



CENTER FOR JUSTICE & DEMOCRACY
185 WEST BROADWAY
NEW YORK, NY 10013
TEL: 212.431.2882
centerjd@centerjd.org
<http://centerjd.org>

HOW LOW CAN THEY GO?

STATE CIVIL, TORT, MEDICAL MALPRACTICE AND PRODUCTS LIABILITY CASELOADS AND JURY TRIALS

Many states (but not all) compile annual civil case filing and jury trial statistics, and provide their data to the National Center for State Courts (NCSC). Together, these data present the most accurate overview of our nation's state-based civil justice system. According to averages calculated from the most recent data released by NCSC:

CIVIL CASES

- Civil cases represented 20 percent of incoming cases in state trial courts in 2018.¹
- Civil caseloads were 16 percent lower in 2018 than they were a decade earlier.²

TORT vs. CONTRACT CASES

- “Tort cases garner a great deal of public interest but generally account for only about 4 percent of [state court] Civil caseloads...”³ As NCSC data show, this has been the rate for the past seven years for which data are available (*i.e.*, 2012-2018).⁴
- “In the aggregate, contract cases represent nearly half (47%) of the [state court] Civil caseload” in 2018.⁵
- Contracts “could account for as many as 8 million cases nationally,” according to NCSC estimates.⁶

MEDICAL MALPRACTICE AND PRODUCT LIABILITY CASES

- Medical malpractice cases represented only 0.15 percent of state *civil* caseloads in 2018.⁷ This rate is consistent with NCSC data from the previous six years.⁸

- Medical malpractice cases represented only 4 percent of state *tort* caseloads in 2018.⁹ This rate is consistent with NCSC data from the previous six years.¹⁰
- In 2017, “product liability cases comprise only 2 percent” of state *tort* caseloads.¹¹ This rate is consistent with NCSC data from the previous year.¹²

JURY TRIALS

- The percentage of *civil* cases resolved by jury trial in state courts was only 0.32 percent in 2018.¹³ This rate has remained extremely low for the past seven years.¹⁴
- The percentage of *tort* cases resolved by jury trial in state courts was just 2.1 percent in 2018.¹⁵ This rate has remained extremely low for the past seven years.¹⁶
- The percentage of *medical malpractice* cases resolved through jury trial in state courts was only 7.2 percent in 2018.¹⁷ This rate has remained extremely low for the past seven years.¹⁸

NOTES

¹ This percentage comes from NCSC’s examination of data from state trial courts in all 50 states plus the District of Columbia, Puerto Rico and Guam. National Center for State Courts, *State Court Caseload Digest: 2018 Data* (2020), http://www.courtstatistics.org/_data/assets/pdf_file/0014/40820/2018-Digest.pdf

² Ibid.

³ Ibid.

⁴ See National Center for State Courts, “2018 Civil Caseloads – Trial Courts: 2018 Statewide Tort Caseloads and Rates” (4 percent), “2017 Civil Caseloads – Trial Courts: 2017 Statewide Tort Caseloads and Rates” (4 percent), “2016 Civil Caseloads – Trial Courts: 2016 Statewide Tort Caseloads and Rates” (4 percent), “2015 Civil Caseloads – Trial Courts: 2015 Statewide Tort Caseloads and Rates” (3.8 percent), “2014 Civil Caseloads – Trial Courts: 2014 Statewide Tort Caseloads and Rates” (3.6 percent), “2013 Civil Caseloads – Trial Courts: 2013 Statewide Tort Caseloads and Rates” (3.5 percent) and “2012 Civil Caseloads – Trial Courts: 2012 Statewide Tort Caseloads and Rates” (3.7 percent), http://popup.ncsc.org/CSP/CSP_Intro.aspx

⁵ This percentage comes from NCSC’s examination of statewide civil caseload composition in 27 states. National Center for State Courts, *State Court Caseload Digest: 2018 Data* (2020), http://www.courtstatistics.org/_data/assets/pdf_file/0014/40820/2018-Digest.pdf

⁶ National Center for State Courts, *State Court Caseload Digest: 2018 Data* (2020), http://www.courtstatistics.org/_data/assets/pdf_file/0014/40820/2018-Digest.pdf

⁷ Twenty-five states plus the District of Columbia and Puerto Rico provided NCSC with state court caseload data related to medical malpractice cases as a percentage of total civil caseloads. National Center for State Courts, “2018 Civil Caseloads – Trial Courts: 2018 Statewide Medical Malpractice Caseloads and Rates,” http://popup.ncsc.org/CSP/CSP_Intro.aspx

⁸ See National Center for State Courts, “2017 Civil Caseloads – Trial Courts: 2017 Statewide Medical Malpractice Caseloads and Rates” (0.14 percent), “2016 Civil Caseloads – Trial Courts: 2016 Statewide Medical Malpractice Caseloads and Rates” (0.17 percent), “2015 Civil Caseloads – Trial Courts: 2015 Statewide Medical Malpractice Caseloads and Rates” (0.16 percent), “2014 Civil Caseloads – Trial Courts: 2014 Statewide Medical Malpractice Caseloads and Rates” (0.14 percent), “2013 Civil Caseloads – Trial Courts: 2013 Statewide Medical Malpractice

Caseloads and Rates” (0.14 percent) and “2012 Civil Caseloads – Trial Courts: 2012 Statewide Medical Malpractice Caseloads and Rates” (0.13 percent), http://popup.ncsc.org/CSP/CSP_Intro.aspx

⁹ Twenty-six states plus the District of Columbia and Puerto Rico provided NCSC with state court caseload data related to medical malpractice cases as a percentage of total tort caseloads. National Center for State Courts, “2018 Civil Caseloads – Trial Courts: 2018 Statewide Medical Malpractice Caseloads and Rates,”

http://popup.ncsc.org/CSP/CSP_Intro.aspx

¹⁰ See National Center for State Courts, “2017 Civil Caseloads – Trial Courts: 2017 Statewide Medical Malpractice Caseloads and Rates” (3.9 percent), “2016 Civil Caseloads – Trial Courts: 2016 Statewide Medical Malpractice Caseloads and Rates” (4.15 percent), “2015 Civil Caseloads – Trial Courts: 2015 Statewide Medical Malpractice Caseloads and Rates” (4.6 percent), “2014 Civil Caseloads – Trial Courts: 2014 Statewide Medical Malpractice Caseloads and Rates” (3.9 percent), “2013 Civil Caseloads – Trial Courts: 2013 Statewide Medical Malpractice Caseloads and Rates” (4 percent) and “2012 Civil Caseloads – Trial Courts: 2012 Statewide Medical Malpractice Caseloads and Rates” (3.4 percent), http://popup.ncsc.org/CSP/CSP_Intro.aspx. See also, National Center for State Courts, “Composition of Tort Caseloads in 20 States, 2016” (4 percent),

<http://www.courtstatistics.org/~media/Microsites/Files/CSP/Civil/PDFs/EWSC-2016-CIVIL-Page-6-Tort-Pie.ashx>,

¹¹ This percentage comes from NCSC’s examination of tort caseload composition in 20 states. National Center for State Courts, *State Court Caseload Digest: 2017 Data* (2019),

<http://www.courtstatistics.org/~media/Microsites/Files/CSP/Overview/CSP%202017%20Data%20-%20Spreads%20for%20viewing.ashx>

¹² See National Center for State Courts, “Composition of Tort Caseloads in 20 States, 2016” (1 percent),

<http://www.courtstatistics.org/~media/Microsites/Files/CSP/Civil/PDFs/EWSC-2016-CIVIL-Page-6-Tort-Pie.ashx>

¹³ Twenty-seven states provided NCSC with state court caseload data related to the percentage of civil cases resolved by juries. National Center for State Courts, “2018 Civil Caseloads – Trial Courts: 2018 Civil Jury Trials and Rates,” http://popup.ncsc.org/CSP/CSP_Intro.aspx

¹⁴ See National Center for State Courts, “2018 Civil Caseloads – Trial Courts: 2018 Civil Jury Trials and Rates” (0.32 percent), “2017 Civil Caseloads – Trial Courts: 2017 Civil Jury Trials and Rates” (0.21 percent), “2016 Civil Caseloads – Trial Courts: 2016 Civil Jury Trials and Rates” (0.23 percent), “2015 Civil Caseloads – Trial Courts: 2015 Civil Jury Trials and Rates” (0.26 percent), “2014 Civil Caseloads – Trial Courts: 2014 Civil Jury Trials and Rates” (0.27 percent), “2013 Civil Caseloads – Trial Courts: 2013 Civil Jury Trials and Rates” (0.27 percent) and “2012 Civil Caseloads – Trial Courts: 2012 Civil Jury Trials and Rates” (0.33 percent),

http://popup.ncsc.org/CSP/CSP_Intro.aspx

¹⁵ Twenty-three states provided NCSC with state court caseload data related to the percentage of tort cases resolved by juries. National Center for State Courts, “2018 Civil Caseloads – Trial Courts: 2018 Tort Jury Trials and Rates,”

http://popup.ncsc.org/CSP/CSP_Intro.aspx

¹⁶ See National Center for State Courts, “2018 Civil Caseloads – Trial Courts: 2018 Tort Jury Trials and Rates” (2.1 percent), “2017 Civil Caseloads – Trial Courts: 2017 Tort Jury Trials and Rates” (1.5 percent), “2016 Civil Caseloads – Trial Courts: 2016 Tort Jury Trials and Rates” (1.48 percent), “2015 Civil Caseloads – Trial Courts: 2015 Tort Jury Trials and Rates” (1.7 percent), “2014 Civil Caseloads – Trial Courts: 2014 Tort Jury Trials and Rates” (1.9 percent), “2013 Civil Caseloads – Trial Courts: 2013 Tort Jury Trials and Rates” (2.2 percent) and “2012 Civil Caseloads – Trial Courts: 2012 Tort Jury Trials and Rates” (2.3 percent),

http://popup.ncsc.org/CSP/CSP_Intro.aspx

¹⁷ Twenty-one states provided NCSC with state court caseload data related to the percentage of medical malpractice cases resolved by juries. National Center for State Courts, “2018 Civil Caseloads – Trial Courts: 2018 Medical Malpractice Jury Trials and Rates,” http://popup.ncsc.org/CSP/CSP_Intro.aspx

¹⁸ See National Center for State Courts, “2018 Civil Caseloads – Trial Courts: 2018 Medical Malpractice Jury Trials and Rates” (7.2 percent), “2017 Civil Caseloads – Trial Courts: 2017 Medical Malpractice Jury Trials and Rates” (6.1 percent), “2016 Civil Caseloads – Trial Courts: 2016 Medical Malpractice Jury Trials and Rates” (5.1 percent), “2015 Civil Caseloads – Trial Courts: 2015 Medical Malpractice Jury Trials and Rates” (6.4 percent), “2014 Civil Caseloads – Trial Courts: 2014 Medical Malpractice Jury Trials and Rates” (6.1 percent), “2013 Civil Caseloads – Trial Courts: 2013 Medical Malpractice Jury Trials and Rates” (6.1 percent) and “2012 Civil Caseloads – Trial Courts: 2012 Medical Malpractice Jury Trials and Rates” (6.3 percent), http://popup.ncsc.org/CSP/CSP_Intro.aspx