7	100%	52.2	47.8
Tortious interference	152	1.7	100%	61.8	38.2
Partnership dispute	120	1.3	100%	32.5	67.5
Subrogation	81	0.9	100%	7.4	92.6

Note: Data for trial and case type were available for 100% of the 8,917 contract trials. Detail may not sum to total because of rounding.

<sup>a</sup>Includes trials with a directed verdict or judgment notwithstanding the verdict and jury trials for defaulted defendants.

<sup>b</sup>Excludes discrimination claims against employers.

During 2005, individuals accounted for 55% of plaintiffs in contract trials (table 3). Nearly all other contract case plaintiffs were businesses (43%); governments and hospitals together accounted for 2% of all plaintiffs. Individuals were most likely to be plaintiffs in employment discrimination (98%), partnership dispute (77%), and buyer plaintiff (74%) cases. By contrast, businesses were the majority of plaintiffs in subrogation (98%), mortgage foreclosure (77%), seller plaintiff (68%), and tortious interference (60%) cases.

Businesses comprised the majority of defendants (58%) in contract trials during 2005. In buyer plaintiff cases 8 out of 10 (81%) defendants were businesses. Nearly two-thirds (64%) of defendants in mortgage foreclosure cases were

individuals; another 18% were hospitals or medical companies. Governments were defendants in 35% of employment discrimination cases.

### Contract trial cases with business plaintiffs were more likely to be decided by a judge

Contract trials were more likely to be decided by a judge (64%) than a jury (36%) (table 4). This difference was more pronounced for certain types of litigants. Trials involving business plaintiffs were more likely to be decided by a judge (72%) than cases involving individual plaintiffs (58%). More than 8 out of 10 (87%) trials involving a business plaintiff and an individual defendant were decided by a

**Table 3. Plaintiffs and defendants in state court contract trials, by case type, 2005**

Case type	Percent of each type of plaintiff				Percent of each type of defendant			
	Individual	Government <sup>a</sup>	Business <sup>b</sup>	Hospital <sup>c</sup>	Individual	Government <sup>a</sup>	Business <sup>b</sup>	Hospital <sup>c</sup>
<b>Total<sup>d</sup></b>	55.0%	1.3%	43.3%	0.3%	36.9%	2.7%	58.4%	1.9%
Fraud	70.0%	3.8%	25.8%	0.4%	34.9%	0.8%	64.2%	0.1%
Seller plaintiff	30.1	2.0	67.6	0.3	55.1	0.9	43.9	0.2
Buyer plaintiff	73.7	0.2	25.9	0.2	19.3	0.0	80.6	0.0
Mortgage foreclosure	22.9	0.0	77.1	0.0	64.0	8.4	9.6	18.0
Employment discrimination	98.1	1.6	0.3	0.0	0.6	35.4	59.9	4.1
Other employment dispute <sup>e</sup>	74.2	0.5	25.3	0.0	23.0	8.1	58.3	10.6
Rental/lease	49.3	1.0	49.6	0.2	47.2	0.8	44.6	7.4
Tortious interference	35.5	0.7	59.9	3.9	32.0	4.6	61.4	2.0
Partnership dispute	77.3	0.0	22.7	0.0	44.5	0.0	55.5	0.0
Subrogation	2.5	0.0	97.5	0.0	58.5	17.1	24.4	0.0
Other or unknown contract	48.2	0.0	50.6	1.2	37.4	1.2	61.4	0.0

Note: For cases that involve multiple plaintiff or defendant types, cases are categorized using the following hierarchy: (1) hospital/medical company, (2) government agency, (3) business, and (4) individual. For example, any case involving a hospital defendant is categorized as a hospital case even if there were also business, individual, or government defendants in the case. Data on plaintiff type were available for 99.7% of contract trials. Data on defendant type were available for 99.8% of contract trials. Detail may not sum to total because of rounding.

<sup>a</sup>Includes law enforcement and other governmental agencies.

<sup>b</sup>Includes insurance companies and banks.

<sup>c</sup>Includes medical companies.

<sup>d</sup>Includes bench and jury trials, trials with a directed verdict or judgment notwithstanding the verdict, and jury trials for defaulted defendants.

<sup>e</sup>Excludes discrimination claims against employers.

**Table 4. Contract jury and bench trials in state courts, by primary litigant pairings, 2005**

Plaintiff versus primary defendant	All contract trials Number of trials	Type of trial		
		Total	Jury <sup>a</sup>	Bench
<b>Total</b>	8,888	100%	36.0%	64.0%
Individual plaintiff—	4,891	100%	42.0%	58.0%
v. individual defendant	1,693	100	21.7	78.3
v. business defendant	2,910	100	50.8	49.2
v. other defendant <sup>b</sup>	288	100	71.5	28.5
Business plaintiff—	3,850	100%	28.5%	71.5%
v. individual defendant	1,476	100	13.3	86.7
v. business defendant	2,251	100	39.2	60.8
v. other defendant <sup>b</sup>	123	100	16.3	83.7
Other pairings <sup>c</sup>	147	100%	39.5%	60.5%

Note: For cases that involve multiple plaintiff or defendant types, cases are categorized using the following hierarchy: (1) hospital/medical company, (2) government agency, (3) business, and (4) individual. For example, any case involving a hospital defendant is categorized as a hospital case even if there were also business, individual, or government defendants in the case. Data on litigant pairings were available for 99.7% of all trials. Detail may not sum to total because of rounding.

<sup>a</sup>Includes bench and jury trials, trials with a directed verdict or judgment notwithstanding the verdict, and jury trials for defaulted defendants.

<sup>b</sup>Includes cases involving governmental agency or hospital defendants.

<sup>c</sup>Includes cases involving governmental agency or hospital plaintiffs.

judge. Jury trials accounted for half (51%) of all cases involving individual plaintiffs and business defendants.

### Approximately 1 out of 10 defendants appeared without legal representation in contract trials

In civil trials, unlike criminal matters, litigants generally do not have a right to legal representation. One or both parties appeared without legal representation in 13% of contract trials in 2005 (table 5). Defendants (10%) were more likely than plaintiffs (3%) to appear without legal representation. Defendants most often appeared without legal representation in mortgage foreclosure (22%) and seller plaintiff (20%) cases. Plaintiffs were most often unrepresented in tortious interference cases (10%).

### Plaintiffs won 2 out of 3 contract trials

Plaintiffs won in 66% of contract trials in 2005 (table 6). Overall plaintiff win rates were highest in mortgage foreclosure (89%) and seller plaintiff (75%) cases. Subrogation (28%) was the only category of contract cases in which less than a majority of plaintiffs prevailed in 2005. Plaintiffs were more likely to prevail in contract trials decided by a judge (69%) than a jury (62%). Plaintiffs had higher win rates in mortgage foreclosure and seller plaintiff cases decided by the bench. Fraud, partnership disputes, employment discrimination, other employment disputes, and other or unknown contract cases had higher win rates when decided by a jury.

**Table 5. Unrepresented plaintiffs and defendants in state court contract trials, by case type, 2005**

Case type	Percent of contract trials with—		
	One or both parties unrepresented	Plaintiff unrepresented	Defendant unrepresented
<b>Total</b>	12.8%	3.3%	10.2%
Seller plaintiff	23.4%	4.4%	20.2%
Mortgage foreclosure	22.3	0.4	21.9
Rental/lease	13.9	3.1	12.3
Tortious interference	13.8	10.1	3.4
Other or unknown contract	11.5	1.2	10.3
Other employment dispute*	8.2	6.1	2.2
Subrogation	7.4	0.0	7.4
Fraud	6.3	2.2	5.4
Buyer plaintiff	5.5	2.5	3.3
Partnership dispute	5.1	2.5	5.1
Employment discrimination	1.6	0.9	0.3

Note: Data for legal representation status available for 97.3% of defendants and 99.3% of plaintiffs.

\*Excludes discrimination claims against employers.

**Table 6. Winning plaintiffs in state court contract trials, by case type, 2005**

Case type	All contract trials <sup>a</sup>		Jury trials <sup>b</sup>		Bench trials	
	Number	Plaintiff winners <sup>c</sup>	Number	Plaintiff winners <sup>c</sup>	Number	Plaintiff winners <sup>c</sup>
<b>Total</b>	8,018	65.6%	2,848	61.9%	5,039	68.5%
Mortgage foreclosure	245	89.4%	6	**%	236	91.1%
Seller plaintiff	2,610	74.6	425	60.5	2,165	77.4
Partnership dispute	102	65.7	32	81.3	69	59.4
Rental/lease	531	62.5	109	61.5	420	63.1
Buyer plaintiff	2,252	62.3	989	57.2	1,214	68.6
Employment discrimination	307	60.9	274	64.6	28	35.7
Tortious interference	146	60.3	85	62.4	55	58.2
Other or unknown contract	214	59.3	99	80.8	113	41.6
Fraud	1,041	59.1	513	67.4	505	50.3
Other employment dispute <sup>d</sup>	519	50.9	312	60.3	188	37.8
Subrogation	51	27.5	4	**	46	23.9

Note: Data on plaintiff award winners were available for 99.4% of all contract trials. Detail may not sum to total because of rounding.

\*\*Too few cases to obtain statistically reliable data.

<sup>a</sup>Includes bench and jury trials, trials with a directed verdict or judgment notwithstanding the verdict, and jury trials for defaulted defendants.

<sup>b</sup>Excludes jury trials with a directed verdict or judgment notwithstanding the verdict and jury trials for defaulted defendants.

<sup>c</sup>Excludes bifurcated trials where the plaintiff litigated only the damage claim.

<sup>d</sup>Excludes discrimination claims against employers.

Both individual and business plaintiffs won about 2 out of 3 contract trials brought against business defendants (text table 1). Business plaintiffs were more likely than individual plaintiffs to win against individual defendants and government defendants.

**Text table 1. Winning plaintiffs in state court contract trials by selected litigant pairings**

Total	All contract trials	
	Number of trials	Percent plaintiff winner
<b>Individual v.—</b>		
Individual	1,561	57.2%
Government	156	52.6
Business	2,562	64.2
Hospital	119	70.6
<b>Business v.—</b>		
Individual	1,375	76.9%
Government	114	77.2
Business	1,991	65.8
Hospital	4	**

\*\*Too few cases to obtain statistically reliable data.

### Median awards to plaintiff winners were 3 times higher in jury trials than bench trials

In 2005 the median damage award for plaintiff winners in contract trials (including both compensatory and punitive damages) was \$35,000 (not shown in a table). The median award amount was greater in jury trials (\$75,000) than in bench trials (\$25,000) (table 7). Tortious interference and partnership disputes were the categories with the highest median awards for both jury and bench trials.

Buyer plaintiff and seller plaintiff cases accounted for nearly two-thirds (65%) of all contract cases with plaintiff award winners in 2005. Median awards in buyer plaintiff and seller plaintiff cases were under \$75,000 in jury trials and under \$30,000 in bench trials.

Eight percent of plaintiff winners in contract jury trials received awards of \$1 million or more; 1% of plaintiff winners in contract bench trials received at least \$1 million. Such high award amounts were particularly likely to occur

**Table 7. Final award amounts in state court contract bench and jury trials with plaintiff winners, by case type, 2005**

Case type	Number of trials with plaintiff winner receiving an award <sup>a</sup>	Median <sup>b</sup>	Percent of plaintiff winners with final awards		
			Less than \$10,000	Over \$250,000	\$1 million or more
<b>Jury trials<sup>c</sup></b>	1,815	\$75,000	10.4%	23.6%	8.2%
Fraud	361	\$93,000	8.3%	33.5%	11.5%
Seller plaintiff	273	69,000	3.7	14.2	5.4
Buyer plaintiff	579	38,000	15.9	16.3	4.5
Mortgage foreclosure	1	498,000 <sup>d</sup>	**	**	**
Employment discrimination	172	178,000	2.6	18.8	4.6
Other employment dispute <sup>e</sup>	184	74,000	3.3	27.6	8.6
Rental/lease	69	12,000	30.8	12.4	1.8
Tortious interference	54	510,000	3.7	63.9	30.9
Partnership dispute	30	354,000	10.0	53.3	10.8
Subrogation	4	14,000	**	**	**
Other or unknown contract	88	64,000	21.4	34.9	24.3
<b>Bench trials</b>	3,843	\$25,000	28.5%	7.1%	1.0%
Fraud	285	\$48,000	23.5%	17.2%	2.7%
Seller plaintiff	1,878	24,000	26.1	5.3	1.0
Buyer plaintiff	966	12,000	45.1	6.7	0.6
Mortgage foreclosure	218	78,000	1.5	11.3	1.3
Employment discrimination	10	99,000	12.3	22.2	0.0
Other employment dispute <sup>e</sup>	90	29,000	18.3	1.1	0.0
Rental/lease	223	39,000	24.2	7.3	0.6
Tortious interference	34	107,000	14.7	15.4	2.9
Partnership dispute	52	108,000	6.3	12.0	1.9
Subrogation	40	35,000	22.5	0.0	0.0
Other or unknown contract	47	30,000	21.2	14.7	2.1

Note: Data were available for 100% of jury and bench contract trials.

\*\*Too few cases to obtain statistically reliable data.

<sup>a</sup>Excludes bifurcated trials in which the plaintiff won on the liability claim only. Also excludes plaintiff winners who receive no award because of award reductions, jury trials with a directed verdict or judgment notwithstanding the verdict, and jury trials for defaulted defendants.

<sup>b</sup>Award data rounded to the nearest thousand. Median amounts calculated for compensatory plus punitive damages awards, after adjustment for contributory negligence, prior settlement, high/low agreements and damage caps but prior to post-trial activity and appeals.

<sup>c</sup>Excludes jury trials with a directed verdict or judgment notwithstanding the verdict and jury trials for defaulted defendants.

<sup>d</sup>Amount shown is the actual (not median) award.

<sup>e</sup>Excludes discrimination claims against employers.

in tortious interference and other or unknown contract cases decided by a jury. At the lower end of award classifications, 29% of plaintiffs in contract bench trials were awarded less than \$10,000, as were 1 out of 10 plaintiffs in contract jury trials. Rental/lease cases decided by a jury and buyer plaintiff cases decided by a judge were particularly likely to have awards at the lower end of the spectrum.

In general, cases brought against business defendants featured higher awards than cases brought against individual defendants (table 8). The highest median awards were in cases in which businesses brought suit against other businesses. Cases involving two individual parties had the lowest median awards.

Median awards for plaintiff winners in the 75 most populous counties increased by 17% between 1996 and 2005. This growth was driven by a roughly 30% increase in awards in bench trials between 1996 and 2005. By contrast, the median jury trial award declined by 6% during this 10-year period.

### Punitive damages were awarded to 8% of plaintiff winners in contract trials

Punitive damages, which are awarded to punish the defendant and deter similar behavior in the future, were sought in 17% of the estimated 5,658 contract cases with plaintiff winners in 2005 (not shown in a table). Punitive damages were awarded to winning plaintiffs in 8% of contract cases with plaintiff winners, with fraud and buyer plaintiff cases accounting for 65% of all cases in which punitive damages were awarded (table 9). The median punitive damage award was \$69,000. Punitive damage amounts awarded to plaintiff winners were greater in jury trials (median award of \$100,000) than in bench trials (median award of \$25,000) (not shown in a table).

The percentage of cases in which punitive damages were awarded to plaintiff winners was no greater in 2005 than in 1996.

**Table 8. Final awards to plaintiff winners of state court contract trials, by case type and litigant pairing, 2005**

Case type	Litigant pairing									
	All contract trials		Individual v. individual		Individual v. business		Business v. individual		Business v. business	
	Number	Median award	Number	Median award	Number	Median award	Number	Median award	Number	Median award
<b>Total</b>	5,715	\$35,000	984	\$20,000	1,770	\$36,000	1,134	\$21,000	1,475	\$61,000
Fraud	660	\$75,000	184	\$26,000	260	\$81,000	27	\$148,000	142	\$160,000
Seller plaintiff	2,177	27,000	398	22,000	159	103,000	745	19,000	777	40,000
Buyer plaintiff	1,549	17,000	203	12,000	995	17,000	54	7,000	288	39,000
Mortgage foreclosure	222	78,000	34	39,000	3	798,000	105	75,000	15	238,000
Employment discrimination	183	175,000	1	54,000 <sup>a</sup>	113	115,000	0	0	1	1,275,000 <sup>a</sup>
Other employment dispute <sup>b</sup>	282	45,000	20	29,000	112	74,000	76	45,000	23	318,000
Rental/lease	293	35,000	80	10,000	23	38,000	57	31,000	127	99,000
Tortious interference	90	169,000	6	10,000	26	92,000	19	169,000	35	689,000
Partnership dispute	82	120,000	17	43,000	44	129,000	4	14,000	18	108,000
Subrogation	44	30,000	0	0	1	22,000 <sup>a</sup>	42	30,000	1	66,000 <sup>a</sup>
Other or unknown contract	134	30,000	42	15,000	34	28,000	7	17,000	47	175,000

Note: Data were available for 100% of contract trials. Award amounts for trials involving governments or hospitals as a plaintiff or defendant are not presented in the table but are included in the calculation of award amounts for all contract cases. Award data are rounded to the nearest thousand. Median amounts are calculated for compensatory plus punitive damages awards, after adjustment for contributory negligence, prior settlement, high/low agreements, and damage caps but prior to post-trial activity and appeals.

<sup>a</sup>Amount shown is the actual (not median) award.

<sup>b</sup>Excludes discrimination claims against employers.

**Punitive damage awards were greater than compensatory damages in 62% of the cases in which punitive damages were awarded**

In a series of cases since 1996, the United States Supreme Court has examined what comprises a constitutionally acceptable ratio between plaintiff punitive and compensatory damage amounts. In 2003, the Supreme Court ruled that “few awards exceeding a single-digit ration between punitive and compensatory damages ... will satisfy due process.”<sup>2</sup>

Among the 446 contract cases in 2005 in which punitive damages were awarded, the median ratio between punitive and compensatory damages was 1.45. That is, the median punitive damage award was 45% greater than the compensatory damage award (not shown in a table). In 62% of cases where punitive and compensatory damages were awarded, punitive damages were greater than compensatory damages; in about a third (36%), punitive damages were at least 4 times greater than compensatory damages (table 9).

<sup>2</sup>State Farm Automobile Insurance Company v. Campbell (123 S.Ct. 1513, April 7, 2003).

**Jury trials lasted longer than bench trials**

In 2005 the median length of jury trials for contract cases was 3 days; the median length of bench trials was 1 day (not shown in a table). The median overall case processing time—from the filing of the case until final disposition—was about 23 months for jury trials and 17 months for bench trials. Case processing time has not changed much among the 75 most populous counties from 1996 to 2005, although case processing time did increase by 11% in contract bench trials.

**Motions for new trials were the most common form of post-trial relief sought among parties that did not prevail at trial**

After a verdict or judgment is rendered, litigants generally have a right to petition the court for post-trial relief. Common forms of post-trial relief include petitions to set aside the verdict or judgment in favor of a new trial, modify the award amounts, or overrule the jury’s decision through a judgment notwithstanding the verdict (JNOV).

**Table 9. Award amounts for plaintiffs awarded punitive damages in state court contract trials, by case type, 2005**

Case type	Number of trials	Median damage awards			Percent of trials with punitive damage awards—		
		Total award	Punitive damages	Compensatory damages	Greater than compensatory damages	At least 2 times greater than compensatory damages	At least 4 times greater than compensatory damages
<b>Total</b>	446	\$128,000	\$69,000	\$34,000	61.6%	48.1%	36.2%
Fraud	151	\$193,000	\$100,000	\$25,000	50.6%	46.8%	42.9%
Seller plaintiff	14	211,000	86,000	73,000	38.5	23.8	9.2
Buyer plaintiff	138	101,000	53,000	34,000	63.9	43.7	22.1
Employment-discrimination	10	977,000	115,000	363,000	39.8	12.0	12.0
Other employment dispute <sup>a</sup>	86	45,000	10,000	0	73.7	65.4 <sup>c</sup>	60.7 <sup>c</sup>
Rental/lease agreement	6	101,000	90,000	10,000	100.0	78.3	78.3
Tortious interference	18	9,048,000	6,888,000	2,263,000	59.5	59.5	5.7
Partnership dispute	3	275,000	147,000	232,000	66.7	66.7	33.3
Subrogation	1	22,000 <sup>b</sup>	13,000 <sup>b</sup>	9,000 <sup>b</sup>	100.0	0.0	0.0
Other or unknown contract	20	42,300,000	28,200,000	14,100,000	93.6	30.0	24.9

Note: Data for final award amounts were available for 100% of the plaintiff winner trials in which punitive damages were awarded. Punitive and compensatory damage data will not sum to total because costs, fees, and interest have been excluded. Award amounts have been rounded to the nearest thousand. Compensatory and total award damages do not include post-trial activities or appeals. Total award damage amounts include adjustments for contributory negligence, damage caps, high/low agreements, and prior settlements. Compensatory amounts are adjusted to reflect award amounts after any counterclaim damage awards have been subtracted. There were no cases in which punitive damages were awarded in mortgage foreclosure cases.

<sup>a</sup>Excludes discrimination claims against employers.

<sup>b</sup>Amount shown is the actual (not median) award.

<sup>c</sup>No compensatory damage award was granted in 50 of the 86 employment/other trials (although punitive damages were awarded). These 50 trials were counted as having punitive damages multiple times greater than compensatory damages for purposes of calculating the percentage of other employment cases (not related to discrimination) in which punitive damages are at least 2 times and 4 times greater than compensatory damages.

In 2005 the plaintiff or defendant sought post-trial relief in approximately a quarter (26%) of all cases (not shown in a table). In cases with plaintiff winners, defendants filed motions for at least one form of post-trial relief in 23% of cases; plaintiffs filed in 10% of cases (table 10). In cases with defendant winners, the plaintiff sought post-trial relief in 20% of cases, and defendants sought relief in 5% of cases.

A new trial was the most common form of post-trial relief sought among losing parties. Defendants sought new trials in 55% of cases in which the plaintiff won and the defendant sought some form of post-trial relief. Plaintiffs sought new trials in 65% of cases in which the defendant won and the plaintiff sought some form of post-trial relief. In half of cases where plaintiffs prevailed, they filed motions seeking to increase the award amount. In a quarter of cases where plaintiffs prevailed, defendants filed motions to decrease the award amount.

### Winning parties were granted post-trial relief in a higher percentage of trials than were losing parties

Plaintiffs were granted some form of post-trial relief in 45% of the cases in which they prevailed at trial and also sought post-trial relief (table 11).<sup>3</sup>

Defendants were granted relief in 60% of cases in which defendants prevailed at trial and sought relief. Parties that did not prevail at trial were granted post-trial relief in a smaller percentage of those cases in which they sought relief.

<sup>3</sup>Parties may seek more than one type of post-trial relief. Litigants who were granted any form of relief in a case were not necessarily granted all forms of relief that they sought.

**Table 10. Post-verdict relief sought by plaintiffs or defendants in state court contract trials, by winners, 2005**

Post-verdict relief sought by—	Contract trials in which post-verdict relief was sought		Percent of trials in which litigants sought post-verdict relief <sup>a</sup>				
	Number	Percent of all trials	JNOV <sup>b</sup>	New trial	Award modification		Other relief <sup>c</sup>
					Increase	Decrease	
<b>Trials in which plaintiffs prevailed</b>							
Plaintiffs	591	10.0%	9.4%	17.1%	50.0%	0.7%	41.0%
Defendants	1,341	22.6	42.3	54.7	0.6	24.5	25.5
<b>Trials in which defendants prevailed</b>							
Plaintiffs	582	19.9%	39.7%	64.9%	13.2%	2.7%	15.7%
Defendants	152	5.2	7.8	12.5	14.1	9.7	66.1

Note: Post-verdict motions filed by plaintiffs or defendants include motions for judgments notwithstanding the verdict (jury trials only), new trials, award modifications, and other forms of relief. Data for post-verdict relief sought were available for 100% of contract trials.

<sup>a</sup>The type of post-verdict relief sought will not sum to 100% because the post-verdict relief categories are not mutually exclusive.

<sup>b</sup>Judgment notwithstanding the verdict. JNOV relief can be sought in jury trials only. Jury trials constituted 64.0% of the 591 cases in which the plaintiff prevailed and the plaintiff sought relief, 60.3% of the 1,341 cases in which the plaintiff prevailed and the defendant sought relief, 63.7% of the 582 cases in which the defendant prevailed and the plaintiff sought relief, and 70.7% of the 152 cases in which the defendant prevailed and the defendant sought relief.

<sup>c</sup>Other forms of relief include motions to correct errors that occurred in the trial, to modify court costs and fees or tax court costs, or to amend judicial decisions in bench trials.

**Table 11. Post-verdict relief granted to plaintiffs or defendants in state court contract trials, by winners, 2005**

	Number of trials	Percent of trials in which any relief was sought and any relief was granted <sup>b</sup>	When litigants sought and were granted relief percent of contract trials in which litigants received— <sup>a</sup>				
			JNOV <sup>c</sup>	New trial	Award modification		Other relief <sup>d</sup>
					Increase	Decrease	
<b>Trials in which plaintiffs prevailed</b>							
Plaintiffs	265	44.8%	1.4%	4.8%	34.5%	0.5%	72.8%
Defendants	206	15.4	22.1	0.0	0.0	37.8	37.0
<b>Trials in which defendants prevailed</b>							
Plaintiffs	104	17.9%	25.8%	5.7%	46.6%	4.3%	24.3%
Defendants	90	59.5	4.3	0.0	9.7	0.0	88.3

Note: Post-verdict motions filed by plaintiffs or defendants include motions for judgments notwithstanding the verdict (jury trials only), new trials, award modifications, and other relief.

<sup>a</sup>The type of post-verdict relief granted will not sum to 100% because the post-verdict relief categories are not mutually exclusive.

<sup>b</sup>Data on the granting of post-verdict relief were available for 100% of trials.

<sup>c</sup>Judgment notwithstanding the verdict. A JNOV may be granted in a jury trial only.

<sup>d</sup>Other forms of relief include motions to correct errors that occurred in the trial, to modify court costs and fees or tax court costs, or to amend judicial decisions in bench trials.

## Litigants filed notices of appeal in nearly 1 out of 4 contract trials

A notice of appeal is a document litigants are required to file with the trial court in order to petition an appellate court to overturn or modify the trial court's verdict or judgment. Plaintiffs or defendants filed notices of appeal in 22% of contract trials concluded in 2005 (not shown in a table).

Both plaintiffs and defendants filed notices of appeal in about 1 out of 5 contract trials in which they did not prevail (table 12). Defendants were most likely to file notices of appeal when they did not prevail in a partnership dispute or employment dispute not related to discrimination. Plaintiffs were most likely to file notices of appeal in tortious interference and other contract cases with defendant winners.

**Table 12. State court contract trials in which plaintiff or defendant gave notice of appeal, by case type, 2005**

Case type	Contract trials with plaintiff winners			Contract trials with defendant winners		
	Number	Percent of trials appealed by—		Number	Percent of trials appealed by—	
		Plaintiff	Defendant		Plaintiff	Defendant
<b>Total<sup>a</sup></b>	5,932	5.3%	18.2%	2,918	21.5%	2.6%
Fraud	668	3.4%	21.6%	442	24.1%	4.2%
Seller plaintiff	2,194	3.1	15.5	685	20.3	1.0
Buyer plaintiff	1,655	7.9	13.9	899	17.3	4.6
Mortgage foreclosure	223	0.9	8.5	26	15.2	0.0
Employment discrimination	190	5.9	26.2	129	21.6	0.0
Other employment dispute <sup>b</sup>	303	11.9	46.5	255	22.9	0.9
Rental/lease	342	5.1	20.2	263	28.9	2.0
Tortious interference	93	14.3	28.9	58	39.8	1.7
Partnership dispute	84	7.1	56.0	35	5.7	0.0
Subrogation	44	0.0	0.0	37	3.4	0.0
Other or unknown contract	137	5.8	10.4	89	39.2	0.0

Note: Contract trial appeals data were available for 99.5% of contract trials where the plaintiff prevailed and 100% of contract trials where the plaintiff did not prevail.

<sup>a</sup>Includes bench and jury trials, trials with a directed verdict or judgment notwithstanding the verdict, and jury trials for defaulted defendants.

<sup>b</sup>Excludes discrimination claims against employers.

## In 11 jurisdictions, 99% of contract cases were disposed without trial

Eleven of the surveyed jurisdictions were able to provide full information on all types of trial and non-trial contract dispositions in 2005. These 11 sites provided trial and non-trial information on 40,932 contract dispositions (figure 2).

Among the 11 jurisdictions that could provide complete information, the rate of cases disposed through trial was approximately 1%. Nearly half of contract cases were settled or withdrawn prior to trial.

The 11 jurisdictions able to provide complete information include the following: Orange and Santa Clara Counties and Santa Barbara, California; Fairfield and Hartford Counties and Middlesex, Connecticut; Orange Circuit Court, Indiana; Philadelphia County and Pike, Pennsylvania; and King County and Grant, Washington.

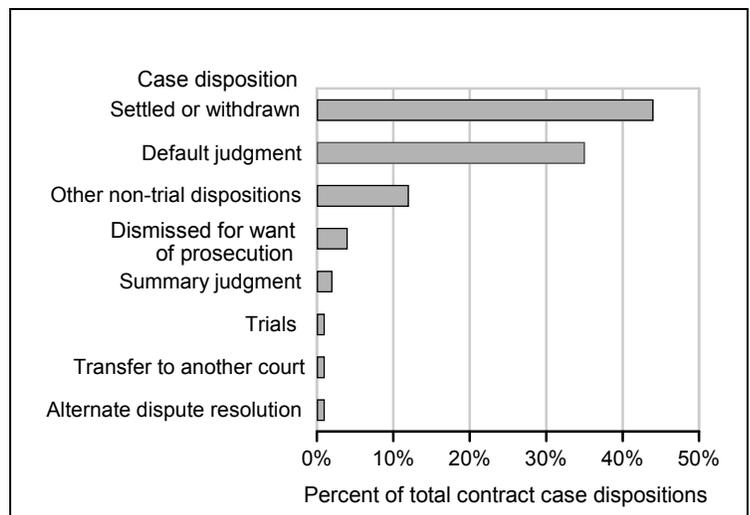


Figure 2

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## Methodology

### Sample

The sample design for the 2005 Civil Justice Survey of State Courts (CJSSC) differed somewhat from that used in previous BJS civil trial studies. Previous studies were designed so that inferences could be made about general civil trials litigated in the nation's 75 most populous counties. The 2005 study maintained the 75 most populous counties design in order to examine trends in civil trial litigation. This sample is a stratified sample with 46 of the 75 most populous counties selected.

Unlike previous studies, the 2005 CJSSC also included a second sample of non-metropolitan counties, from which to estimate civil trial litigation in counties other than the 75 most populous counties. This sample was constructed first by forming 2,518 primary sampling units (PSUs) from the 3,066 counties that are not among the nation's 75 most populous. The 2,518 PSUs were divided into 50 strata according to census region, levels of urbanization, and population size (based on the square root of the estimated 2004 population in each of the PSUs).

From the 50 strata, 100 PSUs containing 110 counties were selected. Therefore, a total of 156 counties—46 representing the nation's 75 most populous and 110 representing the remainder of the nation—were used for the sample.

The second stage of the sample design involved generating a list of cases to include in the data set. Participating jurisdictions were asked to identify cases that had been disposed of by jury or bench trial between January 1, 2005, and December 31, 2005. Trial cases were to meet the definitional criteria for jury and bench trials developed by the National Center for State Courts: A jury trial is presided over by a judge as a case is presented to a lawfully selected group of laypersons who issue a verdict for the plaintiffs or defendants. Unless otherwise noted, "jury trial" includes jury trials with a directed verdict or judgment notwithstanding the verdict (JNOV) and jury trials for defaulted defendants. A bench trial is not heard by a jury and culminates in a judge's verdict for plaintiffs or defendants.

For the sample of civil trials occurring in the nation's 75 most populous counties, data on 1,027 contract jury and 1,403 contract bench trials met the study criteria. When these trials were weighted to the nation's 75 most populous counties, they represent 3,473 general contract bench and jury trials.

For the sample of civil trials occurring outside the nation's 75 most populous counties, data on 123 contract jury trials and 256 contract bench trials met the study criteria. When these trials were weighted, they represent 5,443 contract bench and jury trials disposed of in counties outside the nation's 75 most populous counties.

For additional details about the sample design and procedures used to determine cases to include in the data set,

see *Civil Bench and Jury Trials in State Courts, 2005* (NCJ 223851) at <<http://www.ojp.usdoj.gov/bjs/civil.htm>>

### Sampling error

Since the data in this report come from a sample of civil bench and jury trials rather than the entire population of civil bench and jury trials, 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 confidence that for 95 out of 100 samples a real difference exists and that the apparent difference is not the result of measurement error associated with using the sample rather than the entire population of cases. All differences discussed in the text of this report are statistically significant at or above the 95% confidence level.

### Definitions of case types

In general, contract cases address allegations of breaches of contract. Following are definitions of terms used to describe the specific types of contract cases.

*Buyer plaintiff*—buyer claims no delivery or delivery of incomplete, incorrect, or poor quality goods or services.

*Employment discrimination*—firing, failure to promote, or failure to hire due to age, race, gender, or religion.

*Fraud*—claim of negligent or intentional misrepresentation of the nature of a person, product, or service within a legal contract.

*Mortgage foreclosure*—forced sale of commercial or residential real property due to failure to pay mortgage debt.

*Other contract claim*—any contractual dispute other than the case categories used in this study, such as stockholder claims.

*Other employment disputes*—any dispute between employer and employee not based on an allegation of discrimination.

*Partnership dispute*—dispute over a business not organized as a corporation but owned by two or more persons.

*Rental/lease agreement*—a dispute between a landlord and a tenant over the terms of a lease or rental property.

*Seller plaintiff*—any debt collection for delivery of goods or services, including lenders seeking payment of money owed by a buyer or borrowers.

*Subrogation*—a dispute arising from a contract provision giving one party (typically the insurer) the right to act on behalf of another party (typically the insured) in legal actions related to the subject of the contract.

*Tortious interference*—dispute alleging a defendant's intentional procuring of breach of a commercial or contractual relationship and damages.

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This Bulletin was written by Donald J. Farole, Jr., Ph.D., BJS statistician. The report was verified by Sean Rosenmerkel. Catherine Bird and Jill Duncan edited the report. Tina Dorsey produced the report. Jayne Robinson prepared the report for final printing.

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**Appendix table 1. Selected estimates, standard errors, and confidence intervals**

	Estimate	One standard error	95%-confidence interval	
			Lower	Upper
Estimated number of contract trials	8,917	648	7,628	10,207
Seller plaintiff	2,883	281	2,323	3,442
Buyer plaintiff	2,591	311	1,972	3,211
Fraud	1,114	91	933	1,295
Rental/lease	605	160	287	924
Other employment dispute*	558	75	409	707
Employment discrimination	319	60	199	439
Mortgage foreclosure	249	115	21	477
Other or unknown contract	245	52	142	349
Tortious interference	152	27	98	207
Partnership dispute	119	31	57	182
Subrogation	82	40	2	161
Percent decided by—				
Jury trial	36.0%	2.5%	31.0%	41.1%
Bench trial	64.0	2.5	58.9	69.0
Percent of contract trials with a plaintiff winner	65.6%	1.7%	62.3%	69.0%
Median award to plaintiff winners				
Final	\$35,177	\$3,739	\$27,919	\$42,808
Punitive	68,104	42,146	25,052	192,863
Mean award to plaintiff winners				
Final	\$451,248	\$126,918	\$198,572	\$703,923
Punitive	2,009,691	985,604	47,504	3,971,877
Median months from filing to final verdict				
Jury trial	23.1	1.2	20.5	25.1
Bench trial	17.2	0.8	15.7	18.8

Note: Standard errors were calculated using the jackknife method (JKN) generated by WESVAR PC.

\* Excludes discrimination claims against employers.

**Appendix table 2. Percentage of plaintiff winners, by sampled county, 2005**

County	All contract trials <sup>*</sup>	
	Number	Percent plaintiff winners
<i>Sample of 75 most populous counties</i>		
Fairfield, CT	32	87.5%
El Paso, TX	40	85.0
Marion, IN	48	79.2
Fulton, GA	55	78.2
Cook, IL	181	76.2
San Bernardino, CA	24	75.0
Fairfax, VA	176	73.9
Dade, FL	48	72.9
Allegheny, PA	122	72.1
Hennepin, MN	57	71.9
King, WA	79	70.9
Mecklenburg, NC	40	70.0
Franklin, OH	132	69.7
Wayne, MI	68	69.1
Philadelphia, PA	70	68.6
Fresno, CA	60	66.7
Honolulu, HI	18	66.7
Jefferson, KY	93	65.6
DuPage, IL	29	65.5
Oakland, MI	114	64.9
Palm Beach, FL	107	64.5
St. Louis, MO	59	64.4
Alameda, CA	124	62.9
Cuyahoga, OH	120	61.7
Contra Costa, CA	26	61.5
New York, NY	115	60.9
Essex, NJ	33	60.6
Los Angeles, CA	218	59.6
San Francisco, CA	74	59.5
Bexar, TX	24	58.3
Middlesex, NJ	48	58.3
Dallas, TX	77	57.1
Orange, CA	186	57.0
Maricopa, AZ	75	56.0
Harris, TX	226	55.8
Milwaukee, WI	38	55.3
Pima, AZ	40	55.0
Ventura, CA	95	54.7
Bergen, NJ	54	53.7
Orange, FL	55	52.7
Essex, MA	19	52.6
Middlesex, MA	25	52.0
Hartford, CT	44	50.0
Santa Clara, CA	40	50.0
Suffolk, MA	36	50.0
Worcester, MA	17	47.1

Note: Data are presented only for those jurisdictions in the sample of the nation's 75 largest counties due to small sample sizes in other jurisdictions.

<sup>\*</sup>Includes bench and jury trials, trials with a directed verdict or judgment notwithstanding the verdict, and jury trials for defaulted defendants.

**Appendix table 3. Final and punitive damage awards for plaintiff winners in state court contract trials, by sampled county, 2005**

County	Final amount awarded to plaintiff winners				Punitive damages awarded to plaintiff winners			
	Total number of trials	Number of plaintiff winners	Total of all awards	Median final award <sup>a</sup>	Number seeking punitive damages	Number awarded punitive damages	Total of all awards	Median final punitive damage award
Maricopa, AZ	75	42	\$12,750,000	\$36,000	9	1	\$1,000,000	1,000,000 <sup>b</sup>
Pima, AZ	40	22	5,057,000	74,000	0	0	0	0
Alameda, CA	124	78	391,418,000	66,000	24	14	248,188,000	\$440,000
Contra Costa, CA	26	16	5,482,000	56,000	4	2	128,000	64,000
Fresno, CA	61	40	26,884,000	67,000	0	0	0	0
Los Angeles, CA	218	130	102,251,000	124,000	45	9	19,189,000	750,000
Orange, CA	187	106	74,618,000	129,000	33	10	14,866,000	83,000
San Bernardino, CA	24	18	5,336,000	62,000	8	0	0	0
San Francisco, CA	74	44	37,049,000	120,000	20	6	10,904,000	289,000
Santa Clara, CA	40	20	8,530,000	159,000	10	6	4,617,000	500,000
Ventura, CA	95	52	13,210,000	57,000	9	6	5,203,000	901,000
Fairfield, CT	32	28	4,325,000	25,000	0	0	0	0
Hartford, CT	44	22	1,219,000	41,000	4	0	0	0
Dade, FL	48	35	12,814,000	59,000	0	0	0	0
Orange, FL	55	29	8,001,000	43,000	0	0	0	0
Palm Beach, FL	107	69	30,106,000	116,000	0	0	0	0
Fulton, GA	55	43	12,291,000	85,000	26	6	630,000	109,000
Honolulu, HI	17	12	1,036,000	43,000	3	0	0	0
Cook, IL	183	138	27,156,000	66,000	6	2	3,050,000	1,525,000
DuPage, IL	28	19	1,071,000	24,000	8	4	203,000	69,000
Marion, IN	48	38	4,431,000	15,000	1	0	0	0
Jefferson, KY	101	61	1,896,000	19,000	12	12	809,000	58,000
Essex, MA	19	10	3,446,000	163,000	1	1	219,000	175,000 <sup>b</sup>
Middlesex, MA	26	13	3,983,000	80,000	0	0	0	0
Suffolk, MA	36	18	5,217,000	110,000	1	1	10,000	10,000 <sup>b</sup>
Worcester, MA	17	8	1,040,000	71,000	0	0	0	0
Oakland, MI	114	74	21,659,000	59,000	0	0	0	0
Wayne, MI	68	47	4,831,000	57,000	0	1	80,000	80,000 <sup>b</sup>
Hennepin, MN	57	41	5,270,000	36,000	2	3	164,000	13,000
St. Louis, MO	60	38	11,460,000	51,000	11	9	4,106,000	650,000
Mecklenburg, NC	40	28	1,462,000	29,000	2	2	293,000	147,000
Bergen, NJ	55	29	1,816,000	49,000	3	0	0	0
Essex, NJ	33	20	1,420,000	31,000	0	0	0	0
Middlesex, NJ	49	28	3,674,000	35,000	3	1	12,000	12,000 <sup>b</sup>
New York, NY	116	70	27,540,000	103,000	5	0	0	0
Cuyahoga, OH	120	74	7,864,000	41,000	8	6	1,650,000	100,000
Franklin, OH	133	92	43,651,000	22,000	32	6	9,000	2,000
Allegheny, PA	120	88	3,137,000	7,000	1	4	35,000	5,000
Philadelphia, PA	71	48	5,627,000	22,000	11	1	2,000,000	2,000,000 <sup>b</sup>
Bexar, TX	24	14	10,878,000	37,000	8	5	3,901,000	56,000
Dallas, TX	76	44	50,399,000	52,000	3	4	404,000	50,000
Harris, TX	226	126	58,114,000	93,000	7	5	4,422,000	125,000
El Paso, TX	40	34	5,112,000	48,000	4	2	400,000	200,000
Fairfax, VA	176	130	24,254,000	43,000	40	12	6,077,000	50,000
King, WA	80	56	17,674,000	63,000	0	1	305,000	244,000 <sup>b</sup>
Milwaukee, WI	38	21	752,000	14,000	1	1	18,000	18,000 <sup>b</sup>

Note: Data are presented only for those jurisdictions in the sample of the nation's 75 largest counties due to small sample sizes in other jurisdictions.

<sup>a</sup>Median final award is calculated prior to adjustments and appeals for plaintiff winners in contract cases awarded compensatory or punitive damages, costs and fees, or interest. Award data rounded to nearest thousand.

<sup>b</sup>Not a median, but the actual awarded amount.

**Appendix table 4. Post-verdict relief sought in state court contract trials, 2005, by sampled county**

County	Percent of trials where post-verdict relief is sought by—		
	Either litigant	Plaintiff	Defendant
Dade, FL	58.3%	41.7%	31.3%
Orange, FL	58.2	30.9	41.8
St. Louis, MO	55.9	30.5	35.6
Milwaukee, WI	50.0	36.8	36.8
Palm Beach, FL	45.8	27.1	29.9
Bexar, TX	45.8	12.5	37.5
Oakland, MI	45.6	26.3	29.8
San Bernardino, CA	41.7	8.3	33.3
Contra Costa, CA	38.5	23.1	23.1
Middlesex, MA	38.5	23.1	19.2
San Francisco, CA	37.8	21.6	21.6
Jefferson, KY	37.3	28.7	19.8
Hennepin, MN	36.8	19.3	21.1
Worcester, MA	35.3	17.6	17.6
Allegheny, PA	35.2	19.7	21.5
Santa Clara, CA	35.0	30.0	20.0
El Paso, TX	35.0	15.0	20.0
Los Angeles, CA	34.9	13.8	23.9
Dallas, TX	34.2	13.2	24.7
Honolulu, HI	33.3	33.3	0.0
Harris, TX	31.0	13.3	20.4
DuPage, IL	31.0	20.7	20.7
Pima, AZ	30.0	10.0	20.0
Alameda, CA	29.0	6.5	22.6
Orange, CA	28.9	15.5	20.3
King, WA	26.3	17.5	16.0
Fairfax, VA	26.1	13.1	18.2
Fulton, GA	25.9	0.0	25.9
Suffolk, MA	22.2	16.7	11.1
Wayne, MI	22.1	8.8	16.2
Ventura, CA	21.1	9.4	14.7
Essex, MA	21.1	15.8	21.1
Mecklenburg, NC	20.0	15.0	5.0
Fairfield, CT	18.8	12.5	12.5
Middlesex, NJ	18.4	8.2	12.2
Philadelphia, PA	18.3	12.7	7.0
Hartford, CT	18.2	13.6	13.6
Maricopa, AZ	17.3	8.0	9.3
New York, NY	15.5	7.8	11.2
Cook, IL	13.1	6.0	9.3
Essex, NJ	12.1	6.1	9.1
Cuyahoga, OH	11.7	5.0	6.7
Fresno, CA	9.8	9.8	0.0
Franklin, OH	9.0	2.3	9.0
Marion, IN	8.3	2.1	6.3
Bergen, NJ	3.6	1.8	1.8

Note: Data are presented only for those jurisdictions in the sample of the nation's 75 largest counties due to small sample sizes in other jurisdictions.

**Appendix table 5. Notice of appeal filed with trial court in state court contract trials, 2005, by sampled county**

County	Percent of appeals filed with trial court by—		
	Either litigant	Plaintiff	Defendant
Suffolk, MA	58.3%	33.3%	30.6%
Fulton, GA	52.7	5.5	47.3
Essex, MA	52.6	26.3	31.6
Honolulu, HI	50.0	17.6	33.3
St. Louis, MO	47.5	27.1	27.1
Los Angeles, CA	46.3	26.1	26.1
Worcester, MA	41.2	23.5	29.4
King, WA	38.8	22.2	25.0
San Francisco, CA	35.1	24.3	10.8
Santa Clara, CA	35.0	25.0	15.0
Dade, FL	34.0	8.3	29.2
DuPage, IL	31.0	27.6	17.2
Orange, FL	30.9	25.9	10.9
Orange, CA	30.1	12.3	20.3
Cuyahoga, OH	30.0	11.7	18.3
New York, NY	29.6	19.8	13.9
Fresno, CA	28.3	14.8	14.8
Fairfax, VA	27.8	8.0	19.8
Alameda, CA	27.4	12.9	16.1
Hartford, CT	27.3	18.2	9.1
Palm Beach, FL	27.1	18.7	8.4
Middlesex, MA	26.9	7.7	19.2
Maricopa, AZ	25.3	12.0	13.3
Bexar, TX	25.0	12.5	16.7
San Bernardino, CA	25.0	8.3	16.7
Ventura, CA	24.2	14.7	9.4
Contra Costa, CA	23.1	15.4	15.4
Dallas, TX	21.1	7.9	18.2
Fairfield, CT	18.8	6.3	18.8
Jefferson, KY	16.8	11.8	8.9
Allegheny, PA	15.6	7.4	10.7
Harris, TX	15.5	7.5	8.8
Cook, IL	15.3	9.3	7.1
El Paso, TX	15.0	10.0	5.0
Mecklenburg, NC	15.0	10.0	15.0
Philadelphia, PA	14.1	8.5	8.5
Milwaukee, WI	13.2	7.9	5.3
Marion, IN	12.8	2.1	10.4
Franklin, OH	12.8	4.5	9.0
Oakland, MI	12.3	5.3	8.9
Hennepin, MN	12.3	7.0	7.0
Essex, NJ	12.1	12.1	0.0
Wayne, MI	10.3	2.9	7.4
Middlesex, NJ	6.1	2.1	4.3
Bergen, NJ	5.5	5.5	0.0
Pima, AZ	5.0	0.0	5.0

Note: Data are presented only for those jurisdictions in the sample of the nation's 75 largest counties due to small sample sizes in other jurisdictions.