

Bexar County by the Numbers

—Updated Trends and Graphs

By Don Philbin¹

For more than a decade, the *San Antonio Lawyer* has published statistics on Bexar County courts.² This article updates those reports and provides a free online tool allowing users to run customized trendlines and graphical reports on every Texas county in nearly real time.³ In addition to data regularly reported by all district and county clerks to the Texas Office of Court Administration (OCA) as required by statute since 2010, the Bexar County District Courts (BCDC) have collected additional workload data points since 2001. While each data set may use different triggering events and categories, when normalized as a percentage of the flow of newly filed cases, the results are statistically similar and instructive.⁴ That is not to say the data are perfect, but they do provide useful information about legal trends affecting Bexar County lawyers.⁵

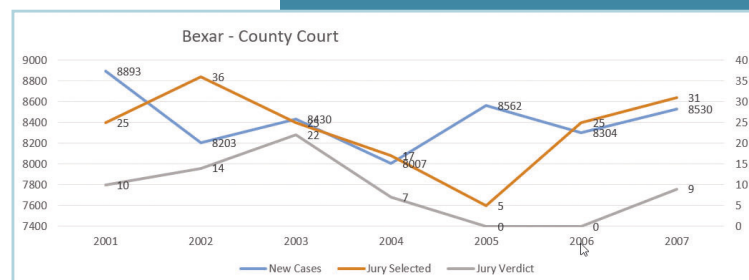
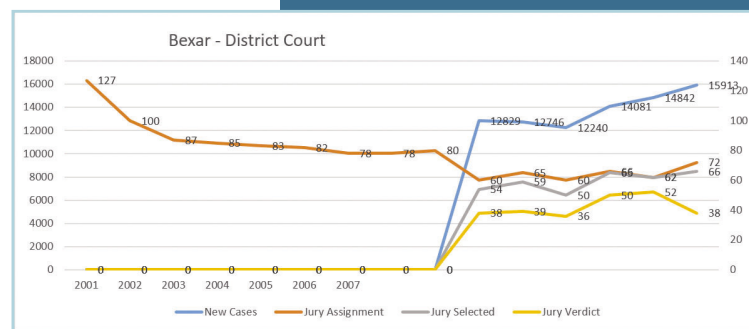
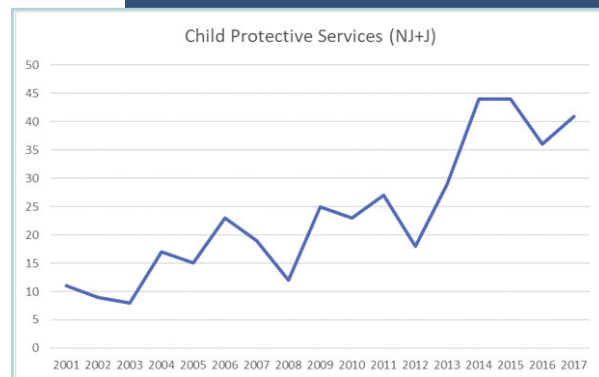
Bexar County Workload

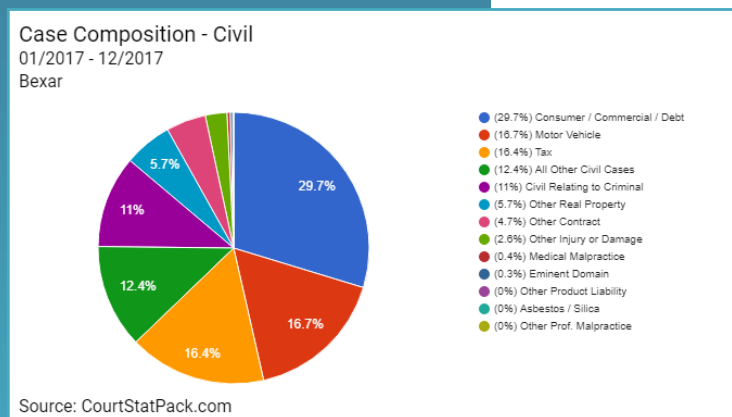
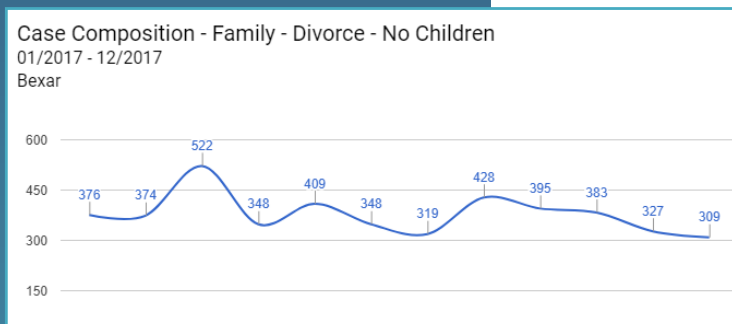
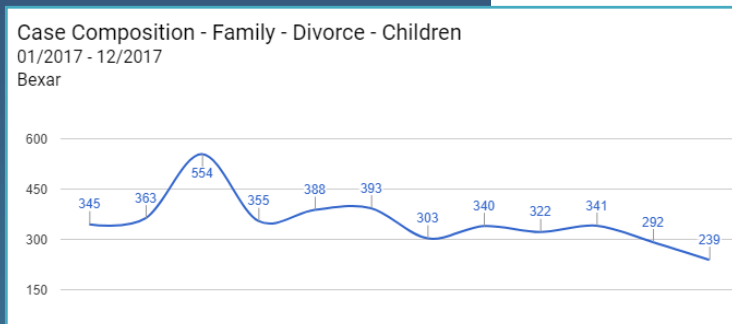
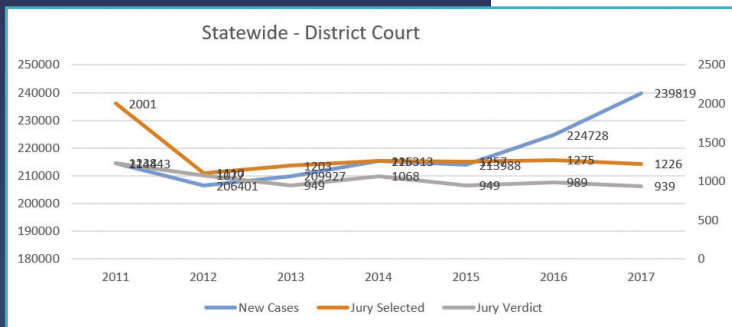
The first thing that jumps out of the comparative statistics is the Bexar County workload. Bexar County district and county courts dispose of a very large number of cases per judge. OCA rolls district and constitutional county court data together in some reports, and district court numbers can be disaggregated with other reports. The combined reports offer a more comprehensive picture, particularly in smaller counties. Since we have additional data points from BCDC, more emphasis is placed on activity in those courts.⁶

Unlike other major metropolitan counties, Bexar County district judges hear civil and family matters, and a lot of them. While other metro judges also often have staff attorneys, court coordinators, law clerks, and magistrates, Bexar County judges operate lean courts. According to OCA data, fourteen district judges disposed of 1,696 civil and 10,262 family cases by what we have aggregated as Contested Dispositions (jury verdicts and bench trials, summary judgments and directed verdicts, and venue transfers).⁷ The combined 11,958 contested dispositions rest right at 1,000 per month or 854 per district judge in 2017. While we are still compiling data from other counties that are slower to report,⁸ that is more than twice the number of contested dispositions per judge than the thirty-five combined (twenty-four civil and eleven family) district judges processed in Harris County. Those who estimate that the presiding docket is 85% family law matters are very close; 14% of the contested dispositions were civil (non-family) matters.

Commenting on the heavy workload, Local Administrative District Judge Peter Sakai said: "Of course, there is wide variability in how much time it takes to dispose of a case. Some are quick prove-ups or name changes, while others take weeks to try to verdict. Perhaps the subtler and more time-consuming docket shift has been in the complexity of the family docket. Child abuse and neglect case dispositions have steadily increased fourfold as district judges try those cases *de novo* with and without juries. CPS cases are often compared to capital murder cases in complexity and resource consumption."

District court filings (15,913), jury assignments (72) and selections (66) rose in 2017. County court jury selections (31) and judgments on verdicts (9) ticked up following a new case filing increase two years ago (8,007 to 8,562) and a large increase in jury selections (5 to 25) in 2016.⁹





Statewide district court statistics are similar. Filings are up (239,819), and jury selections (1,226) and verdicts (939) are stable. To normalize each set of figures for comparison, we have taken jury selections and verdicts as a percentage of new filings. Compared to district courts statewide, the Bexar County jury selection rate (0.41% of new filings) and verdict ratio (0.24%) are slightly lower than the statewide rate, but there is variability among case types as illustrated below.

Civil Filings Increase

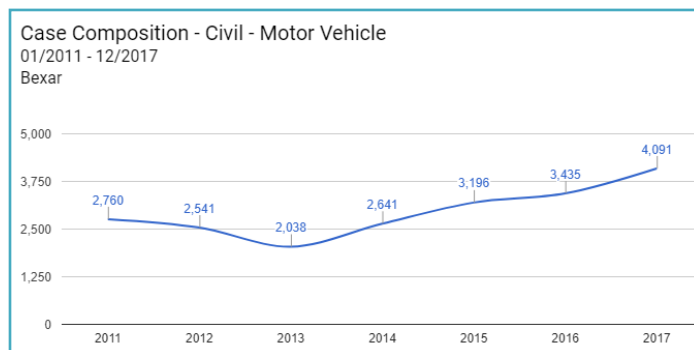
Combined Bexar County civil filings continued to increase (23,146 to 24,443) while family filings softened (32,438 to 29,757) in 2017. Most of the civil filings were in district court (15,913) while 8,530 were filed in county court. The civil filing rate was steady during the year, with an uptick in August that may have correlated with certain legislative amendments going into effect on September 1, 2017.

Divorce is Cyclical

Divorce filings follow a cyclical pattern. In his new book *When: The Scientific Secrets of Perfect Timing*, Daniel Pink summarizes a fourteen-year study of divorce filings in Washington State, showing calendar-related spikes. Researchers found that the high season for family lawyers is January and February. Those post-holiday visits became March divorce filings as tax refunds trickled in. The same is true in Bexar County. Filings with and without children spike in March. When children are involved, filings rise again when school is out during the summer. When there are no children, divorce filings rise again in August, but not to the degree of the post-holiday bump.

Civil Docket Composition

Consumer, motor vehicle, and tax cases continued to dominate aggregate new Bexar County civil filings. Of the 24,443 new case filings in district (15,913) and county court (8,530), 7,260 (29.7%) were consumer (3,467 district; 3,793 county). The majority of the 4,091 motor vehicle cases were filed in district court (2,869 to 1,222 in county). Total injury cases comprise almost one-fourth of district court filings (3,580 of 15,913 or 22.49%). After dropping by more than half in 2014 (757 to 294), total real property filings are ticking back up. Total contract filings (4,594) contribute 28.87% of district court filings, but 3,467 of those are in the consumer sub-category. Other contract (1,127) filings have steadily increased. Tax filings were down (4,003 from 5,052) but still make up 25.15% of new district court filings. While tax filings remain high, only 75 (1.89%) tax cases were tried to the bench (down from 273 in 2016), and only 1 has been tried to a jury since 2011 (2015).



Contested Dispositions

Jury verdicts and bench trials, summary judgments and directed verdicts, and venue transfers have been grouped into Contested Dispositions since the other disposition types are largely agreed, or the ultimate issue was not joined for court decision. While overall contested dispositions ticked downward, the workload per judge remains very high and workable only because most of the docket resolves by agreement.

Jury verdicts may be the most discussed contested disposition, but not the most common. Since OCA began collecting data in its current form, civil jury verdicts in Bexar County have stabilized after a well-documented drop.¹⁰ Ninety-seven juries were selected in district (66) and county (31) court. Forty-seven went to verdict (38 district; 9 county). Fifty must have settled between selection and verdict since none were resolved by directed verdict. Since BCDC jury assignments were up ten (2016: 62; 2017: 72) and long CPS *de novo* trials remained high (41), the workload per court is increasing and remains at higher levels than metropolitan peer courts.

It is worth noting that Bexar County judgments on jury verdicts were bunched in the first quarter of 2017 (20 of 47 verdicts). June and November were also busy with five each.

Seven of nine county court verdicts were returned in motor vehicle cases. The other two verdicts were categorized as real estate and consumer.

Most district court verdicts were returned in injury cases (23), with motor vehicle cases (16) dominating that category, followed by medical malpractice (3). Contract cases were next (9), with consumer (5) making up more than half of that group. Other contract (4) and other civil (5) verdicts may constitute most of the commercial cases.

When these verdicts are weighted by new filings in the same OCA sub-category, motor vehicle cases are tried to judgment on verdict more than twice as frequently (0.56%) as the composite civil docket (0.24%). Medical malpractice cases were tried to judgment on verdict at the highest rate (3.23%) and while consumer/commercial/debt case filings are high (3,467), only a comparative few (5) go to judgment on verdict, which pulls the overall jury trial rate down. While total contract is the largest filing category in district court (4,594), comparatively few (9) go to judgment on verdict (0.20%). Total injury or damage had a thousand fewer filings (3,580), but thrice the rate to judgment on verdict (23 or 0.64%).

Since 2011, motor vehicle verdicts have doubled (7 to 16), but total injury verdicts have fallen nearly in half (40 to 23) due to the decrease in the other injury sub-category (33 to 4). The explanation could be as easy as lawyers checking different boxes on the civil cover sheet at filing. Contract verdicts have tripled (3 to 9, with a peak of 14 in 2015) and other civil filings have also increased (1 to 5, with a peak of 11 in 2016).

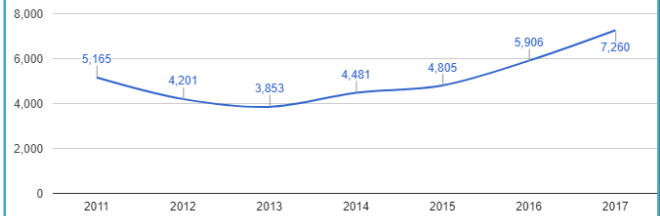
Statewide district and county court jury verdicts have declined more (1,560 to 1,213) than in Bexar County.

When counties are grouped into court of appeals regions and judgments on verdicts are taken as a function of new filings, regional variability in the verdict rate emerges. Using new filings as the denominator is certainly imprecise since it is unlikely that a case was filed and tried in a single calendar year. But the flow of new cases is the most equivalent measure across counties, given the noise in the retained docket numbers. This may penalize the fastest growing dockets since verdicts will trail new filings. In the aggregate, though, the resulting trends are helpful, if imperfect. The San Antonio, Corpus Christi, and Austin regions are relatively similar in the 0.20% range. Counties covered by Houston's two courts of appeals have verdict ratios roughly double the San Antonio group. Dallas region counties run even higher in the odd years sampled since OCA began collecting the data.

Case Composition - Civil - Consumer / Commercial / Debt

01/2011 - 12/2017

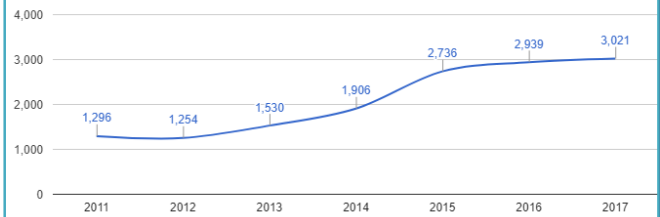
Bexar



Case Composition - Civil - All Other Civil Cases

01/2011 - 12/2017

Bexar

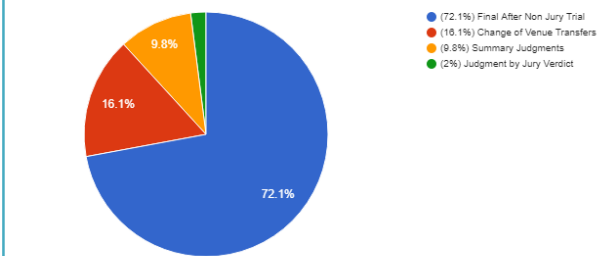


Bexar Civil - District Court	2011	2012	2013	2014	2015	2016	2017
New Cases							
Motor Vehicle	1314	1137	475	1215	1751	2184	2869
Medical Malpractice	67	61	87	79	89	101	93
Other Professional	23	11	16	13	12	12	7
Product Liability -	0	1	0	0	7	12	10
Other Product Liability	18	30	22	19	6	6	7
Other Injury or Damage	548	506	478	476	536	510	594
Total Injury or Damage	1970	1746	1078	1802	2401	2825	3580
Eminent Domain	3	2	5	4	3	3	6
Other Real Property	574	651	752	290	279	370	389
Total Real Property	577	653	757	294	282	373	395
Consumer/Commercial/Debt	1743	1693	1911	1795	1884	2515	3467
Other Contract	833	928	1069	1004	1033	1055	1127
Total Contract	2576	2621	2980	2799	2917	3570	4594
Civil Related to Criminal	1467	1549	1585	1600	1811	1599	1828
All Other Civil Cases	856	879	1091	1361	1527	1423	1513
Tax	5348	5381	5255	4384	5143	5052	4003
District Court	12794	12829	12746	12240	14081	14842	15913

Contested Dispositions by Type - Civil

01/2017 - 12/2017

Bexar

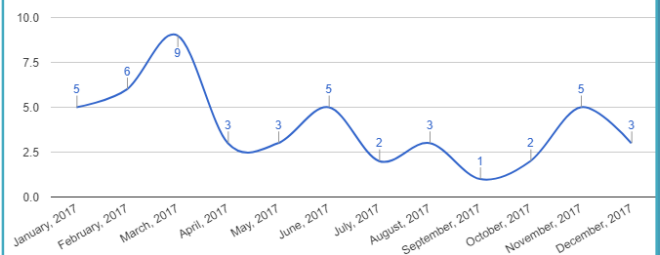


Source: CourtStatPack.com

Contested Dispositions by Type - Civil - Judgment by Jury Verdict

01/2017 - 12/2017

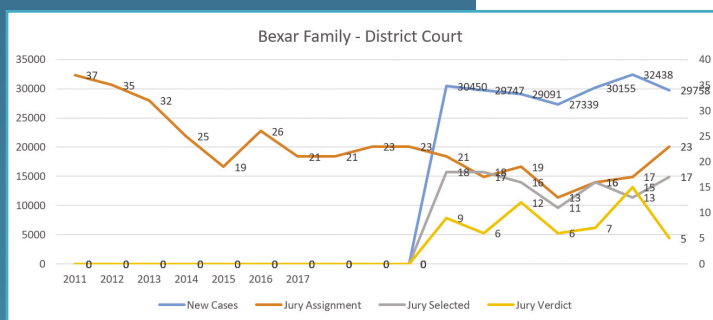
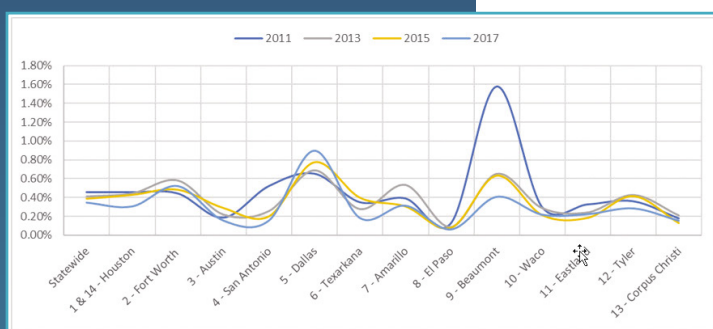
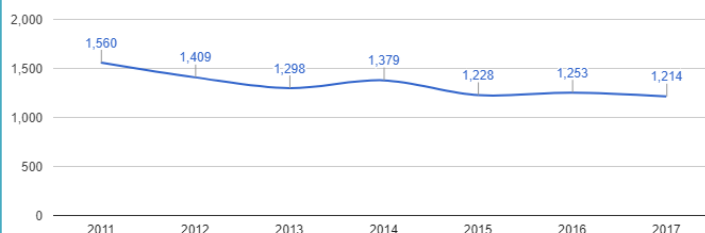
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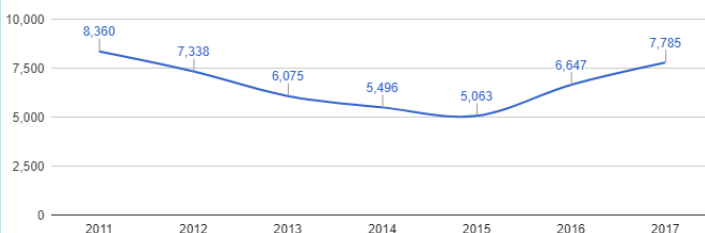
Source: CourtStatPack.com

Bexar Civil - District Court	2011	2012	2013	2014	2015	2016	2017
Jury Verdict							
Motor Vehicle	7	6	17	20	13	14	16
Medical Malpractice	-	2	3	3	3	3	3
Other Professional Malpractice	-	-	1	-	-	-	-
Product Liability	-	-	-	-	-	-	-
Other Product Liability	-	-	-	-	-	-	-
Other Injury or Damage	33	26	11	4	10	10	4
Total Injury or Damage	40	34	32	27	26	27	23
Eminent Domain	-	-	-	-	-	-	-
Other Real Property	1	1	-	1	1	-	-
Total Real Property	1	1	-	1	1	-	-
Consumer/Commercial/Debt	3	1	2	3	11	9	5
Other Contract	-	-	2	3	3	3	4
Total Contract	3	1	4	6	14	12	9
Civil Related to Criminal	-	-	-	-	1	2	1
All Other Civil Cases	1	2	3	2	7	11	5
Tax	-	-	-	-	1	-	-
District Court	45	38	39	36	50	52	38

Contested Dispositions by Type - Civil - Judgment by Jury Verdict
01/2011 - 12/2017
Statewide



Contested Dispositions by Type - Civil - Summary Judgments
01/2011 - 12/2017
Statewide



Source: CourtStatPack.com

Family Verdicts

Since 99% of contested family dispositions are bench trials (10,423), jury assignments (23), selections (17), and verdicts (5) remain relatively constant. While the data does not indicate why there is such a drop in judgments on the verdict in 2017, it could be as simple as the decree was coded as agreed after verdict was announced.

Summary Judgments

Summary judgments are still more talked about than won. The number of cases completely disposed of by summary judgment (not reflecting partial grants that do not dispose of the case unless severed) remains below 1% of new case filings and 10% of contested dispositions. Over half of the 227 summary judgments granted in district and county court were in consumer/commercial/debt cases. In district court, 83 of 158 (52.5%) summary judgment dispositions fell into that category.

Summary judgment dispositions in county court fell much more than in district court during the OCA period. In 2011, county courts disposed of 265 cases by summary judgment. By 2017, that had fallen to sixty-nine. District court summary judgment dispositions fell, but less dramatically (202 to 158). More than half of district court grants were in consumer (83) cases, followed by total injury (25, down from 34) and other contract (4, down from 10). The number of partial grants that contour commercial cases for more precise case evaluation by the parties escapes quantification in OCA data, but no doubt contributes to the large number of settlements.

Summary judgments statewide followed the same decline but have since rebounded. On relatively constant filings (341,154 in 2011 to 349,302 in 2017), statewide summary judgment dispositions softened from 8,360 in 2011 to 7,785 in 2017, with a low of 5,063 in 2015.

Like jury verdicts, there are interesting variations in the summary judgment disposition rate when counties are grouped by court of appeals region. The counties in the Corpus Christi and Texarkana regions again appear to have lower grant rates when new filings are used as the denominator. Grant rates appear to be higher in counties grouped in the Houston, Fort Worth, Dallas, and Waco regions. El Paso is excluded from this graph since its rate was high enough to make it an outlier that made the rest of the variations more difficult to compare.

Bench Trials Remain Workhorses

The 90/10 maxim holds true for district court dispositions. Using OCA new cases (15,913) as the comparative yard stick again, 355 were transferred to another venue; 158 were disposed of by summary judgment; none were disposed of by directed verdict; and 1,500 were disposed of by bench trial. Thus, excluding venue transfers that were disposed of elsewhere, 1,696 civil cases took most of the district court bandwidth not devoted to the crush of family law matters, including CPS dispositions (10,418). The other 90% were resolved without a contested disposition. With 99% of family and 77% of civil contested cases disposed of at the bench, each district judge must average sixty-one family and nine civil bench trials every month to accommodate the increasing workflow. The increase in civil filings may add to that weight in future years.

Conclusion

Bexar district and county judges are among the hardest working in the state. The combined civil and family dockets in district court result in 11,958 contested dispositions that divide 86% family and 14% civil. Civil jury trials remain largely unchanged, though there has been some rotation among the district and county courts. Heavily contested CPS cases consume even more of the heavy family docket and, due to their nature, further crowd civil bandwidth, but it works because the largest part of the docket continues to be resolved without a merits disposition. ♣



Don Philbin was named "Lawyer of the Year" in San Antonio by Best Lawyers® (2014, 2016), was recognized as the 2011 Outstanding Lawyer in Mediation by the San Antonio Business Journal, is one of eight Texas lawyers listed in The International Who's Who of Commercial Mediation, and is listed in Texas Super Lawyers. He is an elected fellow of the

International Academy of Mediators, the American Academy of Civil Trial Mediators, and the Texas Academy of Distinguished Neutrals.

ENDNOTES

¹The author is grateful for the assistance of (1) Zach Taylor, who created the Court Stat Pack computer program that downloads and organizes court data; and (2) Mariam Paytany, who performed the statistical analysis of the data.

²Thomas J. Smith, *Whatever Happened to Jury Trials?*, S.A. SCENE MAGAZINE (June 2007), updated and reprinted at SAN ANTONIO LAWYER 8 (Nov. 2015), available at <https://sanantoniobar.org/wp-content/uploads/2017/08/2015-Nov-Dec.pdf> (last visited May 25, 2018) (hereinafter "Smith") and Don Philbin, *Recent Bexar County District Court Statistics*, SAN ANTONIO LAWYER 8 (Jul-Aug 2016), available at <https://www.sanantoniobar.org/sa-lawyer-magazine-archive/page/2/> (last visited May 25, 2018). The State Bar of Texas awarded this article a Stars of Texas Bars Award in the News category.

³The Texas Office of Court Administration (OCA) started compiling data in its current form in 2010 and makes its reports available at <http://card.txcourts.gov/default.aspx> (last visited June 18, 2018); <http://CourtStatPack.com> (last visited June 18, 2018) takes that data and presents it in easily customizable graphs. The spreadsheet used for this article is available at <https://goo.gl/4VcpF8>.

⁴For a decade before the Texas Legislature required OCA to collect statistical data from the district and county clerks, the Bexar County District Courts (BCDC) collected data on cases assigned for trial. That data tracks cases assigned for jury and non-jury trial across a range of civil and family categories.

⁵For instance, there are product liability cases that have gone to trial and are not reflected in OCA verdict data. Whether the case was classified as "Other Personal Injury" on the case information cover sheet when filed or a verdict was not recorded, there are data anomalies. And local district judges hear cases in other counties and MDL matters by assignment that are not reflected in these Bexar County numbers.

⁶A number of district judges and court personnel contributed background for this article, and their contributions were appreciated.

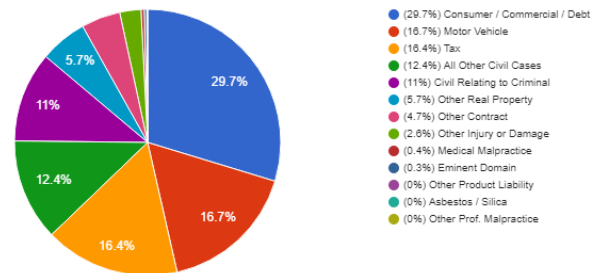
⁷OCA reporting relies on civil cover sheets to broadly categorize cases and clerks to report dispositions and other data. Of course, there can be unintentional inaccuracies. Venue transfers leave the ultimate disposition to another court, but we include them in Contested Dispositions since the issue was joined.

⁸Not all counties report by the statutory deadline, so there may be small data discrepancies in the statewide numbers. Bexar County does report on time, and the District Clerk has been kind enough to confirm that fact and jury verdicts. BCDC has also provided accurate year-end data.

⁹Some shrink in jury trial data points from assignment to selection to verdict is expected. Of course, pre-trial work contours the case and often results in resolution between jury assignment and jury selection, and the trial workload is the same whether a judgment is entered on the verdict later.

¹⁰See Smith, *supra* n.1; see also Xavier Rodriguez, *The Decline of Civil Jury Trials: A Positive Development, Myth, or the End of Justice as We Now Know It?* 45 ST. MARY'S L.J. 333 (2014).

Case Composition - Civil
01/2017 - 12/2017
Bexar



Source: CourtStatPack.com

Bexar Civil - District Court	2011	2012	2013	2014	2015	2016	2017
Summary Judgment							
Motor Vehicle	6	11	7	10	12	20	14
Medical Malpractice	1	1	1	1	3	1	-
Other Professional Malpractice	-	1	-	-	-	1	1
Product Liability	-	-	-	-	-	-	-
Other Product Liability	1	-	-	-	-	-	-
Other Injury or Damage	54	35	19	14	16	12	10
Total Injury or Damage	62	48	27	25	31	34	25
Eminent Domain	-	-	-	-	-	-	-
Other Real Property	2	8	12	8	4	8	12
Total Real Property	2	8	12	8	4	8	12
Consumer/Commercial/Debt	68	88	73	62	74	68	83
Other Contract	16	9	9	7	12	10	4
Total Contract	84	97	82	69	86	78	87
Civil Related to Criminal	28	33	15	29	32	13	15
All Other Civil Cases	26	20	9	7	34	33	19
Tax	-	-	1	1	-	1	-
District Court	202	206	146	139	187	167	158

Contested Dispositions by Type - Civil - Summary Judgments
01/2011 - 12/2017
Statewide

