

STRAIGHT FROM THE HORSE'S MOUTH

An impressive survey of Texas district court judges¹, just published in the Baylor Law Review², addressing frivolous lawsuits, jury behavior and the need for “tort reform” found:

- Over 83% of the Texas district court judges had observed not a single instance of a “runaway jury” verdict on either actual or exemplary damages during the preceding 48 months.
- Over 85% of judges had not at all or in only one instance granted relief during the past four years due to an excessive award of actual damages. No judge in the entire sampling had granted such relief during the prior four years in more than three cases.
- Over 83% of Texas judges had not witnessed a single jury award too high (compensatory damages).
- 15% of Texas trial judges observed juries refuse to make any award of punitive damages when the judge believed such an award was warranted.
- 44% of the judges had not personally observed a single frivolous lawsuit in their courtroom during the prior four years.
- 99% had observed no more than between 1-25% of the cases filed before them as being frivolous.
- 85% of the responding judges had at most sanctioned a lawyer under Tex. R. Civ. P. 13³⁷ only one time or less during the prior four years.
- Over 86% of the responding judges believed that there was no need for further legislation addressing frivolous lawsuits.

Conclusion:

The survey results confirm that most Texas trial judges do not see significant numbers of frivolous filings by people who have no business suing, and plaintiffs with legitimate suits are much more likely to be under compensated than to receive any windfall. Two primary goals for tort jurisprudence are for the victim to receive full compensation and to deter the tortfeasor, and when victims are not fully compensated and tortfeasors are not deterred, neither goal is met.

¹ Out of a universe of 389 Texas district court judges, 303 completed surveys were returned an impressive response rate of 78% .

² Straight from the Horse's Mouth: Judicial Observations of Jury Behavior and the Need for Tort Reform
Baylor Law Review, [Vol. 59.2] 2007
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