

Civil Jury Trials

Japan and Civil Jury Trials
The Convergence of Forces
Edward Elgar Publishing
Annotation
Are jury verdicts in business trials influenced less by a corporation's negligence than by sympathy for the plaintiffs, prejudice against business, and a belief in the corporation's "deep pockets"? Many members of the public and corporate executives believe that this is so, and they feel that the jury's decision making presents serious problems for American business competitiveness and its justice system. This book -- the first to provide a systematic account of how juries make decisions in typical business cases -- shows that these assumptions are false or exaggerated. Drawing on interviews with civil jurors, experiments with mock jurors, and public opinion polling, Valerie P. Hans explores how jurors determine whether businesses should be held responsible for an injury. She finds that many civil jurors, rather than being overly sympathetic to plaintiffs who bring civil lawsuits, are actually hostile to them, that there are only occasional instances of anti-business prejudice, and that there is no evidence of the deep-pockets hypothesis. Hans concludes that jurors do treat businesses differently than individuals, but this is because the public has higher expectations of corporations and more rigorous standards for their conduct.

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Excerpt from *Juries and Jury Trials in Civil and Criminal Cases: Illinois* In presenting this work to the profession, it is with the desire that what is here arranged, may prove useful, not only in preparation for trial, but more especially enabling Bench and Bar engaged in trial, by facility of reference, to come at once to the debatable point and deal with the question quickly, in the situation in which the existing state of the authorities in Illinois presents it. From the reception of the author's work on the Law of Evidence, the statement in the preface to that volume, that with the growth of our reports, it was believed that certain subjects

should necessarily be treated in single volume, embracing only Illinois authorities, seems to have been justified. About the Publisher Forgotten Books publishes hundreds of thousands of rare and classic books. Find more at www.forgottenbooks.com This book is a reproduction of an important historical work. Forgotten Books uses state-of-the-art technology to digitally reconstruct the work, preserving the original format whilst repairing imperfections present in the aged copy. In rare cases, an imperfection in the original, such as a blemish or missing page, may be replicated in our edition. We do, however, repair the vast majority of imperfections successfully; any imperfections that remain are intentionally left to preserve the state of such historical works.

The right to a jury trial is a fundamental feature of the American justice system. In recent years, however, aspects of the civil jury system have increasingly come under attack. Many question the ability of lay jurors to decide complex scientific and technical questions that often arise in civil suits. Others debate the high and rising costs of litigation, the staggering delay in resolving disputes, and the quality of justice. Federal and state courts, crowded with growing numbers of criminal cases, complain about handling difficult civil matters. As a result, the jury trial is effectively being challenged as a means for resolving disputes in America. Juries have been reduced in size, their selection procedures altered, and the unanimity

requirement suspended. For many this development is viewed as necessary. For others, it arouses deep concern. In this book, a distinguished group of scholars, attorneys, and judges examine the civil jury system and discuss whether certain features should be modified or reformed. The book features papers presented at a conference cosponsored by the Brookings Institution and the Litigation Section of the American Bar Association, together with an introductory chapter by Robert E. Litan. While the authors present competing views of the objectives of the civil jury system, all agree that the jury still has and will continue to have an important role in the American system of civil justice. The book begins with a brief history of the jury system and explains how juries have become increasingly responsible for decisions of great difficulty. Contributors then provide an overview of the system's objectives and discuss whether, and to what extent, actual practice meets those objectives. They summarize how juries function and what attitudes lawyers, judges, litigants, former jurors, and the public at large hold about the current system. The second half of the book is devoted to a wide range of recommendations that will both improve citizens' access to jury determinations and help resolve disputes in a more effective and efficient manner. Among their many suggestions, the authors call for changes in trial procedures and techniques that would improve the ability of jurors to understand the lay and

evidence, a reduction in administrative costs and delays, and a change in the way juries are chosen. The authors also recommend shorter hours and more pay for jurors, greater flexibility in court schedules, and elimination of alternate jurors. In the final chapter the civil jury is considered in the broader context of how society resolves or manages civil disputes.

While the right to be judged by one's peers in a court of law appears to be a hallmark of American law, protected in civil cases by the Seventh Amendment to the Constitution, the civil jury is actually an import from England. Legal historian James Oldham assembles a mix of his signature essays and new work on the history of jury trial, tracing how trial by jury was transplanted to America and preserved in the Constitution. Trial by Jury begins with a rigorous examination of English civil jury practices in the late eighteenth century, including how judges determined one's right to trial by jury and who composed the jury. Oldham then considers the extensive historical use of a variety of "special juries," such as juries of merchants for commercial cases and juries of women for claims of pregnancy. Special juries were used for centuries in both English and American law, although they are now considered antithetical to the idea that American juries should be drawn from jury pools that reflect reasonable cross-sections of their communities. An introductory overview addresses the relevance of Anglo-

American legal tradition and history in understanding America's modern jury system.

Examines the features of a civil jury trial in New York from preparation, jury selection, pleadings, opening arguments, examinations and rebuttals.

Two outstanding Texas trial lawyers—one of whom is now an equally respected district judge—have written *On the Jury Trial*, a “must have” reference for any trial lawyer aspiring to excellence or seeking to maintain it. Thomas M. Melsheimer and Judge Craig Smith have crafted a narrative-driven advice guide for trial lawyers to hone their craft. Chapter topics include voir dire, opening statement, preparing witnesses, cross examination, using exhibits, closing argument, jury research, and more, with excellent examples and “do’s and don’ts” provided throughout. Think of this book as the senior law partner’s memo to associates on how to really try a case. Looking for fly-on-the-wall insight into world-class trial preparation and strategy? Here it is. A behind-the-scenes tour of the inner workings of the judicial process? This book has you covered. Its combination of advice, illustration, and commentary is every bit as valuable as it is unique. Every litigator should have this book on the shelf, no matter the state in which they practice. The jury trial is a critical component of our democratic society, and its use in civil cases is unique to the United States. It is truly an example of our participatory democracy in action, and yet the jury trial is under attack from all sides, most notably from special interest groups who seek to have more cases decided by individual judges

or by arbitration. These efforts have resulted in a decline of civil jury trials all over the country. A decline in the jury trial is a decline in justice. To preserve the jury trial, we must preserve the skills of trying a case effectively and efficiently. On the Jury Trial, in no small way, will add significantly to that effort.

This report extends earlier efforts to document and analyze the outcomes produced by the civil justice system based on studies of civil jury trials in Cook County, Illinois, and San Francisco County, California. First, the report updates the earlier work by incorporating data for the years 1980 through 1984. Second, it expands the scope of the study to include the entire state of California. Past patterns in jury awards continued in Cook County during the 1980s: The size of most jury awards did not increase (the median actually fell), but large jury awards, and therefore the average, increased sharply. The pattern that prevailed in both jurisdictions during the 1960s and 1970s, however, changed in San Francisco: There was a substantial increase in the size of awards during the 1980s across the entire range of cases tried in state and federal courts. Unlike past findings, the increase was not restricted to a few very large awards. The average award increased as in previous years, but median awards also increased to triple the median of the late 1970s.

Decades of trial experience are shared in *Mastering the Mechanics of Civil Jury Trials*, containing all the key steps to civil litigation. As evidenced by standing room only at CLE classes offered by the authors---three top-rated veteran trial

lawyers and one sitting judge---the wisdom gleaned from real practice, and now preserved in this book, represents both a primer for the layperson or law student, and a veritable mentor-in-a-briefcase for attorneys representing either plaintiff or defendant. Includes an extensive Appendix citing state-by-state rules and codes for various aspects of trial procedure. A fascinating peek inside the courtroom.

The first of a two-volume set on the Psychology of the Courtroom, *Jury Psychology: Social Aspects of Trial Processes* offers a definitive account of the influence of trial procedures on juror decision-making. A wide range of topics are covered including pre-trial publicity and inadmissible evidence, jury selection, jury instruction, and death penalty cases, as well as decision-making in civil trials. In addition, a number of global issues are discussed, including procedural justice issues and theoretical models of juror decision-making. Throughout the volume the authors make recommendations for improving trial procedures where jurors are involved, and they discuss how the problems and potential solutions are relevant to courts around the world.

North Carolina Civil Trial Practice is North Carolina's only and leading practitioner treatise on civil trial practice and procedure (with application of the N.C. Rules of Evidence). There are a number of books for practitioners in North Carolina in various, distinct subjects (e.g. in torts, workers' compensation, real property law,

family law, North Carolina corporations, North Carolina evidence, Employment Law and North Carolina Criminal Procedure). However, there is currently no civil trial practice book available in North Carolina; and this work fills that gap and is designed to be used by all civil trial lawyers in North Carolina, whether plaintiff or defense-oriented. North Carolina Civil Trial Practice comprehensively covers (1) the procedural, and (2) substantive law of, and (3) practice techniques for the trial of any North Carolina civil case -- from pre-trial procedure, mediation, and all stages of a trial (jury selection, open statement, direct and cross-examination, the jury charge conference, and closing argument). In addition, the book covers a detailed application of the North Carolina Rules of Evidence as they relate to the foregoing and to making objections and offers of proof, conducting direct and cross-examinations (including impeachment and rebuttal), introducing exhibits, and preserving the record for appeal. No current book in North Carolina addresses these matters. The book is thus distinct from any other North Carolina practitioner treatise, and is designed (1) as the definitive resource for civil practitioners preparing for any trial (bench trial or jury trial in any civil proceeding) and (2) for ready use in court when counsel needs to quickly find out how to introduce a particular matter or item of evidence at trial or otherwise how to deal with any other matter occurring at trial. In sum, North Carolina Civil Trial Practice

is the standard "bible" for all civil trial practitioners.

With effective solutions in both criminal and civil disputes at a premium, reformers have advanced varied forms of jury systems as a means of fostering positive political, economic, and social change. Many countries have recently integrated lay partici

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