Tort Litigation in Georgia: Some (Very) Preliminary Observations

Thomas A. Eaton

University of Georgia School of Law

David B. Mustard

University of Georgia Terry College of Business

This is our third major empirical study of tort litigation in Georgia. The first two studies were based on examinations of court records in selected counties in the early (1990-93) and mid-to-late (1994-97) 1990s. These studies provided a description of tort litigation patterns that included such things as filing patterns, types of claims, disposition patterns, outcomes of bench and jury trials, and compensatory and punitive damage awards. They also analyzed these data in an attempt to ascertain the degree of factual support they provided for the two linchpins of political case in support of tort reform: (1) litigation explosion (i.e., is there an increase in the number or rate of tort filings); and (2) runaway juries (i.e., is there an increase in the number and size of compensatory and punitive damage awards). The first two studies concluded that there was very little empirical evidence to support either proposition.

In this, the third study, we examined court records from 2004-06. This Report will begin with brief description of the methodology used in this and the prior two studies. This section will identify differences and similarities in the data sets used in the three studies. We will then turn to major points of comparison between the data developed in the 2004-06 study and those developed in the prior two studies. Among the points of comparison are (1) type of claims; (2) filing patterns (number and rate of filings); (3) disposition patterns; (4) trial outcomes; and (5) compensatory and punitive damage awards.

Our tentative findings tell us more about the "what" than about the "why." That is, we have more confidence in our descriptions of changes in tort litigation patterns than in explaining why they occurred. Nonetheless, the data indicate that during the past fifteen years (1) there has been little change in the case mix of tort claims filed in Georgia courts; (2) there has been a sharp drop in the number of tort suits filed; (3) there has been a drop in the number of medical malpractice filings that pre-date the enactment of an extensive tort reform package in 2005; (4) there has been a sharp drop in the rate of tort filings (expressed in terms of the number of filings per 100,000 population); (5) there has been a sharp decrease in the percentage of tort cases disposed by bench or jury trials; (6) there has been an increase in the plaintiffs' "win rate" in cases that go to trial; (7) although the median compensatory damage award increased between 1994-07 and 2004-

06, the median award in Georgia remains lower than corresponding figures reported in national studies; and (8) punitive damage awards are rare in number no such award exceeded the statutory cap of \$250,000.