Urbanicity, Income and Jury Verdict Amounts in Civil Litigation

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abstract: *This paper reports on investigation and research explaining possible factors that affect the final award amount given by juries in civil cases. The two key variables examined are urbanicity and median household income. Data on civil trials collected through the United States Department of Justice, Bureau of Justice Statistics'* The Civil Justice Survey of State Courts *provided the primary data set for the study. The data set includes 156 counties and is a nationally representative sample of bench and jury trials. Urbanicity ratings, as well as median household income, were reported for each county. Pearson's correlations indicated no statistically significant relationship between urbanicity ratings and final award amount or between median household income and final award amount for cases decided by a jury. Evaluations of the linear relationship between final award amount and urbanicity using Pearson's correlation indicated no significant correlation between final award amount and urbanicity ratings. This study concludes that juries were not as susceptible to external influences or factors such as their location and income when awarding the plaintiff of a civil case.*

Introduction

The right to a jury trial is one of the most fundamental guarantees in the American justice system. With the duty and authority to discern facts, award damages, or convict an individual, jurors have a direct, immediate impact on justice in the United States. The interest in jury verdicts is not limited to criminal cases, but also civil cases where award amounts and punative damages are at stake. Although many studies have focused on juror thought processes and decision making, little research has evaluated the impact that urbanicity has upon jurors and the verdicts they hand out in civil cases. While there is an inclination to view justice as universal, fair, and oblivious to peripheral conditionals, factors such as where a juror lives, could affect the outcome of a civil case.

There have been few studies of jury outcomes in civil cases at the county-level in the United States. However, several studies following outcomes in select counties highlight a number of interesting factors. Studies following jury verdicts, similar to *Civil Trial Cases and Verdicts in Large Counties* carried out by the Bureau of Justice Statistics (BJS) in 1996, have often analyzed data from civil cases filed in large counties. The BJS study analyzed tort cases collected over a year-long period from the largest 75 counties in the United States. Relevant data on mean and median awards for types of tort cases were calculated; volume, type, disposition method, and plaintiff information was gathered. Findings indicated that plaintiffs won in a little over half of all of trial cases. Plaintiffs in bench cases won 62% of all cases, while plaintiffs in jury trials won 49% of all cases. Though this study provides relevant data on verdict trends in large counties, it did not always distinguish between jury trials and bench trials when indicating award amounts.

Another study using data from the *Civil Justice Survey of State Courts* from 1992, 1996, and 2001, focused on punitive damages—possibly the most publicized and controversial aspect of award amounts (Eisenberg, Hannaford-Agor, Heise, LaFountain, Munsterman, Ostrom, & Wells, 1997). The study compared the amount of punitive damages awarded by juries and judges, and found that juries and judges awarded punitive damages in approximately the same ratio to compensatory damages. Using data sets from several decades allowed researches to compare award amounts and examine their trend. They found that damages have not increased (Eisenberg, et al., 1997). One limitation of studies involving this dataset results from the inclusion of large counties only. Thus, the possible discrepancies in award amounts with smaller counties remains to be identified.

Several areas of research in criminal justice have included discussion about urban and non-urban discrepancies, but interestingly few have covered the role of geography in civil justice. Feld (1991) examines the impact of a court's social context and location as strong influences in the juvenile criminal justice. Feld uses census data from each county in Minnesota to determine demographics including factors such as population characteristics, racial diversity, income distribution, and population stability. Surprising results indicated that formality, presence of council, and location had a large

impact. Structural-geographic variation was found to influence juvenile justice administration (Feld, 1991). Detention rates, appointment of counsel and arrest rates all indicated that urban youths experience the most formality, longer detention rates, and higher arrest rates. The study indicates that questions regarding local structure, culture and judicial process remain relevant when analyzing criminal justice. Questions regarding urbanicity for civil justice, however, remain unanswered.

More attention has been paid to the impact of race and poverty among jurors and their possible correlation in tort verdict amounts. Helland, and Tabarrok (2003) used jury verdict data collected by the Jury Verdict Research, *Civil Justice Survey of State Courts* (U.S. Department of Justice, 1992) and data from the Inter-university Consortium for Political and Social Research. They found that as African American and Hispanic populations, and especially poverty rates, increase, tort awards increase. Awards rise by nearly 3–10% when black poverty rates increased just one percentage point. When examining product liability cases, the authors found that increases in black or Hispanic poverty rates increased awards by an additional $124,000 and $213,000 respectively, and in medical malpractice cases this number rises to $36,000 and $162,000 respectively. Helland and Taborrak (2003) uncovered the possible effects that race and poverty play when determining the fate of the plaintiff and defendant. Much like other studies in this field, its limitations lie in the data pool: lack of data on the composition of the jury and lack of databases meant that jury characteristics were inferred from county characteristics only.

Hastie, Schkade, and Payne (1999) studied juror assignment of punitive damages by showing mock jurors a videotaped summary of an environmental damage lawsuit and asking them to judge liability, punitive damages, and to assign a monetary award. Of the three independent variables in the study, geographical location of the defendant corporation and plaintiff were included.

The study found that plaintiffs local to the area were awarded more (36% higher on average) while the defendant's company location did not have a statistically significant affect on the award amount. Hastie, Schkade and Payne found that the only predictive demographic variable of the juror was sex. Eisenberg and Wells (2002) did not find consistent demographic affects on jury award amounts. Federal and state courts for tort cases, product liability cases, and employment cases were analyzed. There was no significant correlation between award levels or win rates with population demographics; however, higher poverty rates correlated slightly with an increased award level in employment and tort cases.

Wissler (1999) found that none of the socio-demographic characteristics accounted for in his study—gender state, rural/urban status, education, and income level—were significant predictors or had a significant effect on perceptions of overall injury severity rating. Participants in the survey included eligible jurors, judges, and lawyers. The population sample was stratified by rural and urban counties in Illinois and New York. Respondents were asked in a survey to assess case summaries where severity of injury and award damages were provided. Wissler also compared juror assessments in negligence cases to assessments made by judges and jurors. He found that though jurors assessed injuries as more severe there was a high similarity in response patterns, suggesting juror approaches to evaluating injuries are similar to judges and lawyers. This finding is significant in understanding the differences between evaluating the facts of case and determining awards.

Identity of the parties' race is an especially interesting aspect to consider when analyzing verdict amounts and conviction rates. In criminal justice, Miller and Hewitt's study on conviction of a defendant as a function of a juror victim racial similarity, found that mock jurors who were African American convicted the defendant when the plaintiff was also African American, while choosing to convict 48% of the time when the victim was white (Hewitt & Miller, 1978). Conversely, 65% of Caucasian mock jurors chose to convict when the victim was white and 32% convicted when the victim was black. King (1993) notes that "in-group bias" may cause jurors to favor or empathize with members of their own race. According to another study examining juror sensitivity to the "cross-race effect," Caucasian jurors found prosecution witnesses more credible and were more likely to convict than their African American counterparts (Abshire & Bornstein, 2003). Tabarrok and Helland (1999) found that local poverty rates do have an impact on verdict amounts: where the state poverty rate is one standard deviation larger than average, the award amount is roughly $100,000 higher. When a state's percentage of population in poverty increases by one standard deviation, awards increased by $85,000. These findings indicate the possibility of juror bias in the civil justice as well.

Metropolitan and non-metropolitan areas differ in more ways that just race and poverty. Donald and Nye (1987) examined litigation trends in Florida counties from 1980-1985 and found a substantial increase in tort liability in urban counties as opposed to non-urban

counties. Automobile negligence was the highest percentage of overall tort cases filed. Overall, there was a 5.6% increase in litigation between metropolitan and non-metropolitan areas, which exceeded the normal expected ratio.

Whether or not the plaintiff is a corproation or an individual is also a consideration when analyzing award amounts by jury. Many researchers propose the possible "deep pocket" effect in cases where the plaintiff is a corporation. Vidmar (1993) posed a hypothetical experiment to test the "deep pockets hypothesis." He found that jurors with higher levels of education gave smaller awards, but overall the juror's gender, age, and household income were not related to the size of the award in negligence cases. There were also no statistically significant results to show that jurors treated medical and automobile negligence cases differently.

Attempts to predict the impact of demographic characteristics of award amounts have shown little success. MacCoun (1996) found that juror's age, gender, education, employment status, political ideology, and family income did not account for deterrence, assessment of fault, or endorsement of the compensation. Thus, demographics were not significant in projecting award amounts.

Though many factors have been previously researched as indicators, predictors, or correlates in jury verdict amounts, the impact of urbanicity has not received as much attention. Many litigators have seen the impact of location on trial outcomes. Organizations like the American Tort Reform Association have deemed places like Cook County, Illinois "judicial hellholes" for the volume of cases tried and the large verdict amounts awarded within the county. Much of the debate about tort reform, juries and fair trials touches on the issue of urbanicity and jury verdict awards, meriting a further investigation.

Methods

Using a nationally representative data set of general civil trials, this study aims to investigate the significance of urbanicity and median household income on final award amounts in general civil cases decided by juries. The primary data set utilized in this paper comes from the United States Department of Justice, Bureaus of Justice Statistics. *The Civil Justice Survey of State Courts, 2005* supplied data on general civil litigation in state courts of general jurisdiction[1]. This data was chosen because it included numerous cases from several counties across the United States with varying degrees of urbanicity. Representation of rural and non-rural counties was important in obtaining accurate results. The data includes types of civil cases litigated at trial, types of plaintiffs and defendants, trial winners, amount of total damages awarded, amount of punitive damages awarded, case processing time, characteristics of litigants filing an appeal, and, most germane to this study, final award amounts. One hundred sixty-one counties (urban, suburban and rural) were included in the study.

The original survey employed a stratified two stage sample design. The first stage of the survey sampled general civil trials from the 75 most populous counties in the United States and general civil trials in counties outside the nation's 75 most populous counties. The primary sampling units were stratified by census region, levels of urbanization, and population size. The second stage of the survey involved generating lists of general civil, bench, and jury trials to be coded. Cases to be coded were required to meet general civil and bench or jury trial definitions. For the purpose of this study, bench trials were excluded from the data set. Jury trials were defined as "a trial held before and decided by a jury of laypersons and presided over by a judge culminating in a verdict for the plaintiff(s) or defendant(s)." Cases settled prior to verdicts of judgments were excluded. The general civil cases included tort, contract, and real property cases. Definitional criteria for tort cases included "claims arising from personal injury or property damage caused by negligent or intentional acts of another person or business;" contract cases included "all allegations of breach of contract including commercial torts;" and real property cases involved "any claim concerning ownership or division of real property, excluding mortgage foreclosures which are included under contracts." Final award amount (FINALAMT) represented the dependent variable while urbanicity represented the independent variable.

Urbanicity was calculated using the 2003 Rural-urban Continuum Codes from the United States Department of Agriculture. This classification method identifies metropolitan counties by size and non-metropolitan counties by degree of urbanization. Metro counties were distinguished by population size of the Metropolitan Statistical Area of which they are part, while non-metropolitan counties were classified according to the aggregate size of their urban population. Counties were assigned an urbanicity rating from 1 to 9. Counties classified as metropolitan ranged from 1 to 3 while non-metropolitan counties ranged from 4 to 9:

Metropolitan counties

1. Counties in metro areas of 1 million population or more
2. Counties in metro areas of 250,000 to 1 million population
3. Counties in metro areas of fewer than 250,000 population

Non-metropolitan counties

4. Urban population of 20,000 or more, adjacent to a metro area
5. Urban population of 20,000 or more, not adjacent to a metro area
6. Urban population of 2,500 to 19,999, adjacent to a metro area
7. Urban population of 2,500 to 19,999, not adjacent to a metro area
8. Completely rural or less than 2,500 urban population, adjacent to a metro area
9. Completely rural or less than 2,500 urban population, not adjacent to a metro area

Data from the table supplement "Gross Migration for the Population 5 Years and Over for the United States, Regions, States, Counties, New England Minor Civil Divisions, and Metropolitan Areas: 2000," by the United States Census, was used to calculate population mobility. The total non-movers for each county were divided into population over 5 for each county.

Finally, the median household income for each county was obtained from the United States Census "Census 2000 Summary File 3 (SF 3) - Sample Data."[3] This data was used to further analyze the relationship between the characteristics of the county and the final award amounts given. To examine how urbanicity, median household income, and final award amounts are related, linear regression analysis was performed. Evaluations of the linear relationships between urbanicity and final award amounts were measured using Pearson's correlation.

Results

This paper aims to investigate possible factors explaining the final award amounts bestowed by juries in civil cases. Descriptive statistics for the data show the range for final awards was quite large. The mean final award amount was $411,092.44 with a standard deviation of $3,675,813.22, while the mean for urbanicity was approximately 1.36 with a standard deviation of 1.09.

Table 1. Correlations.

	(1)	(2)	(3)	(4)
(1) INCOME	1			
(2) MOBILITY	-.030*	1		
	.017			
(3) URBANICITY	-.130**	.137**	1	
	.000	.000		
(4) FINAL AWARD	.003	-.011	-.018	1
	.789	.371	.144	

* Correlation is significant at the .05 level (2-tailed).
** Correlation is significant at the .01 level (2-tailed).

Table 2. Correlations.

	(1)	(2)	(3)	(4)	(5)
(1) INCOME	1				
(2) MOBILITY	-.030*	1			
	.017				
(3) URBANICITY	-.130**	.137**	1		
	.000	.000			
(4) SOUTHERN STATE?	.003	-.011	-.028*	1	
	.000	.000	.024		
(5) FINALAMT < 100,000,000 (Filter)	-.007	.001	.006	.010	1
	.561	.965	.640	.443	

* Correlation is significant at the .05 level (2-tailed).
** Correlation is significant at the .01 level (2-tailed).

Table 3. Correlations.

	(1)	(2)	(3)	(4)	(5)
(1) INCOME	1				
(2) MOBILITY	-.030*	1			
	.017				
(3) URBANICITY	-.130**	.137**	1		
	.000	.000			
(4) SOUTHERN STATE?	-.153**	-.406**	.028*	1	
	.000	.000	.024		
(5) FINAL AWARD	.003	-.011	-.018	.004	1
	.789	.371	.144	.780	

* Correlation is significant at the .05 level (2-tailed).
** Correlation is significant at the .01 level (2-tailed).

Table 4. Regression.

	Beta	*p*
Median Household Income	.001	.947
Mobility	-.009	.484
Urbanicity	-.0017	.183

$R^2 = .020$
Adj. R = .000
$p = .452$

Pearson's correlation between mobility and urbanicity was significant at the 0.01 level; income and mobility were significantly correlated at the 0.05 level; and income and urbanicity were significantly correlated at the 0.01 level. Evaluations of the linear relationship between final award amount (FINALAMT) and urbanicity (URBANICITY) using Pearson's correlation, however, indicated no significant correlation between final award amount and urbanicity ratings. Additionally, there was no linear relationship between income and final award amount.

Due to the large range between maximum and minimum final award amounts, the data set was filtered to exclude outliers that could possibly skew the correlation results. However, dropping outliers similarly yielded no significant correlations. When excluding cases with final award amounts over 100,000,000, no significant correlations were found.

The states involved in the survey were further classified as Southern or Non-Southern to test for correlation between final award amount and major geographic location defined as "Southern" or "Non-Southern." For the purpose of this study "Southern" was defined as the eleven states that comprised the Confederacy: South Carolina, Mississippi, Florida, Alabama, Georgia, Louisiana, Texas, Virginia, Arkansas, Tennessee and North Carolina. Evaluation of the linear relationships yielded no significant correlation with final award amount, but did reveal correlations with income, mobility and urbanicity.

Conclusion

The results indicate that none of the independent variables—urbanicity, income, or major geographic location—were significantly correlated with final award amounts. The correlations between median household income and urbanicity seem to mirror similar research results (Hart, Saks, & Wissler 1999), although they were not statistically significant. The degree of urbanicity, as evaluated through the 1 to 9 rating system, was significantly correlated with income. The empirical results conclude that juries were not as susceptible to external influences or factors, such as their location and income, when awarding the plaintiff of a civil case.

The model used for this research was underspecified and this study could be improved by the addition of other counties in the sample. Additionally, inclusion of racial and ethnic group membership as well as education level would benefit the identification of factors related to final award amount.

The results of this study, however, should provide relief to parties in civil litigation trials that are apprehensive about the location of the trial. Much attention has been given to "judicial hell-holes" and counties with juries that regularly give large final awards. This gives the impression that a plaintiff's chance at success differs significantly from jurisdiction to jurisdiction or county to county. However, this study concludes that, for the most part, such impressions may be mistaken. The universality of justice does not seem to be tainted by the location or characteristics of the county where the trial occurs.

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