

THE TORT SYSTEM IN GEORGIA: PERCEPTION V. REALITY

by

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A Thesis Submitted to the Honors Council of the University of Georgia in Partial

Fulfillment of the Requirements for the Degree

BACHELOR OF ARTS

in ECONOMICS and SOCIOLOGY

with HONORS.

Athens, Georgia

2008

ABSTRACT

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The Tort System in Georgia: Perception v. Reality
(Under the Direction of DAVID B. MUSTARD)

A tort is the unlawful violation of a private legal right other than a mere breach of contract. Many have feared recently that tort reform is necessary to repair the current system of unreasonably high and frequent punitive damages awarded to greedy plaintiffs. These high damages create incentives to file tort cases and lead to possible abuse of the legal system. Research from data collected through the University of Georgia Law School shows that this is not necessarily the case. The rate of tort filings has decreased significantly within the data. The percentage of tort cases that actually go to trial is extremely low, and of the small amount of cases that do go to trial, very few are awarded punitive damages. Georgia's current tort system appears to operate well with little need for powerful and immediate reform. This also appears to be the trend among national data collected through the United States Department of Justice. Tort rate filings are stable, a relatively small percentage of cases go to trial, and punitive damages are rare.

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DEDICATION

This paper is dedicated to my mother and father who have always supported me and encouraged me to do my best at everything. I do not thank them enough for the love they show me. Thank you. Nothing I have accomplished would have been possible without you.

ACKNOWLEDGEMENTS

I would like to thank Professor David Mustard for giving me the opportunity to conduct research with him and then to work diligently with me to write a thesis from it. Without his guidance, I would not have been able to achieve any of this. He is an exceptional mentor in all ways and I am very grateful to him.

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CHAPTER ONE INTRODUCTION

Mass media portray the legal system in the United States as unpredictable, expensive and dangerous to its citizens. An advertisement run in several prominent newspapers, including the *Wall Street Journal* in April 2007, and later discussed by Carl Bialik, gave an exact number for how much “lawsuit abuse” costs a family every year (2007). The U.S. Chamber Institute for Legal Reform paid for the ad that quoted a frightening \$3,520 cost to a family of four every year for “frivolous lawsuits.” The ad suggests families pay this amount through increased costs to them for good and services since the companies that provide these amenities are paying the large awards in the abusive lawsuits. Dr. Evelyn Tobias-Merrill cites the effects of abusive litigation on “our nation’s health.” She argues that unjustified lawsuits against medical companies cause so much harm that the products they provide are no longer available to those that need them. “It kills hope we have for our parents, our children, our families of improved care or new therapies to fight some of our most dreaded diseases, such as cancer, multiple sclerosis and Parkinson's” (2006).

Citizens have formed formal organizations like the American Tort Reform Association (ATRA) and the Institute for Legal Reform (ILR) to change the current civil justice system. ATRA claims aggressive lawyers target “profit centers” and “systematically recruit clients who may never have suffered a real illness or injury and use scare tactics, combined with the promise of awards, to bring these people into massive class action suits” (American Tort Reform Association). The ILR website

informs all who visit of the terrible difficulties victims of injustices carried out by the American legal system have faced. It focuses on the well-known case in which a man sued a dry cleaning company for \$54 million over the loss of his pants. The heartbreaking account of the couple that owned the dry cleaning store and had to face the legal system to fight this case can create a passionate desire to change laws in nearly anyone (Institute for Legal Reform). This paper's purpose is to test the veracity of these commonly articulated descriptions of the tort system.

I will focus on data collected in Georgia on tort cases between 2004 and 2006. A tort, as defined by Georgia law, is the unlawful violation of a private legal right other than a mere breach of contract, express or implied (O.C.G.A. § 51-1-1). A tort may also be the violation of a public duty if, as a result of the violation, some special damage accrues to the individual. This type of civil claim includes a variety of cases ranging from the high profile, including medical malpractice and products liability, to the mundane, such as a simple automobile collision. Torts are the claims most frequently cited for abusive litigation, which is why they are the focus of my research.

Unfortunately, it is difficult to analyze tort data due to the lack of systematic tort databases. Even though tort litigation is an increasingly important issue for many Americans, there are very few statewide tort databases from which to analyze tort trends, facts and statistics. Each state has its own tort system and none have yet organized the data from torts filed within that system into an accessible, standardized and systematic data base. Therefore, research on tort litigation must be done on a state-by-state basis in a time-consuming and costly process. The data for this paper were collected over several

years by physically entering each courthouse and analyzing each tort case filed during the target years and gathering certain data from those cases.

If the current perception of excessive and abusive tort litigation were true, there should be some indication of an increasing or consistently high number of case filings within a jurisdiction. My research does not even show a constant amount of tort filings; it shows a significant decline. However, if a large percent of the cases filed actually go to trial, it creates a large financial burden for the state and, consequently, the taxpayers. This could easily create possibly justified fear or anger about the cost of frivolous filings to the average resident, but a very low number of cases actually do go to trial. Of all the cases filed between 2004 and 2006, only 1.6% were disposed by trial. Of 15,708 cases filed, only 263 were disposed by trial. Another factor that could indicate a flaw in the current civil litigation system would be if there were many cases with high damages awarded. My data show that awards were quite reasonable. There were some eye-catchingly high awards, but there are cases in which an extremely high award is necessary to properly make a person “whole,” which is the goal of compensatory damages, and nearly all the large awards were compensatory. Punitive damages are meant as a punishment and a deterrent when the defendant's actions showed willful misconduct, malice, fraud, wantonness, oppression, or that entire want of care which would raise the presumption of conscious indifference to consequences as defined by Georgia law (O.C.G.A. § 51-12-5.1). Compensatory damages are meant to compensate the victim and punitive damages are meant to punish the perpetrator. The common perception is that punitive damages are awarded too often and are too high. My data indicate that this is far from true. In all cases examined, punitive damages were awarded only five times with a maximum amount of

\$250,000. I do not see any evidence for a trend toward abuse of the civil legal system within tort law in Georgia.

I compare my data to past data collected in Georgia by the same data collection method to analyze any changes over the past decade. The general trend was very stable for tort filings and damages awarded, with some interesting declines in 2006 in tort cases filed. This may be due to tort reform litigation enacted in 2005. I also present data collected from the United States as a comparison point for Georgia. Although the data are collected through different methods, they do show trends similar to the Georgia data.

CHAPTER 2 METHODS FOR DATA COLLECTION

Data were collected by teams of law students and undergraduates from the University of Georgia under the direction of Thomas Eaton and David Mustard. We inspected every tort court case filed in the State and Superior Courts of Bibb, Cobb, Fulton, and Gwinnett counties. This data collection method is different from the national method that will be discussed below, because it includes both State and Superior Courts, whereas the national data only include cases filed in State Courts during the period studied. For this paper, the data will be presented from both courts, but the actual unpublished data contain further breakdown by court type. The method for data collection was that used by Thomas Eaton, Susette Talarico, and Richard Dunn (2000). The site selection was not random, but the counties reflect different populations within Georgia. Fulton County holds the state capital and has the most tort case filings in the state. Cobb and Gwinnett counties represent the metropolitan counties in Georgia, which are constantly growing. Macon is a part of Bibb County, so it has a sizeable population even though it is in middle Georgia. Although the sites selected are not random and therefore cannot be said to be representative of Georgia, a substantial portion of all Georgia's tort cases are filed in these counties. Also, the thoroughness with which the data were gathered offers an exceptional data set for understanding tort trends in Georgia.

The actual data collection was done by research teams going to both the Superior and State Court buildings in each of the counties and examining every tort case filed in 2004, 2005, and 2006. We gathered information and coded it into an Excel worksheet

pertaining to several different categories. Part of the data pertained to the actual filing of the case and could mostly be found in the initial complaint. Those data included whether the case was filed in Superior or State Court, how many parties were involved in the case, whether any party was pro se (representing him or herself), what type of parties were involved in the case (individuals, insurance companies, bank or financial companies, hospitals or doctor offices, government agency, etc.), what claim the case made, whether punitive damages were sought, whether there was a wrongful death, and several other categories. We also gathered data pertaining to the disposition of the cases. If a case was dismissed, we examined how it was dismissed, but we could not ascertain what type of settlement was involved, if any, because that information typically remains private. However, if a case went to trial, we recorded the length of the trial, the winner of the trial, and what type of damage, if any, was awarded. We also recorded whether an appeal was filed.

If trial damages were awarded, they were separated and classified as either compensatory or punitive damages. The compensatory damages were further separated based on the reason for awarding them. We recorded whether they were awarded for pain and suffering, emotional loss, lost wages and income, property damages, and/or medical expenses. As these classifications were not normally made in the jury award, we had to ascertain the reasons for compensatory damages from the documents in the case file. The classification of compensatory damages is only as accurate as our data allowed because it was derived from plaintiff requests and documentation.

CHAPTER 3 DATA

The main focus of the data for this paper is on number of cases filed, rate of tort filings per 100,000 people, the percentage of tort cases that actually went to trial, and how often damages were awarded and the amount. The damages will be divided into compensatory and punitive damages. Compensatory damages are awarded on the basis of making the plaintiff “whole” by compensating for losses caused from tort and include several aspects. These losses can be from monetary losses, such as income loss, property damage, and medical expenses. They can also attempt to compensate for emotional loss and pain and suffering. Punitive damages are awarded if the defendant acted with malicious intent and are meant to deter the defendant and others from engaging in that behavior again by punishing the defendant. They are awarded to the plaintiff in addition to compensatory damages.

Appendix A shows a graph indicating trends of the number of tort cases filed from 2004 to 2006. There is a substantial decrease in the amount of cases filed in 2006 in all counties but Gwinnett, which showed a very slight increase. Nearly half of all the tort cases filed from 2004 to 2006 were filed in Bibb or Fulton showing that the counties with the larger case filings are not maintaining the same filings rates. Cobb showed a 20% drop. Gwinnett is the only county that did not show a significant change over the period studied. It remained fairly constant, with between 1,010 to 1,105 cases filed per year over the three-year period. The amount of tort cases filed as a percentage of all cases filed

within the State and Superior Courts varied by county, but never rose above 20% for any county, showing that the strong majority of cases filed in civil courts are not tort cases.

The number of cases filed becomes more standardized across counties when presented in terms of population. Using U.S. census data from 2000, the filings were translated into rates of cases filed per 100,000 people; this is shown in Appendix B. The county with the highest case filings in 2004 was Fulton County, with 334 cases filed per 100,000 people, but Cobb County had the highest filings in 2006, with 194 cases filed per 100,000 people. Again, because the number of actual cases filed determines the rates, a decline in the rate means there is a sharp decline in the number of cases filed over the three years observed. Across the counties, there is no standardization of tort filings when population is taken into account. There still exists an obvious difference in number of tort filings across counties, which could indicate different tendencies within those counties. Gwinnett had fewer cases filed per 100,000 people than any of the other counties and is the only county observed that did not show a significant decline in cases filed. Its trend was stable throughout the three years. However, because the other three counties did experience a decline in tort filings per 100,000 people, there is less variance between counties in 2006. The number of cases filed per 100,000 people converges somewhat across counties in 2006. This could show a trend toward less “jurisdiction shopping” to find a favorable location to file a case. These data are in sharp contrast to the popular notion of increasing tort filing rates. Rather than an increase in tort filing rates, there was actually a significant decline.

A telling set of data is the number of tort cases filed that actually go to trial, which is shown in Appendix C. In total, there were only 263 total trials and 206 jury trials in all

four counties over all three years. The remaining 57 trials were bench – that is, trials with no jury in which the judge finds for either the plaintiff or the defendant. Fulton County had 94 tort cases go to trial – the highest number of the four counties. However, this could be because it had the highest population – over 200,000 more than any other county. When looking at the percentage of tort cases filed in Fulton County that actually went to trial, we saw less variation compared to the other counties observed. Only 1.33% of the cases went to trial. Bibb had 24 tort cases going to trial – the lowest number of four counties. It also had the fewest cases filed and the smallest population. However, the actual percentage of cases that went to trial in Bibb County is higher than both Cobb and Fulton. Bibb had 2.11% of its cases go to trial; Gwinnett had 2.88% go to trial. Cobb had the lowest percentage of cases going to trial at 1.17%. The percentage of cases that went to trial from the total amount of cases filed in all four counties is 1.67% from 2004 to 2006. Interestingly, Cobb and Fulton had the largest amount of cases filed per 100,000 people, but Bibb and Gwinnett had the highest percentage of cases filed go to trial.

The plaintiff win rate across all four counties was 67.6%. This is the percentage that awarded damages. Out of all the cases filed across the counties during the years studied, compensatory damages were awarded in 163. Appendix D provides information about how compensatory damages were awarded. The highest award of compensatory damages was over \$1 million for all four counties, but the median award was between \$10,000 and \$16,000. This indicates that, although there were high damages awarded, they were not the norm. There is a possibility of a very large award through compensatory damages in these counties in Georgia, but it is highly unlikely.

Appendix E shows the information for the only 5 cases from the entire data set

that awarded punitive damages. The highest award was \$250,000. Bibb County did not award any punitive damages, and Gwinnett awarded them in only one case. Cobb and Fulton each had two cases result in an award of punitive damages. The awards for all 5 cases were between \$10,000 and \$250,000, with three cases having awards of \$100,000 or more. Although hundreds of thousands of dollars is not a negligible amount of money, many media sources would not garner a substantial response from a case with this award. Punitive damages do not seem to be an important factor in the amount of damages awarded, especially in the extremely large awards.

CHAPTER 4 DISCUSSION

There are significant changes in the data within the years studied. The significant decline in the amount of cases filed could be attributed to a change in tort law in Georgia in 2005. Governor Sonny Purdue signed Title 51 into law in February 2005. This legislation defined liability more thoroughly in many situations, and more clearly defined the circumstances in which an individual does or does not have right to a cause of action. It described when and how damages should be awarded in specific cases, characterized what type of evidence can be submitted for certain types of claims, attempted to reduce the amount of “jurisdiction shopping” for a more favorable court, and included several other imperative aspects of tort law litigation. It is difficult to tell how the law has impacted my data, if at all. It is likely, however, that this legislation accounts for many of the changes in my data, which occurred during and after the legislation’s enactment process. Regardless of the explanation for it, there was a decrease, rather than an increase, of tort cases filed in the observed counties, indicating that the current perceptions of many frivolous lawsuits being filed may simply not be accurate.

Interestingly, the percentage of tort cases that actually go to trial is quite low. The cases going to trial are normally the cases that take the longest to dispose of and the most costly to the state and its citizens. Therefore, it is important to know how many cases go all the way to trial to assess whether there are better ways to approach the legal system so that it can be more economical while still being fair. Because most cases do not go to trial, they are disposed of in alternate ways. The most common method of disposal for the

cases in my data is a voluntary dismissal, which most likely indicates an out-of-court settlement. However, if a case is settled, it is very unlikely that a defendant would agree to abnormally high compensation, and it would be especially odd if the defendant would agree to punitive damages. This could indicate that actual compensation for filing tort lawsuits is even lower than commonly believed. If a case does go to trial, the damages awarded, if any, are known. Because the damages awarded are known, there is less misunderstanding about awards, but a trial is also the most costly outcome and takes the longest to dispose. Therefore, an accurate study of tort cases and incentive to file would include information about settlements, not just case awards. Trial cases are not the norm. In fact, trial cases are quite rare, but they reflect the known data. However, this data is skewed because it reflects the most costly outcomes. The media will not focus on the mundane cases awarding usual damages. Instead, they will focus on high-profile, high-reward cases. This skewed media portrayal is the source of most people's perceptions about the state of courts today.

The amount of damages awarded for the counties does not show that unreasonable awards are common or even abnormal, but that they are especially rare. There were instances of high compensatory damages seen in the large difference between the average and median awards for the counties, but there were several occasions in which high damages were awarded to make someone whole. The high awards were not the norm, but they did exist. Punitive damages were seldom awarded and the amounts were not exceptionally high compared to the compensatory damages. The mean and median statistics are much higher for punitive versus compensatory damages, but the maximum is much lower. Also, cases that awarded punitive damages, by definition, had to involve

especially heinous torts. Therefore, the high amounts of punitive damages, on the rare occasions that they were given, were most likely merited.

CHAPTER 5 COMPARED TO DATA IN GEORGIA FROM 1990-1997

The data collected for this paper originated from two research papers conducted by Eaton and Talarico (1996) and Eaton, Talarico, and Dunn (2000). Their papers offer a detailed look at the data they collected from several counties in Georgia, including Cobb County from 1994 to 1997, Fulton County from 1995 to 1997, and Bibb, Gwinnett, Irwin, and Oconee counties from 1990 to 1997. In their 1996 study, Eaton and Talarico included data only from 1990 to 1993. Unfortunately, they had collected data only from Superior Courts, not from both Superior and State Courts. In the 2000 study, they included both Superior and State Courts and found a significant difference in the number of tort cases filed per 100,000 people when including both types of courts. However, they did find that the overall consistent trend of tort cases still held for the 1990 to 1993 data. Therefore, both papers are still pertinent to understanding tort case trends through the previous decade.

The raw numbers for the first project cannot be directly compared to the data in this paper, because this paper includes numbers from Superior and State Courts from Georgia, but percentages from Eaton and Talarico's earlier data are still informative. Tort cases represented only 4.9% of the civil filings in Georgia in the counties examined over the four years in the first study. Eaton and Talarico also found that the number of tort cases filed remained relatively constant over the period studied. There was actually a slight decrease in the number of tort cases filed in 1993 compared to 1990. There were no significant increases in the number of cases filed for any year, and only a low percentage

of cases actually went to trial throughout all four years. Cases made it to trial only 6.4% of the time, and the plaintiff won in just over half of these trials. According to reports from the Bureau of Justice Statistics, the awards in Georgia are well below national statistics. The median award in the BJS reports was \$51,000, versus \$9,000 in Eaton and Talarico's study (1996). The average award for a simple automobile tort was only \$4,315 for the counties studied in Superior Courts from 1990 to 1993. Out of all the cases examined, there were only two cases of a trial resulting in punitive damages. Both cases awarded \$50,000 in punitive damages. In no way does this indicate that courts commonly award excessive punitive damages, as is the common perception.

Eaton, Talarico, and Dunn observed similar trends the later study. Data from both Superior and State Courts were taken in this study and two new counties were included: Cobb and Fulton (2000). In this data set, 25,561 tort cases were filed. 17,680 were in State Courts. Obviously, any data that do not include State Court cases are missing a great deal of information, because well over half my data set's tort cases were filed in State Courts. The amount of filings per 100,000 people did not increase over all the years studied through both papers. The absolute number of cases increased slightly, but the increase in population offset the increase in tort filings. Tort cases accounted for 5.1% of all the civil cases filed in the courts studied. This is a slight increase from the previous study, but the courts included were changed from one study to the next. Overall, the percentage of tort cases filed is quite consistent. This indicates that the trends observed in my data of decreasing or steady tort case filing rates are not anomalous. There does not appear to have been an explosion of tort filings either in the 1990s or in the mid-2000s.

Of all the tort cases filed, only 984 of 25,561 went to trial. Trials accounted for less than 5% of the disposition of all tort cases included in the study, showing that the number of cases that actually go to trial is still quite low. Plaintiffs normally won in just over 50% of the cases that went to trial. For the cases studied from 1994 to 1997, modest awards were again the norm as in the earlier analysis. The median award in State Courts was \$5,650, and in the Superior Courts, the median award was \$7,859. The mean awards were significantly higher, showing that there were cases of high awards, but they were the exception rather than the norm. The mean award in State Courts was \$101,449 and \$52,298 in Superior Courts. There were four cases total that resulted in an award of \$1 million or more. Punitive damages were awarded in only 15 cases. Of those 15 awards, only 3 were greater than \$55,000. Even though punitive damages were sought in 3,763 of the cases studied, a separate study on the same data by Eaton, Mustard, and Talarico found no significant impact of seeking punitive damages on most phases of the tort litigation process (2004). Therefore, although far more plaintiffs sought punitive damages than were actually awarded them, these cases do not appear to impact the overall system of tort litigation.

The data from the previous studies show a trend similar to my data from 2004 to 2006. There was a fairly consistent number of tort cases filed, very few of those cases went to trial, and awards were reasonable with punitive damages rarely being awarded. There was not the decreasing trend that is consistent with my data, but there is no indication of an increase in tort cases filed once the differences in populations are controlled for.

CHAPTER 6 COMPARED TO DATA IN THE UNITED STATES FROM 1992-2001

The U.S. Department of Justice has gathered statistics about civil filings in the United States from 75 of the largest counties in the U.S. This chapter will focus on the data from 1992, 1996, and 2001. Because the data came from the 75 largest counties in the U.S., they are most likely not a representative sample of the country, and they are certainly not random. Also, these studies do not distinguish between tort, contract, and real property filings, and the main focus of the data is on civil cases that went to trial, not on all civil cases filed. The inclusion of civil cases other than tort cases and the concentration on cases that went to trial creates difficulty in comparing the data to my data, but they do offer a view of the current civil filings around the country. In 1992, there were approximately 762,000 civil cases filed in the 75 largest counties across the country. Of those, 12,000 (or about 2%) went to trial by jury. This indicates that only a small amount of cases go all the way through the legal process to trial, as is the situation in Georgia. A large majority of civil cases that went to trial were tort cases (around 79%). This would indicate that the most costly claim to taxpayers is a tort. The likelihood of plaintiff success in a trial was 52%, with the average award being \$408,000 and the median award being \$51,000. The large difference between the median and mean awards is because the mean award can easily be skewed by an abnormally large award, and the median is far less likely to be skewed by a few very high awards, but this does show that there were some very large awards. In the tort trial cases, juries awarded punitive damages about 4% of the time. Although this percentage is higher than it is in Georgia, it

is still low and does not indicate that courts have a propensity to award outrageous damages to plaintiffs (DeFrances 1995).

In 1996, the data show that 15,600 civil cases went to trial in the 75 most populous counties in the U.S. Tort claims accounted for 66% of those cases filed. There are no data for the total number of civil cases filed in these counties for 1996, but there was an approximate increase of 3,600 cases going to trial from the previous study, which is only a slight increase. The success rate for plaintiffs remained the same at 52%, and the median award was \$33,000. In the 1996 study, the average award was not given with the data. Only about 3% of all the tort cases that awarded damages awarded punitive damages. Again, damages are not excessively high or awarded excessively often (DeFrances 1999).

In 2001, just under 12,000 civil cases went to trial, with plaintiffs winning approximately 55% of the cases. The number of cases that went to trial in 2001 decreased to 1992 numbers. Interestingly, the 2001 study cites a 47% decrease in the number of civil trials in these counties, down from 22,400. The discrepancy is unexplained (Cohen 2004).

The data from these reports show a pattern similar to those in Georgia, in that the number of cases going to trial is a small percentage of all cases filed. However, there was a larger instance of punitive damages awarded in this data set than in the Georgia data set. Between 2004 and 2006, the percentage of tort cases that went to trial and awarded punitive damages was just under 2%. The U.S. data have a slightly higher percentage of 3 to 4%. However, because the data are collected through different methods, only limited conclusions can be drawn from direct comparisons of the data. There still does seem to be

a large decrease in the number of cases filed in the 2001 report, which could indicate a trend toward fewer case filings, as was seen in the Georgia data.

Further data collected by the U.S. Department of Justice include only tort cases disposed of in Federal District Courts between 1994 and 1997. The data were presented in two reports, with the first including data from 1994 to 1995 and the second including data from 1996 to 1997. Unfortunately, the data presented in this study did not distinguish between punitive and compensatory damages. Also, because Federal District Courts cannot hear a case between parties of different states unless damages exceed \$50,000, the total monetary damages will likely be skewed higher than the damages civil courts in states would award. Because the federal government can be the defendant in cases filed in Federal District Courts, it should also be noted that the United States government is not liable for punitive damages. This could skew the data in the other direction, because punitive damages increase the total monetary award of a case that goes to trial. However, the relatively low percentage of cases that award punitive damages and the exclusion of any small claims cases most likely create higher damage statistics than would be present in other tort studies. Regardless, trend patterns can still be seen and the data are informative for the overall scope of torts filed in the United States.

Between 1994 and 1995, U.S. District Courts disposed of an average of 229,000 cases, with approximately 18% of those being tort cases. This is about 41,000 tort cases a year and, of those, only about 4% went to trial, another low percentage. Plaintiffs did not have as high a win rate as in the other courts examined in this paper, winning only about 43% of the cases that went to trial. Not all of the winning plaintiffs were awarded monetary damages, as some received other forms of restitution. In 18% of cases in which

the plaintiff won, the damages awarded were over \$1 million. 9% of the awards in all cases were over \$10 million. The relatively large percentage of high awards may be attributed to the exclusion of claims smaller than \$50,000 (Press 1997).

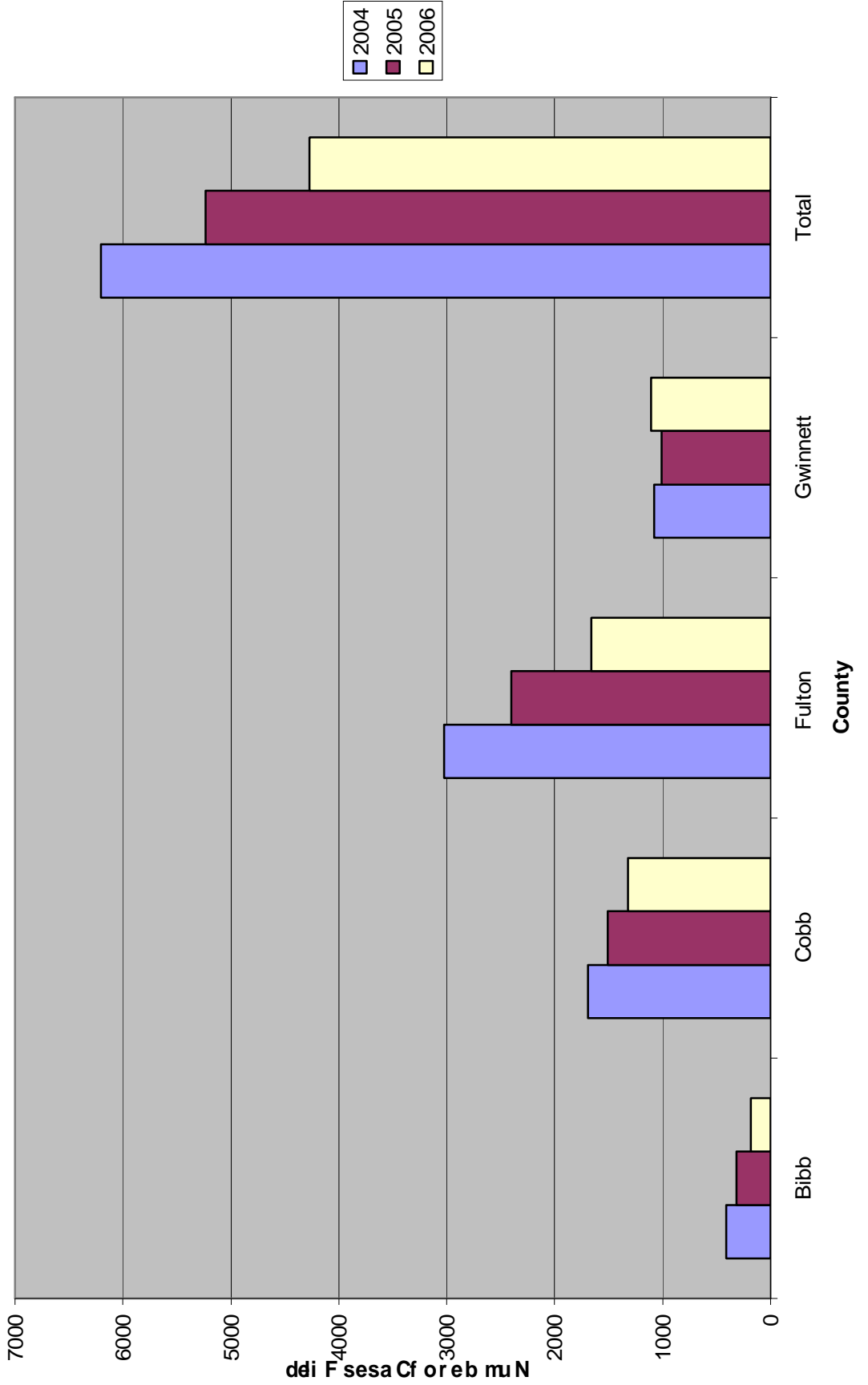
Between 1996 and 1997, an average of 296,000 civil cases was disposed of in Federal District Courts per year. Of those cases, 19% were torts. The number of civil cases disposed increased by nearly 70,000, and the number of tort cases disposed increased by about 7,000. The percentage of tort cases, respective to all civil cases, remained constant, but the actual number of cases increased by over 15%. However, the number of tort cases that actually went to trial decreased by 10%. The studies contain information about number of torts disposed from 1990 to 1997, and although there was a large spike in 1991 and nearly 60,000 torts were disposed, the overall trend has been of fewer torts in the courts. The number of tort cases that actually go to trial has been declining over the entire time studied, and it has been a steady decline with no upward spikes (Litras 1999).

Again, it is difficult to directly compare data in the BJS reports to the Georgia data, but the trends are easily observed. There is a steady decline of tort cases filed in the courts examined in all the studies, and fewer of those cases go to trial. Punitive damages are not common. Compensatory damages were high in some cases, but they can be justified. The trends of all the data show the opposite of what is popularly portrayed in the media. There is no explosion of tort filings or of unreasonably high awards.

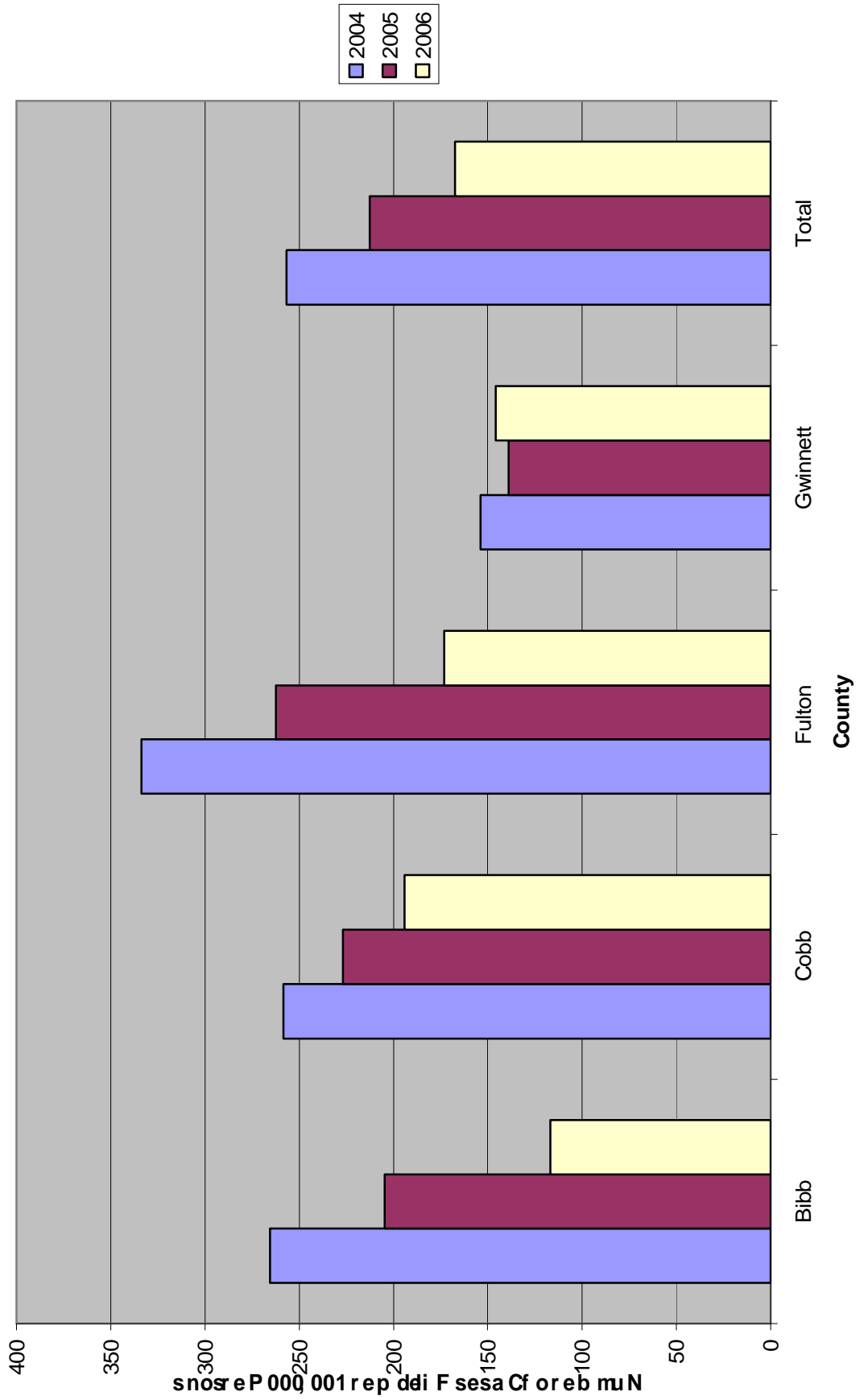
CHAPTER 7 CONCLUSION

Georgia's tort system does not unjustly punish. There is not an overwhelming number or amount of damages awarded by the court system. Actually, it is relatively rare for the court to award damages at all. The vast majority of the cases filed result in a disposition other than trial, usually by settlement outside of court. There also does not appear to be any distinct or gradual increase in the number of tort cases filed in Georgia. If anything, there is a trend toward fewer cases filed. Compensatory damages tend to be modest, and punitive damages are exceedingly rare. When punitive damages are awarded, they are not excessive and do not account for the largest awards – compensatory damages do. The number of cases that go to trial is low, the plaintiff has just over a 50% chance to win, and the awards are reasonable, rather than inexplicably high or low. The current legal system in Georgia does not appear to cause a large number of frivolous tort filings based on the trends of the cases over the past few years and the previous decade. The trends from the data in the early 2000s are similar to the trends from the data in Georgia since the early 1990s, and even in the national data I examined. However, these results may not be applicable to all court systems across the country. There are large variations in tort systems by state, and some states may have legitimate concerns about excessive and abusive tort lawsuits being filed, but my data do not show that this is the case in Georgia.

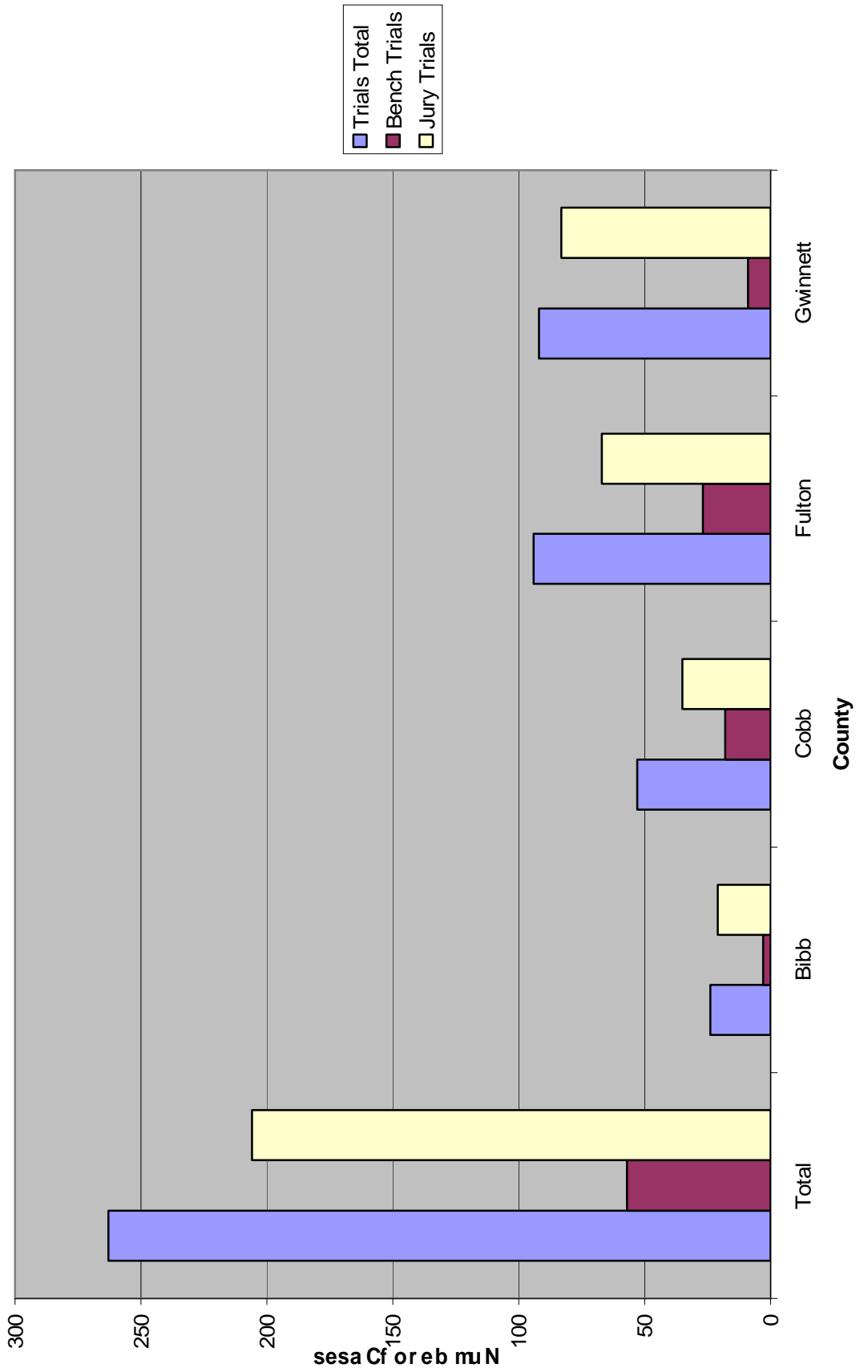
APPENDIX A
 NUMBER OF CASES FILED PER YEAR (2004-2006)



APPENDIX B
 RATE OF TORT FILINGS PER 100,000 PERSONS



APPENDIX C
 NUMBER OF CASES THAT WENT TO TRIAL



APPENDIX D
COMPENSATORY DAMAGES AWARDED

	TOTAL	BIBB	COBB	FULTON	GWINNETT
Number of Damages Awarded	163	19	26	69	49
Minimum	\$114	\$1,723	\$114	\$212	\$413
Median	\$10,114	\$16,151	\$12,050	\$10,000	\$10,000
Average	\$230,493	\$109,537	\$94,550	\$436,657	\$59,216
Maximum	\$16,500,000	\$1,161,236	\$1,500,000	\$16,500,000	\$1,534,571

APPENDIX E
PUNITIVE DAMAGES AWARDED

	TOTAL	BIBB	COBB	FULTON	GWINNETT
Number of Damages Awarded	5	0	2	2	1
Minimum	\$100,000	.	\$100,000	\$10,000	\$15,000
Median	\$100,000	.	\$175,000	\$70,000	\$15,000
Average	\$101,000	.	\$175,000	\$70,000	\$15,000
Maximum	\$250,000	.	\$250,000	\$130,000	\$15,000

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