

CIVIL JUSTICE *in* WISCONSIN



A FACT BOOK

THE UNIVERSITY OF WISCONSIN LAW SCHOOL

**Civil Justice in Wisconsin:
A Fact Book, with Commentary**

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**The University of Wisconsin Law School
Continuing Legal Education in Wisconsin
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Foreword

Our civil justice system has always been a matter of intense public interest, from television drama to newspaper editorial pages. To some, trial lawyers are the champions of the underprivileged and downtrodden; to others, they are a threat to the state's business climate. All too often, these impressions are shaped by the attention paid to a single sensational case, severed from the context of the hundreds or thousands of other disputes that people regularly look to our court system to resolve. In the interest of shifting the focus to that broader context, two of our faculty members volunteered to gather the data and provide the commentary that forms this booklet. Their goal was to provide an objective picture of the civil justice system in Wisconsin, focusing on the basic facts about the state's civil courts and the litigation in them and comparing it with the situation in neighboring states.

The authors need little introduction to those familiar with civil litigation and the court system. Marc Galanter is the John and Rylla Bosshard Professor of Law Emeritus, and an internationally recognized expert on trends in civil litigation. Susan Steingass recently retired from her position as the Director of the Law School's Communication and Advocacy Program. She brings to the project her substantial experience as a former trial judge, state bar president, and litigator with a long career of representing both plaintiffs and defendants in civil litigation.

Some readers may well be surprised by some of the statistics that follow. Other readers with a particular stake in the civil justice debate may wonder if this project is an effort to advocate for one position over another. I can assure you that this is neither the project's intent nor, in my opinion, its effect. Open debate on issues of consequence to our state and nation is one of the hallmarks of our Law School's educational tradition. This booklet reminds us that collecting the best available information provides a platform for such a debate and leads to the process of finding the best possible solutions to the issues.

On behalf of the Law School, I wish to acknowledge and thank the authors and the law students who worked with them for their important contribution to the ongoing discussion of the civil justice system.

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Civil Justice in Wisconsin: A Fact Book, with Commentary

Introduction

In recent years, Wisconsin's civil justice system has been a subject of contention. Critics have raised cries of alarm, accusing the system and the judges and lawyers who administer it of encouraging excessive litigation detrimental to the state's economy and onerous to its citizens. The critics proclaim that Wisconsin's civil justice system is in a state of crisis;¹ that excessive litigation is costing businesses and individuals billions of dollars, affecting the state's economy and international competitiveness;² and that trial lawyers may "swarm to the state like a scourge of mosquitoes, replacing the doctors who leave because they can't afford medical insurance."³ Others argue that the civil justice system has become too expensive and complex, barring access to those who need it most. Defenders of the system, on the other hand, decry these statements as simply downright fiction or exaggerations based on partial truths. They believe that the civil justice system is working to the benefit of the citizens of Wisconsin.

This report presents the basic facts about our civil courts and litigation in them and examines some of the persistent myths about these topics.⁴ When we encountered the well-known stories about the civil justice system, we asked two main questions. First, whether the story is true and complete and, second, where stories of lawsuit abuse are factual, are they outliers or are they representative of widespread practices and conditions?

To separate fact from myth, we believe we have compiled the best available data from the most reliable sources. In many instances, the absence of data did not permit us to answer questions we would like to have asked, such as: what are the amounts recovered in settlements?; what portion of verdicts are actually collected?; what happens to verdicts on appeal?; and many others.

We readily concede that we may have missed some useful sources and, if so, we would appreciate learning about them. We also admit that in compiling and transcribing so many figures, it is possible that inadvertent omissions or transpositions have occurred. If so, we would appreciate hearing about such glitches from any gimlet-eyed readers who catch them.

We would have thought that there were other objective and factual studies of the civil justice system. However, even amid all the *Sturm und Drang* of the civil justice wars, we find that this kind of neutral and objective account of the system is rare — indeed we have never encountered an

attempt to provide such a portrait of civil justice in this or any state.

We hope that this project is a beginning, not an end. We have focused on civil justice as it is administered in the ordinary courts and have not examined many other parts of the legal system. We have not looked at criminal justice, juvenile justice, probate, bankruptcy, workers' compensation, administrative law tribunals, or alternative dispute resolution institutions (like arbitration and mediation). We urge others to complement our account with a systematic description of these areas of the legal system.

We look first at the facts about the numbers and kinds of civil cases filed in Wisconsin state and federal courts. Because things change from year to year, we try to give a sense of how the present compares with the recent past; where available, we include data for the past ten years or so, and occasionally longer. We then compare the Wisconsin data with information from our four neighboring states (Illinois, Iowa, Michigan, and Minnesota) and from the United States as a whole. We examine what the Wisconsin cases are about and then take a look specifically at the most contentious categories: medical malpractice and product liability cases. We then turn to data about how these cases are disposed of by trial, settlement, or otherwise. After briefly taking up the claim that Wisconsin has too many lawyers, we turn to the question of whether the civil justice system is bad for business.

As you will see, the facts and the myths are often at variance. It is our hope that this account of the facts will not only help citizens to understand the performance of their civil justice system, but will enable them to assess the validity and seriousness of the criticisms leveled by its detractors and the defenses raised by its proponents. The goal of this undertaking is not to provide answers but to dispel illusions about the system in favor of a realistic, if necessarily incomplete, picture of what is actually out there.

We do not suppose that a bare recitation of facts can, in itself, provide answers to questions about what the civil justice system ought to be doing and the best way to accomplish those tasks. But we hope that this exercise will point us to genuine rather than spurious questions. What are regarded as good solutions may differ depending on our values and perspectives. But we confess to believing that sharing the best available information will enhance the process of reaching good solutions.

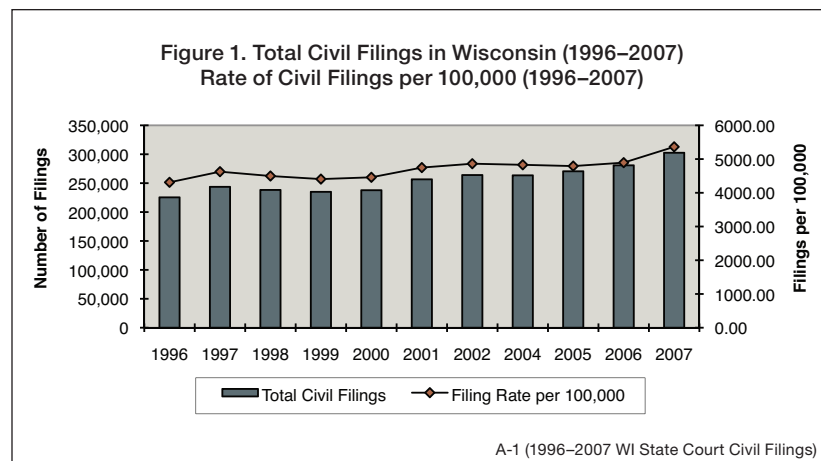
How Many Civil Cases Were Filed in Wisconsin Trial Courts?

We begin by looking at the numbers of cases filed in the state and federal courts of Wisconsin. We can track the filing of civil cases in the state trial courts from 1996 (the first year for which comparable data are available) to 2007 (the most recent year for which complete data are available).⁵

Over that eleven-year period, the total number of civil filings increased by a little more than one-third (34.2 percent) as shown by the bars in Figure 1. During that same period, the population of the state increased by 8.47 percent from 5,142,199 to 5,641,581. When we adjust the filing figures for the changing population of the state, there is still a significant rise in filings per capita (shown by the line in Figure 1).

We now turn to a comparison between the Wisconsin filing rates and the rates in the United States as a whole and in Illinois, Iowa, Michigan, and Minnesota.⁶ Because states sometimes differ in how they count filings, some of the apparent differences among the states may be exaggerated or diminished, so we should not make too much of small differences. We present rates in terms of the number of cases filed for each 100,000 persons in the state. For the country as a whole, the rate of civil filings has been more or less constant since 1996.⁷ Looking at the United States as a whole in 2005, Wisconsin was thirty-first (that is twenty from the bottom) of fifty jurisdictions⁸ in its rate of civil filings.⁹

The red line across Figure 2 represents the median filing rate for fifty jurisdictions (forty-eight states, the District of Columbia, and Puerto

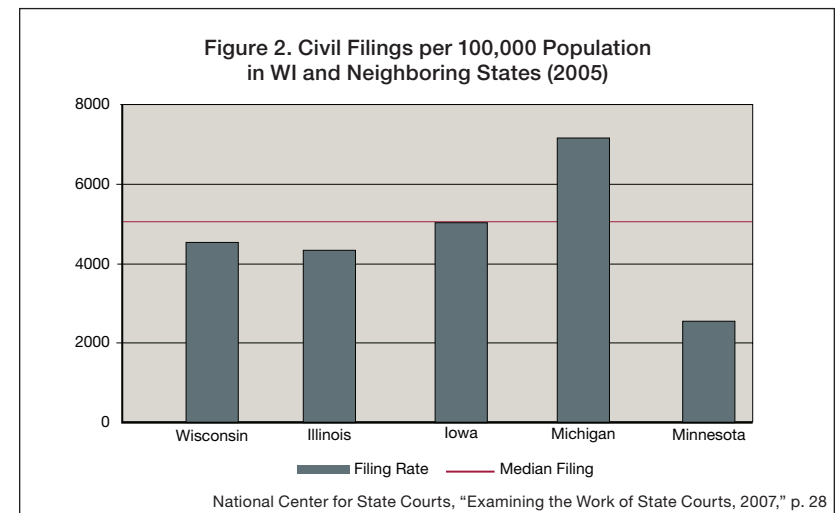


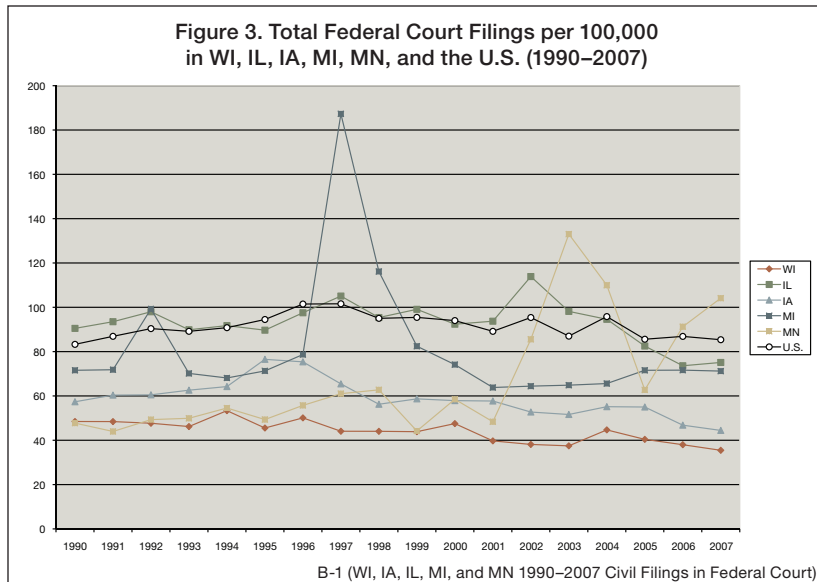
Rico). Medians and means are two different ways of measuring the “average” amount of a set of figures. The MEDIAN is the middlemost score; there are as many scores below it as there are above it. The MEAN (often called the AVERAGE) is the total of all scores added together and then divided by the number of scores.

However, these statistics for state court filings do not tell the whole story because not all litigation in Wisconsin takes place in the state courts. A small but important portion takes place in the federal courts. For example, the number of civil cases filed in the federal courts in Wisconsin was 2,255 in 2005, about one forty-seventh of the 105,982 filed in state courts (omitting small claims).¹⁰ The federal courts hear many sorts of cases that are distinctive to them (patents, bankruptcy, cases involving federal statutes, etc.), but there are a substantial number of cases (e.g., discrimination, civil rights, some torts, and some contracts) that can be filed in either state or federal court.

Figure 3 shows that the rate of resort to the federal courts in Wisconsin is quite low. The filing rate for civil cases in federal courts in Wisconsin has consistently been less than half of that in the United States as a whole and below that in any of our neighboring states.¹¹

In terms of sheer quantity of civil litigation, citizens resort to Wisconsin state and federal courts at a low rate, whether compared to the United States as a whole or to Wisconsin’s neighboring states.



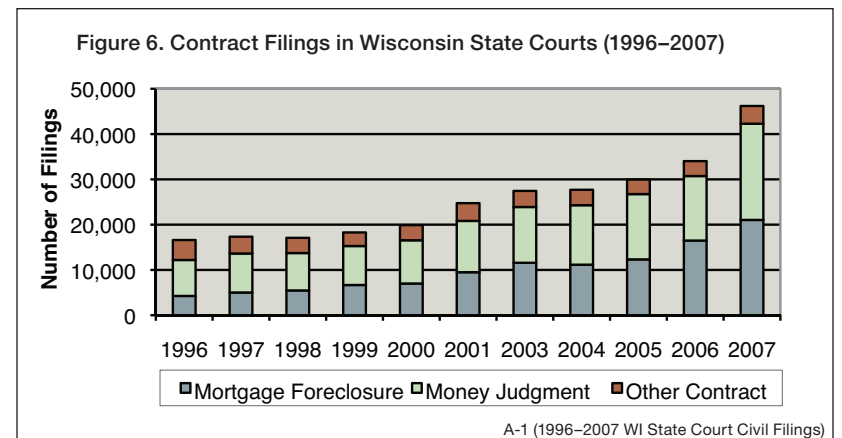
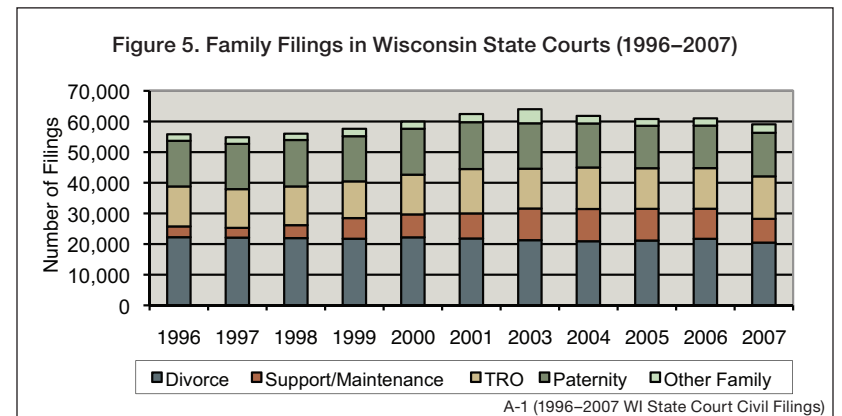
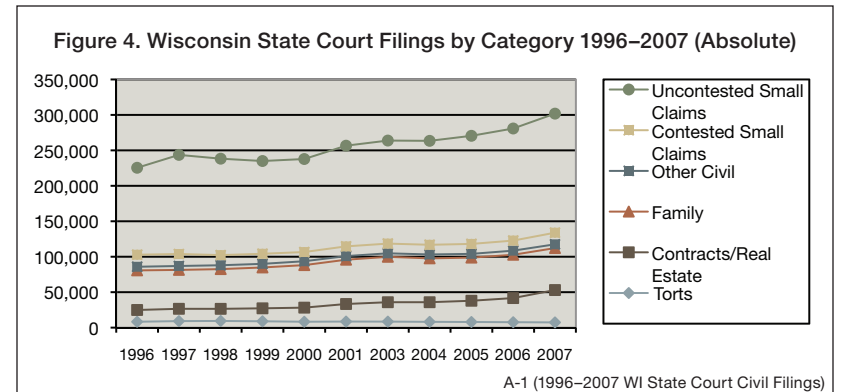


What Were These Cases About?

If the sheer numbers of civil filings in Wisconsin have increased from 1996 to 2007 compared to the increase in population, the next question is: what kinds of cases are filed? The statistics show that almost two-thirds (60.9 percent) of the civil filings in Wisconsin's courts are in what are called small claims, mostly suits to collect debts.¹² Only one out of eleven (8.9 percent) of these small claims are contested. So, while the number of small claims has risen by almost one-third (32.0 percent) since 1996, the number of contested small claims cases has remained relatively constant. Uncontested small claims are one of the major components in the rising civil caseload of Wisconsin courts. Without them, the picture would be quite different.¹³

Apart from small claims, the second largest single group of cases is in the area of family law, including divorce, support/maintenance (what used to be called alimony), paternity, and domestic abuse, child abuse, and harassment combined with vulnerable adult temporary restraining orders. Together, these law matters made up some 14.9 percent of cases in 2007.¹⁴

As Figure 5 shows, the number of family cases rose until 2003 and has remained steady since. Table 1 shows an overall 5.82 percent rise from 1996 to 2007, which is slightly less than the increase in population. But the



various subcategories of family cases display very different trajectories: divorce and restraining orders stayed about even; paternity suits decreased a bit, and support cases saw an explosive increase. Basically, all of the growth has been in the support area.

While family law matters comprised the largest cluster of cases from 1996 to 2007, the greatest growth occurred in cases about contracts. These cases grew from 7.4 percent of filings in 1996 to 15.27 percent in 2007.¹⁵

The actual number of contract cases nearly tripled between 1996 and 2007, due in substantial part to the dramatic, almost fivefold, increase in mortgage foreclosures from 4,261 in 1996 to 21,042 in 2007.¹⁶ This large rise happened even before the latest surge of foreclosures portended an even greater increase.¹⁷ The other large category of contract cases were suits for money judgments and these also grew substantially. Unless Wisconsin differs in some unsuspected way from American courts in general, these are mainly suits by businesses to collect debts.¹⁸ These increased by almost 200 percent from 1996 to 2007.

Table 1. Percentage Change in Family Filings in Wisconsin State Courts between 1996 and 2007			
Type of Family Filing	Filings in 1996	Filings in 2007	Percent Change
Divorce	21,471	20,477	-4.63%
Support	3,215	7,754	141.68%
TRO	13,041	13,865	6.32%
Paternity	14,893	14,221	4.51%
Other	2,137	2,761	29.20%
TOTAL	54,757	59,078	7.89%

A-1 (1996–2007 WI State Court Civil Filings)

Table 2. Percent Change of Contract Filings in Wisconsin between 1996 and 2007			
Type of Contract Filing	Filings in 1996	Filings in 2007	Percent Change
Money Judgment	7,939	21,243	167.58%
Mortgage Foreclosure	4,261	21,042	393.83%
Other	4,408	3,915	-11.18%
All	16,608	46,200	178.18%

A-1 (1996–2007 WI State Court Civil Filings)

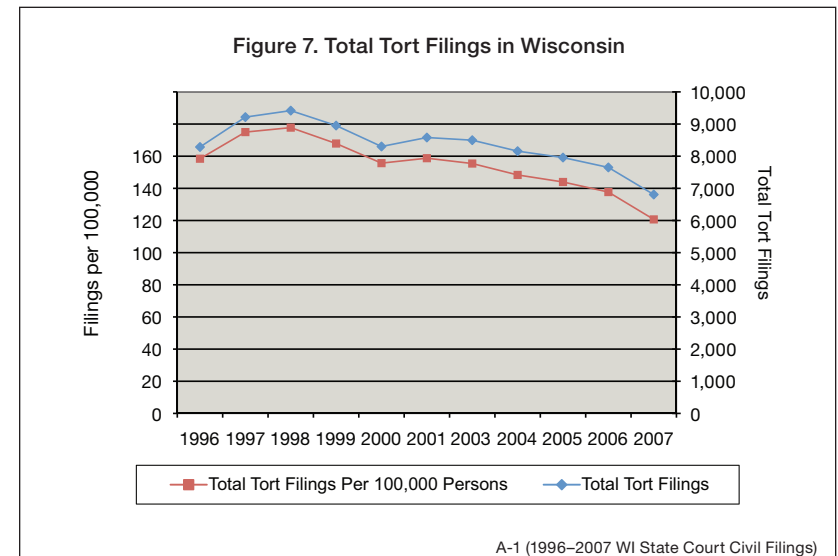
How Many of These Were Torts, Including Medical Malpractice and Product Liability Claims?

Despite the predominance of small claims and family matters, and the pronounced rise in contract claims, it is tort suits that have attracted the most attention and the most criticism of the civil justice system. While torts include other kinds of injuries (e.g., assault, defamation), personal injury claims arising from accidents, negligent behavior, malpractice, and so forth have been the focus of public contention.

Unlike the fairly stable category of family lawsuits and the rapidly growing category of contract suits, the number of cases in which individuals seek compensation for personal injury and property damage has fallen in recent years. The number of tort filings in Wisconsin fell 17.4 percent from 1996 to 2007. When the rising population is factored into these figures, we find that per capita tort filings fell 24.1 percent from 158.4 per 100,000 persons in 1996 to 120.7 in 2007.¹⁹

The Wisconsin figures are in line with the national trend. In the thirty states for which data was available, tort filings decreased by 21 percent from 1996 to 2005.²⁰

Wisconsin's rate of tort claims per 100,000 persons is relatively low. The National Center for State Courts compiled data on tort filings in 2005 for thirty-two states; Wisconsin's rate was tied for the eleventh lowest of



the thirty-two. Wisconsin's rate is 26 percent below the median rate for those thirty-two states. These figures also enable us to compare the rate of tort filings in Wisconsin with those in three of our neighboring states.²¹

Figure 8 helps us visualize the numbers on Table 3. The

dotted line in Figure 8 represents the median rate for the thirty-two states.

The rate of tort cases filed in the federal courts in Wisconsin, in neighboring states, and in the United States as a whole is displayed in Figure 9.²²⁻²³ The rate of tort filings in Wisconsin's federal courts is lower than the national average. The evidence suggests that Wisconsin's citizens are sparing in the filing of tort cases, something for which we shall see further evidence when we take up medical malpractice claims in the next section.

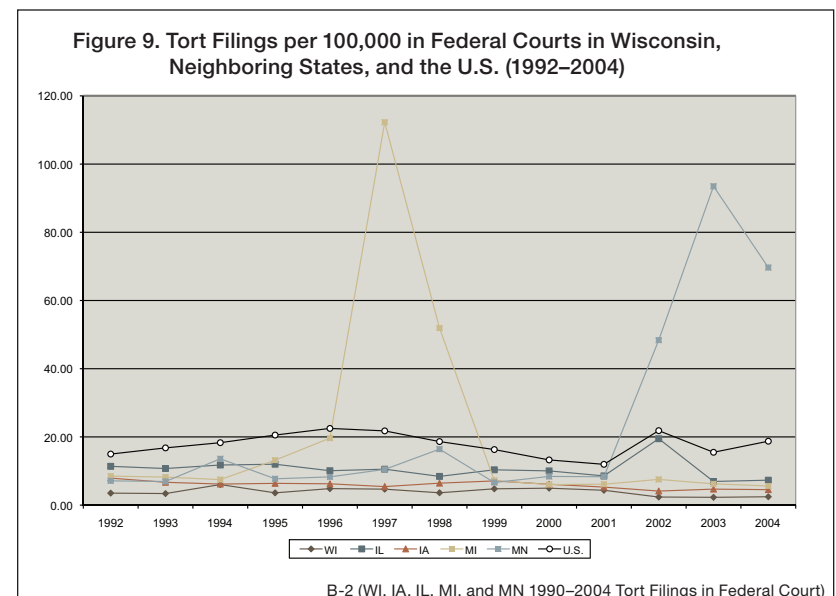
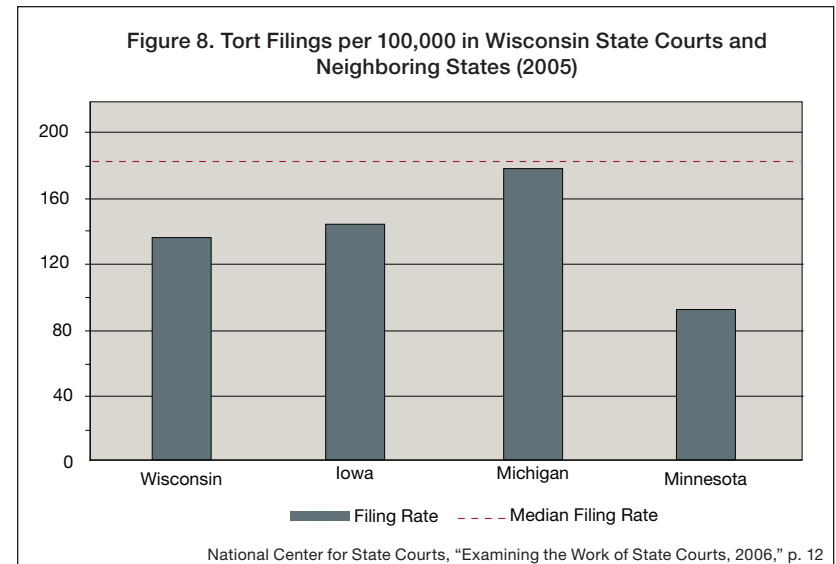
More than half of tort claims in Wisconsin's state courts (65.3 percent in 2007) and nationwide arise from automobile accidents.²⁴ But Wisconsin's recent drop in tort cases was not uniform across the various categories of tort, as Table 4 shows.

The large automobile and "other" categories that make up over 95 percent of total tort filings declined, as did the much smaller medical malpractice category (2.54 percent of all tort filings).²⁵

However, the even smaller (1.76 percent) product liability category grew slightly. The concern and apprehension about unfounded tort claims and excessive awards tends to be focused on these two small categories, which are discussed on pages 20 and 24.

State	Rate
Median of 32 states	182
Michigan	176
Iowa	142
Wisconsin	134
Minnesota	90

National Center for State Courts, "Examining the Work of State Courts, 2006," p. 12



Type of Tort Filing	Filings in 1996	Filings in 2007	Percent Change
Personal Injury (Auto)	4,930	4,499	-8.74
Product Liability	102	104	1.96
Medical Malpractice	228	150	-34.21
Other Personal Injury	1,893	1,155	-38.98
TOTAL	7,153	5,908	-17.41

A-1 (1996-2007 WI State Court Civil Filings)

A. Medical Malpractice Claims

A prominent concern in recent years has been medical malpractice claims. As we can see from Figure 10, according to the data kept by the Wisconsin Medical Mediation Panels, 150 medical malpractice cases were filed in the Wisconsin courts in 2007. Their numbers are, in fact, declining; the number of cases filed fell 34.21 percent between 1996 and 2007.²⁶

Since the doctor population of Wisconsin has been rising (as indicated in Table 5), and medical malpractice filings have been declining, there has been a corresponding decline in medical malpractice suits per practicing physician in the state.²⁷

In 1991, Wisconsin had fewer doctors per capita in metropolitan areas than the U.S. as a whole or any of the neighboring states, but it had a physician presence in non-metropolitan areas that was higher than the U.S. as a whole or any of the neighboring states. By 2001, Wisconsin had the largest percentage increase in metropolitan physicians among its neighbors and it had caught up with the national average, although the per capita rate remained slightly behind the neighboring states. Wisconsin also had one of the highest percentage increases in non-metropolitan physicians and remained ahead of the U.S. as a whole and also of the neighboring states.²⁸

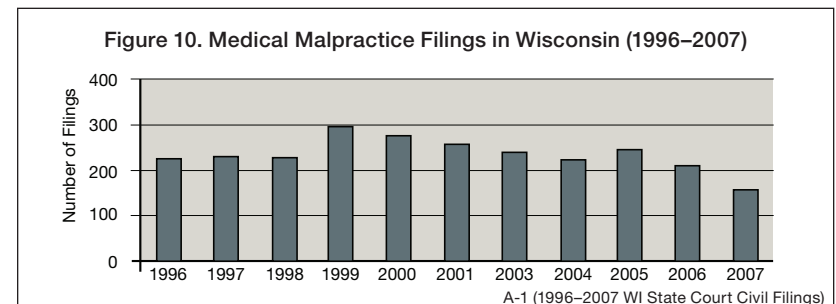
The rate of medical malpractice claims per 100,000 population in Wisconsin is low compared to the rate in other states. The National Center for State Courts collected comparable data about medical malpractice filings in 2006 for fifteen states, including Wisconsin. Among these fifteen, Wisconsin was tied for fourteenth in the per capita rate of medical malpractice filings with just four cases per 100,000 persons; Iowa had nine and Michigan had ten.²⁹

The public debate over our civil justice system has included the effect of jury verdicts on the profitability of Wisconsin insurers. Figure 12 shows that medical malpractice insurers in Wisconsin report a lower average loss ratio (i.e., the portion of premiums collected that were paid out to claimants) than any of our neighboring states for the years 1991–2006.³⁰

Per capita expenditure on medical malpractice in Wisconsin is consistently low compared to that in the neighboring states. Earnings of insurance companies from premiums on medical malpractice policies in 2006 were about \$2 million for every 100,000 residents, a figure at the lower end when compared to the amounts paid to insurance companies in neighboring states.³¹ (See Figure 13.)

	1991	2001	% Change
WI Metropolitan	225	268	19.1
WI Non-Metropolitan	107	131	22.4
IL Metropolitan	240	270	12.5
IL Non-metropolitan	89	108	21.3
IA Metropolitan	261	288	10.3
IA Non-Metropolitan	88	100	13.6
MI Metropolitan	237	273	15.2
MI Non-Metropolitan	106	129	21.7
MN Metropolitan	274	296	8.0
MN Non-Metropolitan	91	114	25.2
U.S. Metropolitan	242	267	10.3
U.S. Non-Metropolitan	99	122	23.2
U.S. Total	214	239	11.7

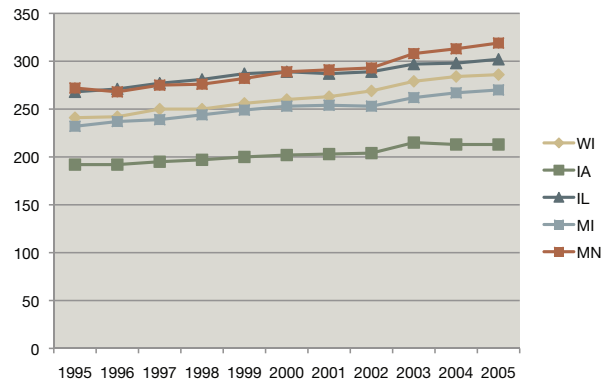
Source: United States General Accounting Office, Physician Workforce: Physician Supply Increased in Metropolitan and Nonmetropolitan Areas but Geographic Disparities Persisted October 2003 (GAO-04-124), pp 7, 13, 23-27. <http://www.gao.gov/new.items/d04124.pdf>



The relatively modest expenditure on medical malpractice is connected to the low and declining rate of claims and to the decreasing number of verdicts for plaintiffs in medical malpractice cases.

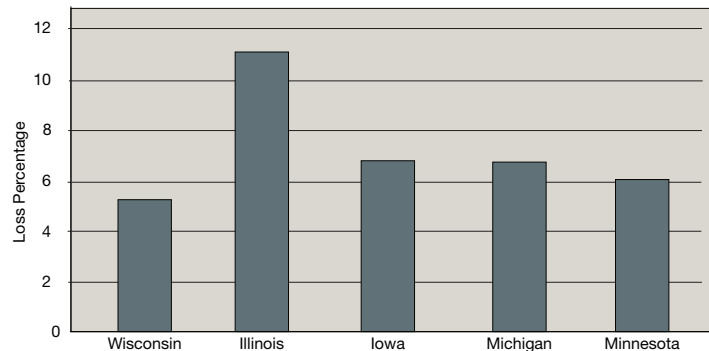
The data collected over the years by Randy F. Sproule, the Administrator of Wisconsin's Medical Mediation Panels, show that when these cases go to trial, the defendant medical provider wins the great majority of the time.³² In the last three years for which data is available, defendants prevailed in 84 percent of medical malpractice trials. (See Table 6.)

Figure 11. Rate of Doctors per 100,000 in WI, IL, IA, MI, and MN (1995–2005)



Data courtesy of Ned Miltenberg, Senior Litigation Counsel, Center for Constitutional Litigation, P.C., Washington, D.C. Used with permission.

Figure 12. Average Medical Malpractice Insurance Loss Ratio in WI and Neighboring States (1991–2006)



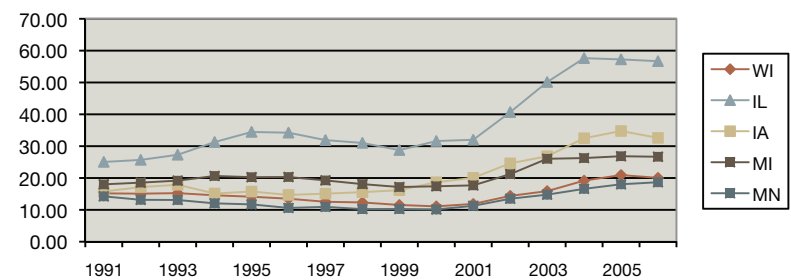
National Association of Insurance Commissioners, Countrywide Summary of Medical Malpractice Insurance, 1991–2007

Table 6. Medical Malpractice Verdicts in Wisconsin (1989–2007)

Year	Number of Verdicts	Plaintiff Verdicts	Defense Verdicts	Percentage of Defense Verdicts
1989	32	13	19	59%
1990	31	9	22	71%
1991	28	10	18	64%
1992	60	15	45	75%
1993	40	7	33	83%
1994	37	5	32	86%
1995	42	18	24	57%
1996	41	11	30	73%
1997	34	12	22	65%
1998	21	8	13	62%
1999	25	11	14	56%
2000	23	6	17	74%
2001	21	8	13	62%
2002	26	7	19	73%
2003	15	4	11	73%
2004	23	4	19	83%
2005	21	3	18	86%
2006	13	2	11	85%
2007	30	5	25	83%

Data Courtesy of Randy F. Sproule, Administrator, Medical Mediation Panels, Medical Malpractice Verdicts in WI, 1989–2007

Figure 13. Direct Premium Earned per Resident in WI and Neighboring States (1991–2006)

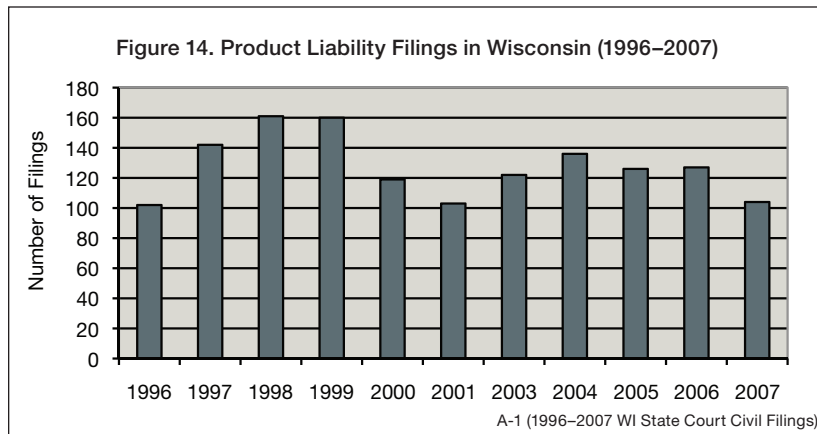


National Association of Insurance Commissioners, Countrywide Summary of Medical Malpractice Insurance, 1991–2007

B. Product Liability Claims

Product liability is the other category of tort cases that attracts considerable attention. Here, the number of cases is considerably smaller than medical malpractice and the number filed has fluctuated over time.³³

The 1.96 percent rise in product liability filings from 102 in 1996 to 104 in 2007 is consistent with the 26 percent rise for the eight states that the National Center for State Courts tracked over the period from 1996 to 2005.³⁴ Over the same time period, the number of product liability trials in Wisconsin dropped from twenty-three (eighteen jury and five bench) to nine (eight jury and one bench). This decrease is part of a widespread decline in the number of product liability trials that is far greater than the general shrinkage in tort trials and trials overall.³⁵



How Many of These Cases Went to Trial?

Just because a case is filed doesn't mean that the plaintiff prevails or that damages are awarded. It assuredly doesn't mean that the case ends up reaching trial. So how do civil cases end? Some cases are abandoned by claimants; others are resolved by default when the defendant does not show up; others are dismissed as without merit or on technical grounds; the great preponderance settle. A small (and declining) number reach trial to either a judge or jury. A trial before a judge without a jury is referred to as a COURT TRIAL or a BENCH TRIAL. Tables 7 and 8 provide a summary profile of the disposition of civil cases in the Wisconsin courts in 2006 and 2007.³⁶

Table 7. Dispositions of Civil Cases in Wisconsin State Courts, 2006

	Total Disposed	Default	%	Settled/Dismissed	%	Other	%	Bench Trial	%	Jury Trial	%
Torts	7,378	772	10.5	5,932	80.4	264	3.6	91	1.23	319	4.32
Contracts	33,448	19,294	51.7	12,864	38.5	753	2.2	458	1.37	79	2.36
Family	61,261	28,920	47.3	20,134	32.9	6,287	10.3	5,694	9.29	2	.003
Other	6,189	3,110	50.3	1,838	29.7	1,040	16.8	169	2.73	32	.52
Contested small claims	13,552	3,020	22.3	5,135	37.9	382	2.8	4,994	36.8	21	.15
TOTAL	121,576	55,116	45.3	45,903	37.7	8,698	7.15	11,406	9.38	453	.37

A-2 (1996 WI State Court Disposition Summary)

Table 8. Dispositions of Civil Cases in Wisconsin State Courts, 2007

	Total Disposed	Default	%	Settled/Dismissed	%	Other	%	Bench Trial	%	Jury Trial	%
Torts	7,161	727	10.2	5,802	81.0	221	3.1	73	1.02	338	4.72
Contracts	43,737	26,921	61.6	15,492	35.4	814	1.9	442	1.00	68	1.55
Family	59,973	28,922	48.2	21,987	36.6	5,365	8.9	3,705	6.20	3	.005
Other	5,252	2,556	48.7	1,593	30.3	905	17.2	143	2.72	36	.68
Contested small claims	16,259	4,146	25.5	6,427	39.5	495	3.0	5,180	31.9	11	.60
TOTAL	132,382	63,272	48.0	51,301	38.8	7,800	5.90	9,543	7.21	456	.34

A-4 (2007 WI State Court Disposition Summary)

Because the categories are less than transparent, we will go through them in sequence. DEFAULT cases are uncontested, frequently because the defendant doesn't show up. Almost half of all the cases listed in Tables 7 and 8 fall into this category. The default portion is particularly large in contract cases (mostly in debt collection cases) and in family matters. Defaults are rarest in tort cases: nine out of ten tort defendants contest the plaintiff's claim. If we were to include in the default figure the disposition of the uncontested small claims cases, which by definition are defaulted and abandoned cases, we would see the percentage of defaults rise considerably. In short, approximately two-thirds of all the claims that are taken to the Wisconsin civil courts end up as uncontested or defaults. This reminds us that much of the courts' work does not involve deciding disputes, but consists of processing the paperwork of immense numbers of uncontested matters.

Where the case is contested, it usually results in a DISMISSAL or a SETTLEMENT. It often eventuates in both, because dismissal occurs when parties request it of the court; often the court does not know whether there has been a settlement. Hence, the official count in these two categories is particularly uninformative. A great body of studies of the civil justice process show that overall a preponderance of cases settle — approximately two thirds of those that are contested.³⁷ Because we conclude that the record keeping for the two large categories of “settled” and “dismissed” is overlapping and ambiguous, we have combined these categories in Tables 7 and 8. The combined total probably overstates the actual number of settlements, since there are an unknown number of dismissals of other sorts.

The OTHER category of dispositions in Tables 7 and 8 is, we believe, a composite representing different dispositions in connection with different kinds of cases. For present purposes it is useful to recall that it includes, at least in tort and contract cases, summary judgment and motions to dismiss,³⁸ procedures that invite the court to dispose of the case without a full trial. Typically, but not always, such motions are made by defendants. They can loom very large in certain categories of cases. For example, of the 116 product liability cases disposed of by the Wisconsin courts in 2007, ten (almost 10 percent) show up in the “other” category.

So cases only reach TRIAL if they are contested (not abandoned by the plaintiff or defaulted by the defendant), and if they are not dismissed or settled, and if they survive procedures like summary judgment motions and motions to dismiss. The portion of cases that reach trial has been declining almost everywhere for the past twenty to thirty years. Table 9 shows

Table 9. Trends in Civil Trials in State Courts in the Nation's Largest Counties (1992–2005)					
Case type	Number of civil trial cases, by year				Percent change 1992-2005
	1992	1996	2001	2005	
All trial cases	22,451	15,638	11,908	10,813	-51.8%*
All tort cases	11,660	10,278	7,948	7,038	-39.6%*
Automobile	4,980	4,994	4,235	3,545	-28.8%*
Premises liability	2,648	2,232	1,268	1,067	-59.7*
Product liability	657	421	158	225	-65.8*
Medical malpractice	1,347	1,201	1,156	1,219	-9.5
All contract cases	9,477	4,850	3,698	3,474	-63.3%
Fraud	1,116	668	625	591	-47.1*
Seller plaintiff	4,063	1,637	1,208	1,101	-72.9*
Buyer plaintiff	1,557	832	793	670	-51.2*
Employment	468	621	453	422	-9.8
All real property cases	1,315	510	262	301	-77.1%*

Notes: The number of trials includes bench and jury trials, trials with a directed verdict, judgments notwithstanding the verdict, and jury trials for defaulted defendants. Detail may not sum to total because of rounding. Specific case types will not sum to tort and contract totals because not all case types are shown in the table.
 Data sources: Civil Justice Survey of State Courts, 1992 (ICPSR 6587), 1996 (ICPSR 2883), and 2001 (ICPSR 3957). Data can be obtained from the University of Michigan Inter-university Consortium for Political and Social Research (ICPSR). No source for 2005 data listed in original.
 *1992-2005 difference is significant at the 95%-confidence level.

the decline of civil trials in the state courts of the nation's seventy-five most populous counties, containing about one-third of the country's total population. The Bureau of Justice Statistics of the United States Department of Justice selected forty-six counties representative of the seventy-five. They tracked every civil trial in the forty-six counties in four successive studies of the years 1992, 1996, 2001, and 2005, and then projected the results to those seventy-five most populous counties.³⁹

Table 9 displays the striking decline in trials across all types of civil cases. Tort trials fell by 39.6 percent from 1992 to 2005; all civil trials fell by

51.8 percent. There is ample documentation that this trend is general and continuing.⁴⁰

The decline of trials is very much in evidence in Wisconsin. As shown in Table 10, in Wisconsin in 2006, just over one-third of 1 percent (0.37 percent) of all civil dispositions was by JURY TRIAL, 70 percent of them in tort cases. COURT TRIALS (by the judge without a jury) were twenty-five times as numerous; the great bulk of them were found in family matters (5,694) and small claims (4,994).⁴¹ Both categories of trials are decreasing, not only as a percentage of dispositions but in absolute numbers, not only in Wisconsin but throughout the nation, in both state and federal courts.

We do not have continuous reliable data on trials in Wisconsin before 2004. But some earlier data is available that puts our present situation in context and provides a sense of magnitude of the shrinkage of trials. In 1989, there were 1,056 jury trials (1.1 percent of civil dispositions) — roughly three times the 2006 rate.⁴² In 1996, there were 974 jury trials (0.97 percent of dispositions). The 1996 data enables us to compare the profile of trials in that year with the profile in 2006, when there were only 453 jury trials (0.37 percent of dispositions).⁴³ (See Table 10.)

We see overall that there are fewer than half as many civil jury trials as there were ten years before. In every category of cases, the portion which reaches jury trial has decreased, as has the absolute number of trials. The decline in jury trials was greater in tort cases than in other cases. Tort jury trials fell from 77 percent of all jury trials in 1996 to 70 percent in 2006. Overall, jury trials fell by 53 percent and tort jury trials by 57 percent, including a 56 percent decrease in product liability jury trials and a 41 percent decrease in medical malpractice jury trials. The greater decrease in other categories left medical malpractice trials as a larger portion of all jury trials than in 1996.

In Wisconsin, bench trials (trials to the court) are less frequent in tort cases — in 2006 only 1.2 percent of tort cases ended in a bench trial, compared to 4.3 percent that ended in jury trials. But there were less than half as many tort bench trials in 2006 (91) than there were ten years earlier (189). In every other category, bench trials were more frequent. They were especially numerous in family cases and in contested small claims, which together were the site of 92.8 percent of the 11,406 bench trials in 2006. But like jury trials, bench trials, too, are on the decline. Even while total filings grew by 24.67 percent between 1996 and 2006, the number of bench trials declined almost one-third from 16,272 in 1996 to 11,406 in 2006. Bench trials were 16.1 percent of all dispositions in 1996; in 2006 they were

Table 10. Declining Incidence in Wisconsin State Courts of Jury Trials and the Differential Decline of Tort Jury Trials (1996–2006)									
	1996			2006			Change 1996-2006		
	No. of Jury Trials	% of all dispos. in case category	% of all Tort Jury Trials (Total)	No. of Jury Trials	% of all dispos. in case category	% of all Tort Jury Trials (Total)	No. of Jury Trials	% of all dispos. in case category	% of all Tort Jury Trials
Auto	408	7.30%	54.4% (41.89%)	190	3.90%	59.56% (41.94%)	-218	-3.42%	5.16% (0.05)
Product Liability	18	9.40%	2.40% (1.85%)	8	7.21%	2.50% (1.76%)	-10	-2.17%	0.10% (-0.09)
Medical Malpractice	51	19.00%	6.80% (6.62%)	30	15.08%	9.40% (6.62%)	-21	-3.98%	2.60% (0.00)
Other P.I.	273	7.60%	36.40% (28.93%)	91	4.13%	28.52% (20.10%)	-182	-3.44%	-7.88% (-8.83)
Total Tort Jury Trials	750	7.80%	100% (77.00%)	319	4.32%	100% (70.42%)	-431	-3.46%	100% (-6.58)
Other Jury Trials	224	.24%		134	.12%		-90	-.12%	
Grand Total	974	.97%		453	.37%		-521	-.60%	

A-2 (1996 WI State Court Disposition Summary), A-3 (2006 WI State Court Disposition Summary)

just 9.4 percent of all dispositions. Although the decline of bench trials is less dramatic than the decline of jury trials, they are clearly a decreasing presence in Wisconsin’s civil justice system.

The shift away from trials in Wisconsin is very much in line with what is happening in the United States generally. Data are not available for the whole of the 1996–2006 period, but we can see what happened to trials from 1996 to 2003 in twenty-two states. Jury trials fell 25.5 percent from 23,649 to 17,617. That was a fall from 7.6 percent of dispositions in 1996 to 5.7 percent in 2006. Bench trials fell by 23.8 percent from 616,557 to 469,547, a decline from 19.8 percent of dispositions to 15.2 percent.⁴⁴

When They Did Go to Trial, What Were the Results?

We do not have comprehensive Wisconsin statistics on the size of awards on settlement. For those relatively few civil cases that are disposed of by trial, the Bureau of Justice Statistics study of jury trials in the seventy-five largest counties in the United States is instructive because it includes Milwaukee County and also the largest metropolitan areas in three of our neighboring states, Cook County in Illinois (Chicago), Wayne County in Michigan (Detroit), and Hennepin County in Minnesota (Minneapolis). This study of 2001 presents the latest available data. From it, we can see how the plaintiffs fare in the cases that are disposed of by trial, how frequently they win, and how large their awards are when they do.⁴⁵

In Milwaukee, both the median award (\$19,000) and the mean award (\$103,030) were far lower than the awards in the large counties in our neighboring states and lower than the seventy-five counties as a whole. Awards in Milwaukee were less than two-thirds of the overall median. The mean was less than one-fifth of the award for all seventy-five counties. Milwaukee appears to be a place where plaintiffs win tort cases at trial with greater frequency, but for decidedly lesser amounts than in the metropolitan areas of neighboring states. Comparing this data for 2001 with the earlier Bureau of Justice studies, the researchers found striking declines in the number of trials in every category of tort and contract cases. For example, Milwaukee County had 171 tort trials in 1996, but only ninety-seven five years later in 2001.

Overall, not only is the number of cases tried declining, but so is the level of awards that winning plaintiffs receive. The median award for all trial cases in the seventy-five counties declined 43.1 percent from \$65,000 in 1992 to \$37,000 (in inflation-adjusted dollars) in 2001. Tort awards were down even more, some 56.3 percent. The only exceptions were medical

Table 11. Awards in Tort Cases in Four Metropolitan Counties and the Average of All of the U.S.’s 75 Largest Counties, 2001

	Milwaukee WI	Cook IL	Wayne MI	Hennepin MN	75 Counties
Number of Tort Trials	97	339	144	123	1,149
Plaintiff Win %	69.1	54.9	35.4	54.5	26.8
Median Award	\$19,000	\$76,000	\$65,000	\$29,000	\$422,000
Mean Award	\$103,030	\$826,000	\$577,195	\$129,018	\$522,842

Thomas Cohen, Bureau of Justice Statistics Bulletin: Tort Trials and Verdicts in Large Counties, 2001

malpractice awards, which climbed 70.4 percent and product liability awards which climbed 287.9 percent as the number of trials fell by more than three-quarters.⁴⁶

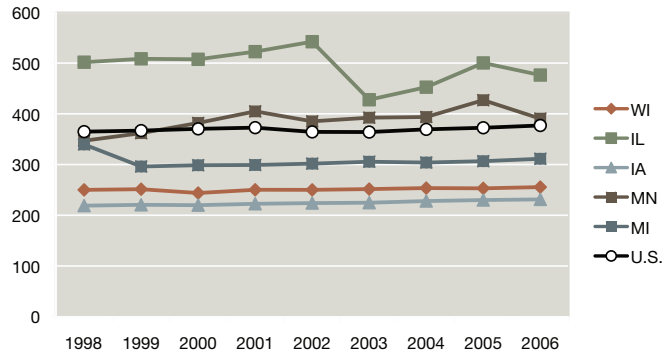
In interpreting the effect of awards, we also need to pay attention to post-verdict attrition. Jury verdicts are only part of the system of tort awards, for those verdicts are subject to judicial scrutiny and modification at post-trial and appellate stages. A long and consistent line of research establishes that subsequent judicial action (and settlement in its shadow) reduces a significant portion of awards, particularly large awards and punitive damages awards.⁴⁷

Is Wisconsin “Overlawyered”?

Some critics have asserted that Wisconsin has “too many lawyers.” Wisconsin, with about 2 percent of the U.S. population, has about 1.3 percent of the country’s lawyers.⁴⁸ The ratio of lawyers to population is lower in Wisconsin than in the United States as a whole and lower than in all but the most rural of our neighboring states. (See Figure 15)

The ratio of population to lawyers in the U.S. in 2000 was 264 to 1. In Wisconsin, it was 401 to 1. Among the fifty-one jurisdictions (fifty states and the District of Columbia), Wisconsin’s population to lawyer ratio was thirty-eighth in 2000. Wisconsin’s lawyer population is slightly older, with a median of fifty years of age versus a national median of forty-seven, and significantly less female (22 percent vs. 27 percent) than the nation as a whole.⁴⁹ This suggests that it has not been growing at as high a rate as the nation as a whole. In short, Wisconsin seems to have about one-third fewer lawyers per capita than the rest of the country and it is not catching up.

Figure 15. Rate of Attorneys per 100,000 in WI, IL, IA, MI, MN, and the U.S. (1996–2006)



American Bar Association (ABA) Market Research, 1998-2007, available at <http://www.abanet.org/marketresearch/resource.html#Demographics>.

Is Wisconsin's Legal Environment Bad for Business?

Among the charges brought against Wisconsin's civil justice system is that it creates an unfriendly environment for business, depressing business activity and discouraging investment in the state. We found no direct evidence of this. Nor did we find evidence that Wisconsin businesses place a high priority on "reform" of the civil justice system.

The U.S. Chamber of Commerce conducts an annual ranking of the liability systems of the various states.⁵⁰ The study is based on telephone interviews with a nationally representative sample of 1,599 in-house general counsel or other senior litigators at companies with annual revenues of at least \$100 million.⁵¹ This survey reflects the perspective of corporate America. Respondents who said they were "very or somewhat familiar with a given state" were asked to provide a letter grade (A,B,C, etc.) rating of various (sometimes opaque) aspects of the state's liability system (e.g., "judges' impartiality", "overall treatment of tort and contract litigation"). Since we have no information about the actual knowledge and objectivity of these respondents, this exercise should be regarded as a measure of reputation, informed by an uneven admixture of bits of direct experience.

In the 2007 rankings of liability systems in the various states, Wisconsin emerged as tenth best among the fifty states, a striking improvement over 2006, when it ranked twenty-third. While this change may reflect some unnoticed change in Wisconsin practices, it seems more likely that it reflects

Table 12. U.S. Chamber of Commerce Survey for Legal Reform Rankings

State	2006 Rank	2007 Rank
Wisconsin	23	10
Illinois	45	46
Iowa	4	4
Michigan	22	23
Minnesota	14	2

U.S. Chamber of Commerce, Institute for Legal Reform

changes in the survey's procedure for interviewing respondents, discouraging them from rating states with which they were less familiar. In the 2007 survey, the respondents evaluated three states on average as opposed to six states in the 2006 survey.⁵²

We also have an indication closer to home of the level of worry of actual Wisconsin business persons about the civil justice system. In 2006, Wisconsin Manufacturers and Commerce (WMC) conducted an online survey of six hundred manufacturing CEOs.⁵³ The response rate was low: there were only eighty-one responses to the question "What is the top public policy issue facing Wisconsin?" Of these, twenty-three chose "lawsuit abuse," making it the third highest "top issue," behind taxes and health care costs. However, when the CEOs were asked to identify "one thing that that state government could do to help your business" none of the thirty-four respondents in 2006 identified tort reform. This had also been in the response in 2005. In 2004, when the question was first asked, two of thirty-four respondents chose tort reform.

Similarly when respondents were asked to identify "one thing that state government could do to improve Wisconsin's business climate," tort reform attracted two of thirty-four votes to be in a three-way tie (with "reduce spending" and "affordable health care") for sixth place out of ten alternative ways to improve Wisconsin's business climate. When the CEOs were asked to rate ten factors "in terms of their negative impact on your company's operations," "fear of litigation" came in tenth.⁵⁴

This suggests that although a fraction of business people cite civil justice issues as a general problem, only a vanishingly small minority identify the civil justice system as a significant problem for their own businesses.

Conclusion

In many ways, Wisconsin is very much like its neighbors and like the rest of the nation. Overall, resort to the courts is increasing, but most of this increase is in the family and contract areas. Tort filings are decreasing relative to population and in absolute numbers. The portion of cases that reach trial, especially jury trial, is decreasing. When cases do get to trial, median awards are mostly lower than in the recent past.

If we look further to see how Wisconsin is distinctive, we find that even with the limitations of the data, Wisconsin has a modest amount of litigation in comparison with our neighbors and the rest of the nation. Most non-family civil cases are filed by businesses against individual defendants; where individuals sue businesses, the awards are comparatively modest. This relatively low resort to the courts is reflected in a lawyer population that is relatively small and slow growing.

The costs imposed by the civil justice system are palpable; the benefits that it confers are less apparent — indeed to the extent that they are effective, they fade from view. The same system of justice that protects citizens, protects and facilitates businesses. Businesses use the civil justice system to enforce contracts and collect debts. The security of property rights afforded by the civil law enables them to raise capital, borrow, and extend credit. They enjoy the protections of the tort system in deterring injurious behavior by others. All of this is so routine that it easily escapes our attention. This should remind us that citizens and businesses have a shared interest in an effective civil justice system. We hope that this booklet helps provide the basis for an informed public discussion.



Endnotes

- ¹ Hamilton Consulting Group, LLC, “Liability Reform,” Updated April 26, 2006.
- ² Wisconsin Manufacturers & Commerce, “2007–2008 Legislative Update” 12.
- ³ Maureen Martin, “Wisconsin Mecca for Lawsuit Abuse,” *Lawsuit Abuse Fortnightly* #5-1 (Jan. 2006) <http://www.heartland.org> (visited Dec. 21, 2007).
- ⁴ William Haltom and Michael McCann, *Dis-Torting the Law: Politics, Media and the Litigation Crisis* (Chicago: University of Chicago Press, 2004); Marc Galanter, “An Oil Strike in Hell: Contemporary Legends about the Civil Justice System,” 40 *Arizona L. Rev.* 717 (1998).
- ⁵ The actual figures for this and other figures and tables are provided in Appendices A and B, posted at the University of Wisconsin Law School Web site, <http://hosted.law.wisc.edu/faculty/galanter.html>; See Appendix A-1.
- ⁶ Wisconsin data can be found at <http://wicourts.gov/about/pubs/circuit/circuitstats.htm>; Illinois data is found at <http://www.state.il.us/Court/SupremeCourt/Ann.Report.asp>; Iowa data was obtained from John Goerd, Deputy State Administrator. See Appendix A-1; and Ruth Simpson Research Director, Wisconsin Academy of Trial Lawyers; Michigan data is found at <http://courts.michigan.gov/scaolresources/publications/reports/summaries.htm>; Minnesota data was obtained from Craig Hagensick, Supreme Court of Minnesota State Court Administrator’s Office.
- ⁷ National Center for State Courts, *Examining the Work of State Courts 2007*, p. 27.
- ⁸ Forty-eight of the states, plus the District of Columbia and Puerto Rico, that supplied data to the National Center for State Courts.
- ⁹ National Center for State Courts, *Examining the Work of State Courts 2007*, p. 28.
- ¹⁰ U.S. District Court Judicial Caseload Profile 106, 107.
- ¹¹ All Federal Court data was obtained from Federal Court Management Statistics, Administrative Office of the United States Courts, <http://www.uscourts.gov/library/statistical-reports.html> Federal Court Management Statistics, Administrative Office of the United States Courts, Leonidas Ralph Beacham, Director; See Appendix B-1.

- ¹² By Wisconsin statute, “small claims” are evictions, forfeitures, replevins, confirmation or vacation of arbitration awards, and other civil actions “where the amount claimed is \$5,000 or less,…” Such actions must be commenced in small claims court. Wis. Stats. Sec. 799.01 (d). Many of these actions are tried before a circuit court commissioner, not a judge. The statute provides for relaxed trial procedures. The court or commissioner “...shall conduct the proceeding informally, allowing each party to present arguments and proofs...” The rules of evidence do not apply. The court or circuit court commissioner are allowed to question witnesses “...and shall endeavor to ensure that claims or defenses of are parties are fairly represented...” Wis. Stats. Sec. 799.209. There is a right to trial before a six-person jury, but only upon timely payment of a special fee. Wis. Stats. Sec. 799.21.
- ¹³ Appendix A-1.
- ¹⁴ Appendix A-1.
- ¹⁵ Appendix A-1, A-4.
- ¹⁶ Appendix A-1, A-2, A-4.
- ¹⁷ Christopher E. Ware and Laura Gramling Perez, “Main Street Meets Wall Street: The Mortgage Meltdown,” Wisconsin Lawyer, vol. 80, no. 12, Dec. 2007.
- ¹⁸ Marc Galanter, “Contract in Court; or Almost Everything You May or May Not Want to Know About Contract Litigation,” 2001 Wisconsin Law Review 577; Appendix A-4.
- ¹⁹ Appendix A-1, A-2, A-4.
- ²⁰ National Center for State Courts, Examining the Work of State Courts, 2006, p. 12.
- ²¹ National Center for State Courts, Examining the Work of State Courts, 2007, p. 22.
- ²² Appendix B-2.
- ²³ Beginning in 2005, the Administrative Office of U.S. Courts developed new categories for their statistics which separated what had been “Torts” into “Torts” and “Personal Injury/Product Liability.” In order to ensure cohesion in our data, any chart which divides filings by the nature of the suit will end in 2004, the last year in which the data set is contiguous.
- ²⁴ In 2003, automobile torts accounted for more than half of the tort cases filed in twelve of the 17 states for which data was available. The median for the seventeen states was 56%. National Center for State Courts, Explaining the Work of State Courts, 2004, p. 27; A-4.
- ²⁵ Appendix A-1, A-2, A-4.
- ²⁶ Randy F. Sproule, Administrator, Medical Mediation Panels, Medical Malpractice Jury Verdicts in Wisconsin, 1989-2007.
- ²⁷ United States General Accounting Office, Physician Workforce: Physician Supply Increased in Metropolitan and Nonmetropolitan Areas but Geographic Disparities Persisted October 2003 (GAO-04-124), pp 7, 13, 23-27. <http://www.gao.gov/new.items/d04124.pdf>
- ²⁸ United States General Accounting Office, Physician Workforce: Physician Supply Increased in Metropolitan and Nonmetropolitan Areas but Geographic Disparities Persisted October 2003 (GAO-04-124), pp 7, 13, 23-27. <http://www.gao.gov/new.items/d04124.pdf>
- ²⁹ National Center for State Courts, Explaining the Work of State Courts, 2007, p. 24
- ³⁰ National Association of Insurance Commissioners, Countrywide Summary of Medical Malpractice Insurance 1991-2007 (updated 08/02/2007).
- ³¹ National Association of Insurance Commissioners, Countrywide Summary of Medical Malpractice Insurance 1991-2007 (updated 08/02/2007).
- ³² Randy F. Sproule, Administrator, Medical Mediation Panels, Medical Malpractice Jury Verdicts in Wisconsin, 1989-2007; see <http://www.wicourts.gov/about/organization/offices/mmp/htm> .
- ³³ Appendix A-1.
- ³⁴ National Center for State Courts, Explaining the Work of State Courts, 2007, p. 13.
- ³⁵ Appendix A-1, A-2, A-4.
- ³⁶ Appendix A-3, A-4.
- ³⁷ Marc Galanter and Mia Cahill, “Most Cases Settle: Judicial Promotion and Regulation of Settlements,” 46 Stanford Law Review 1339 (1994); Herbert Kritzer, “Adjudication to Settlement: Shading in the Gray,” 70 Judicature 161 (1986).

³⁸ Cases and defenses that lack any merit may be dismissed by the judge before trial on what are called dispositive motions-i.e., motions by a party that lead to the disposition of the case. These are primarily motions to dismiss and motions for summary judgment. A summary judgment motion may be granted under Wisconsin law only if the suit presents no question of fact and it is clear as a matter of law that the claim or defense cannot succeed. Almost all successful use of these motions is by defendants rather than plaintiffs.

³⁹ Civil Justice Survey of State Courts, 1992 (ICPSR 6587), 1996 (ICPSR 2883), 2001 (ICPSR 3957). Data can also be obtained from the University of Michigan Inter-university Consortium for Political and Social Research (ICPSR). See the Bureau of Justice Statistics website, <http://www.ojp.usdoj.gov/bjs>, for the procedure used to insure that the 46 counties are representative of the 75.

⁴⁰ Marc Galanter, "The Vanishing Trial: An Examination of Trials and Related Matters in Federal and State Courts," 1 *Journal of Empirical Legal Studies* 459 (2004); Marc Galanter, "A World Without Trials," 2006 *Journal of Dispute Resolution* 7 (2006).

⁴¹ Appendix A-2, A-3.

⁴² Memorandum from Don Salm, Senior Staff Attorney to Members of Special Committee on Jury Service (Jury Service Memo No. 4), Sep. 13, 1990. [on file with the authors]

⁴³ In the report on 1996, the PI/PD category (which we are calling tort) included not only the sub-categories given here, but also separate counts for Wrongful Death (9), Intentional Tort (35), Asbestos (1), and Property Damage (19). We have lumped these trials in with the listed for Other Personal Injury, on the assumption that that is where their counterparts today would end up, since there is no indication that these sub-categories have survived elsewhere in the statistics. It may seem anomalous to include property damage cases in "Other personal injury" but the contemporary worksheet presents the category summing up the sub-categories listed in our table as "Total PI/PD."

⁴⁴ Brian J. Ostrom, Shauna M. Strickland, and Paula L. Hannaford-Agor, "Examining Trial Trends in State Courts: 1976-2002," 1 *Journal of Empirical Legal Studies* 755, 776.(2004).

⁴⁵ Thomas Cohen, Bureau of Justice Statistics Bulletin: Tort Trials and Verdicts in Large Counties, 2001 (Nov. 2004, NCJ 206240), Appendix A, Appendix C, thereto, available of Bureau of Justice Statistics website, <http://www.ojp.usdoj.gov/bjs>.

⁴⁶ Thomas H. Cohen and Steven K. Smith, Bureau of Justice Statistics Bulletin, Civil Trial Cases and Verdicts in Large Counties, 2001 (April 2004, NCJ 202803), Bureau of Justice Statistics website.

⁴⁷ For example, a study of verdicts of a million dollars or more returned in 1984 and 1985 found that seventy-four percent of them were reduced and that only forty-three percent of the money originally awarded was paid to plaintiffs. Ivy E. Broder, Characteristics of Million Dollar Awards: Jury Verdicts and Final Disbursements, 11 *Just Sys. J.* 349, 353 (1986). Awards in product liability cases in five states were reduced in fifty percent of the cases; only 76 percent of the total amount awarded was eventually paid. This seventy-six percent is consistent throughout the data. U.S. General Accounting Office Pub. No GAO/HRD-89-99, Product Liability: Verdicts and Case Resolution in Five States 45 (1989). A national study of punitive damages awards in product liability cases from 1965 to 1990 found that no punitive damages were paid in forty-six percent of the cases, part of the award was paid in fourteen percent, and the full award was paid in only forty percent. The total collected was roughly fifty percent of the amount awarded. Michael Rustad, In Defense of Punitive Damages in Product Liability: Testing Tort Anecdotes with Empirical Data, 78 *Iowa L. Rev.* 1, 56 (1992).

⁴⁸ Clara N. Carson, "The 2000 Lawyer Statistical Report," American Bar Association (2004).

⁴⁹ *Id.*

⁵⁰ Lawsuit Climate Rating the States, Conducted by Harris Interactive, Inc. for the U.S. Chamber of Commerce Institute for Legal Reform.

⁵¹ Available at instituteforlegalreform.com/cfm

⁵² *Id.*

⁵³ <http://www.wmc.org/pdf/files/boardsurveyjune06.pdf>

⁵⁴ <http://www.wmc.org/pdf/files/mfgsurveyresults-5-06.pdf>



Appendices: Appendices can be found at <http://hosted.law.wisc.edu/faculty/galanter.html>.

Data Sources: A-1, A-2, A-3, and A-4: Data provided by A. John Voelker, Director of State Courts Office. Accessible at <http://www.wicourts.gov/about/pubs/circuit/circuitstats.htm>. B-1, B-2: Federal Court Management Statistics, provided by Administrative Office of the United States Courts, Leonidas Ralph Mecham, Director. Available at <http://www.uscourts.gov/library/statisticalreports.html>.

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<http://www.uscourts.gov/adminoff.html>

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Williamsburg, VA 23185-4147
(888) 450-0391
<http://www.ncsonline.org>

Bureau of Justice Statistics
810 Seventh Street, NW
Washington, D.C. 20531
<http://www.ojp.usdoj.gov/bjs>

Judicial Statistics
Assembled by Professor Theodore Eisenberg & Kevin M. Clermont
<http://teddy.law.cornell.edu:8090/questata.htm>
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Administrative Office of Wisconsin State Courts
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National Association of Insurance Commissioners
NAIC Executive Headquarters
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Marc Galanter is the John and Rylla Bosshard Professor of Law Emeritus and South Asian Studies at the University of Wisconsin Law School. He is also a Centennial Professor at the London School of Economics and Political Science. He is the author of a number of highly regarded and seminal studies of litigation and disputing in the United States. His work includes pioneering studies of patterns of litigation in the United States. A leading figure in the empirical study of the legal system, he has been editor of the *Law & Society Review*, President of the Law and Society Association, Chair of the International Commission on Folk Law and Legal Pluralism, a Guggenheim Fellow, and a Fellow of the Center for Advanced Study in the Behavioral Sciences. He is a member of the American Law Institute and a Fellow of the American Academy of Arts and Sciences.

Susan Steingass is an Associate Clinical Professor Emerita at the University of Wisconsin Law School where she taught in the areas of Civil Procedure, Evidence, Trial Advocacy, and Negotiation. She has served as a Dane County Circuit Court Judge and President of the State Bar of Wisconsin. She was a partner at the Madison, Wisconsin law firms, Stafford, Rosenbaum, Rieser & Hansen and Habush Habush & Rottier where she is of counsel and currently serves as the firm's Education Director. She is a member of the American Law Institute and served as an Advisor to Restatement (Third) of Torts, Apportionment of Liability. She is also active in the National Institute for Trial Advocacy and is chair of its Board of Trustees.

Appendices

Appendices can be found at
<http://hosted.law.wisc.edu/faculty/galanter.html>.

Data Sources

A-1, A-2, A-3, and A-4: Data provided by A. John Voelker, Director of State Courts Office. Accessible at <http://www.wicourts.gov/about/pubs/circuit/circuitstats.htm>.
B-1, B-2: Federal Court Management Statistics, provided by Administrative Office of the United States Courts, Leonidas Ralph Mecham, Director. Available at <http://www.uscourts.gov/library/statisticalreports.html>.

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