

MFI

117566  
995211



117566

NATIONAL CENTER FOR STATE COURTS

HOW WOULD PROPOSED CHANGES IN FEDERAL  
DIVERSITY JURISDICTION AFFECT STATE COURTS?

NCJRS

JUN 5 1989

ACQUISITIONS

BY

Victor E. Flango, Ph.D.  
Project Director and Principal Investigator

WITH THE ASSISTANCE OF

Craig Boersema, Ph.D., Staff Associate  
Darren Burns, Research Associate

April 30, 1989

A research project report pursuant to grant SJI-87-14J-B-023 to the National Center for State Courts from the State Justice Institute. Points of view expressed herein are those of the authors and do not necessarily represent the official positions or policies of the State Justice Institute.

117566

**U.S. Department of Justice  
National Institute of Justice**

This document has been reproduced exactly as received from the person or organization originating it. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the National Institute of Justice.

Permission to reproduce this ~~copyrighted~~ material has been granted by

Public Domain

U.S. Department of Justice

to the National Criminal Justice Reference Service (NCJRS).

Further reproduction outside of the NCJRS system requires permission of the ~~copyright~~ owner.

# Table of Contents

	<u>Page</u>
Acknowledgments .....	ii
Index of Figures .....	vi
Index of Tables .....	vii
Executive Summary .....	ix
 <b>Chapter I</b>	
Introduction .....	1
A. Bias Against Out-Of-State Residents .....	2
1. Concerns Over Comparative Quality of State and Federal Courts .....	3
2. Concerns Over Federalism and Restricting Choice of Forum .....	4
3. Concerns Over Federal Workload .....	5
B. Objectives of This Research .....	5
1. Abolishing Diversity Jurisdiction .....	6
2. Barring In-State Plaintiff-Initiated Diversity Actions .....	7
3. Raising the Jurisdictional Limit .....	8
C. Limitations and Future Directions .....	9
 <b>Chapter II</b>	
Methodology .....	13
A. Increase in Diversity Filings .....	13
B. Is the 1987 Diversity Data Set Unusual? .....	19
C. Adjustments to the Federal Data Set .....	23
1. Total Filings .....	23
2. Residency of Plaintiff .....	25
3. Amount-In-Controversy .....	27
D. Creation of a State Data Set .....	40
E. Creation of a Disposition Data Set .....	45
 <b>Chapter III</b>	
Effects of Total Abolition .....	49
A. Estimated Number of Cases to Be Transferred .....	49
1. Total Filings .....	49
2. Filings Per Population .....	51
3. Filings Per Judge .....	56

Table of Contents  
(CONTINUED)

	<u>Page</u>
B. Complexity of Cases Transferred .....	57
1. Caseload Composition .....	57
2. State Filings .....	63
3. Jury Trials .....	71
 Chapter IV	
Barring In-State Plaintiffs from Initiating Diversity Actions .....	76
A. Estimated Number of Cases to Be Transferred .....	76
1. Total Filings .....	76
2. Filings Per Population .....	80
3. Filings Per Judge .....	80
B. Complexity of Cases Transferred .....	83
1. Caseload Composition .....	83
2. Increase in State Filings .....	83
 Chapter V	
Effects of Raising the Jurisdictional Limit .....	88
A. Estimated Number of Cases to Be Transferred .....	90
1. Total Filings .....	90
2. Filings Per Population .....	90
3. Filings Per Judge .....	90
B. Complexity of Cases Transferred .....	94
1. Caseload Composition .....	94
2. Increase In State Filings .....	94
3. Jury Trials .....	95
 Chapter VI	
Contrasts and Conclusions .....	101
A. Contrasts in Case Distribution .....	101
1. Total Filings .....	101
2. Filings Per 100,000 Population .....	105
3. Filings Per Judge .....	107
B. Case Complexity .....	107
1. Caseload Composition .....	107
2. Increase In-State Torts .....	110
C. Which States Will Be Affected Disproportionately?.....	110
Footnotes .....	117

Table of Contents  
(CONTINUED)

	<u>Page</u>
APPENDIX A	
Methodological Appendix .....	121
A. Modification of Federal Data Set .....	121
B. Estimates Based on Regression Analysis .....	121
APPENDIX B	
In-State Corporate Plaintiffs .....	128
1. Total Corporate Filings .....	128
2. Corporate Filings Per Population .....	128
3. Corporate Filings Per Judge .....	128
4. Increase In-State Filings .....	131
APPENDIX C	
Manner of Disposition for Federal Diversity Cases with Amount-In-Controversy of \$50,000 or Less .....	133
APPENDIX D	
Counties Likely to Receive 100 or More Diversity Cases .....	134
APPENDIX E	
Capsule Summary of the Effect of Proposed Changes in Federal Diversity Jurisdiction by State .....	137

# INDEX OF FIGURES

		<u>Page</u>
FIGURE 1	Diversity Filings in U.S. District Court .....	14
FIGURE 2	Diversity Filings Compared to Total Civil Filings .....	15
FIGURE 3	Tort and Contract Cases .....	16
FIGURE 4	The Percentage of Torts and Contracts Cases .....	17
FIGURE 5	Civil Cover Sheet .....	26
FIGURE 6	Number of General Jurisdiction Judges Per State--1987 .	46
FIGURE 7	1987 Diversity Terminations by State .....	47
FIGURE 8	Total Diversity Filings by State .....	50
FIGURE 9	Population and Diversity Filings .....	52
FIGURE 10	Population and Diversity Filings (Logarithmic Scale) ..	53
FIGURE 11	Types of Federal Diversity Cases.....	59
FIGURE 12	Percent Difference Between Actual and Estimated Contract Diversity Cases .....	62
FIGURE 13	Percentage Difference Between Actual and Estimated Tort Diversity Cases .....	65
FIGURE 14	Relationship Between State Tort Filings and Population .	68
FIGURE 15	Percent Difference Between Actual and Estimated State Tort Filings .....	69
FIGURE 16	Number of State Tort Filings .....	70
FIGURE 17	Increase in State Contract Cases Under Total Abolition .....	72
FIGURE 18	Increase in State Tort Filings Under Total Abolition .....	73
FIGURE 19	Origin of Diversity Plaintiffs .....	77
FIGURE 20	Individual In-State Diversity Plaintiffs .....	79
FIGURE 21	Increase in State Tort Filings If In-State Individuals Barred from Filing .....	87
FIGURE 22	Percentage of Diversity Cases with Amount Demanded of \$50,000 or Less .....	89
FIGURE 23	Estimated Number of Diversity Cases With Amount Demanded of \$50,000 or Less .....	91
FIGURE 24	Increase in State Tort Filings When Dollar Amount Is Raised to \$50,000 .....	98
FIGURE 25	Filings Affected by the Three Proposals .....	104
FIGURE 26	States Disproportionately Affected by Total Abolition of Diversity Jurisdiction .....	114
FIGURE 27	States Disproportionately Affected if In-State Individuals Are Barred from Filing.....	115
FIGURE 28	States Disproportionately Affected When Jurisdiction Limit Is Raised to \$50,000.....	116
FIGURE A-1	Percentage Difference Between Actual and Estimated Contract Diversity Cases .....	126
FIGURE A-2	Percentage Difference Between Actual and Estimated Tort Diversity Cases .....	127

# INDEX OF TABLES

		<u>Page</u>
TABLE 1	Diversity Filings by State for Selected Years .....	18
TABLE 2	Proportion of Diversity Filings by State for Selected Years .....	21
TABLE 3	Tort and Contract Diversity Filings by State .....	22
TABLE 4	Ratio of Torts Diversity Filings to Total Tort and Contract Diversity Filings .....	24
TABLE 5	Missing Data for Amount-In-Controversy by District ....	29
TABLE 6	District Comparisons of Missing Amount-In-Controversy Data for Tort Cases .....	34
TABLE 7	Estimates of Filings with Amounts-in-Controversy of \$50,000 or Less .....	39
TABLE 8	Minimum Amount-In-Controversy Requirements for State Courts of General Jurisdiction .....	42
TABLE 9	Federal Diversity Cases by State .....	49
TABLE 10	Diversity Filings by Population .....	54
TABLE 11	Estimates of Total Tort/Contract Diversity Cases .....	55
TABLE 12	Diversity Filings Per Judge by Population - 1987 .....	58
TABLE 13	Estimates of Contract Diversity Filings to be Transferred .....	61
TABLE 14	Estimates of Tort Diversity Cases .....	64
TABLE 15	Potential Increase in Torts and Contracts Per State ...	66
TABLE 16	Manner of Disposition, Federal Diversity Cases .....	74
TABLE 17	In-State Citizen Diversity Filings by State .....	78
TABLE 18	In-State Citizen Diversity Filings Per Population .....	81
TABLE 19	In-State Citizen Diversity Filings Per Judge .....	82
TABLE 20	Torts and Contracts as a Percent of Total Diversity and In-State Citizen Plaintiff Cases .....	84
TABLE 21	Increase in Torts and Contracts Per State .....	85
TABLE 22	Estimated Number of Diversity Cases with Dollar Demand of \$50,000 or Less .....	92
TABLE 23	Estimated Number of Diversity Cases Per State Judge \$50,000 or Less .....	93
TABLE 24	\$50,000 or Less Cases by Casetype .....	96
TABLE 25	Estimated Increase in State Tort Filings Assuming a Federal Jurisdiction Limit of \$50,000 .....	97
TABLE 26	Number Diversity Filings Estimated to be Transferred to State Courts Under Three Proposals to Change Federal Diversity Jurisdiction .....	102
TABLE 27	Diversity Filings Transferred to State Courts Under Three Proposals .....	106
TABLE 28	Diversity Filings Per Judge Under Three Proposals .....	108
TABLE 29	Percentage of Torts and Contracts Under the Three Proposals .....	109
TABLE 30	Percent Increase in State Torts Under Three Proposals .	111



# INDEX OF TABLES

(continued)

		<u>Page</u>
TABLE A1	Comparison of Total Diversity Filings Reported by U.S. Administrative Office with Filings Used in This Research .....	122
TABLE A2	Regression Estimates of Total Tort/Contract Diversity Filings .....	123
TABLE A3	Regression Estimates of Contract Diversity Cases from Population .....	124
TABLE A4	Regression Estimates of Tort Diversity Cases from Population .....	125
TABLE B1	Caseload Composition of Diversity Filings by In-State Corporations .....	129
TABLE B2	In-State Corporation Plaintiff Filings Per Population and Per Judge .....	130
TABLE B3	Proportion of Contract and Tort Cases Filed by In-State Corporate Plaintiffs .....	132

## EXECUTIVE SUMMARY

Federal jurisdiction, based upon controversies between citizens of different states or between states and foreign nations, arises from Article III of the U.S. Constitution. Proposals to curtail or abolish federal diversity jurisdiction have been made ever since it was conferred on federal courts by the Judiciary Act of 1789.

Chief Justice William Rehnquist and Former Chief Justice Warren Burger argued strongly for the elimination of diversity jurisdiction. The Judicial Conference of the United States, the U.S. Department of Justice, the Conference of Chief Justices, and the American Law Institute have all passed resolutions supporting the curtailment or elimination of diversity jurisdiction. On the other hand, the American Bar Association and most trial lawyers' associations favor retaining diversity jurisdiction in federal courts.

The debate over diversity jurisdiction has its roots in concern over bias against out-of-state litigants in state courts. This concern permeates other arguments over the transfer of federal diversity jurisdiction, including concerns over the comparative quality of justice in state and federal courts, concerns over restricting choice of forum, and concerns over federal court workloads. The debate has taken on a new character recently because the number of alternatives between total abolition of diversity cases in federal courts and complete retention has increased. Several options are available now that previously were not considered. Research on these alternatives is essential to provide Congress with a basis for deciding whether legislation is required, and which alternatives will best achieve Congressional objectives. Research will also help state court justices and state

legislators formulate their positions on diversity transfer based upon an understanding of how each alternative would affect courts in their states, and also will permit attorneys to estimate the effects of the transfer on their practices. Readers interested in the effects of proposed changes on specific states may refer to Appendix E.

The number of federal diversity filings has increased dramatically in the past 10 years, but diversity cases as a proportion of total civil filings in U.S. District Courts have been fairly constant (ranging between 24% and 28% of all civil filings). Contract and tort cases have regularly comprised more than 90% of all federal diversity filings. In the past 25 years, diversity contract suits have increased more rapidly than diversity tort suits and now comprise nearly half of all diversity filings.

Under a grant from the State Justice Institute, the National Center for State Courts conducted this research to determine the impact on state courts of the possible transfer of federal diversity jurisdiction. At the time this research began, the three most prominent proposals were: abolishing diversity jurisdiction, barring in-state plaintiffs from initiating diversity actions, and raising the federal amount-in-controversy requirement from \$10,000 to \$50,000. On November 19, 1988, during the final three months of this project, the change in amount-in-controversy was adopted as part of the Judicial Improvements and Access to Justice Act. Consequently, the last alternative is now a reality and data from this research will provide a baseline against which to measure its effect on state court caseloads. The major research question addressed is: How will caseloads removed from federal courts be distributed among the states if diversity jurisdiction is curtailed or eliminated?

Specific findings from the National Center's research are as summarized

TABLE I

NUMBER DIVERSITY FILINGS ESTIMATED TO BE TRANSFERRED TO STATE COURTS  
UNDER THREE PROPOSALS TO CHANGE FEDERAL DIVERSITY JURISDICTION

<u>States</u>	<u>Total Diversity Filings</u>	<u>Total In-State Citizen Diversity Filings</u>	<u>Estimated Filings With Dollar Demand of \$50,000 or Less</u>
California	4182	2485	1769*
New York	5482	2308	1754
Texas	5537	3269	3078
Florida	1787	931	747*
Pennsylvania	5642	2905	3279
Illinois	5532	1378	3343
Ohio	1503	876	314
Michigan	2117	1344	849*
New Jersey	2025	644	709*
North Carolina	644	265	329
Georgia	1961	1076	547
Virginia	1480	709	324
Massachusetts	1233	705	239
Indiana	1179	432	643
Missouri	1449	785	462
Tennessee	1252	670	327
Wisconsin	430	172	148
Washington	568	325	197*
Maryland	1037	499	224
Louisiana	2759	1431	547
Minnesota	491	223	223
Alabama	1416	618	517
Kentucky	803	378	275
South Carolina	1073	664	376*
Arizona	417	165	173
Colorado	512	206	179*
Puerto Rico	299	136	45
Oklahoma	2024	963	554
Connecticut	1289	713	434
Iowa	377	214	145*
Oregon	496	176	184
Mississippi	1630	1138	249
Kansas	606	257	330
Arkansas	882	504	312
West Virginia	604	298	142
Utah	392	139	153
Nebraska	343	184	120*
New Mexico	459	212	160
Maine	185	119	26
Hawaii	606	381	212*
New Hampshire	238	110	38
Nevada	537	148	347
Idaho	185	61	47
Rhode Island	310	170	18
Montana	396	268	139*
South Dakota	180	73	42
North Dakota	119	55	58
Delaware	200	67	70*
District of Columbia	1053	355	208
Vermont	132	50	69
Alaska	139	65	60
Wyoming	216	81	76*
<u>Totals</u>	66,408	32,400	25,810

\*Estimates based on national averages rather than state averages.

under each of the three proposals. Table I which which also appears in the text as Table 26, summarizes the number of new filings that would have been added to state courts under each of the three proposals if diversity jurisdiction had been changed in FY 1987. All figures in this table and all proportions calculated below are based upon the diversity cases filed in U.S. District Court in FY 1987. To the extent that federal court cases are more complex than cases filed in state courts, the affect of the transfer on states will be underestimated. Similarly, to the extent that one federal court action, e.g. an airline accident involving people from different states could result in more than one state court filing, the impact on states of any change in diversity jurisdiction will also be underestimated. The State Justice Institute has awarded continuation funding to examine the effects of changes proposed in diversity jurisdiction in four trial courts of general jurisdiction. That research also will examine the degree to which the state courts most likely to receive the newly-transferred cases are already overburdened. Adding an identical number of cases to state courts with large backlogs of pending cases and comparatively long time intervals between filing and disposition is more serious than rechanneling cases to state trial courts with small backlogs and short case processing times. The last caveat about these numbers are that the impact on states will be affected by the desire of plaintiffs to pursue their claims in state courts, rather than settle or use other options.

#### 1. Effects of Total Abolition

If federal diversity jurisdiction has been completely abolished in FY 1987, as many as 66,408 new filings would have been added to state courts.

Pennsylvania would have received the most diversity filings and North Dakota would have received the least.

The more populous states obviously would receive the most diversity cases if diversity jurisdiction were eliminated. California, New York, Texas, Pennsylvania, Florida, Illinois, Ohio, and Michigan have 48% of the national population and would receive 48% of the diversity filings as well. It is therefore desirable to examine the states where the relationship between population and filings is not proportionate. Based upon filings per 100,000 population, the District of Columbia would have received the most diversity cases per population (169). Other states receiving disproportionately high filings per 100,000 population include Mississippi, Oklahoma, Louisiana, Montana, Pennsylvania, and Illinois.

Many of these same states would be affected disproportionately if impact were measured by filings per judge. In South Carolina, abolition of diversity jurisdiction would have meant that the currently sitting general jurisdiction judges would have received 35 new cases. Other states disproportionately affected by total abolition as measured by filings per judge are: Oklahoma, Hawaii, Mississippi, Massachusetts, and the District of Columbia.

Under total abolition, a roughly equal proportion of tort and contract filings would be transferred. A lack of data from state courts makes it impossible to calculate percentage increases for both tort and contract filings in all 52 jurisdictions. From the 22 states which separate their civil filings into tort and contract categories, however, even the total abolition of diversity jurisdiction would increase state case filings by only three or four percent in most states. (The increase in tort filings makes the percentage increase in Hawaii significantly greater.) Contract filings

would increase by approximately 12% in New York, Massachusetts, and Hawaii, but by less than one and a half percent in Wisconsin, Arizona, and Arkansas. The increase in tort filings would be greatest in Hawaii (21%) and are estimated to increase about 11% in Mississippi, Louisiana, and Montana.

Of the diversity cases disposed in U.S. District Courts in FY 1987, 36% were terminated without court action. The rate of termination without court action varied significantly among states. For example, only 5% of the diversity cases were terminated without court action in Colorado and Puerto Rico districts, whereas two-thirds of the diversity cases were terminated without court action in Alaska, Connecticut, Oregon, and Vermont districts. On the other hand, about 8% of all FY 1987 diversity cases were disposed by trial (6% by jury trials). A third of all diversity trials were conducted in four states--Texas, Pennsylvania, Georgia and Louisiana. If that pattern continued when and if diversity jurisdiction were abolished, these states would be affected significantly more than the raw number of filings would indicate. The proportion of cases terminated by trial varied from a low of two percent in Alaska and Illinois to a high of 25% in Vermont. Other states with high trial rates for diversity cases terminated in U.S. District Court are Wyoming, Texas, and Rhode Island.

## 2. Effects of Barring In-State Plaintiffs from Initiating Diversity Actions in Federal Court

Under the proposal that federal courts would be closed to in-state plaintiffs, Texas would have received the most (3,269) new diversity filings in 1987, and North Dakota would have received the least. The District of Columbia, Mississippi, Oklahoma, Louisiana and Hawaii would receive disproportionately high filings per 100,000 population under this proposal as

they would under the proposal to abolish diversity jurisdiction. Similarly, except for the District of Columbia, the states that would receive a disproportionate number of filings per judge under the proposal to eliminate diversity jurisdiction also would receive disproportionately large filings per judge if the ability of in-state plaintiffs to file in federal court were eliminated. (These states are South Carolina, Oklahoma, Hawaii, Mississippi and Massachusetts.)

### 3. Effects of the New Law Raising the Federal Diversity Jurisdiction

#### Limit to \$50,000

Raising the federal jurisdiction limit to \$50,000 in 1987 would have transferred an estimated 25,810 federal diversity filings to state courts. Because about a third of the filings in U.S. District Court do not list dollar amount-in-controversy, estimates were based on the data that were available and upon national averages in states which had insufficient data to make estimates. If the estimates are correct, about a third of all diversity cases filed in federal courts in FY 1987 involved amounts-in-controversy of \$50,000 or less. This ratio varied greatly among states. In Puerto Rico and Mississippi only 15% of all filings were for amounts less than \$50,000, but in Nevada and Illinois over 60% of all diversity filings had amounts-in-controversy of less than \$50,000. The Illinois figure may be unusually high because of the large proportion of real property filings in the Northern District of Illinois.

South Carolina, Pennsylvania, Nevada, Hawaii, and Illinois would have received a disproportionate share of diversity filings per judge. Nevada, Pennsylvania, Florida, and Hawaii would have received a disproportionate share of diversity filings per 100,000 population under the proposal to increase jurisdictional limits.



Unlike the other two proposals which would transfer more tort filings than contract filings, raising the federal jurisdiction limit to \$50,000 is expected to transfer more contract filings than tort filings to state courts. Idaho, Alabama and Kentucky are expected to receive the largest percentage increase in tort cases under this new law.

Considering the three measures together (filings per population, filings per judge, and percentage of increase in state tort filings), Hawaii, Pennsylvania and perhaps Oklahoma will be the states disproportionately affected by any change in diversity jurisdiction. Mississippi, Louisiana, Arkansas, and the District of Columbia would receive a disproportionate number of filings under proposals to abolish diversity jurisdiction or to bar in-state plaintiffs from filing in federal court. Under the new law raising the amount-in-controversy limit to \$50,000, Nevada, Texas, and perhaps Illinois might expect to receive a disproportionately high number of diversity filings. Only when FY 1990 data are reported will it be possible to determine if the decrease in number of federal cases under \$50,000 is as great as predicted, or whether plaintiffs will be able to increase the amount demanded to sufficiently meet the new federal jurisdictional limit. In either event, the estimates presented in this report provide a baseline against which to measure changes in state court filing patterns.

## ACKNOWLEDGMENTS

Any research endeavor requires the concatenation of intellectual and physical resources. In this effort, I would like to express my appreciation to the State Justice Institute for their financial support of the Diversity Transfer Project and to David Tevelin, Director of the State Justice Institute and Project Officer for this Project, for his assistance in providing the resources and support necessary to complete this work. David Cook, Chief of the Statistical Analysis and Reports Division for the Administrative Office of U.S. Courts, not only provided the data tapes upon which the analysis was based, but did special runs of other data, including the proportion of trials completed in U.S. District Courts in 1987, upon which the analysis depended. Beyond the technical assistance, Mr. Cook was always ready to provide telephone consultations to discuss peculiarities in the data. This Project literally could not have been done without his help.

Although he did not join the Project staff until December of 1988, Craig Boersema quickly reviewed the work that had been done and participated in the discussions of which general jurisdiction judges to count when determining filings per judge and which state tort and contract figures to use. He produced the charts and tables used in this report. Darren Burns, a second-year law student at the Marshall-Wythe School of Law, College of William and Mary, was with the Project from the start and a constant source of inspiration. His natural curiosity led him to produce many alternative tables, graphs, and hypotheses, and his ebullient personality never let us get discouraged when brilliant ideas did not work out empirically.

Three consultants to the Project, Maurice Rosenberg, Harold R. Medina Professor of Procedural Jurisprudence of Columbia University, Marc Galanter, Evjue-Bascom Professor of Law of the University of Wisconsin, and Joel Grossman, Professor of Political Science and Law at the University of Wisconsin reviewed the first draft of this manuscript. Their thoughtful and reasoned suggestions greatly improved the quality of this report. NCSC President Edward McConnell reviewed the second draft of this manuscript and made many helpful recommendations including the reorganization of the executive summary and the summary of effects of diversity transfer on individual states. Dr. Geoff Gallas, Director of Research for the National Center for State Courts (NCSC), was responsible for making many refinements in the proposal that guided the current research. He was particularly insistent that the 1987 data be placed in a context of other years to ensure that the year chosen for analysis was not peculiar in any way. NCSC staff Dr. Roger Hanson, Dr. David Rottman, and Harry Swegle read an earlier draft of this manuscript and made many useful suggestions. Larry Polansky, Executive Officer of the District of Columbia Courts, and J. Denis Moran, Director of State Courts in Wisconsin, provided several insights on the effects of the potential transfer on their jurisdictions as well as a review of the manuscript as a whole. H. Stuart Cunningham, Clerk of Court for the Northern District of Illinois, explained the larger number of real property cases in Illinois and clarified other discrepancies. Carol Flango assisted the Project effort by checking and cross-checking figures produced from different data sets and by compiling Appendices D and E. Don Hayward of the College of William and Mary downloaded the tape containing data supplied by U.S. Administrative Office of Court to 12 floppy disks so data could be analyzed on National Center's personal computers. Jane Raynes typed and retyped the manuscript several times as new ideas were tried. My appreciation to all of you is gratefully acknowledged.

V. E. Flango

# Chapter 1

## Introduction

Federal jurisdiction based upon "controversies between citizens of different States" and "between a State; or the citizens thereof, and foreign States, citizens or subjects" arises from Article III of the U.S. Constitution. Proposals to curtail or abolish federal jurisdiction in cases between citizens of different states have been made ever since diversity jurisdiction was conferred on federal courts by the Judiciary Act of 1789.<sup>1</sup>

Organizations and individuals have taken a variety of positions on the transfer of diversity jurisdiction. Chief Justice William Rehnquist and Former Chief Justice Warren E. Burger have argued strongly for the elimination of diversity jurisdiction.<sup>2</sup> The Judicial Conference of the United States, the U.S. Department of Justice, the Conference of Chief Justices, and the American Law Institute have passed resolutions supporting the curtailment or elimination of federal diversity jurisdiction.<sup>3</sup>

Associate Justice Antonin Scalia contends that elimination of diversity jurisdiction would remove the most challenging cases from the federal courts, and therefore prefers the alternative of substantially raising jurisdictional limits.<sup>4</sup> The American Bar Association and most trial lawyers' associations favor retaining diversity jurisdiction in federal courts. Researchers at MATHTECH concluded that, "It is not too great a simplification to say that public and private sectors are now joined in issue over diversity jurisdiction."<sup>5</sup>

Despite the length of time various proposals to abolish or curtail diversity jurisdiction have been debated, the amount of empirical evidence upon which the U.S. Congress, state court judges, and legislators have to make decisions remains limited. Congress needs information to help decide

whether legislation is required and which alternative proposals for the abolition or curtailment of diversity jurisdiction will achieve their objectives; state court justices and state legislators need information in order to formulate their positions on the potential transfer based upon knowledge of how their states would be affected, and attorneys need information to help them estimate the effects of the transfer on their practices. Judge Bernard Meyer of the New York Court of Appeals considers the lack of empirical research on the impact of federal legislation on state courts (and vice versa) surprising "... in view of the intensive debate in recent years over the removal of diversity cases from federal courts."<sup>6</sup>

A. The Debate Over Diversity: Bias Against Out-Of-State Residents

Historically, bias against out-of-state litigants has been cited as the basic reason for retaining diversity jurisdiction in federal courts ever since 1809 when Chief Justice John Marshall said that the Constitution 'entertains apprehensions' that local courts are biased in favor of local citizens. Despite assurances from distinguished people, such as Professor Maurice Rosenberg of Columbia University School of Law who contends that many "hard working judges and thoughtful academics believe those fears of hometown favoritism are not really a problem today,"<sup>7</sup> Marshall's "apprehension" of the "hometown effect" is echoed today. Attorney Robert Dames, for example, states that Rosenberg's assurance of no hometown favoritism may be true for metropolitan areas, but "this is not the reality for most attorneys in most parts of the country."<sup>8</sup> Surveys designed to determine whether fear of prejudice was a major factor in lawyer's choice of forum have come to conflicting conclusions. Sixty percent of Virginia lawyers cited potential prejudice as a reason for their choice of federal court, and 40 percent of 74 attorneys representing out-of-state clients in federal cases found fear of local bias a consideration in choice of forum.<sup>9</sup> On the other hand, only

twelve percent of the 82 Wisconsin lawyers cited "local bias against non-resident client" as a factor in their choice of forum.<sup>10</sup> In the best designed of these surveys, Kristin Bumiller found that fear of bias against out-of-state clients influenced the decision to use federal courts in Milwaukee and in Columbia, South Carolina. Equally striking, was the relative unimportance of perceived local bias in Los Angeles and Philadelphia.<sup>11</sup> The proponents of diversity divestiture argue that bias against out-of-state parties is unlikely in modern times and whatever biases exist against out-of-state parties result from prejudices, such as those against large corporations, that have nothing to do with a litigant's citizenship.<sup>12</sup> She was also able to isolate anti-corporate sentiment from local favoritism as separate influences on choice of forum. Bumiller interprets her data not as less of an attempt by out-of-state plaintiffs to avoid local bias but as a preference for the standards of federal court justice.<sup>13</sup> Nevertheless, this basic concern over bias against out-of-state residents permeates the other arguments against the transfer of federal diversity of citizenship jurisdiction: concerns over the comparative quality of state and federal courts, concerns over federalism, and concerns over federal workload.

1. Concerns Over Comparative Quality of State and Federal Courts

Some commentators believe that the quality of justice in federal courts is better because federal courts have more qualified judges, less congestion, and better rules of procedure. In her survey of attorneys from four federal districts, Kristen Bumiller found preference for perceived higher quality of federal judges an important factor in choice of forum in all districts, but especially in the two more rural districts.<sup>14</sup> The counter-argument is that state courts have improved, and many are now on par with and less congested than the federal courts. In particular, proponents

of the transfer of diversity jurisdiction stress that procedural rules in most states now follow the federal rules of procedure.

## 2. Concerns Over Federalism and Restricting Choice of Forum

A corollary argument relating to quality of justice is the benefit to the legal system in having cross-fertilization between federal and state courts. Those who favor retaining diversity jurisdiction in the federal courts contend that concurrent jurisdiction produces an interaction and encourages state and federal systems to borrow from each other, to their mutual benefit. Others have argued that regardless of whether diversity exists, many lawyers will continue to practice in both systems and thereby provide the desired interaction. Indeed, an extreme form of the argument would be that the availability of a federal alternative creates a disincentive for state courts to improve their performance.

Opponents of change in diversity jurisdiction argue that litigants ought to have a choice of forum. Eichner contends that lawyers should be able to choose the court system that can make the decisions more quickly.<sup>15</sup> Using an experimental design to test the reactions of 977 attorneys to several factors that might influence choice of forum, Perlstein found that court congestion was the only variable to influence significantly the choice of forum.<sup>16</sup> Bumiller also found avoidance of delay a critical variable in choice of forum. Attorneys in her Philadelphia and Los Angeles samples ranked "faster disposition" and "court calendar more current" as the two most critical factors in choosing federal courts. These two factors were less important to attorneys in the more rural Milwaukee, Wisconsin and Columbia, South Carolina samples.<sup>17</sup> Proponents of the transfer observe that forum shopping also allows defendants to choose the slowest system, rather than the one that would resolve the dispute most expeditiously.

Some also argue the importance of federalism: diversity cases involve the application of state law, not federal law, and therefore diversity cases should be decided by state courts. Butler and Eure observe that matters at issue in diversity cases:

...are generally questions of private right and duty--tort and contract matters that arise from the everyday relationships among citizens. The federal government, either from lack of power or lack of interest, does not regulate these interests.<sup>18</sup>

### 3. Concerns Over Federal Workload

One major impetus for transferring diversity cases to state courts is concern over increasing federal court caseloads. Proponents of the transfer argue that diversity cases constitute too large a proportion of the federal caseloads, especially since they required a large proportion of trials and consume a disproportionately high percentage of judge time.<sup>19</sup> The rationale is that the workload could be spread over a larger number of state court judges. Indeed, Justice Frankfurter succinctly summed up the argument by saying that "An Act for the elimination of diversity jurisdiction could fairly be called an Act for the relief of federal courts."<sup>20</sup>

#### B. Objectives of This Research

Because the Federal Judicial Center has conducted research on the effects of the abolition or curtailment of diversity jurisdiction on federal courts,<sup>21</sup> research on the impact on state courts is especially important. A 1978 study by Victor Flango and Nora Blair of the National Center for State Courts found that all states would not be affected equally by a transfer of federal diversity jurisdiction--some states would receive a disproportionate share.<sup>22</sup> The major research question to be addressed in this project is: How will the caseloads removed from federal courts be distributed among state courts if diversity

jurisdiction is curtailed or eliminated? Related to this is the question of how the dramatic increase in diversity cases filed--an increase of some 60% since 1980<sup>23</sup>--affects the potential distribution of diversity cases among states.

A remarkable number of challenges to diversity jurisdiction have been made since the first concerted challenge arose in Congress in the 1870's, but the number of proposed alternatives between total abolition and complete retention in federal courts has increased. Robert Feidler, Director of Legislation and Public Affairs for the Administrative Office of U.S. Courts, said "Creative approaches are being made. There are probably a dozen viable options out there now, where 10 years ago, there weren't."<sup>24</sup> Because it would be extremely difficult to evaluate the impact of all possible diversity jurisdiction proposals, this research will focus on the three most prominent at the time this research was initiated: (1) abolishing diversity jurisdiction completely; (2) barring private plaintiffs from invoking federal diversity jurisdiction in states with which they have substantial ties; and (3) raising the jurisdictional limit.

#### 1. Abolishing Diversity Jurisdiction

Total elimination of diversity jurisdiction is the most radical proposal. It was recommended as a way to achieve greater judicial efficiency by the Pound Commission in 1914.<sup>25</sup> In 1932, Senator George Norris of Nebraska introduced a bill to abolish diversity jurisdiction completely.<sup>26</sup> Although other bills were introduced in 1979 and 1983, and, as recently as 1986, the Judicial Conference of the United States included abolition of diversity jurisdiction in a series of recommendations made in response to Gramm-Rudman-Hollings legislation



(March, 1986).<sup>27</sup> The Reagan administration supported the complete abolition of diversity jurisdiction.<sup>28</sup>

## 2. Barring In-State Plaintiff-Initiated Diversity Actions

The rules for determining state citizenship are complex. An individual is a citizen of his state of domicile, and before 1958 corporations were considered citizens only of their state or country of incorporation. In July of 1958, Congress added section 1332(c) to the federal diversity statute which treated corporations as a citizen both of any state of incorporation and the site of its principal place of business. Under the law in effect at the time the research was conducted, a plaintiff could invoke diversity jurisdiction if the suit was between citizens of different states and the amount-in-controversy exceeded \$10,000. Under the same circumstances, an out-of-state defendant, but not an in-state defendant, could remove the case from state to federal courts. Diversity jurisdiction is not available if any defendant and any plaintiff are citizens of the same state. Thus, a plaintiff can prevent a case from going to federal district court by including a defendant from his state as party to the suit.

The American Law Institute, after an eight year study, proposed to limit diversity jurisdiction to litigants who lack substantial ties to the forum state.<sup>29</sup> The reporters' commentary argued that an in-state plaintiff "can hardly be heard to ask the federal government to spare him from litigation in the courts of his own state."<sup>30</sup> Operationally, this proposal would restrict venue by precluding plaintiffs from invoking diversity jurisdiction in their home state or where they have had their principal place of business or employment for more than two years. The U.S. Judicial Conference endorsed this proposal in 1976.

### 3. Raising the Jurisdictional Limit

The least extensive proposal would raise the jurisdictional limits for amount-in-controversy in federal courts. In March, 1986, U.S. Representative Robert W. Kastenmeier introduced two bills that would limit diversity jurisdiction. In 1988, the first of them, H.R. 4314 which raised the jurisdictional amount under Section 1332 to \$50,000, was passed. Section 1332 presently "excludes interest and costs from consideration in determining the amount-in-controversy," but attorneys' fees are not excluded.<sup>31</sup> Title II, Section 201 of Public Law 100-702 will take effect "on or after the 180th date of enactment," which means that all diversity cases where the amount-in-controversy is less than \$50,000 will go to state courts after May 18, 1989. (The other bill, H.R. 4315, would have raised the jurisdictional amount to \$25,000 and would have provided venue rules for certain cases arising out of mass torts).

Predicting the impact of a change in jurisdictional amount is hazardous, because the amount demanded is often arbitrary and the dollar amount demanded could simply be increased.<sup>32</sup> Federal rules pertaining to amount-in-controversy are quite liberal, with the amount determined "...from the complaint itself, unless it appears or is in some way shown that the amount stated in the complaint is not claimed 'in good faith'."<sup>33</sup> The flexibility of the dollar amount demanded depends upon the legal theory upon which the claim is based. For example, "pain and suffering" in tort cases and punitive damages are subject to uncertainty and are, therefore, more malleable than complaints in which damages are determined more mechanically, as in many contract cases. Presently, 28 U.S.C. §1332 authorizes cost sanctions if the plaintiff fails to recover the minimum amount. The suit can be dismissed if there is evidence that

an attorney increased the amount of a plaintiff's state court claim simply to get the suit into federal court.<sup>34</sup>

The purpose of this research is to supply empirical evidence on the actual impact on states of the abolition or curtailment of diversity of citizenship jurisdiction. The amount of additional case burden added to each state will be estimated not only by the raw number of filings added but also by the proportion and complexity of cases added.

Where data availability permits, the impact on states of the transfer of diversity jurisdiction will be measured by:

- o the number of cases estimated to be transferred to each state in relation to:
  - size of population
  - number of general jurisdiction judges
  - number of torts and contracts currently filed in state courts;
- o the complexity of cases transferred to each state
  - proportion of torts to contracts
  - proportion of jury trials.

The next chapter discusses methodological issues that may affect conclusions drawn in this research. Chapter III will discuss the consequences for states of eliminating federal diversity jurisdiction completely; Chapter IV will examine the consequences for states of closing federal courts to in-state plaintiffs, i.e. barring private plaintiffs from invoking diversity jurisdiction in states with which they have substantial ties. Chapter V will discuss the effects on states of the recently-passed law raising the federal jurisdictional limit to \$50,000. Chapter VI will present contrasts among the three plans and draw conclusions about the overall effects on states.

#### C. Limitations and Future Directions

Diversity jurisdiction is expected to have a differential effect on the filings of different state courts. It may have a negligible effect

on some state courts and a devastating effect on others. The starting point for this research was that one case eliminated from federal courts would result in one case being added to the state courts. This assumption is an oversimplification to be refined in the later stages of this research, but permits the impact of the transfer to be estimated directly. Most observers believe that the mix of cases, type and number of parties to the suit, methods of disposition, and case processing times differ between federal and state courts. The mix of cases, for example, more product liability and fewer auto tort cases in federal courts, undoubtedly affects the likelihood of a trial and the time necessary to process cases. To the extent that cases to be transferred are similar to cases already being handled by state courts, estimates based upon federal diversity filings will be accurate. To the extent that cases to be transferred are different, the estimates made in this research will be less accurate, and will probably underestimate the impact on states. Similarly, to the extent that one federal court action, such as an airline accident involving passengers from different states, could result in multiple original actions in state courts, the impact of any change in diversity jurisdiction in states will be underestimated. The effect of a possible transfer may depend upon the degree to which state courts receiving the cases are already congested. Using data from the Civil Litigation Research Project, Bumiller measured the comparative disposition rates of federal diversity cases and state "diversity-like" cases with amounts in controversy over \$10,000. She found no significant differences in rates of disposition between federal and state courts in Columbia, South Carolina, but faster overall termination rates for federal courts in Los Angeles and Philadelphia, and faster termination rates for state courts in Milwaukee.<sup>35</sup> Adding cases to state courts

with a large backlog of pending cases and comparatively long time intervals between filings and disposition will have more serious consequences than rechanneling cases to trial courts with small backlogs and short processing times.

In effect, then, the second phase of this research will determine the extent to which the state-level findings of this study apply to the court-level as well. Using specific courts of general jurisdiction, rather than all courts in a state, will permit research to determine the relationship between tort and contract filings in state courts and federal courts. Future research may be necessary to more explicitly estimate the amount of both judicial and non-judicial personnel time necessary to dispose of diversity cases. The question of the states' capacity to handle the extra work is considered indirectly in measures of filings per judge, but the specific ability of each state to respond to the additional case burden is beyond the scope of this research.

The reader will note that all of the research envisioned so far provides information to decisionmakers on how the various plans for the transfer of federal diversity jurisdiction might affect the state courts. The arguments for and against the transfer of federal diversity jurisdiction, not as easily subjected to empirical analysis, have been left for later analysis. The arguments relating to the relative quality of federal and state courts, for example, have both subjective and objective components. Apart from the objective measures of "quality," however, are the subjective perceptions that may induce an attorney to file in state or federal court. These too can be measured by a survey of lawyers' attitudes toward federal and state courts, but this task is beyond the scope of this research. Similarly, the general concern over bias is not explicitly addressed in this research. Although this concern

too may have a perceptual component that can be measured by a survey of attorneys' attitudes, bias may also be estimated by a closer examination of case outcomes. Once the impact of the transfer of diversity jurisdiction on state courts is known, the debate over the impact of new case filings on state courts should be settled and refocused on the more subjective quality of justice issues.

## Chapter II

### Methodology

#### A. Increase in Diversity Filings

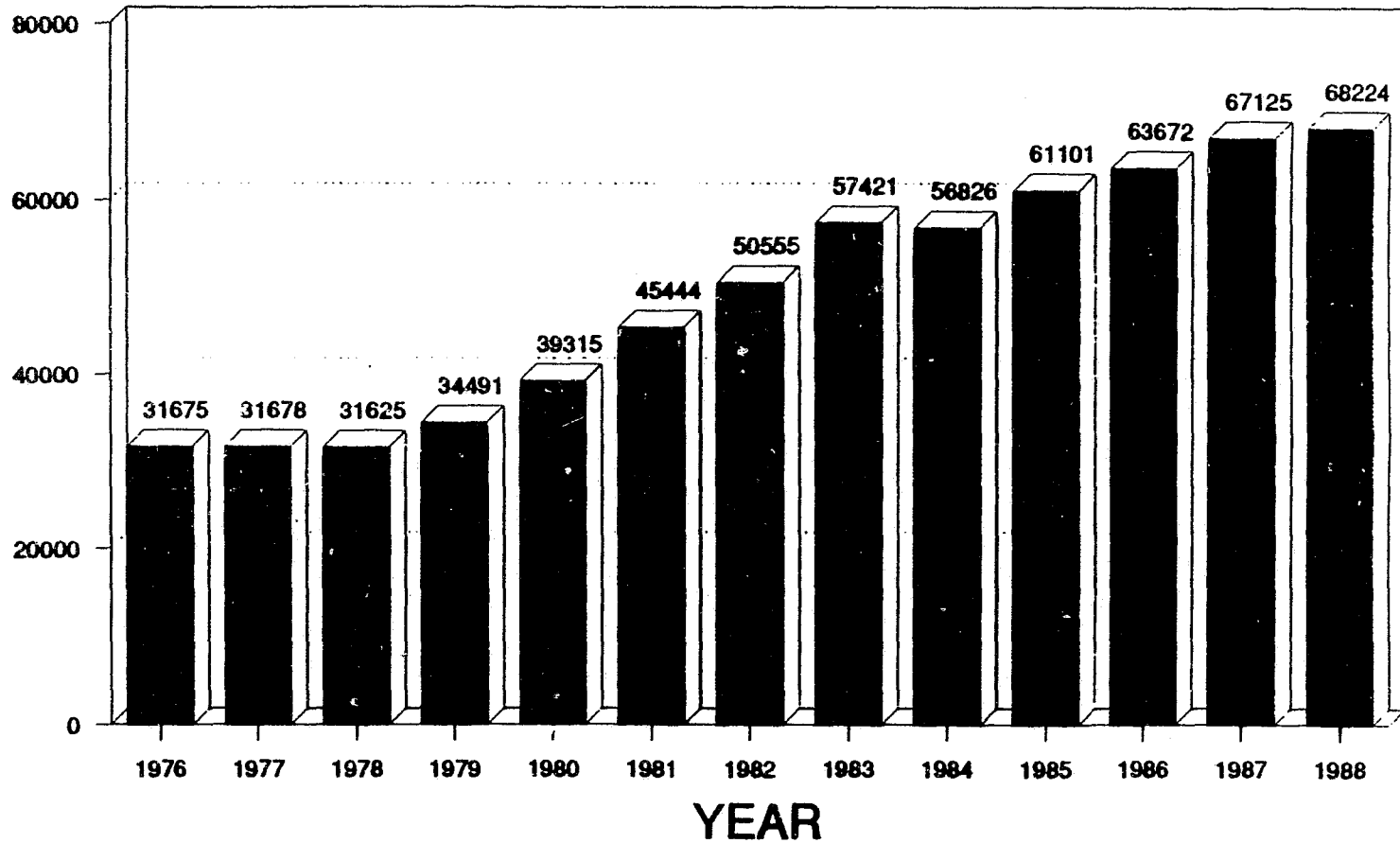
In 1941 there were 7,286 diversity cases filed in federal courts, 20,524 cases in 1956, and 31,675 cases in 1976. Figure 1 shows the dramatic increase to 68,224 filings in federal diversity filings between 1976 and 1988. This increase helps explain why the issue of diversity jurisdiction comes up whenever federal workload is discussed. Despite the increase in total diversity filings, however, the proportion of diversity cases filed in U.S. District Court has remained relatively constant during the past 13 years (see Figure 2).

In his analysis of changing federal court caseloads between 1960 and 1986, Marc Galanter noted the dramatic increase of both tort and contract cases filed under diversity jurisdiction.<sup>36</sup> Figure 3 shows the increase in U.S. District Court tort and contract filings. All contract filings grew at an annual rate of some five percent (compared to the tort growth rate of three percent), but diversity contract filings had an even more impressive annual growth rate of 8.5%—more than two and a half times the 3.2% growth rate of diversity tort filings. Figure 4 shows the relative proportion of tort and contract diversity filings. In 1960, only 29% of the contracts filings were based on diversity jurisdiction; by 1986, diversity cases made up 67% of all contract filings.<sup>37</sup>

Table 1 lists the total number of diversity cases filed per state in FY 1976, 1977, 1986, 1987, and 1988. Because there is a relationship between the size of population and caseloads generally,<sup>38</sup> it is not unreasonable to expect a relationship between population and number of diversity cases expected to be filed. The correlation between the two is high and positive (.83). States are listed in population

# Figure 1

## Diversity Filings in U.S. District Court

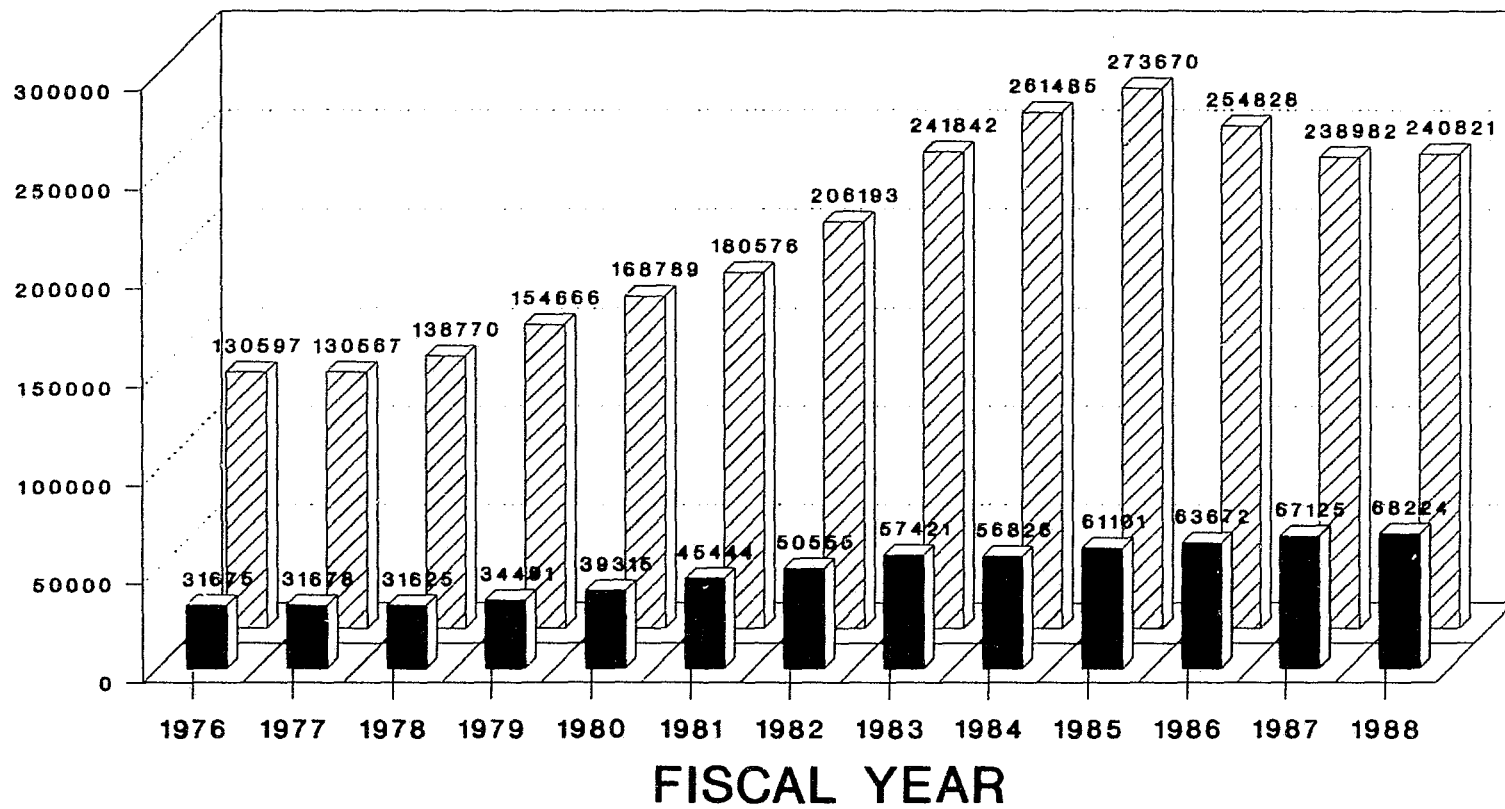


Source: Administrative Office of U.S. Courts



# Figure 2

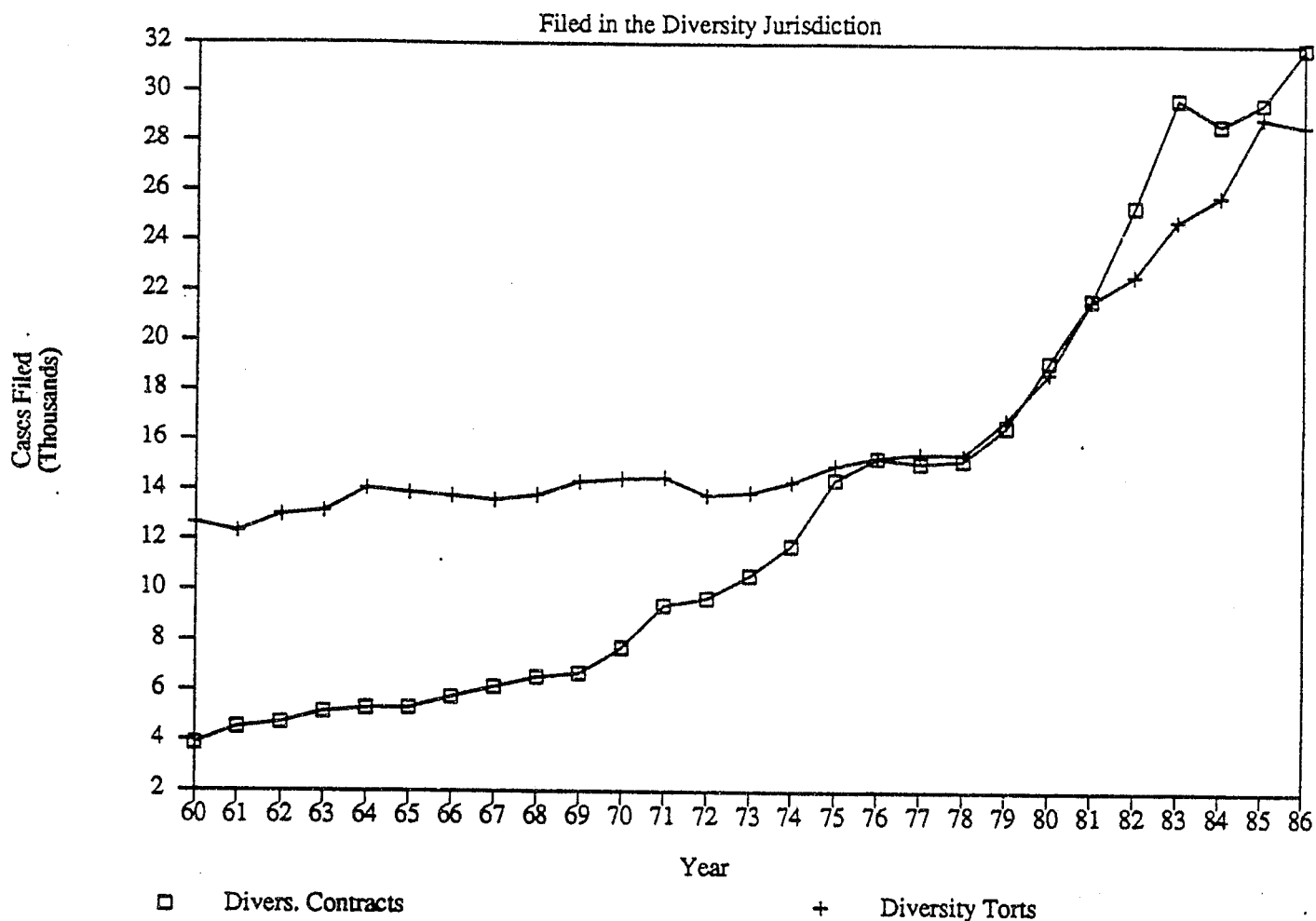
## Diversity Filings Compared To Total Civil Filings



Source: Administrative Office of U.S. Courts

FIGURE 3

# Tort and Contract Cases



SOURCE: Marc Galanter, "The Life and Times of the Big Six; or, The Federal Courts Since the Good Old Days," 1988 Wisconsin Law Review 921.



TABLE 1

## DIVERSITY FILINGS BY STATE FOR SELECTED YEARS

<u>STATES</u>	<u>1976</u>	<u>1977</u>	<u>1986</u>	<u>1987</u>	<u>1988</u>
(In Population Order)					
California	1535	1612	3896	4224	3844
New York	2864	2693	4701	5521	4931
Texas	1917	1854	4492	5564	4500
Florida	1130	966	1671	1807	1942
Pennsylvania	2349	2661	5414	5668	7904
Illinois	1688	1593	4271	5574	5302
Ohio	946	890	1469	1526	2274
Michigan	1081	1077	2183	2156	2080
New Jersey	823	823	1826	2043	2078
North Carolina	399	330	612	645	652
Georgia	1226	1220	2048	1975	1891
Virginia	804	869	1265	1489	1662
Massachusetts	604	611	1384	1246	1156
Indiana	728	834	1414	1194	1076
Missouri	745	826	1649	1458	1384
Tennessee	735	747	1327	1265	1662
Wisconsin	259	204	480	432	440
Washington	276	202	445	574	449
Maryland	449	411	1049	1040	1005
Louisiana	1103	1174	2621	2785	2646
Minnesota	386	385	673	494	539
Alabama	988	967	1394	1422	1477
Kentucky	369	394	947	812	811
South Carolina	908	958	1092	1078	1203
Arizona	233	251	435	418	594
Colorado	467	335	731	520	596
Puerto Rico	337	382	287	303	484
Oklahoma	788	856	2162	2035	1782
Connecticut	273	277	920	1295	859
Iowa	234	236	385	378	1237
Oregon	384	307	526	555	538
Mississippi	747	794	2299	1786	1451
Kansas	484	545	634	609	552
Arkansas	473	469	850	884	797
West Virginia	304	332	591	608	644
Utah	160	128	371	397	361
Nebraska	229	233	353	344	326
New Mexico	281	235	418	463	438
Maine	97	90	174	185	160
Hawaii	133	155	400	607	726
New Hampshire	195	188	286	240	241
Idaho	101	107	230	187	211
Rhode Island	133	172	269	313	355
Nevada	154	135	550	549	458
Montana	135	131	393	397	379
South Dakota	98	99	178	182	142
North Dakota	62	76	144	120	95
Delaware	104	91	167	201	190
District of Columbia	477	427	1131	1060	1256
Vermont	120	121	137	134	123
Alaska	69	88	157	143	162
Wyoming	91	117	170	216	156
TOTALS	31675	31678	63671	67121	68221

order throughout this report to enable the reader to see the connection between population and diversity filings.<sup>39</sup> If the number of federal diversity cases were proportionate to size of population, diversity filing figures should be arranged from largest to smallest. In other words, California should have the largest number of diversity filings and Wyoming should have the smallest. To the extent that diversity filings do not follow this descending pattern, a disproportionately larger or smaller share of diversity cases are now going to federal courts and would potentially go to state courts if diversity jurisdiction were transferred. For example, on the basis of population size, California should have more diversity case filings than Texas. The fact that California has fewer diversity filings than Texas causes speculation of why California has fewer filings than expected, but also means that estimates of filings based on population will overstate the number of diversity cases filed in California.

B. Is the 1987 Diversity Data Set Unusual?

Three tests were used to ensure that the findings from this research using data from FY 1987 were not an artifact of the particular year chosen for analysis: intercorrelation of diversity filings between years, examination of change in state share of diversity filings over time, and change of ratio of tort and contract cases per state.

Diversity filings are highly correlated among years. The correlation between the FY 1987 diversity filings and those in FY 1977 is .95. The correlation between filings in FY 1986 and FY 1987 is .99 (the correlation between FY 1988 and FY 1987 filings is .96). These correlations indicate that FY 1987 diversity data are similar to filing patterns in recent years. Accordingly, findings based on FY 1987 data should be generalizable to other recent years as well.

A second way to determine if 1987 data are peculiar is to determine each state's share of the total number of diversity cases. Table 2 shows the percentage of total filings that would fall to each state if diversity jurisdiction were eliminated completely. The proportions do not change too much from year to year. (A logarithmic transformation which would tend to spread out the smaller values could be used here if the measurement of percent of change over time were the purpose of these calculations.) The largest change over the ten year period between FY 1977 and FY 1987 is in Illinois, which had 5% of the total diversity filings in FY 1977 and 8.3% of the filings in FY 1987. There was a 2.4% change in the Texas share of the diversity filings, a 1.4% change in the South Carolina share, a 1.2% change in the Pennsylvania share, and a 1.1% change in the Connecticut share over that same ten year time span. The variation in share of total diversity cases filed in the other states was less than one percent. This is another indicator that conclusions based on FY 1987 data will apply to other years as well. The large increase in proportion of diversity filings in Pennsylvania between FY 1987 and FY 1988 however, suggests that state-specific generalizations based on FY 1987 data be made with extreme caution.

A third way to examine the data in context is to look at the differences in numbers of tort and contract cases in recent years FY 1986, 1987, and 1988. Table 3 shows that the numbers are fairly consistent in recent years. Contract cases are very consistent during the three year period (all correlations are over .99); tort cases somewhat less so (the correlation between fiscal years 1986 and 1987 is .96, and between fiscal years 1987 and 1988 is .87). Note, however, that in FY 1987, Texas had almost a thousand more tort cases than in either FY 1986 or FY 1988. On the other hand, the large increase in tort cases in

TABLE 2

## PROPORTION OF DIVERSITY FILINGS BY STATE FOR SELECTED YEARS

<u>STATES</u>	<u>1976</u>	<u>1977</u>	<u>1986</u>	<u>1987</u>	<u>1988</u>
California	4.85	5.09	6.12	6.29	5.63
New York	9.04	8.50	7.38	8.22	7.23
Texas	6.05	5.85	7.05	8.29	6.60
Florida	3.57	3.05	2.62	2.69	2.85
Pennsylvania	7.42	8.40	8.50	8.44	11.59
Illinois	5.33	5.03	6.71	8.30	7.77
Ohio	2.99	2.81	2.31	2.27	3.33
Michigan	3.41	3.40	3.43	3.21	3.05
New Jersey	2.60	2.60	2.87	3.04	3.05
North Carolina	1.26	1.04	.96	.96	.96
Georgia	3.87	3.85	3.22	2.94	2.77
Virginia	2.54	2.74	1.99	2.22	2.44
Massachusetts	1.91	1.93	2.17	1.86	1.69
Indiana	2.30	2.63	2.22	1.78	1.58
Missouri	2.35	2.61	2.59	2.17	2.03
Tennessee	2.32	2.36	2.08	1.88	2.44
Wisconsin	.82	.64	.75	.64	.64
Washington	.87	.64	.70	.86	.66
Maryland	1.42	1.30	1.65	1.55	1.47
Louisiana	3.48	3.71	4.12	4.15	3.88
Minnesota	1.22	1.22	1.06	.74	.79
Alabama	3.12	3.05	2.19	2.12	2.16
Kentucky	1.16	1.24	1.49	1.21	1.19
South Carolina	2.87	3.02	1.72	1.61	1.76
Arizona	.74	.79	.68	.62	.87
Colorado	1.47	1.06	1.15	.77	.87
Puerto Rico	1.06	1.21	.45	.45	.71
Oklahoma	2.49	2.70	3.40	3.03	2.61
Connecticut	.86	.87	1.44	1.93	1.26
Iowa	.74	.74	.60	.56	1.81
Oregon	1.21	.97	.83	.83	.79
Mississippi	2.36	2.51	3.61	2.66	2.13
Kansas	1.53	1.72	1.00	.91	.81
Arkansas	1.49	1.48	1.33	1.32	1.17
West Virginia	.96	1.05	.93	.91	.94
Utah	.51	.40	.58	.59	.53
Nebraska	.72	.74	.55	.51	.48
New Mexico	.89	.74	.66	.69	.64
Maine	.31	.28	.27	.28	.23
Hawaii	.42	.49	.63	.90	1.06
New Hampshire	.62	.59	.45	.36	.35
Idaho	.32	.34	.36	.28	.31
Rhode Island	.42	.54	.42	.47	.52
Nevada	.49	.43	.86	.82	.67
Montana	.43	.41	.62	.59	.56
South Dakota	.31	.31	.28	.27	.21
North Dakota	.20	.24	.23	.18	.14
Delaware	.33	.29	.26	.30	.28
District of Columbia	1.51	1.35	1.78	1.58	1.84
Vermont	.38	.38	.22	.20	.18
Alaska	.22	.28	.25	.21	.24
Wyoming	.29	.37	.27	.32	.23

TABLE 3

## TORT AND CONTRACT DIVERSITY FILINGS BY STATE

States	1986	1987	1988	1986	1987	1988
	<u>Torts</u>	<u>Torts</u>	<u>Torts</u>	<u>Contracts</u>	<u>Contracts</u>	<u>Contracts</u>
California	1081	1224	1015	2768	2928	2770
New York	1647	2482	1908	2992	2969	2944
Texas	2570	3428	2258	1837	2049	2163
Florida	688	687	654	943	1087	1244
Pennsylvania	2959	2938	4954	2373	2649	2861
Illinois	931	1069	949	1947	2008	1909
Ohio	781	802	1580	669	698	677
Michigan	936	982	935	1218	1145	1108
New Jersey	796	855	897	1011	1161	1162
North Carolina	207	213	261	388	423	379
Georgia	974	980	945	1050	959	924
Virginia	540	768	776	695	692	839
Massachusetts	866	724	630	498	499	507
Indiana	513	404	375	453	422	390
Missouri	871	707	624	750	734	729
Tennessee	691	623	1064	616	620	564
Wisconsin	170	152	146	300	272	280
Washington	188	272	136	242	295	300
Maryland	567	523	560	473	510	424
Louisiana	1453	1630	1523	1093	1090	1036
Minnesota	315	186	208	346	301	314
Alabama	385	438	546	930	919	867
Kentucky	448	386	361	463	407	425
South Carolina	598	564	596	478	486	572
Arizona	147	141	270	283	273	305
Colorado	327	165	244	384	333	330
Puerto Rico	136	174	356	146	121	121
Oklahoma	793	665	744	1224	1245	955
Connecticut	578	698	349	331	571	476
Iowa	172	180	1038	194	178	189
Oregon	208	201	205	308	336	320
Mississippi	1503	1043	842	755	718	572
Kansas	266	248	233	354	328	307
Arkansas	428	467	376	379	397	375
West Virginia	305	290	346	273	286	280
Utah	120	115	108	234	260	238
Nebraska	190	187	205	155	150	113
New Mexico	199	214	179	204	234	245
Maine	106	128	98	62	53	62
Hawaii	217	383	565	177	215	155
New Hampshire	187	143	134	97	90	96
Idaho	77	81	100	137	96	99
Rhode Island	131	142	178	132	160	170
Nevada	111	141	112	428	400	333
Montana	183	196	186	190	183	172
South Dakota	89	99	71	82	75	68
North Dakota	65	34	39	77	85	53
Delaware	98	110	114	65	89	73
District of Columbia	660	619	736	447	415	487
Vermont	82	84	64	50	49	57
Alaska	68	37	61	88	100	98
Wyoming	78	96	76	81	105	70
TOTALS	28699	30118	31930	31870	32868	32207



Iowa and Ohio in FY 1988, caused by the large increases in asbestos cases filed in the Southern District of Iowa and the Northern District of Ohio, make it difficult to argue that choosing the FY 1988 would have resulted in more consistency among years. Table 4 confirms the conclusions drawn from Table 3. The variations in tort filings from year to year means that the ratio of tort diversity filings to the total number of torts and contract diversity filings is more volatile than total diversity filings per state used alone.

The overall conclusion based upon data from Tables 1 through 4 is that analysis based on FY 1987 data is not peculiar to that particular year, but applies to other recent years as well.

C. Adjustments to the Federal Data Set

Aggregate data as used above will permit a general picture of diversity trends to be painted, but specific analysis of the impact on states individual case data were required. David Cook, Chief of the Statistical Analysis and Reports Division, Administrative Office of United State Courts, provided a data tape of all diversity of citizenship cases filed in U.S. District Court during the fiscal year ending June 30, 1987. The data were examined for inconsistencies among the key variables essential to the proposed analysis: total filings, residency of plaintiff, and amount-in-controversy.

1. Total Filings

The total number of diversity filings data are valid. Some discrepancies may exist, but no more than are to be expected in a data set of this size. The totals in Table 1 differ slightly from those reported on Figure 1 because 3 filings from the territories of Guam, the Northern Marianas Islands, and the Virgin Islands and 27 civil rights and social security cases that slipped through the edit program used by the

TABLE 4

RATIO OF TORT DIVERSITY FILINGS TO TOTAL  
TORT AND CONTRACT DIVERSITY FILINGS

<u>STATES</u>	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>Percent Change 86-87</u>	<u>Percent Change 87-88</u>
California	28.1	29.5	26.8	1.4	-2.6
New York	35.5	45.5	39.3	10.0	-6.2
Texas	58.3	62.6	51.1	4.3	-11.5
Florida	42.2	38.7	34.4	-3.5	-4.3
Pennsylvania	55.5	52.6	63.4	-2.9	10.8
Illinois	32.4	34.7	33.2	2.4	-1.5
Ohio	53.9	53.5	70.0	-.4	16.5
Michigan	43.5	46.2	45.8	2.7	-.4
New Jersey	44.1	42.4	43.6	-1.6	1.2
North Carolina	34.8	33.5	40.8	-1.3	7.3
Georgia	48.1	50.5	50.6	2.4	.0
Virginia	43.7	52.6	48.1	8.9	-4.6
Massachusetts	63.5	59.2	55.4	-4.3	-3.8
Indiana	53.1	48.9	49.0	-4.2	.1
Missouri	53.7	49.1	46.1	-4.7	-2.9
Tennessee	52.9	50.1	65.4	-2.8	15.2
Wisconsin	36.2	35.9	34.3	-.3	-1.6
Washington	43.7	48.0	31.2	4.3	-16.8
Maryland	54.5	50.6	56.9	-3.9	6.3
Louisiana	57.1	59.9	59.5	2.9	-.4
Minnesota	47.7	38.2	39.9	-9.5	1.7
Alabama	29.3	32.3	38.6	3.0	6.4
Kentucky	49.2	48.7	45.9	-.5	-2.8
South Carolina	55.6	53.7	51.0	-1.9	-2.7
Arizona	34.2	34.1	47.0	-.1	13.0
Colorado	46.0	33.1	42.5	-12.9	9.4
Puerto Rico	48.2	59.0	74.6	10.8	15.7
Oklahoma	39.3	34.8	43.8	-4.5	9.0
Connecticut	63.6	55.0	42.3	-8.6	-12.7
Iowa	47.0	50.3	84.6	3.3	34.3
Oregon	40.3	37.4	39.1	-2.9	1.6
Mississippi	66.6	59.2	59.6	-7.3	.3
Kansas	42.9	43.1	43.2	.2	.1
Arkansas	53.0	54.1	50.1	1.0	-4.0
West Virginia	52.8	50.4	55.3	-2.4	4.9
Utah	33.9	30.7	31.2	-3.2	.6
Nebraska	55.1	55.5	64.5	.4	9.0
New Mexico	49.4	47.8	42.2	-1.6	-5.6
Maine	63.1	70.7	61.3	7.6	-9.5
Hawaii	55.1	64.1	78.5	9.0	14.4
New Hampshire	65.9	61.4	58.3	-4.5	-3.1
Idaho	36.0	45.8	50.3	9.8	4.5
Rhode Island	49.8	47.0	51.2	-2.8	4.1
Nevada	20.6	26.1	25.2	5.5	-.9
Montana	49.1	51.7	52.0	2.7	.2
South Dakota	52.1	57.0	51.1	4.9	-5.8
North Dakota	45.8	28.6	42.4	-17.2	13.8
Delaware	60.1	55.3	61.0	-4.9	5.7
District of Columbia	59.6	59.9	60.2	.2	.3
Vermont	62.1	63.2	52.9	1.0	-10.3
Alaska	43.6	27.0	38.4	-16.6	11.4
Wyoming	49.1	47.8	52.1	-1.3	4.3

Administrative Office of U.S. Courts were removed from this data set. The total number of diversity filings analyzed in the remaining chapters further differs from filings reported in the Annual Report from the Administrative Office of U.S. Courts because late filings are not included in the data set. Cases filed in March or April of 1986, but not sent to the Administrative Office until after July 1, 1987 must be added to the filings for the next fiscal year (July 1, 1986--June 30, 1987) to make the inventory balance. This research has no such responsibility to balance filings and dispositions among years, and so only the 66,408 cases actually filed in FY 1987 are used in the analysis. Only these would have been filed in state courts in FY 1987 if diversity jurisdiction were modified or abolished. One possibility that arises from this strategy is that districts which file late will file late every year so that a significant number of filings will be missed. Table A1 in the Methodological Appendix shows that late filings are distributed evenly among states, with the possible exception of Mississippi which submitted about 10% of its 1986 diversity cases to the U.S. Administrative Office in FY 1987. In conclusion, the slight modification of the federal data set should not affect the analysis.

## 2. Residency of Plaintiff

The quality of the residency variable, essential for determining how many plaintiffs were in-state residents, is more tenuous. Figure 5 is the Civil Cover Sheet used by the Clerks of the U.S. District Court to initiate the civil docket sheet. Item III, which applies to diversity cases only, lists citizenship of the principal parties. In cases where there are multiple plaintiffs or defendants only the first listed are coded. Residence of plaintiff is coded as follows: (1) citizen of this state; (2) citizen of another state; (3) citizen or

# FIGURE 5 CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I (a) PLAINTIFFS

## DEFENDANTS

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)  
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

ATTORNEYS (IF KNOWN)

## II. BASIS OF JURISDICTION

(PLACE AN X IN ONE BOX ONLY)

- |  |  |
|--|--|
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)          |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III) |

## III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

(PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- |   |                            |                            |   |                            |                            |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
|   | PTF                        | DEF                        |   | PTF                        | DEF                        |
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 | <input type="checkbox"/>   |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/>   |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)

DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.

## V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Personal Injury	<input type="checkbox"/> 362 Personal Injury—Med Malpractice	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury—Product Liability	<input type="checkbox"/> 620 Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 630 Labor Laws	<b>PROPERTY RIGHTS</b>	
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability		<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 620 Copyrights	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<b>PERSONAL PROPERTY</b>	<input type="checkbox"/> 650 Airline Regs	<input type="checkbox"/> 630 Patent	<input type="checkbox"/> 450 Commerce/ICC Rate
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 660 Occupational Safety/Health	<input type="checkbox"/> 640 Trademark	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle Liability	<input type="checkbox"/> 371 Truth in Lending		<b>SOCIAL SECURITY</b>	<input type="checkbox"/> 470 Racketeer/Influenced Corrupt Organizations
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<b>LABOR</b>	<input type="checkbox"/> 661 HIA (1366A)	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 160 Stockholders Suits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 662 Black Lung (923)	<input type="checkbox"/> 850 Securities/Commodity Exchange
<input type="checkbox"/> 190 Other Contract			<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 663 DRWC (408(g))	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 664 SSNO Title XVI	<input type="checkbox"/> 891 Agricultural Acts
	<b>CIVIL RIGHTS</b>	<b>PRISONER PETITIONS</b>	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 665 RSI (405(g))	<input type="checkbox"/> 892 Economic Stabilization Act
<b>REAL PROPERTY</b>	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 790 Other Labor Legislation	<b>FEDERAL TAX SUITS</b>	
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 530 Habeas Corpus	<input type="checkbox"/> 791 Engr. Ret. Inc. Security Act	<input type="checkbox"/> 670 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 540 Mandamus & Other		<input type="checkbox"/> 671 IRS—Third Party 26 USC 7808	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 550 Civil Rights			<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 440 Other Civil Rights				<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 245 Tort Product Liability					<input type="checkbox"/> 950 Constitutionality of State Statute
<input type="checkbox"/> 290 All Other Real Property					<input type="checkbox"/> 890 Other Statutory Actions

## VI. ORIGIN

(PLACE AN X IN ONE BOX ONLY)

- |  |   |  |   |  |   |  |  |
|--|---|--|---|--|---|--|--|
| <input type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from another district (specify) | <input type="checkbox"/> 6 Multidistrict Litigation | <input type="checkbox"/> 7 Judge from Magistrate | <input type="checkbox"/> Appeal to District Judgment |
|--|---|--|---|--|---|--|--|

## VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

## DEMAND \$

Check YES only if demanded in complaint:  
JURY DEMAND:  YES  NO

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

DATE \_\_\_\_\_ SIGNATURE OF ATTORNEY OF RECORD \_\_\_\_\_

subject of a foreign county; (4) incorporated or principal place of business in this state; (5) incorporated and principal place of business in another state; and (6) foreign nation. This six-fold classification scheme for plaintiffs and defendants is relatively new, having been instituted in December of 1984. The previous scheme used only four residency categories: (1) citizen of state in which case was filed; (2) incorporated in state in which case was filed; (3) foreign corporation-principal place of business in another state; (4) other non-citizen of a state in which case was filed. The possibility exists that the older coding scheme is still being used in some districts, and therefore data on residency of the plaintiff should be used cautiously. For purposes of this research, however, the key variable of in-state plaintiff ("citizen of this state") will determine how many cases would be likely to be transferred to state courts if restrictions were placed on venue. That category, coded as "1", has remained the same under both coding schemes. In their estimates of potential reduction of federal court caseloads, the U.S. Administrative Office of Courts uses only residence code 1, because corporations may have residence in states where they are incorporated and in states with which they have substantial ties. Accordingly, the federal practice of counting only in-state citizens, rather than in-state corporations, when making estimates of federal caseload will be followed in estimating impact on state courts.

### 3. Amount-In-Controversy

Dollar amount-in-controversy is essential to determining the effect of change in jurisdictional limit on case filings. For this reason, the available data must be used, even though one-third of the diversity cases do not provide data on amount-in-controversy. Even when data are provided, it is not always possible to establish how the amount was determined. If attorneys omit the amount in controversy on the cover sheet

(Figure 5) or simply specify the amount "in excess of \$10,000," or "damages in whatever amount the court deems appropriate," the staff in the clerk of court's office may leave the "demand \$" column in Item VII blank or enter \$10,000. Other common errors include aggregating plaintiffs' claims or including interest in circumstances where it cannot be counted in order to reach the \$10,000 limit. Moreover, some people do not follow precisely the instruction to report the amount in thousands and may be reporting actual amounts.

In order to determine whether or not the missing data for amount-in-controversy would affect the conclusions drawn, an effort was made to determine whether the missing data on dollar amount was distributed randomly among districts or whether there were patterns to the missing data. To answer that question, the federal amount demanded data were sorted by district and a percentage of cases with amount demanded was calculated. Table 5 shows a pattern to missing dollar demanded data by federal district. The average (mean) district reported data on dollar amount demanded for 64% of the cases filed. The presence of amount demanded data varied within states. For example, amount-in-controversy is reported for 71% of the cases in the Northern District of California, but not at all in the Central District, which has the most diversity filings.

The more populous, and presumably busiest, districts might be expected to be less likely to report amount-in-controversy data, but this does not appear to be the case. In some states with multiple districts the percentage of data present is nearly the same across districts. In Washington, for example, the more populous district reports dollar demanded data for 22% of its filings, whereas the less populous district reported dollar demanded data for 28% of its filings. The comparable figures for Virginia, another state with two federal judicial districts,

TABLE 5

MISSING DATA FOR AMOUNT-IN-CONTROVERSY  
BY DISTRICT

<u>STATES/DISTRICTS</u>	<u>TOTAL DIVERSITY FILINGS</u>	<u>CASES REPORTING \$ AMOUNT</u>	<u>PERCENTAGE OF \$ AMOUNT DATA PRESENT</u>
California - Northern ..	1224	872	71
Eastern ...	259	70	27
Central ...	2370	4	0
Southern ..	329	92	28
Total .....	4182	1038	25
New York - Northern ....	529	440	83
Eastern .....	1321	884	67
Southern ....	3216	1912	59
Western .....	416	244	59
Total .....	5482	3480	63
Texas - Northern .....	1749	652	37
Eastern .....	1947	1754	90
Southern .....	1322	966	73
Western .....	519	163	31
Total .....	5537	3535	64
Florida - Northern .....	113	16	5
Middle .....	867	256	29
Southern .....	807	416	51
Total .....	1787	688	39
Pennsylvania - Eastern .	4039	2186	54
Middle ..	552	492	89
Western .	1051	841	80
Total ...	5642	3519	62
Illinois - Northern ....	4922	4503	91
Central .....	200	157	79
Southern ....	410	352	86
Total .....	5532	5012	91
Ohio - Northern .....	884	710	80
Southern .....	619	445	72
Total .....	1503	1157	77
Michigan - Eastern .....	1826	621	34
Western .....	291	230	79
Total .....	2117	851	40
New Jersey .....	2025	379	19
North Carolina - Eastern	204	171	84
Middle	137	100	73
Western	303	216	71
Total	644	487	76
Georgia - Northern .....	1287	874	68
Middle .....	270	208	77
Southern .....	404	274	68
Total .....	1961	1356	69
Massachusetts .....	1233	966	78
Virginia - Eastern .....	1124	863	77
Western .....	356	271	76
Total .....	1480	1134	77

Table 5 (continued)

<u>STATES/DISTRICTS</u>	<u>TOTAL DIVERSITY FILINGS</u>	<u>CASES REPORTING \$ AMOUNT</u>	<u>PERCENTAGE OF \$ AMOUNT DATA PRESENT</u>
Indiana - Northern .....	666	572	86
Southern .....	513	114	22
Total .....	1179	686	58
Missouri - Eastern .....	932	870	93
Western .....	517	366	71
Total .....	1449	1236	85
Tennessee - Eastern ....	662	570	86
Middle .....	355	269	76
Western ....	235	171	73
Total .....	1252	1010	81
Wisconsin - Eastern ....	268	217	81
Western ....	162	140	86
Total .....	430	357	83
Louisiana- Eastern .....	1479	1371	93
Middle .....	315	291	92
Western .....	965	814	84
Total .....	2759	2476	90
Maryland .....	1037	848	82
Washington - Eastern ...	149	42	28
Western ...	419	95	22
Total .....	568	137	24
Minnesota .....	491	266	54
Alabama - Northern .....	803	669	83
Middle .....	249	189	76
Southern .....	364	274	75
Total .....	1416	1132	80
Kentucky - Eastern .....	421	279	66
Western .....	382	279	73
Total .....	803	558	69
South Carolina .....	1073	287	27
Arizona .....	417	210	50
Colorado .....	512	8	2
Puerto Rico .....	299	268	90
Oklahoma - Northern ....	475	333	70
Eastern .....	187	173	93
Western .....	1362	1178	86
Total .....	2024	1684	83
Connecticut .....	1289	773	60
Iowa - Northern .....	154	41	27
Southern .....	223	135	61
Total .....	377	176	47
Oregon .....	496	248	50
Mississippi - Northern .	458	406	89
Southern .	1172	955	81
Total ....	1630	1361	83



Table 5 (continued)

<u>STATES/DISTRICTS</u>	<u>TOTAL DIVERSITY FILINGS</u>	<u>CASES REPORTING \$ AMOUNT</u>	<u>PERCENTAGE OF \$ AMOUNT DATA PRESENT</u>
Kansas .....	606	534	88
Arkansas - Eastern .....	471	339	72
Western .....	411	333	81
Total .....	882	672	76
West Virginia - Northern .....	150	112	75
Southern .....	454	384	85
Total .....	604	496	82
Utah .....	392	256	65
Nebraska .....	343	149	43
New Mexico .....	459	282	61
Maine .....	185	155	84
Hawaii .....	606	205	34
New Hampshire .....	238	120	50
Idaho .....	185	125	68
Rhode Island .....	310	192	62
Nevada .....	537	432	80
Montana .....	396	156	39
South Dakota .....	180	142	79
North Dakota .....	119	99	83
Delaware .....	200	84	43
District of Columbia ...	1053	502	48
Vermont .....	132	114	86
Alaska .....	139	95	68
Wyoming .....	216	60	43
Totals	66,408	42,199	64

are 77% and 76% respectively. On the other hand, federal districts within other states report very different proportions with respect to presence of amount-in-controversy data. In Michigan, the Eastern District (with 86% of the total filings) reports dollar amounts on 34% of its filings whereas the Western District (with 14% of the filings) reports dollar amounts on 79% of them. This pattern holds true for the two-district states with similar caseloads as well: Indiana (86% and 22%) and Iowa (61% and 27%). In California, New York, Texas and Pennsylvania, states containing four federal judicial districts, the percentage of amount-in-controversy present varied widely. In multiple-district states having a low percentage of reported, amount-in-controversy data, districts with especially low rates of reporting do affect the state averages.

In sum, it appears that districts with high caseloads are not necessarily less likely to report amount-in-controversy data. One reason for the low reporting of amount-in-controversy in Colorado may be that the attorneys are not required to report dollar amounts demanded in state courts and so do not report dollar amounts in federal courts either.<sup>40</sup> Whether legal culture, vigilance of court clerks or some other reason explains the pattern of missing data by district, there is no reason to believe that the amount-in-controversy data that are available is unrepresentative of the dollar-demanded data.

Now that the percentage of diversity filings without amount-in-controversy data is established, the question becomes how much missing data can be tolerated before a state must be excluded from analysis of the effects of raising the jurisdictional limit? Assuming, for example, half of the data on amount-in-controversy were missing, would the data available be distributed proportionally between torts and contracts? If

dollar amounts were available for all contract cases and unavailable for tort cases, for example, tort data may be excluded even though the overall percentage of dollar amount data available exceeded 50%.

Table 6 compares the percentage of tort filings (of combined torts and contracts) with the percentage of tort cases which have data on amount-in-controversy data. If the two percentages are similar, the dollar amount data from that state is more likely to be useful in comparative analysis. For example 45% of the federal diversity filings in New York in FY 1987 were tort cases and 44% of federal filings with data on amount-in-controversy were torts, which suggests that New York's amount-in-controversy data is representative of total filings. Hawaii, Wyoming, Colorado, New Jersey, and Washington did have significantly more missing amount-in-controversy data on torts than on contracts, but the reason for this is probably the low percentage of filings that specified amount-in-controversy. All five states had dollar amount data on less than half of their filings. On the other hand, amount-in-controversy data were more likely to be present for torts in California and West Virginia. In the remaining states, the percentage of tort cases with data on amount-in-controversy data reported is close to the percentage of total cases which are torts. In other words, amount-in-controversy information is no more likely to be missing from torts than it is from contracts, which leads us to conclude that missing dollar amount demanded is not related to casetype.

Given the various proposals for raising the dollar amount demanded, the data available on amount-in-controversy were sorted into three categories: cases in which the amount demanded was \$50,000 or less; cases in which the amount sought was greater than \$50,000 but less than \$100,000, and cases in which more than \$100,000 was demanded. These

TABLE 6

## DISTRICT COMPARISONS OF MISSING AMOUNT-IN-CONTROVERSY DATA FOR TORT CASES

	<u>Total Diversity Filings</u>	<u>Tort Diversity Filings</u>	<u>Percentage of Filings Which Are Torts</u>	<u>Total \$ Demand Present</u>	<u>Tort \$ Demand Present</u>	<u>Percentage of Present Tort \$ Demand</u>	<u>Percentage Difference</u>
California - Northern ..				872	474		
Eastern ...				70	17		
Central ...				4	1		
Southern ..				92	22		
Total .....	4182	1218	29	1038	514	50	+21
New York - Northern .....				440	351		
Eastern .....				884	509		
Southern .....				1910	488		
Western .....				244	185		
Total .....	5482	2470	45	3478	1533	44	-1
Texas - Northern .....				647	142		
Eastern .....				1754	1651		
Southern .....				964	480		
Western .....				163	72		
Total .....	5537	3416	62	3528	2345	66	+4
Florida - Northern .....				6	1		
Middle .....				254	114		
Southern .....				415	157		
Total .....	1787	683	38	675	272	40	+2
Pennsylvania - Eastern ..				2185	1316		
Middle ..				491	313		
Western ..				841	229		
Total ...	5642	2931	52	3517	1953	56	+4
Illinois - Northern .....				4503	521		
Central .....				157	81		
Southern .....				352	281		
Total .....	5532	1056	19	5012	883	18	-1
Ohio - Northern .....				710	378		
Southern .....				445	270		
Total .....	1503	791	53	1155	648	56	+3
Michigan - Eastern .....				621	280		
Western .....				229	109		
Total .....	2117	958	45	850	389	46	+1
New Jersey .....	2025	850	42	378	95	25	-17
North Carolina - Eastern				171	66		
Middle				100	31		
Western				216	59		
Total	644	213	33	487	156	32	-1

Table 6 (continued)

	<u>Total Diversity Filings</u>	<u>Tort Diversity Filings</u>	<u>Percentage of Filings Which Are Torts</u>	<u>Total \$ Demand Present</u>	<u>Tort \$ Demand Present</u>	<u>Percentage of Present Tort \$ Demand</u>	<u>Percentage Difference</u>
Georgia - Northern .....				872	408		
Middle .....				208	112		
Southern .....				274	182		
Total .....	1961	977	50	1354	702	52	+2
Virginia - Eastern .....				863	479		
Western .....				271	154		
Total .....	1480	765	52	1134	633	56	+4
Massachusetts .....	1233	719	58	964	601	62	+4
Indiana - Northern .....				571	169		
Southern .....				114	35		
Total .....	1179	400	34	685	204	30	-4
Missouri - Eastern .....				870	448		
Western .....				365	182		
Total .....	1449	702	48	1235	630	51	+3
Tennessee - Eastern ....				570	327		
Middle .....				269	118		
Western .....				171	94		
Total .....	1252	616	49	1010	539	53	+4
Wisconsin - Eastern ....				217	73		
Western .....				140	65		
Total .....	430	152	35	357	138	39	+4
Washington - Eastern ...				42	11		
Western ...				94	31		
Total .....	568	269	47	136	42	31	-16
Maryland .....	1037	521	50	848	442	52	+2
Louisiana- Eastern .....				1370	847		
Middle .....				291	163		
Western .....				814	477		
Total .....	2759	1616	59	2475	1487	60	+1
Minnesota .....	491	184	37	266	106	40	+3
Alabama - Northern .....				669	167		
Middle .....				189	66		
Southern .....				274	127		
Total .....	1416	434	31	1132	360	32	+1
Kentucky - Eastern .....				279	114		
Western .....				279	176		
Total .....	803	383	48	558	290	52	+4

Table 6 (continued)

	<u>Total Diversity Filings</u>	<u>Tort Diversity Filings</u>	<u>Percentage of Filings Which Are Torts</u>	<u>Total \$ Demand Present</u>	<u>Tort \$ Demand Present</u>	<u>Percentage of Present Tort \$ Demand</u>	<u>Percentage Difference</u>
South Carolina .....	1073	560	52	287	166	58	+6
Arizona .....	417	141	34	210	66	31	-3
Colorado .....	512	161	31	8	1	13	-18
Puerto Rico .....	299	173	58	268	157	59	+1
Oklahoma - Northern ....				333	106		
Eastern .....				173	72		
Western .....				1176	421		
Total .....	2024	660	33	1682	599	36	+3
Connecticut .....	1289	695	54	773	430	56	+2
Iowa - Northern .....				41	12		
Southern .....				135	76		
Total .....	377	180	48	176	88	50	+2
Oregon .....	496	177	36	248	72	29	-7
Mississippi - Northern .				406	204		
Southern .				955	578		
Total ....	1630	960	59	1361	782	57	+2
Kansas .....	606	246	41	534	230	43	+2
Arkansas - Eastern .....				339	183		
Western .....				333	189		
Total .....	882	465	53	672	372	55	+2
West Virginia - Northern				112	62		
Southern				384	194		
Total	604	288	48	496	286	58	+10
Utah .....	392	114	29	256	72	28	-1
Nebraska .....	343	186	54	149	69	46	-8
New Mexico .....	459	212	46	282	124	44	-2
Maine .....	185	128	69	165	111	67	-2
Hawaii .....	606	383	63	205	86	42	-21
New Hampshire .....	238	142	60	120	82	68	+8
Idaho .....	185	80	43	125	49	39	-4

Table 6 (continued)

	<u>Total Diversity Filings</u>	<u>Tort Diversity Filings</u>	<u>Percentage of Filings Which Are Torts</u>	<u>Total \$ Demand Present</u>	<u>Tort \$ Demand Present</u>	<u>Percentage of Present Tort \$ Demand</u>	<u>Percentage Difference</u>
Rhode Island .....	310	142	46	192	103	54	+8
Nevada .....	537	134	25	432	96	22	-3
Montana .....	396	196	49	156	65	42	-7
South Dakota .....	180	99	55	142	85	60	+5
North Dakota .....	119	34	29	99	30	30	+1
Delaware .....	200	109	55	85	39	46	-9
District of Columbia ...	1053	614	58	502	326	65	+7
Vermont .....	132	84	64	114	74	65	+1
Alaska .....	139	36	26	95	30	32	+6
Wyoming .....	216	96	44	93	21	23	-21
	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>
TOTALS	66,408	29,819	45	42,199	19,673	47	+2

categories were the basis of a second test for representativeness of the data.

Table 7 ranks states in order of dollar amount data present and then shows the percentage of cases in each of the three dollar categories described above. Rather than drawing conclusions based only upon data on amount-in-controversy available for each state, the number of cases filed in each of the three dollar-amount categories were estimated using the data from states that: (1) reported dollar amounts for at least half of their filings and (2) where the amount-in-controversy data present was distributed proportionately between torts and contracts. Using these two criteria together made it possible to make estimates based upon state-specific data for 39 jurisdictions.

Thirty five percent of the cases for which data were available had an amount-in-controversy of \$50,000 or less and 53% had a dollar amount demanded of over \$100,000. Data from Kansas will be used to illustrate how these relative proportions in dollar amount demanded were used to create estimates of the amount of cases under \$50,000 in each state. In Kansas, 55% of the reported amount-in-controversy cases were for \$50,000 or less. Therefore, an estimate of 55% of the 606 diversity cases filed in Kansas, or 330 cases, were likely to be for \$50,000 or less.

Two exceptions to the criteria require explanation. Data from West Virginia was estimated even though it had more dollar demanded data available for torts than for contracts, because of the high percentage of filings (82%) where dollar demanded data was available. Because the District of Columbia reports dollar amount demanded data for 48% of its diversity filings rather than 50%, it could be excluded, but because the amount-in-controversy data was balanced between tort and contract filings, it too was included in the analysis.



TABLE 7

ESTIMATES OF FILINGS WITH AMOUNT-IN-CONTROVERSY  
\$50,000 OR LESS IN FY 1987

States	Percentage of \$ Amount Data Present	Number of Diversity Filings	Percentage of Cases With Amount-in-Controversy			Estimated Number of Cases		
			\$50,000 or Less	\$50,000 to \$100,000	Over \$100,000	\$50,000 or Less	\$50,000 to \$100,000	Over \$100,000
Illinois	91	5532	60	21	19	3343	1140	1049
Louisiana	90	2759	20	11	69	547	311	1901
Puerto Rico	90	299	15	13	72	45	39	215
Kansas	88	606	54	8	37	330	51	225
Vermont	86	132	53	7	40	69	9	53
Missouri	85	1449	32	14	54	462	206	781
Maine	84	185	14	10	75	26	19	140
Wisconsin	83	430	34	15	51	148	64	218
Oklahoma	83	2024	27	11	61	554	228	1242
Mississippi	83	1630	15	7	77	249	122	1259
North Dakota	83	119	48	7	44	58	8	53
Maryland	82	1037	22	10	69	224	100	713
West Virginia	82	604	24	11	65	142	68	393
Tennessee	81	1252	26	14	60	327	170	755
Alabama	80	1416	36	14	50	517	198	702
Nevada	80	537	65	13	23	347	68	122
South Dakota	79	180	23	13	64	42	23	115
Massachusetts	78	1233	19	13	68	239	157	837
Ohio	77	1503	21	9	71	314	129	1060
Virginia	77	1480	22	10	68	324	150	1006
North Carolina	76	644	51	14	35	329	91	223
Arkansas	76	882	35	10	55	312	87	483
Georgia	69	1961	28	12	60	547	237	1177
Kentucky	69	803	34	9	57	275	72	456
Idaho	68	185	26	7	67	47	13	124
Alaska	68	139	43	12	45	60	16	63
Utah	65	392	39	13	48	153	52	187
Texas	63	5537	56	6	39	3078	315	2144
New York	63	5482	32	9	59	1754	493	3234
Pennsylvania	62	5642	58	31	11	3279	1751	612
Rhode Island	62	310	6	5	89	18	16	276
New Mexico	61	459	35	13	52	160	62	238
Connecticut	60	1289	34	13	54	434	163	692
Indiana	58	1179	55	14	31	643	167	370
Minnesota	54	491	46	11	44	223	54	214
Arizona	50	417	41	13	46	173	54	191
Oregon	50	496	37	20	43	184	100	212
New Hampshire	50	238	16	11	73	38	26	175
District of Columbia	48	1053	20	14	66	208	151	694
<u>Estimates based upon national averages</u>								
Iowa	47	377	38			145		
Nebraska	43	343	35			120		
Delaware	43	200	35			70		
Wyoming	43	216	35			76		
Michigan	40	2117	40			849		
Florida	39	1787	42			747		
Montana	39	396	35			139		
Hawaii	34	606	35			212		
South Carolina	27	1073	35			376		
California	25	4182	42			1769		
Washington	24	568	35			197		
New Jersey	19	2025	35			709		
Colorado	2	512	35			179		

Data for 7 of the remaining 13 states were estimated by using the 35% average (from the 39 states where at least half of the dollar-demanded data were available) multiplied by the total number of cases. For states with multiple districts, the 35% average was used for districts where more than half of the dollar amount data were missing, but modified by actual percentages from districts where more than half of the dollar demanded data were available.

D. Creation of a State Data Set

The next methodological step was to construct a state-level data set to examine the effect of the potential transfer of diversity cases on each state. To the data provided by the Administrative Office of the U.S. Courts were added data on the tort, contract, and real property filings of state courts. These data were not available for all states, but were gathered for those 28 states where they could be obtained. These data will be useful in determining how much the potential transfer of diversity will contribute to the current civil caseloads of states. In addition to the caseload data, the population of each state was also appended to the state-level data set.

Table 8 shows that only the Circuit Courts of Michigan and Oregon, and the Superior Courts of North Carolina and Puerto Rico, match the \$10,000 jurisdictional limit that the U.S. District Courts had at the time this study was conducted. Moreover, only a few state courts of general jurisdiction match exactly the subject matter of U.S. District Courts. Accordingly, the number of state judges affected by a transfer of diversity jurisdiction must be estimated. The decision rules as to which courts are comparable to U.S. District Courts, will affect the number of state judges eligible to receive diversity cases, and hence the

estimates of the workload brought about by the transfer of federal diversity jurisdiction to state courts.

Initially, a serious attempt was made to count only general jurisdiction judges and to separate these into two categories--those likely to receive diversity cases and those unlikely to receive diversity cases. After much effort, this attempt was abandoned because it is simply impossible to make such a distinction. In some states, e.g. Arkansas, law courts are clearly distinguished from equity courts, and so it is possible to identify equity judges who are unlikely to receive diversity cases. In most states, however, general jurisdiction judges hear all civil cases, including domestic relations and probate, and so judges who would bear the burden of deciding the additional diversity cases cannot be separated from other general jurisdiction judges. In still other states, general jurisdiction judges divide their time between civil and criminal dockets and it is not possible to determine the proportion of time spent on each. Besides, the very concept of a general jurisdiction judge is one who can decide all types of cases. Therefore, an infusion of new cases could result in judges increasing the proportion of their time spent on the newly-transferred diversity cases. General jurisdiction judges who now hear criminal or domestic relations cases could be assigned to hear some of the diversity torts or contracts.

The number of general jurisdiction judges by court level is listed in the National Center for State Courts publication, State Court Organization 1987.<sup>41</sup> The decision rules used to determine number of judges who would be eligible to hear diversity cases are as follows:

1. In states with a two-tiered court system, judges serving on courts of limited or special jurisdiction, were not included in state totals. Judges who hear cases involving specific subject matter, e.g.

TABLE 8  
 MINIMUM AMOUNT-IN-CONTROVERSY REQUIREMENTS  
 FOR STATE COURTS OF GENERAL JURISDICTION

	Minimum Dollar Amount
California	25000
Michigan	10000
North Carolina	10000
Oregon	10000
Puerto Rico	10000
Florida	5000
Hawaii	5000
Rhode Island	5000
Kentucky	2500
Maryland	2500
Alabama	1000
Nevada	1000
Wyoming	1000
Arizona	500
New Hampshire	500
Ohio	500
West Virginia	300
Texas	200
Vermont	200
Arkansas	100
Montana	50
Tennessee	50
Alaska	0
Colorado	0
Connecticut	0
Delaware	0
District of Columbia	0
Georgia	0
Idaho	0
Illinois	0
Indiana	0
Iowa	0
Kansas	0
Louisiana	0
Maine	0
Massachusetts	0
Minnesota	0
Mississippi	0
Missouri	0
Nebraska	0
New Jersey	0
New Mexico	0
New York	0
North Dakota	0
Oklahoma	0
Pennsylvania	0
South Carolina	0
South Dakota	0
Utah	0
Virginia	0
Washington	0
Wisconsin	0

Source: Court Statistics Project, State Court Organization, 1987  
 (Williamsburg, VA: National Center for State Courts, 1988).

small claims or traffic cases, or civil cases with amounts-in-controversy under \$10,000, would be unlikely to be part of the pool of judges who would receive the tort, contract or real property cases transferred from federal courts.

2. In states with a two-tiered court system, all general jurisdiction judges are included in the pool of judges eligible to receive diversity cases. Magistrates, commissioners and referees were not counted as general jurisdiction judges. In cases where status of "quasi-judges" was in doubt, dollar amount of jurisdiction was used to distinguish judges from quasi-judicial officers. For example, 102 "commissioners and referees" with authority to perform chamber business, take depositions and conduct other business connected with the administration of justice were not counted as general jurisdiction judges in California.

3. In states with a single unified trial court, an effort was made to separate judges from associate judges, commissioners, referees and others who are the functional equivalents of limited jurisdiction judges in states with a two-tiered court system. This effort was made only in states where it was possible to separate caseloads by type of judge also. The District of Columbia, Idaho, Illinois, Iowa, Massachusetts, Minnesota, and South Dakota are the seven jurisdictions which have no courts of limited or special jurisdiction. In Idaho, the 62 lawyer and 8 non-lawyer magistrates who handle cases where the amount-in-controversy is under \$10,000 were not counted as general jurisdiction judges. In Illinois, associate circuit judges were not counted in the total for general jurisdiction judges. In Iowa, district associates hear only civil cases of up to \$5,000 and magistrates hear misdemeanors and small claims (SS 602.6202). In Massachusetts, the three

justices in Land Court, and the 53 in Juvenile, Housing and Family Courts were not counted in the general jurisdiction total. Magistrates were not counted as general jurisdiction judges in South Dakota because Statute 16-12a-24 limits magistrates to cases involving amounts-in-controversy of less than \$2,000.

In six other states that have a two-tiered court system, the general jurisdiction courts have exclusive civil jurisdiction. For diversity cases, these courts are the functional equivalent of a unified court system because the lower courts do not have jurisdiction over civil cases. For purposes of this analysis, Connecticut, Kansas, Missouri, New Jersey, Oklahoma, Vermont and Wisconsin are treated as single-tiered court systems. If caseloads can be separated by type and two classes of judges are identified, the judges will be counted with the other general jurisdiction court judges. Otherwise, the data from unitary civil systems, will be presented separately. For example, tort and contracts over \$5,000 are "regular actions" in Kansas. Section 20-3026 of Kansas Statutes Annotated limits magistrates to cases where the amount-in-controversy is less than \$5,000. Because it is possible to identify Kansas judges likely to receive diversity cases, as well as to separate state tort and contract filings, Kansas data can be compared with data from states with two-tiered court systems.

The total number of general jurisdiction judges per state used to calculate the impact of diversity filings per judge is provided in Figure 6. Using the three criteria listed above, it was possible to distinguish general jurisdiction judges eligible to hear diversity cases from other judges in all but six jurisdictions: Connecticut, the District of Columbia, Minnesota, New Jersey, Vermont, and Wisconsin. Because it was not possible to distinguish "general-jurisdiction-like"

judges from "limited-jurisdiction-like" judges in these six states, the effects of any change in diversity jurisdiction will be underestimated. Accordingly, these states will be separated from the others in all tables where per judges figures are calculated.

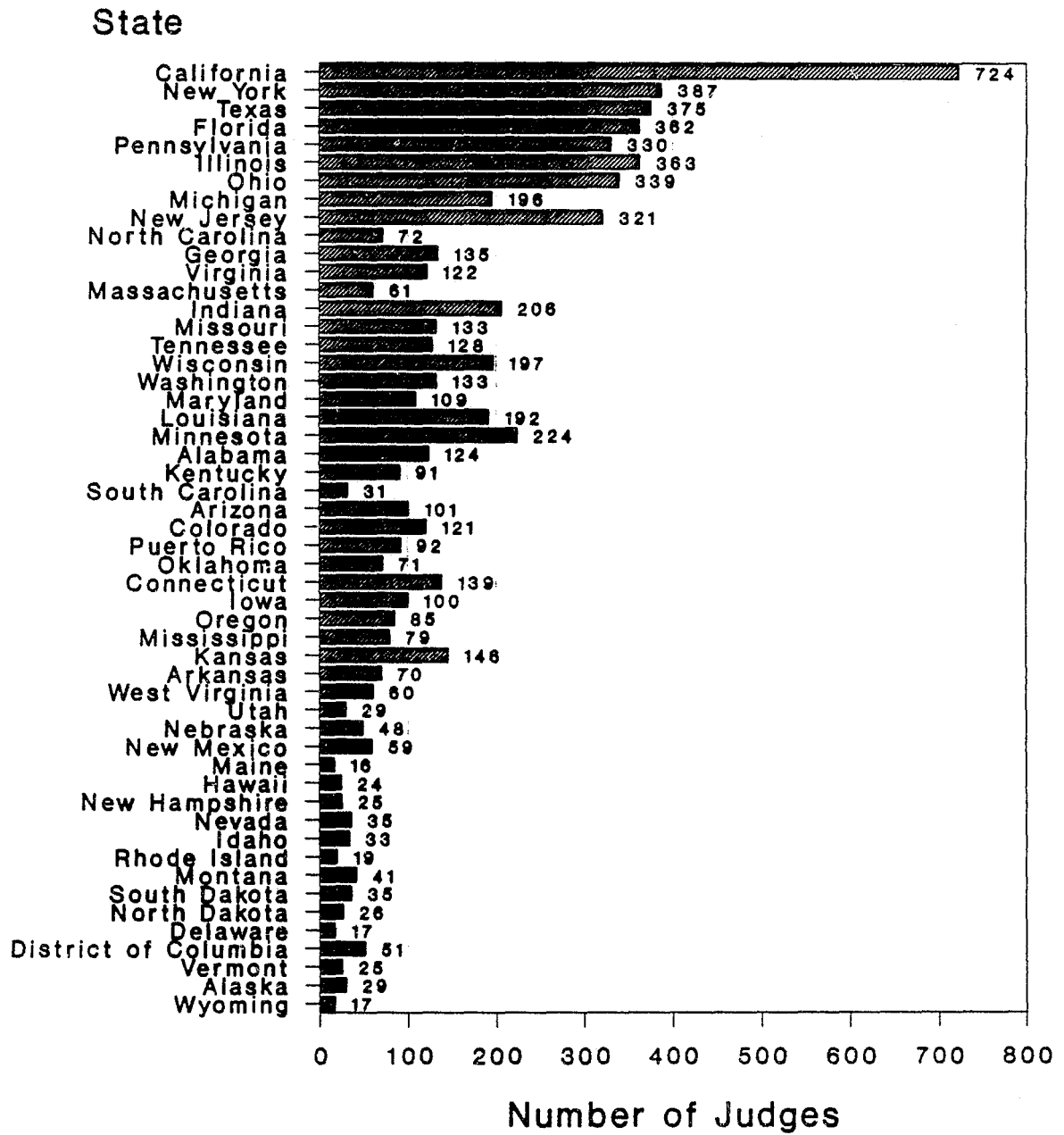
E. Creation of a Disposition Data Set

The first chapter listed proportion of jury trials as one measure of the complexity of diversity cases. This is important to some smaller courts because even a few complex jury cases may disrupt normal court operations.

Ideally, it would be best to use the data set of FY 1987 filings to determine proportion of jury trials. The problem with that solution is that no more than two-thirds of the cases filed in 1987 have been disposed. Because jury trials take the longest to process, most of these have not been disposed yet. Rather than eliminate this variable from analysis, however, staff decided to create a separate data set of all cases disposed in FY 1987. The reader is warned that this disposition data set is not strictly comparable to the data set containing diversity cases filed in FY 1987. Nevertheless, use of these two data sets together presents a more comprehensive picture of the impact of the transfer of diversity cases on states. Total diversity cases terminated in FY 1987 is presented in Figure 7.

# Figure 6

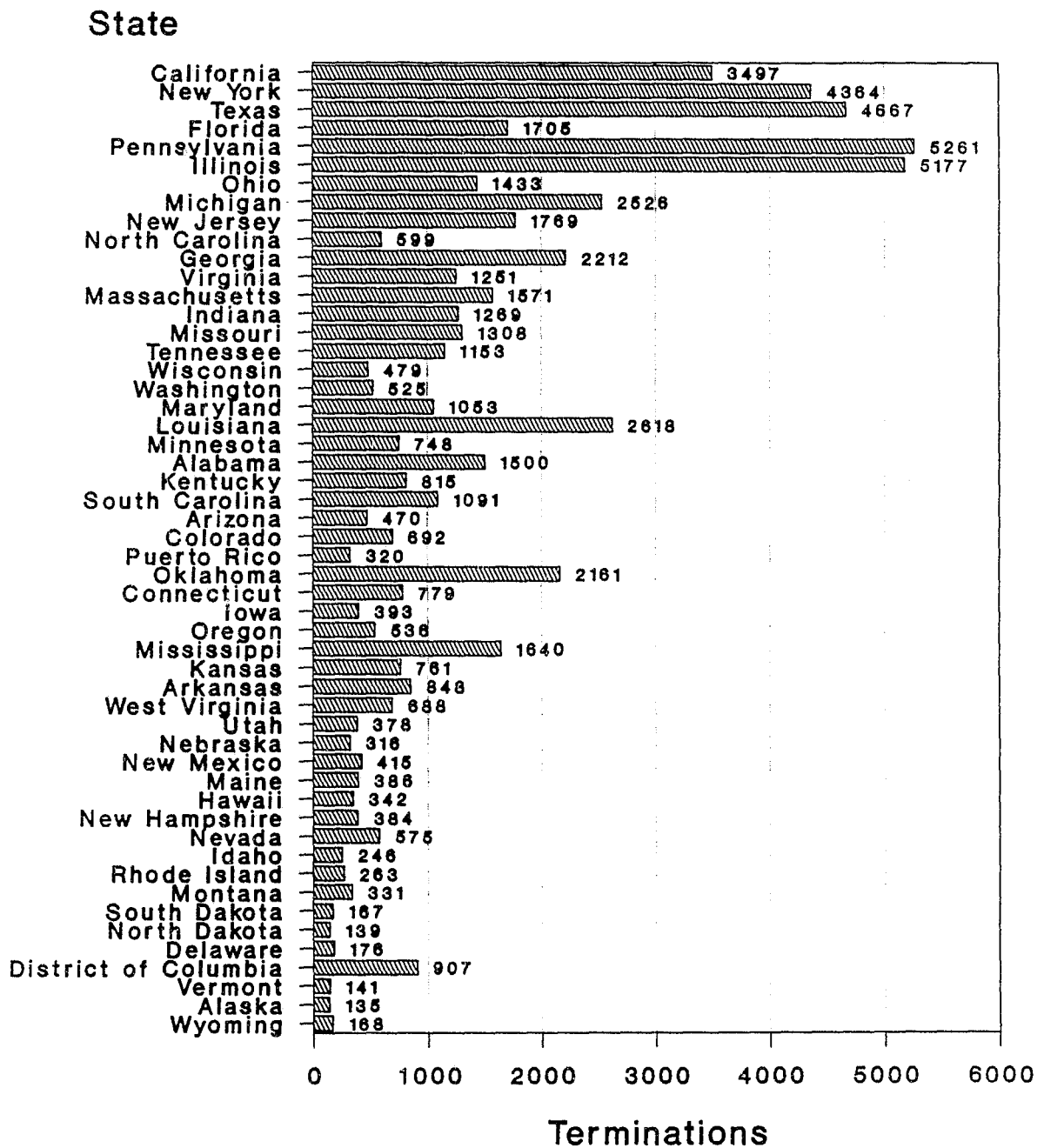
## Number of General Jurisdiction Judges Per State--1987





# Figure 7

## 1987 Diversity Terminations by State



Source: Administrative Office  
of U.S. Courts

## CHAPTER III

### Effects of Total Abolition

For purpose of this study, total abolition of diversity means the elimination of all diversity of citizenship jurisdiction under 28 U.S.C. 1332, except that available under the Interpleader Act.<sup>42</sup> Because the number of filings are so small, preserving the Interpleader Act would not materially reduce the impact of abolishing diversity jurisdiction. Under reporting rules to the Administrative Office of U.S. Courts, cases that include both diversity and federal question claims are characterized as federal question cases. Therefore, cases classified as diversity do not appear to have the potential for returning to federal courts under some other jurisdictional provision.<sup>43</sup> Total elimination of diversity jurisdiction is the most extreme proposal and as such provides the baseline against which all other proposals for the curtailment of diversity jurisdiction can be evaluated.

#### A. Estimated Number of Cases to Be Transferred

##### 1. Total Filings

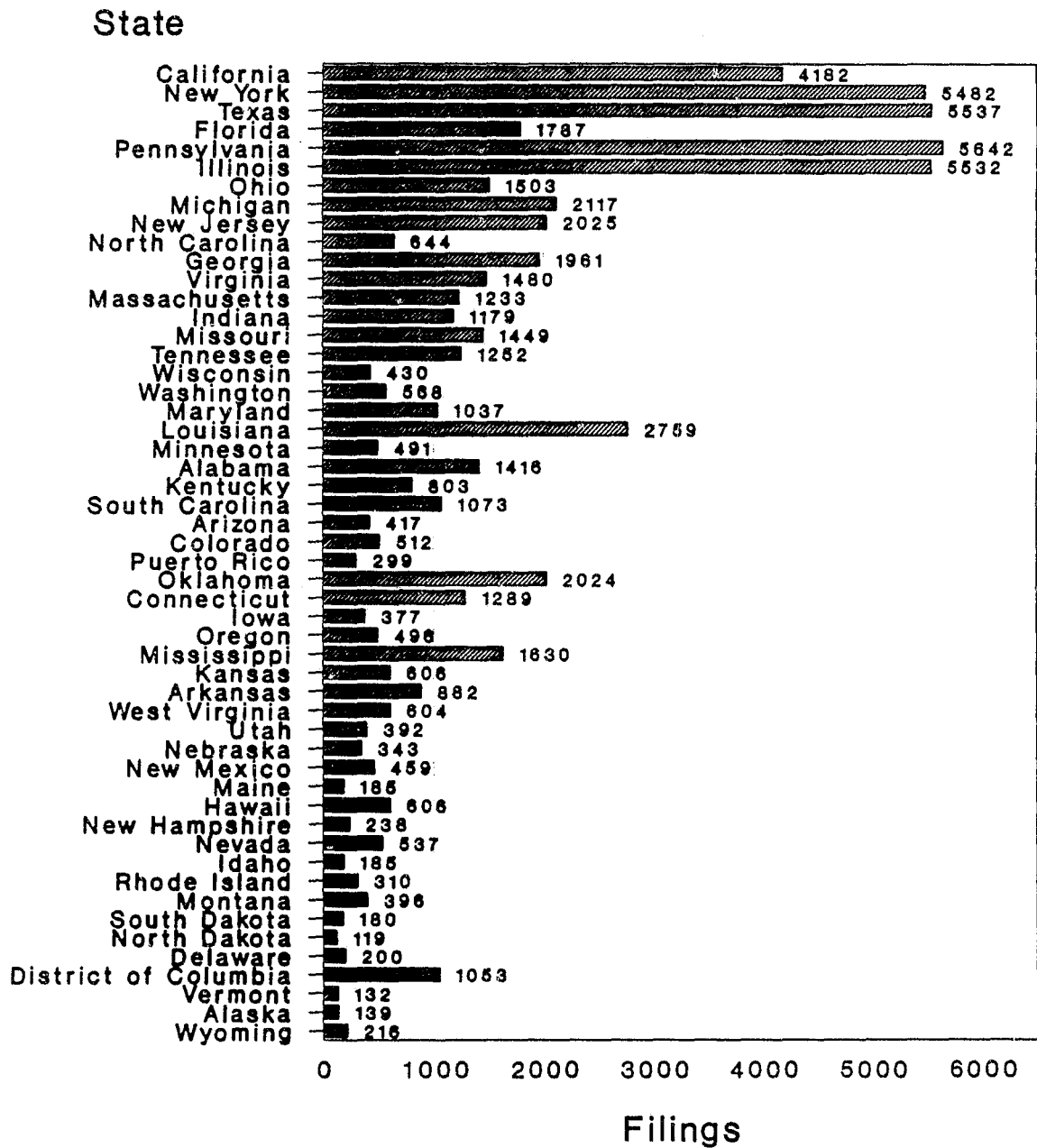
Table 9 shows the total number of filings, as well as the number of tort, contract, and real property filings, that might have gone to each state in Fiscal Year 1987 if diversity jurisdiction had been abolished. If diversity jurisdiction had been totally eliminated, as many as 66,408 new filings would have been transferred to state courts. (The reader is reminded of the assumption that cases filed in federal courts would have been filed in state courts rather than not filed at all, and that one federal diversity case would result in only one state case.) The bar chart in Figure 8 shows the number of diversity cases that would be transferred to each state if diversity jurisdiction were abolished completely.

TABLE 9  
FEDERAL DIVERSITY CASES BY STATE

<u>States</u>	<u>State Populations (in thousands)</u>	<u>Total Number of Federal Diversity Filings</u>	<u>Federal Tort Filings</u>	<u>Federal Contract Filings</u>	<u>Federal Property Filings</u>
California	27663	4182	1218	2902	62
New York	17825	5482	2470	2948	64
Texas	16789	5537	3416	2044	77
Florida	12023	1787	683	1075	29
Pennsylvania	11936	5642	2931	2636	75
Illinois	11582	5532	1056	1989	2487
Ohio	10784	1503	791	688	24
Michigan	9200	2117	958	1133	26
New Jersey	7672	2025	850	1151	24
North Carolina	6413	644	213	422	9
Georgia	6222	1961	977	955	29
Virginia	5904	1480	765	686	29
Massachusetts	5855	1233	719	495	19
Indiana	5531	1179	400	419	360
Missouri	5103	1449	702	731	16
Tennessee	4855	1252	616	614	22
Wisconsin	4807	430	152	270	8
Washington	4538	568	269	293	6
Maryland	4535	1037	521	509	7
Louisiana	4461	2759	1616	1080	63
Minnesota	4246	491	184	300	7
Alabama	4083	1416	434	918	64
Kentucky	3727	803	383	401	19
South Carolina	3425	1073	560	485	28
Arizona	3386	417	141	272	4
Colorado	3296	512	161	332	19
Puerto Rico	3292	299	173	118	8
Oklahoma	3272	2024	660	1242	122
Connecticut	3211	1289	695	569	25
Iowa	2834	377	180	177	20
Oregon	2724	496	177	304	15
Mississippi	2625	1630	960	649	21
Kansas	2476	606	246	328	32
Arkansas	2388	882	465	397	20
West Virginia	1897	604	288	285	31
Utah	1680	392	114	256	22
Nebraska	1594	343	186	150	7
New Mexico	1500	459	212	232	15
Maine	1187	185	128	53	4
Hawaii	1083	606	383	214	9
New Hampshire	1057	238	142	89	7
Nevada	1007	537	134	395	8
Idaho	998	185	80	95	10
Rhode Island	986	310	142	158	10
Montana	809	396	196	182	18
South Dakota	709	180	99	73	8
North Dakota	672	119	34	84	1
Delaware	644	200	109	89	2
District of Columbia	622	1053	614	414	25
Vermont	548	132	84	47	1
Alaska	525	139	36	100	3
Wyoming	490	216	96	105	15
TOTALS	246,691	66,408	29,819	32,553	4,036
MEAN		1,277	573	626	78
MEDIAN		625	336	396	19

# Figure 8

## Total Diversity Filings by State



## 2. Filings Per Population

The more populous states would obviously receive the most diversity cases if diversity jurisdiction were eliminated. The eight states of California, New York, Texas, Pennsylvania, Florida, Illinois, Ohio and Michigan have 48% of the population of the United States and would receive 48% of the diversity cases. Nevertheless, the exceptions to this relationship are notable as well.

Before examining the relationship in more detail, the analysis may be clarified if real property cases are removed from analysis. Clearly, the number of diversity property cases is not related to state population and may obscure any relationship that may exist between case volume and population.<sup>44</sup> Figure 9 shows the relationship between state population (bars) and diversity filings (lines).

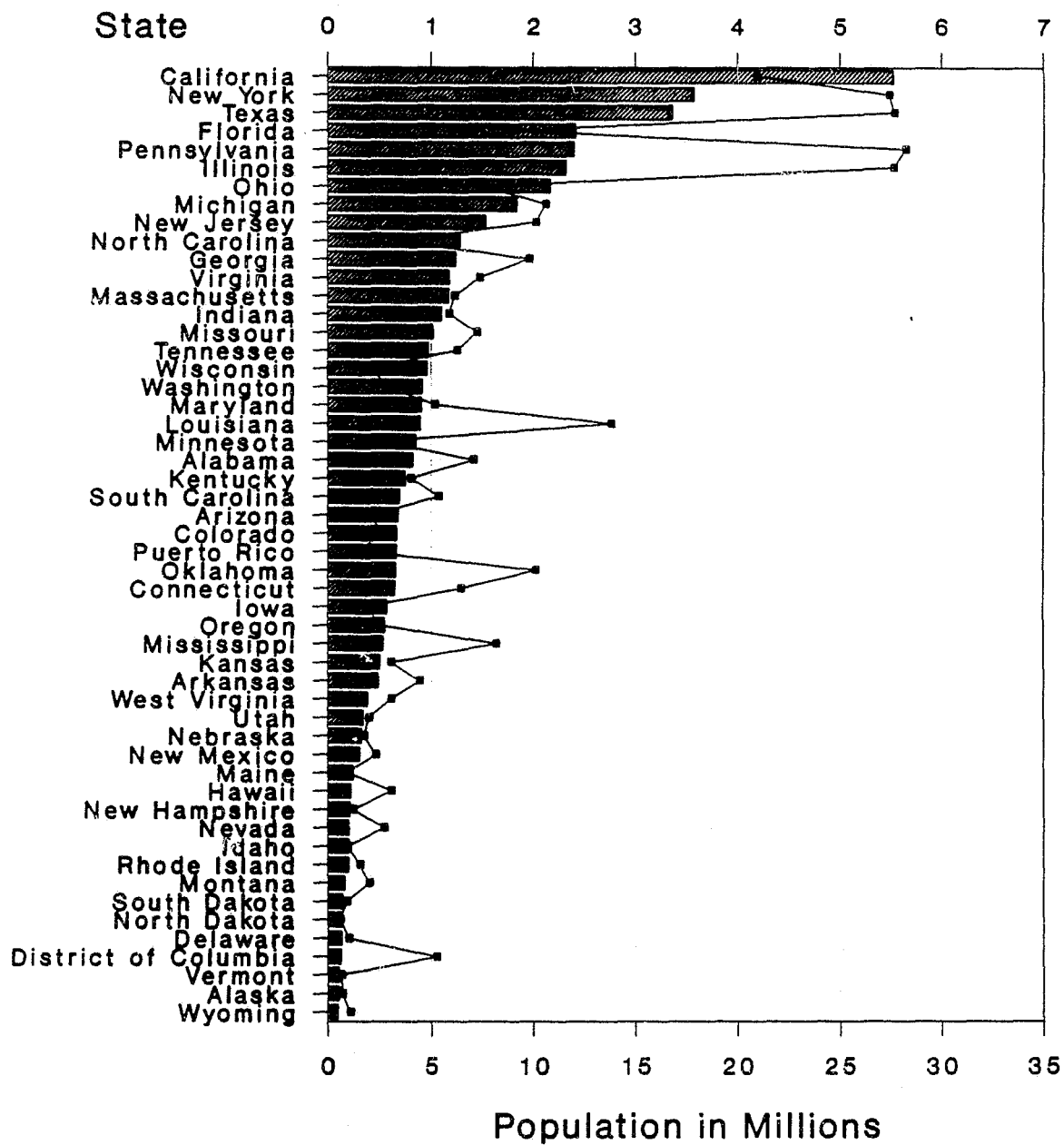
When the line showing diversity cases is below the bars showing state population, the state will receive fewer diversity cases than expected based on its population and vice versa. (Figure 10 depicts the same relationship using a logarithmic scale to "smooth out" the differences between the larger and smaller states. Logarithmic charts are often used to show relative change when comparing series that vary greatly in magnitude, e.g. filings in thousands and population in millions.)

Table 10 shows total diversity filings per 100,000 population and combined diversity tort and contract filings per 100,000. Table 11 lists the total number of federal tort and contract diversity filings by state and compares these numbers with the population-based estimates. (Comparable estimates derived from regression analysis are presented in Appendix A.) To illustrate the procedure, California had 11.2% of the national population, and so could be expected to have 11.2%

# Figure 9

## Population and Diversity Filings

Diversity Cases in Thousands



# Figure 10

## Population and Diversity Filings

(Logarithmic Scale)

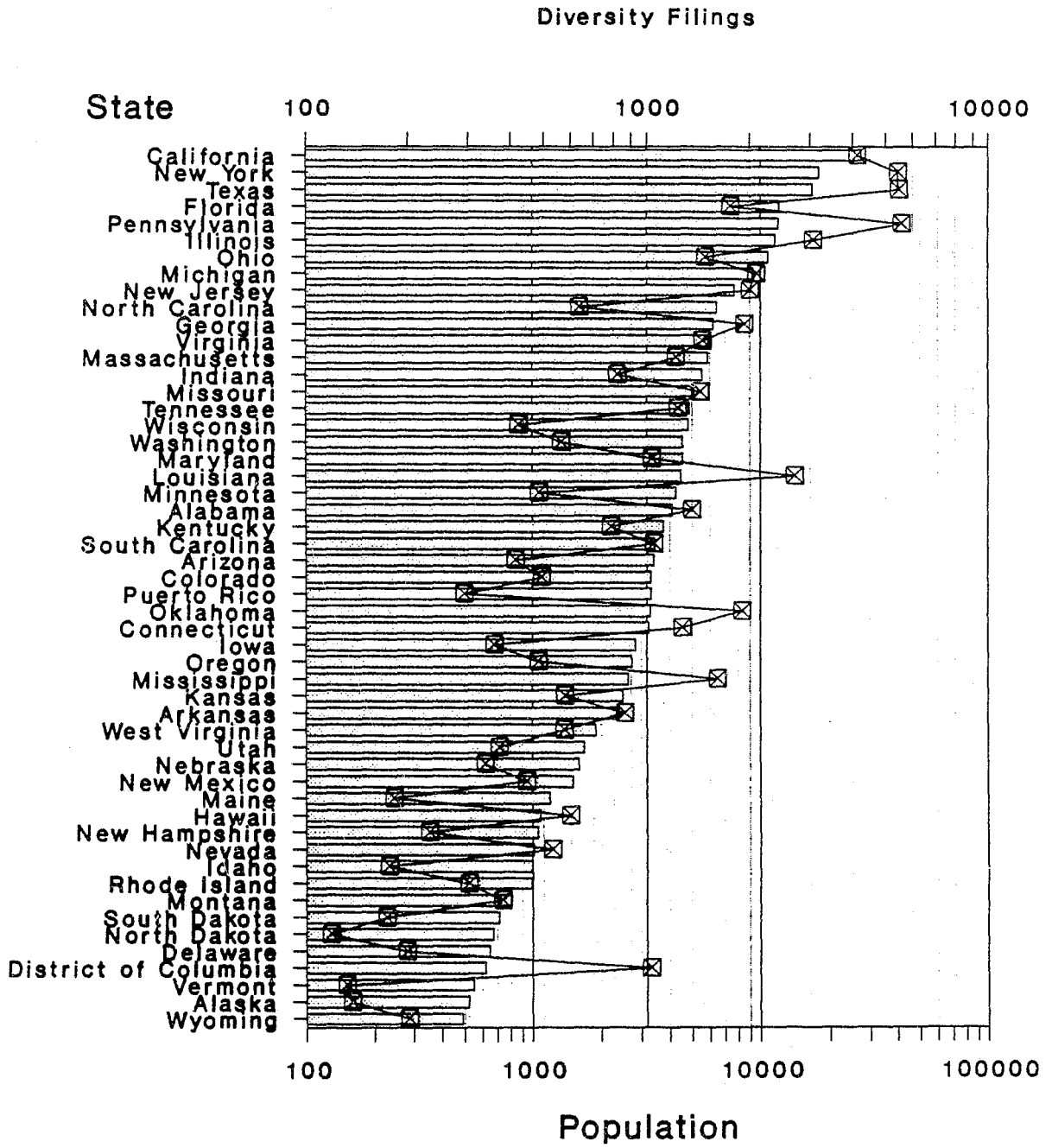


TABLE 10

## DIVERSITY FILINGS PER POPULATION

<u>States</u>	<u>State Population (In Thousands)</u>	<u>Total Diversity Filings</u>	<u>Diversity Filings Per 100,000 Population</u>	<u>Tort and Contract Diversity Filings</u>	<u>Tort and Contract Filings Per 100,000 Population</u>
California	27663	4182	15	4120	15
New York	17825	5482	31	5418	30
Texas	16789	5537	33	5460	33
Florida	12023	1787	15	1758	15
Pennsylvania	11936	5642	47	5567	47
Illinois	11582	5532	48	3045	26
Ohio	10784	1503	14	1479	14
Michigan	9200	2117	23	2091	23
New Jersey	7672	2025	26	2001	26
North Carolina	6413	644	10	635	10
Georgia	6222	1961	32	1932	31
Virginia	5904	1480	25	1451	25
Massachusetts	5855	1233	21	1214	21
Indiana	5531	1179	21	819	15
Missouri	5103	1449	28	1433	28
Tennessee	4855	1252	26	1230	25
Wisconsin	4807	430	9	422	9
Washington	4538	568	13	562	12
Maryland	4535	1037	23	1030	23
Louisiana	4461	2759	62	2696	60
Minnesota	4246	491	12	484	11
Alabama	4083	1416	35	1352	33
Kentucky	3727	803	22	784	21
South Carolina	3425	1073	31	1045	31
Arizona	3386	417	12	413	12
Colorado	3296	512	16	493	15
Puerto Rico	3292	299	9	291	9
Oklahoma	3272	2024	62	1902	58
Connecticut	3211	1289	40	1264	39
Iowa	2834	377	13	357	13
Oregon	2724	496	18	481	18
Mississippi	2625	1630	62	1609	61
Kansas	2476	606	24	574	23
Arkansas	2388	882	37	862	36
West Virginia	1897	604	32	573	30
Utah	1680	392	23	370	22
Nebraska	1594	343	22	336	21
New Mexico	1500	459	31	444	30
Maine	1187	185	16	181	15
Hawaii	1083	606	56	597	55
New Hampshire	1057	238	23	231	22
Nevada	1007	537	53	529	53
Idaho	998	185	19	175	18
Rhode Island	986	310	31	300	30
Montana	809	396	49	378	47
South Dakota	709	180	25	172	24
North Dakota	672	119	18	118	18
Delaware	644	200	31	198	31
District of Columbia	622	1053	169	1028	165
Vermont	548	132	24	131	24
Alaska	525	139	26	136	26
Wyoming	490	216	44	201	41



TABLE 11

## ESTIMATES OF TOTAL TORT/CONTRACT DIVERSITY CASES

<u>STATES</u>	<u>State Population (in thousands)</u>	<u>Total Filings (torts and contracts)</u>	<u>Estimates Based Upon Population</u>	<u>Difference</u>	<u>Percentage Difference</u>
California	27663	4120	6995	-2874	-41
New York	17825	5418	4507	911	20
Texas	16789	5460	4245	1215	29
Florida	12023	1758	3040	-1282	-42
Pennsylvania	11936	5567	3018	2549	84
Illinois	11582	3045	2928	117	-46
Ohio	10784	1479	2727	-1248	-46
Michigan	9200	2091	2326	-235	-10
New Jersey	7672	2001	1940	61	3
North Carolina	6413	635	1621	-986	-61
Georgia	6222	1932	1573	359	23
Virginia	5904	1451	1493	-42	-3
Massachusetts	5855	1214	1480	-266	-18
Indiana	5531	819	1398	-579	-41
Missouri	5103	1433	1290	143	11
Tennessee	4855	1230	1228	2	0
Wisconsin	4807	422	1215	-793	-65
Washington	4538	562	1147	-585	-51
Maryland	4535	1030	1147	-117	-10
Louisiana	4461	2696	1128	1568	139
Minnesota	4246	484	1074	-590	-55
Alabama	4083	1352	1032	320	31
Kentucky	3727	784	942	-158	-17
South Carolina	3425	1045	866	179	21
Arizona	3386	413	856	-443	-52
Colorado	3296	493	833	-340	-41
Puerto Rico	3292	291	832	-541	-65
Oklahoma	3272	1902	827	1075	130
Connecticut	3211	1264	812	452	56
Iowa	2834	357	717	-360	-50
Oregon	2724	481	689	-208	-30
Mississippi	2625	1609	664	945	142
Kansas	2476	574	626	-52	-8
Arkansas	2388	862	604	258	43
West Virginia	1897	573	480	93	19
Utah	1680	370	425	-55	-13
Nebraska	1594	336	403	-67	-17
New Mexico	1500	444	379	65	17
Maine	1187	181	300	-119	-40
Hawaii	1083	597	274	323	118
New Hampshire	1057	231	267	-36	-14
Nevada	1007	529	-255	274	108
Idaho	998	175	252	-77	-31
Rhode Island	986	300	249	51	20
Montana	809	378	205	173	85
South Dakota	709	172	179	-7	-4
North Dakota	672	118	170	-52	-31
Delaware	644	198	163	35	22
District of Columbia	622	1028	157	871	554
Vermont	548	131	139	-8	-5
Alaska	525	136	133	3	2
Wyoming	490	201	124	77	62

(or 6994) of the total number of tort and contract diversity filings. Actual diversity filings in 1987 were 4120, so the estimate based on proportion of population was lower by 2878 cases. Other estimates based on proportion of population were more accurate. For example, the difference between the predicted cases in Alaska (133) and the actual cases (136) was only three cases. The District of Columbia would receive nearly 3-1/2 times more than the number of diversity cases one would expect given its population. Louisiana, Mississippi, Oklahoma, and Hawaii receive twice as many diversity cases as expected. On the other hand, several states, such as Puerto Rico, Wisconsin, North Carolina, Iowa, Arizona, and Washington, would receive fewer than half the number of diversity cases that one would expect given the size of their populations. So, while there is a strong relationship between the number of federal diversity torts and contracts filings and state populations, a comparison of the estimates to actual filings shows that estimates can be misleading for individual states.

### 3. Filings Per Judge

The previous analysis demonstrated which states would receive a disproportionate share of diversity filings if diversity jurisdiction were abolished, but did not take into consideration the capacity of states to respond to the influx of diversity cases. The number of judges available to decide civil cases will play a key role in how well a given state can handle the transfer of cases. On the face of it, there should be little difference between measuring the impact of the abolition of federal diversity jurisdiction using population or number of judges, since larger states will typically also have more judges. (The correlation between population and number of general jurisdiction judges

for 1987 was .87.) Again, some states have substantially fewer or more general jurisdiction judges than would be expected on the basis of population alone.

Table 12 shows that South Carolina, Oklahoma, Hawaii, Mississippi, the District of Columbia, and Massachusetts would be most affected by the abolition of federal diversity jurisdiction as measured by the number of additional cases that would go to each general jurisdiction judge. Puerto Rico, Minnesota and Wisconsin may be affected the least, but keep in mind that the consequences of diversity transfer are underestimated for states listed at the bottom of the per judge tables, and these include Minnesota and Wisconsin.

## B. Complexity of Cases Transferred

### 1. Caseload Composition

Figure 11 shows the caseload composition of federal diversity cases and hence the composition of cases transferred if diversity jurisdiction were totally abolished. In 1987, contracts made up 49% of the federal diversity filings, torts 45%, and real property cases the remaining 6% of filings. The property cases are an insignificant proportion of diversity cases in most states--the median number of cases is only 19. In that context, Indiana's 360 property filings stands out, but the noticeable discrepancy is Illinois. (See Table 9.) Foreclosures in the Northern District of Illinois accounted for 62% of the federal real property diversity filings in the United States.<sup>45</sup> H. Stuart Cunningham, Clerk of the Northern District of Illinois, describes the phenomenon as the result of a particular "ecological niche." Illinois altered its law to require a sheriff's presence at each foreclosure and his fee is \$600. Attorneys for one large foreign corporation with offices in Chicago decided that their

TABLE 12  
DIVERSITY FILINGS PER JUDGE BY POPULATION - 1987

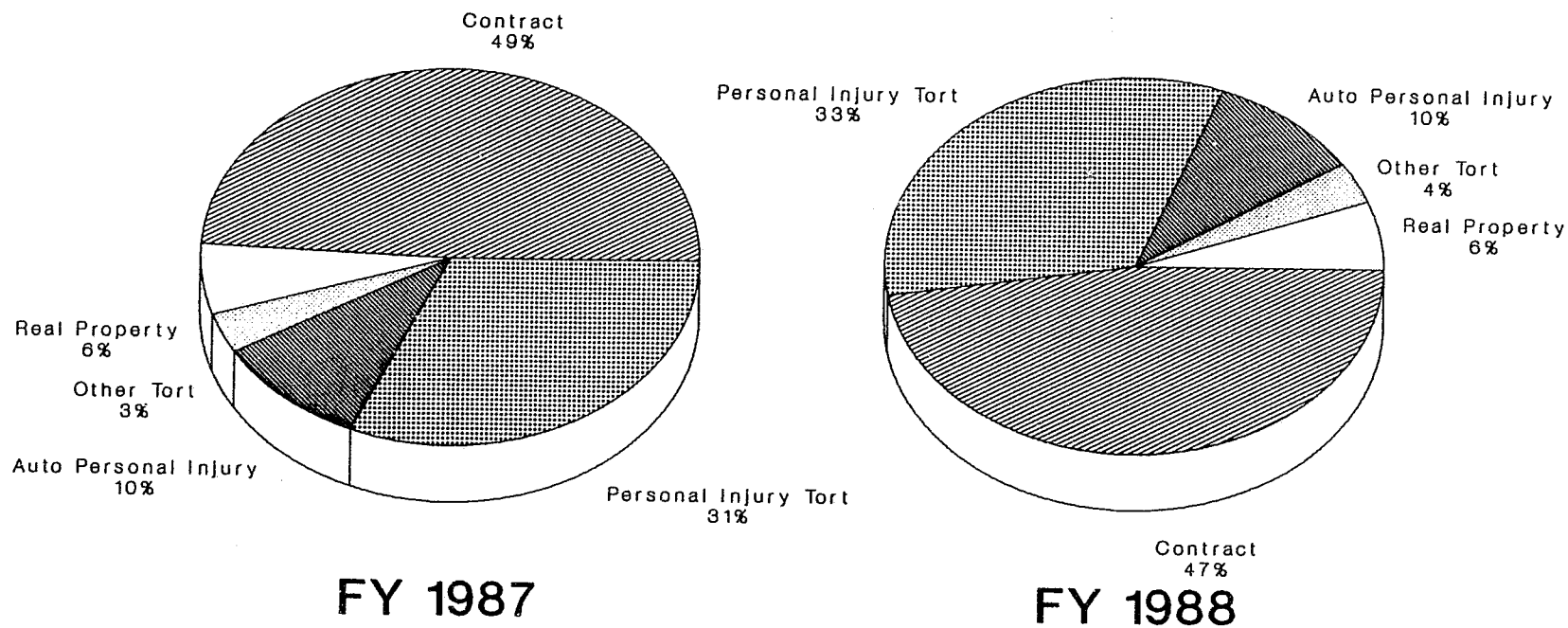
<u>States</u>	<u>Number of General Jurisdiction Judges</u>	<u>Total Diversity Cases</u>	<u>Total Diversity Cases Per Judge</u>
California	724	4182	6
New York	387	5482	14
Texas	375	5537	15
Florida	362	1787	5
Pennsylvania	330	5642	17
Illinois	363	5532	15
Ohio	339	1503	4
Michigan	196	2117	11
North Carolina	72	644	9
Georgia	135	1961	15
Virginia	122	1480	12
Massachusetts	61*	1233	20
Indiana	206	1179	6
Missouri	133	1449	11
Tennessee	128	1252	10
Washington	133	568	4
Maryland	109	1037	10
Louisiana	192	2759	14
Alabama	124	1416	11
Kentucky	91	803	9
South Carolina	31	1073	35
Arizona	101	417	4
Colorado	121	512	4
Puerto Rico	92	299	3
Oklahoma	71	2024	29
Iowa	100	377	4
Oregon	85	496	6
Mississippi	79	1630	21
Kansas	146	606	4
Arkansas	70	882	13
West Virginia	60	604	10
Utah	29	392	14
Nebraska	48	343	7
New Mexico	59	459	8
Maine	16	185	12
Hawaii	24	606	25
New Hampshire	25	238	10
Nevada	35	537	15
Idaho	33	185	6
Rhode Island	19	310	16
Montana	41	396	10
South Dakota	35	180	5
North Dakota	26	119	5
Delaware	17	200	12
Alaska	29	139	5
Wyoming	17	216	13
<u>States with Non-Comparable Judge Figures</u>			
New Jersey	321	2025	6
Wisconsin	197	430	2
Minnesota	224	491	2
Connecticut	139	1289	9
District of Columbia	51	1053	21
Vermont	25	132	5

\*Superior Court Department judges only

# Figure 11

## Types of Federal Diversity Cases

59



Source: Administrative Office of U.S. Courts ("Other" cases not included-- 63 in FY1987 and 80 in FY1988.)

foreclosure cases would be decided more quickly in federal court and the corporation would be spared the inconvenience of going to several county seats to file cases. A second Chicago law firm imitated the practice of filing in federal court and together these firms account for the bulk of the real property filings in the Northern District of Illinois and to a lesser degree, in the Northern District of Indiana.

Federal contract diversity filings are much more closely related to population (correlation of .89) than are federal tort diversity filings (correlation of .72). Federal contract cases are more proportionate to state population--the larger the state the more contract cases. State population explains less of the variation in federal tort cases, which is another way of saying that factors, in addition to state's population, determine where tort cases are filed. (Note the contrast with the close relationship between population and state tort filings, discussed below in Section B.2.)

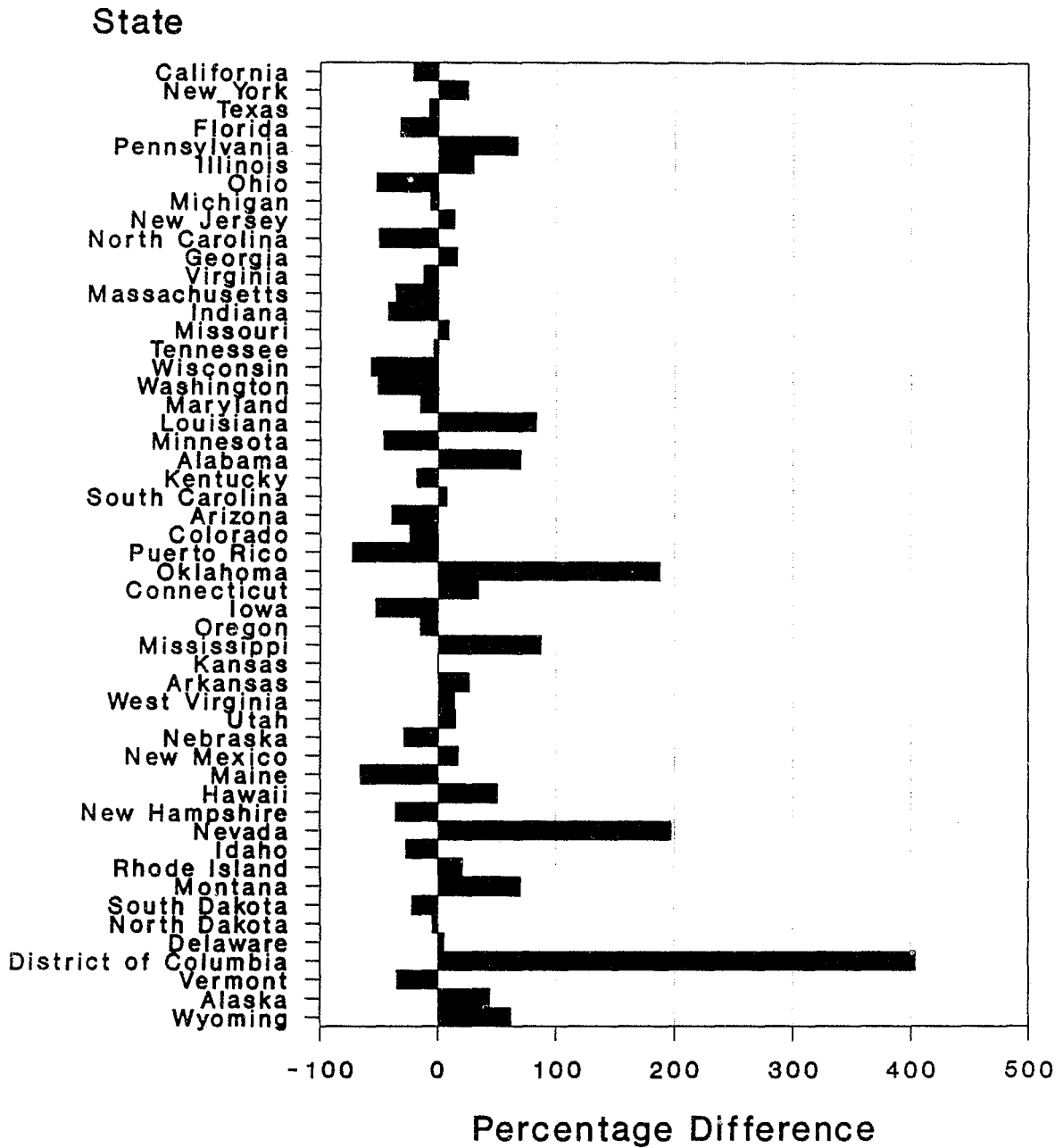
Considering federal contract cases only, Table 13 shows attorneys in the District of Columbia file four times more diversity cases in federal court than one would expect given the District's population. Figure 12 depicts graphically the percentage difference between the actual contract diversity cases filed in each state in FY 1987 compared to the number of cases that would have been filed if contract cases were filed in direct proportion to each state's population. Oklahoma and Nevada are the two other states that would receive many more federal contract filings than one would expect based upon their populations, if federal diversity were abolished completely. On the other hand, Puerto Rico, Wisconsin, Maine, Iowa, Ohio, North Carolina, and Washington would receive fewer than half the number of diversity contract cases one would expect given their population.

TABLE 13

## ESTIMATE OF CONTRACT DIVERSITY FILINGS TO BE TRANSFERRED

<u>STATES</u>	<u>State Population (in thousands)</u>	<u>Contract Filings</u>	<u>Estimates Based on Population</u>	<u>Difference</u>	<u>Percentage Difference</u>
California	27663	2902	3650	-748	-21
New York	17825	2948	2352	596	25
Texas	16789	2044	2215	-171	-8
Florida	12023	1075	1587	-512	-32
Pennsylvania	11936	2636	1575	1061	67
Illinois	11582	1989	1528	461	30
Ohio	10784	688	1423	-735	-52
Michigan	9200	1133	1214	-81	-7
New Jersey	7672	1151	1012	139	14
North Carolina	6413	422	846	-424	-50
Georgia	6222	955	821	134	16
Virginia	5904	686	779	-93	-12
Massachusetts	5855	495	773	-278	-36
Indiana	5531	419	730	-311	-43
Missouri	5103	731	673	58	9
Tennessee	4855	614	641	-27	-4
Wisconsin	4807	270	634	-364	-57
Washington	4538	293	599	-306	-51
Maryland	4535	509	598	-89	-15
Louisiana	4461	1080	589	491	83
Minnesota	4246	300	560	-260	-46
Alabama	4083	918	539	379	70
Kentucky	3727	401	492	-91	-18
South Carolina	3425	485	452	33	7
Arizona	3386	272	447	-175	-39
Colorado	3296	332	435	-103	-24
Puerto Rico	3292	118	434	-316	-73
Oklahoma	3272	1242	432	810	188
Connecticut	3211	569	424	145	34
Iowa	2834	177	374	-197	-53
Oregon	2724	304	359	-55	-15
Mississippi	2625	649	346	303	87
Kansas	2476	328	327	1	0
Arkansas	2388	397	315	82	26
West Virginia	1897	285	250	35	14
Utah	1680	256	222	34	15
Nebraska	1594	150	210	-60	-29
New Mexico	1500	232	198	34	17
Maine	1187	53	157	-104	-66
Hawaii	1083	214	143	71	50
New Hampshire	1057	89	139	-50	-36
Nevada	1007	395	133	262	197
Idaho	998	95	132	-37	-28
Rhode Island	986	158	130	28	21
Montana	809	182	107	75	70
South Dakota	709	73	94	-21	-22
North Dakota	672	84	89	-5	-5
Delaware	644	89	85	4	5
District of Columbia	622	414	82	332	404
Vermont	548	47	72	-25	-35
Alaska	525	100	69	31	44
Wyoming	490	105	65	40	62
TOTAL		32553			

Figure 12  
 Percentage Difference Between Actual  
 and Estimated Contract Diversity Cases





It has already been noted that federal tort filings are less related to population than contract filings, and therefore population-based estimates are likely to be less accurate for torts. Table 14 and Figure 13 show how true this generalization is for each state. The District of Columbia has seven times more diversity cases filed in federal court than one would expect given its population. Louisiana, Mississippi, and Hawaii have more than twice the number of federal diversity filings as expected. Wisconsin, North Carolina, Arizona, and California on the other hand, have two times fewer cases than expected.

## 2. State Filings

The question of how the transfer of federal torts and contracts would affect states that already have many tort and contract filings cannot be resolved completely because so many jurisdictions, including the District of Columbia, South Carolina, Mississippi, and Oklahoma where the impact of the transfer is expected to be large, do not separate civil filing statistics into tort and contract categories.<sup>46</sup> Table 15 shows that state contract filings can be distinguished from other civil cases, that figures are available in only 22 states, and that tort cases can be distinguished in 28 states. Fortunately, there is a high enough correlation (.95) between state population and state torts in states with two tiered court systems to encourage the construction of estimates. Tort filings from three states (Connecticut, Minnesota and Wisconsin) with single-tiered or unitary trial court systems were not used to establish the relationship between population and state torts presented in Figure 14. Tort filings accordingly were not estimated for states with single-tiered trial courts (District of Columbia, Illinois, Iowa and South Dakota) or for their functional equivalent, i.e., states

TABLE 14  
ESTIMATES OF TORT DIVERSITY CASES

<u>STATES</u>	<u>State Population</u>	<u>Federal Tort Filings</u>	<u>Estimates Based on Population</u>	<u>Difference</u>	<u>Percentage Difference</u>
California	27663	1218	3344	-2126	-64
New York	17825	2470	2155	315	15
Texas	16789	3416	2029	1387	68
Florida	12023	683	1453	-770	-53
Pennsylvania	11936	2931	1443	1488	103
Illinois	11582	1056	1400	-344	-25
Ohio	10784	791	1304	-513	-39
Michigan	9200	958	1112	-154	-14
New Jersey	7672	850	927	-77	-8
North Carolina	6413	213	775	-562	-73
Georgia	6222	977	752	225	30
Virginia	5904	765	714	51	7
Massachusetts	5855	719	708	11	2
Indiana	5531	400	669	-269	-40
Missouri	5103	702	617	85	14
Tennessee	4855	616	587	29	5
Wisconsin	4807	152	581	-429	-74
Washington	4538	269	549	-280	-51
Maryland	4535	521	548	-27	-5
Louisiana	4461	1616	539	1077	200
Minnesota	4246	184	513	-329	-64
Alabama	4083	434	494	-60	-12
Kentucky	3727	383	451	-68	-15
South Carolina	3425	560	414	146	35
Arizona	3386	141	409	-268	-66
Colorado	3296	161	398	-237	-60
Puerto Rico	3292	173	398	-225	-57
Oklahoma	3272	660	396	264	67
Connecticut	3211	695	388	307	79
Iowa	2834	180	343	-163	-47
Oregon	2724	177	329	-152	-46
Mississippi	2625	960	317	643	203
Kansas	2476	246	299	-53	-18
Arkansas	2388	465	289	176	61
West Virginia	1897	288	229	59	26
Utah	1680	114	203	-89	-44
Nebraska	1594	186	193	-7	-3
New Mexico	1500	212	181	31	17
Maine	1187	128	143	-15	-11
Hawaii	1083	383	131	252	193
New Hampshire	1057	142	128	14	11
Nevada	1007	134	122	12	10
Idaho	998	90	121	-41	-34
Rhode Island	986	142	119	23	19
Montana	809	196	98	98	100
South Dakota	709	99	86	13	16
North Dakota	672	34	81	-48	-58
Delaware	644	109	78	31	40
District of Columbia	622	614	75	539	717
Vermont	548	84	66	18	27
Alaska	525	36	63	-27	-43
Wyoming	490	96	59	37	62
TOTAL		29819			

Figure 13  
 Percentage Difference Between Actual  
 and Estimated Tort Diversity Cases

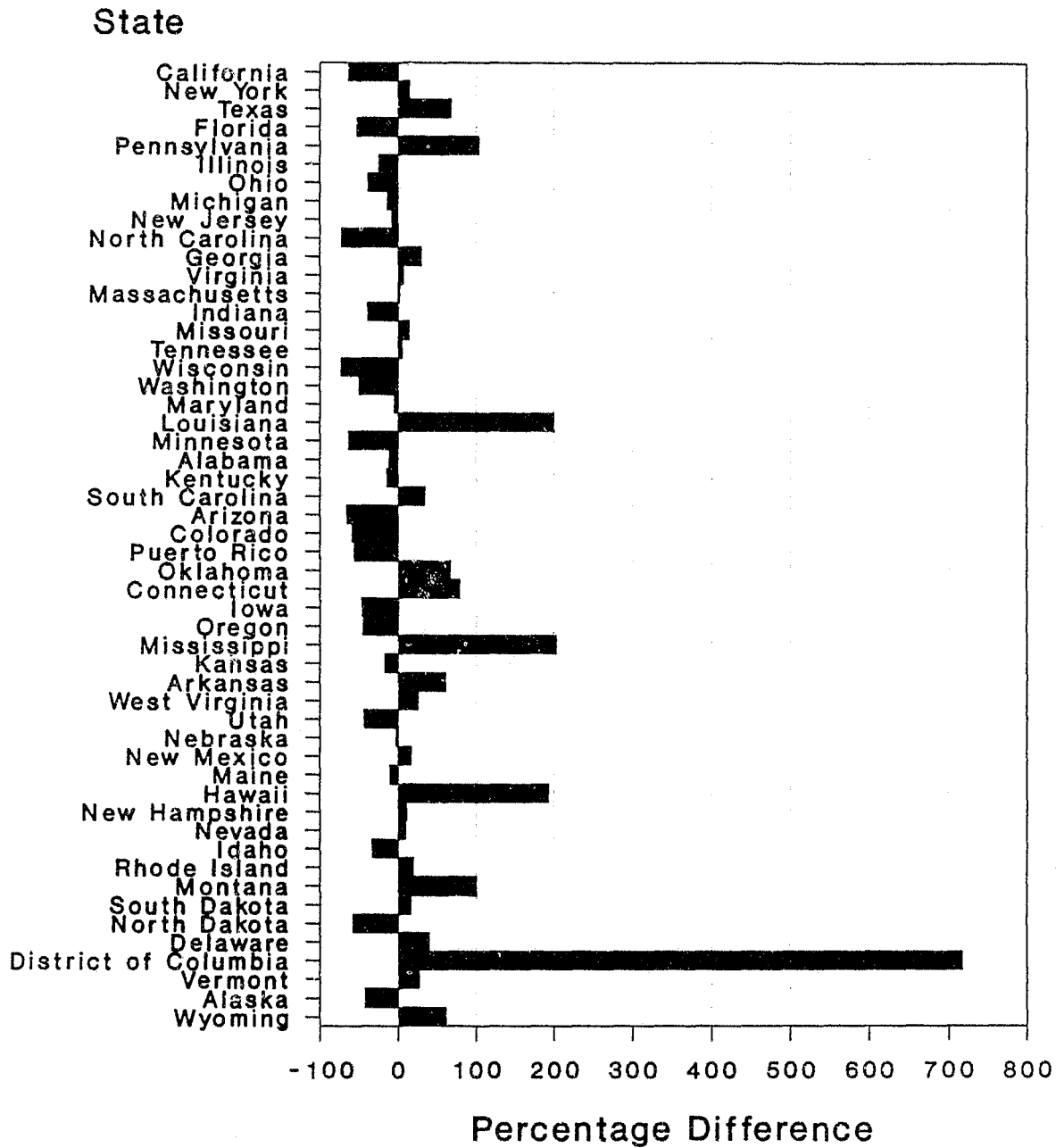


TABLE 15: POTENTIAL INCREASE IN TORTS AND CONTRACTS PER STATE

States	State Torts	State Contracts	State Torts and Contracts	Federal Torts	Federal Contracts	Federal Torts and Contracts	Percent Increase in Torts and Contracts
California	137455			1218	2902	4120	
New York	92538	23650	116188	2470	2948	5418	5
Texas	40764	56835	97599	3416	2044	5460	6
Florida	35453	57076	92529	683	1075	1758	2
Ohio	29375			791	688	1479	
Michigan	29756			958	1133	2091	
North Carolina	8981	4824	13805	213	422	635	5
Massachusetts	14251	3994	18245	719	495	1214	7
Missouri	10483	7571	18054	702	731	1433	8
Tennessee	13597	8257	21854	616	614	1230	6
Wisconsin	9545	42323	51868	152	270	422	1
Washington	8007	14352	22359	269	293	562	3
Maryland	12938	7323	20261	521	509	1030	5
Minnesota	10739	8760	19499	184	300	484	2
Arizona	12260	25680	37940	141	272	413	1
Colorado	3666	18979	22645	161	332	493	2
Puerto Rico	4811	4944	9755	173	118	291	3
Connecticut	15385	21176	36561	695	569	1264	3
Kansas	3588	9305	12893	246	328	574	4
Arkansas	5606	26900	32506	465	397	862	3
Utah	1351			114	256	370	
New Mexico	4037	11734	15771	212	232	444	3
Maine	1786	1082	2868	128	53	181	6
Hawaii	1785	1690	3475	383	214	597	17
Idaho	1376			80	95	175	
Montana	1792	4234	6026	196	182	378	6
North Dakota	551	3594	4145	34	84	118	3
Alaska	1664			36	100	136	

Source: State court data are from Court Statistics Project, State Court Caseload Statistics: Annual Report, 1987 (Williamsburg, VA: National Center for State Courts, 1989).

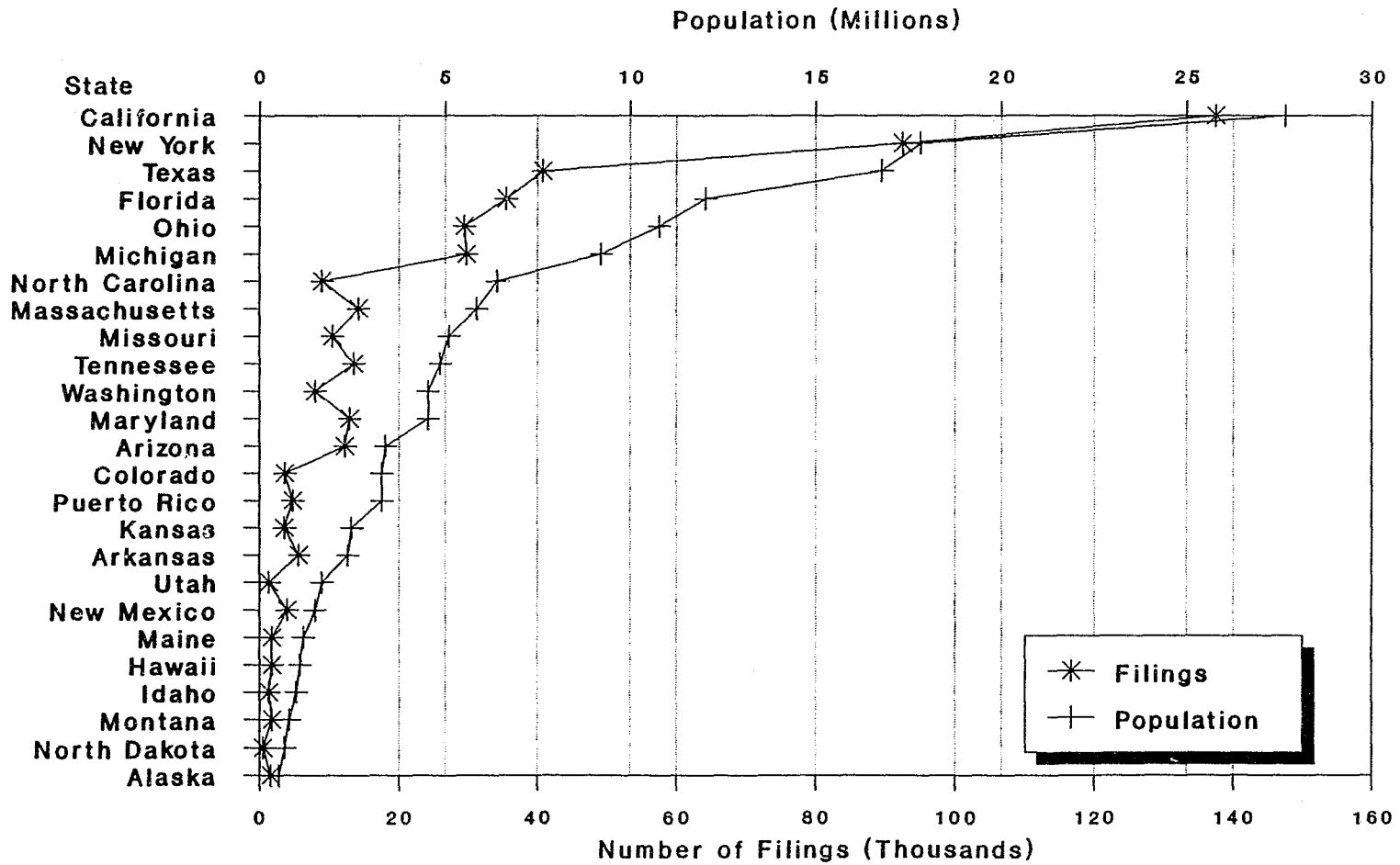
where a single court has jurisdiction over all civil cases (New Jersey, Oklahoma, and Vermont). Figure 15 shows how close the estimates of tort filings based on population would have been in those 25 states where tort data are available, and thus indicate how accurate the estimates are overall. Using population tended to overestimate the number of torts filed in California and New York, and to underestimate the tort filings elsewhere. Actual state tort filings in 25 states and estimated tort filings from 17 states with two-tiered court systems are presented in Figure 16.

Focusing attention on torts and contracts improves the comparison between federal and state cases, but even here one can not assume that a federal tort or contract transferred is equivalent to a state tort or contract. First of all, the mix of cases is different. For example, an Iowa study found more product liability torts and fewer auto torts in federal court,<sup>47</sup> which means that the cases transferred are likely to be more complex than the cases originally filed in state courts. Secondly, the amount-in-controversy is likely to be greater. Table 8 showed that the dollar limit in all state courts of general jurisdiction but California is equal to or lower than the \$10,000 federal limit used in 1987. To the extent that lesser amounts-in-controversy translate into less case processing time, state torts and contracts may be "easier" than federal torts and contracts. Therefore, cases transferred from federal courts may consume more resources and take longer to decide than cases already being heard in state courts.

Accepting for the moment a rough equivalence between state and federal cases, Table 15 shows that Hawaii would experience the largest percentage increase in tort and contract filings if federal diversity jurisdiction were abolished. The bar charts, Figures 17 and 18

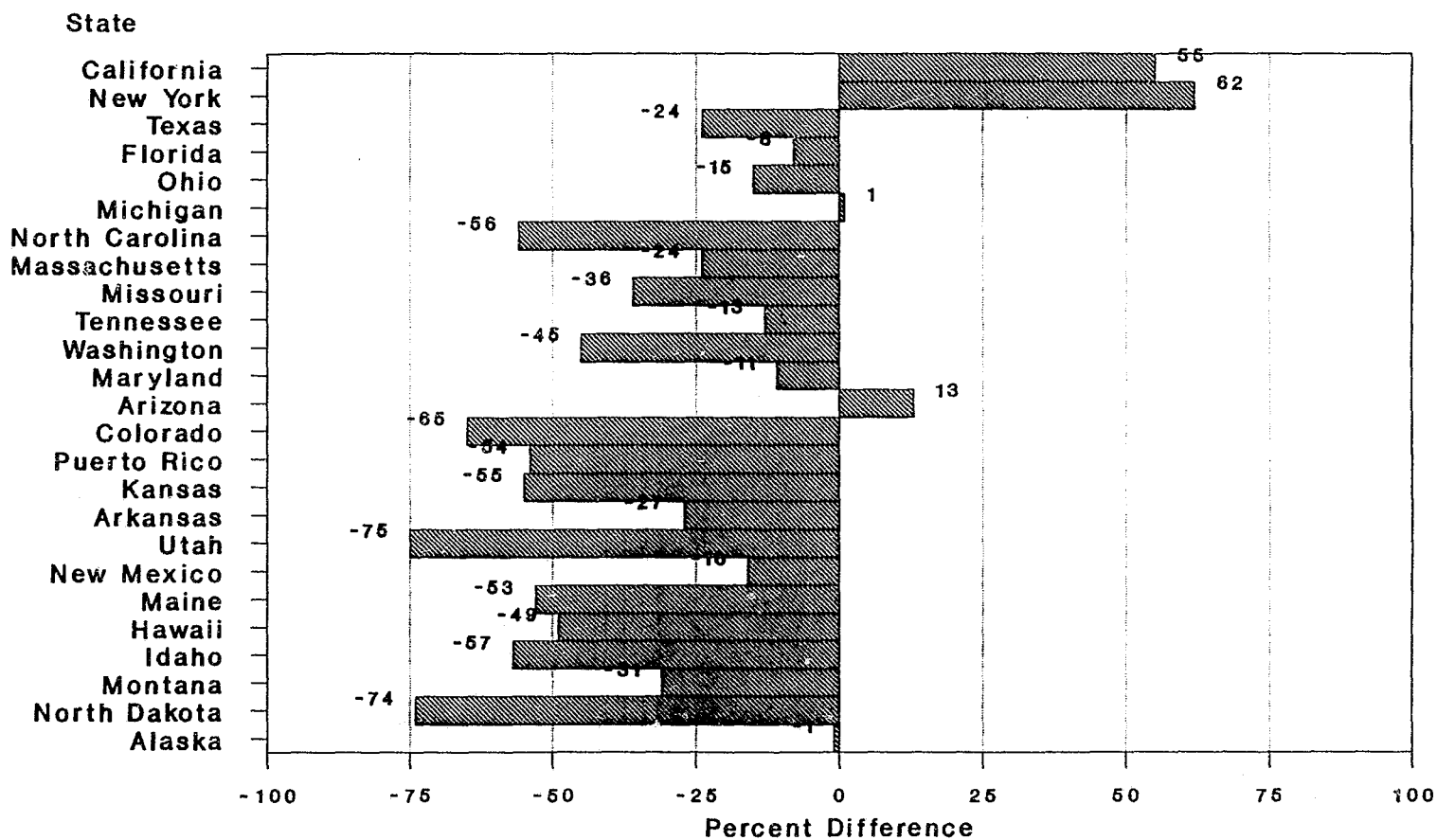
# Figure 14

## Relationship Between State Tort Filings and Population



# Figure 15

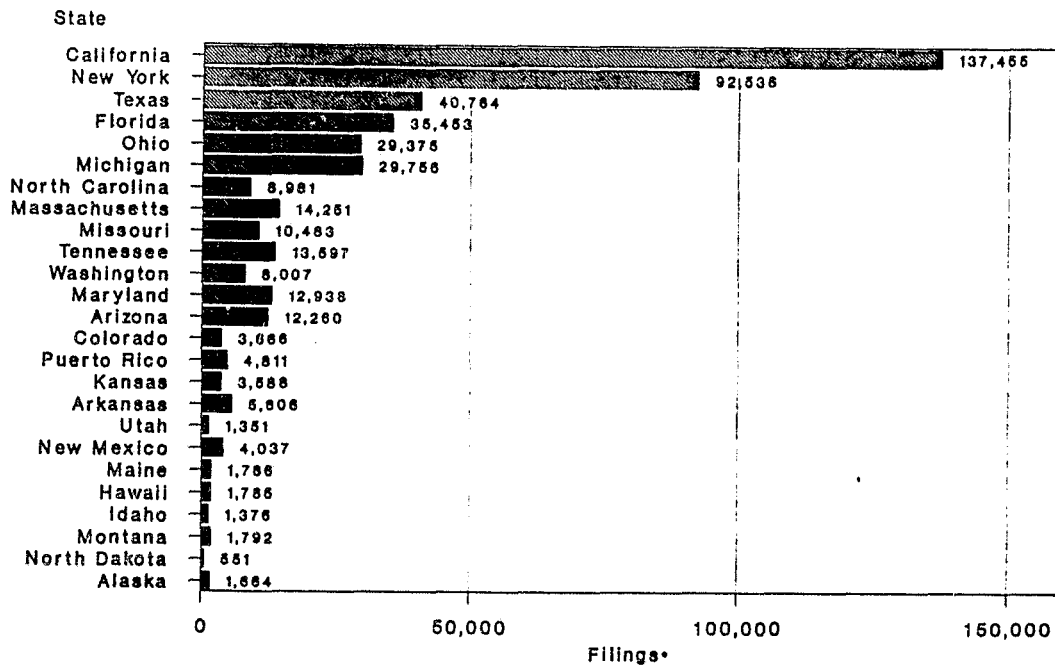
## Percent Difference Between Actual And Estimated State Tort Filings



•Percents indicate that actual tort filings were --% more/less than expected based upon population estimates

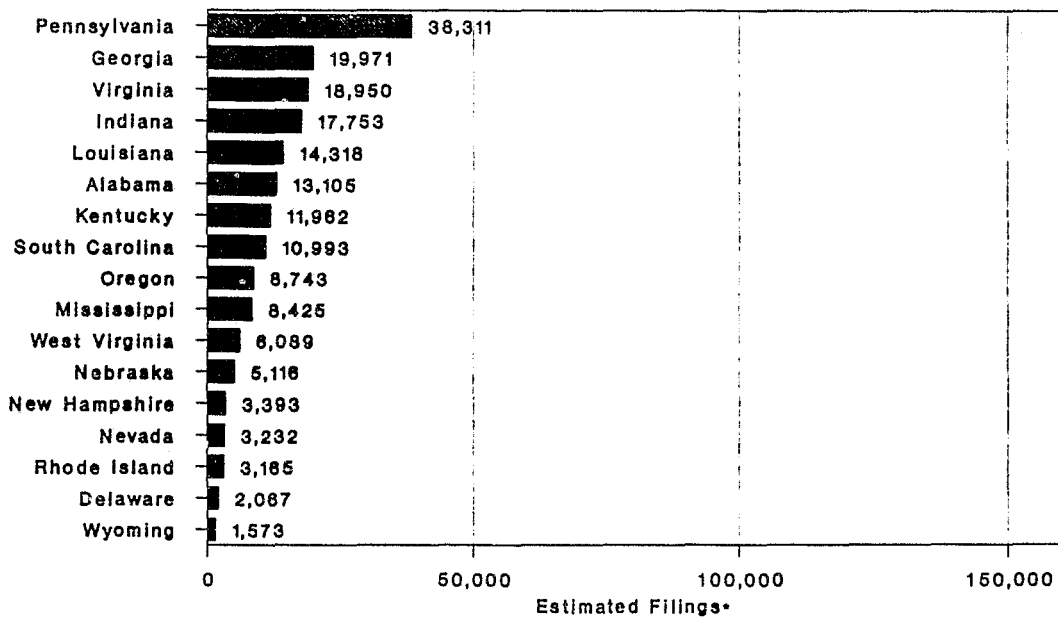
## Figure 16

### Number of State Tort Filings



\*Data are from all states which report torts as a separate category of civil cases.

### Estimated Tort Filings



\*Data are from all states which report torts as a separate category of civil cases.



depict the percentage increases in state tort and contract filings separately. Of the jurisdictions where data are available, Hawaii, New York and Massachusetts, would experience the largest percentage increase in contract filings. Hawaii would also experience a large percentage increase in tort filings. Increases in estimated tort filings are also predicted for Mississippi and Louisiana. It is unfortunate that more state data on torts and contracts are not available so that percentage increase in all states could be measured more accurately.

### 3. Jury Trials

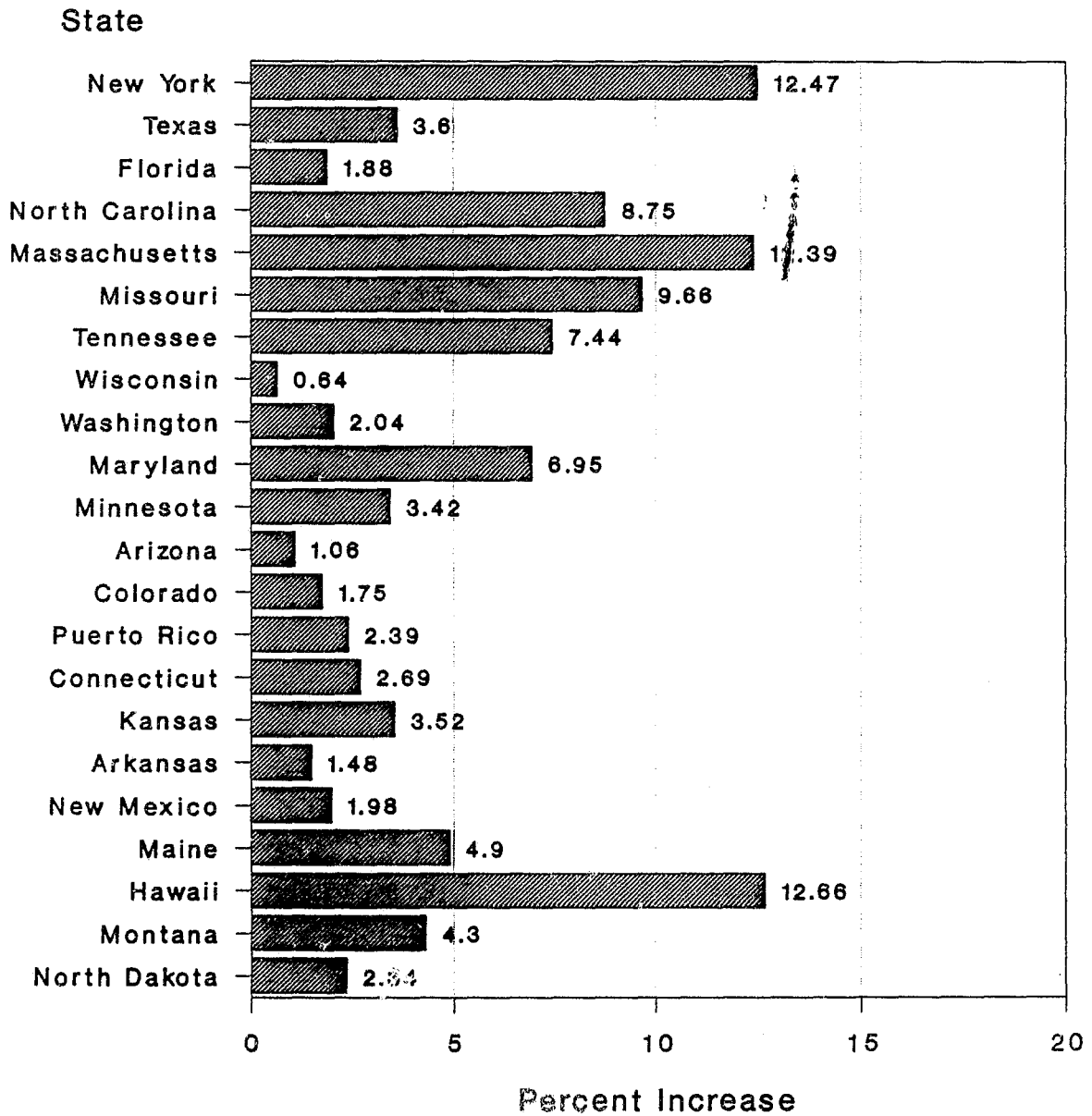
Table 16 shows the number of federal diversity cases terminated per state in FY 1987, and the number terminated without court action, by trial, and by jury trial. The remaining filings are terminated by pre-trial actions (e.g. dismissals) that require some court effort. The 36% of diversity cases that were disposed without any court action would not add much to the workload of states. About 8% of all 1987 terminations were disposed by trial (6% by jury trials). Although there is no guarantee that state courts would have disposed of these cases in the same manner that federal courts did, these proportions can be used to estimate the number of jury trials each state would receive if diversity jurisdiction were abolished.

The percentage of terminations through no court action and through trial varies widely. For example, only 5% of the diversity cases were terminated without court action in Colorado and Puerto Rico, whereas over two-thirds of the diversity cases were terminated without court action in Alaska, Connecticut, Oregon, and Vermont.

Obviously, if cases filed in federal courts that would potentially be transferred to state courts required no court action, the impact of the transfer is negligible. On the other hand, some state

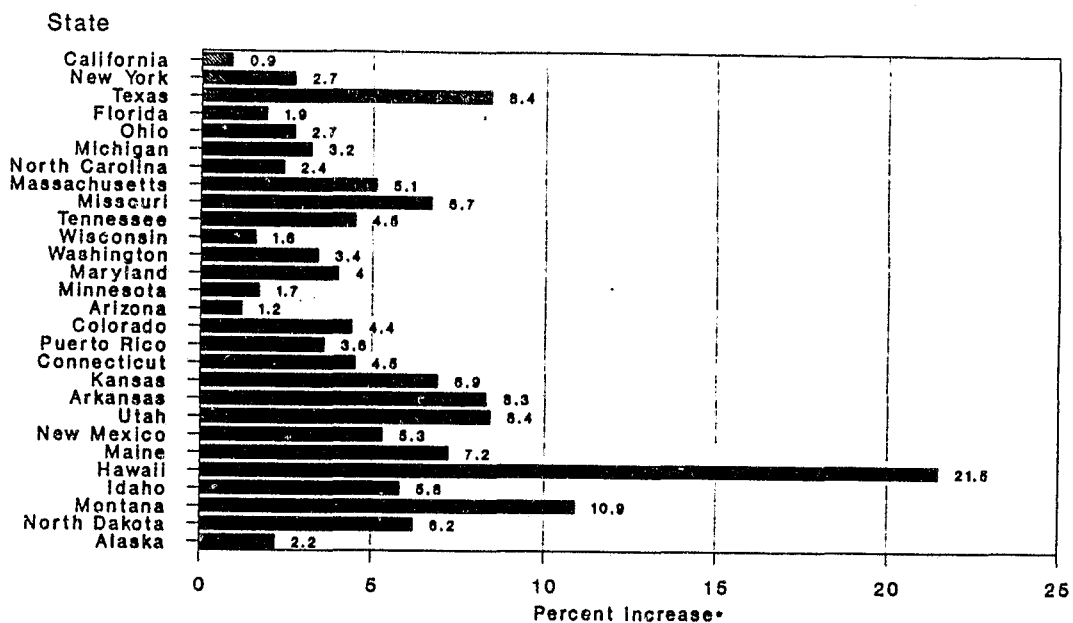
# Figure 17

## Increase in State Contract Cases Under Total Abolition\*



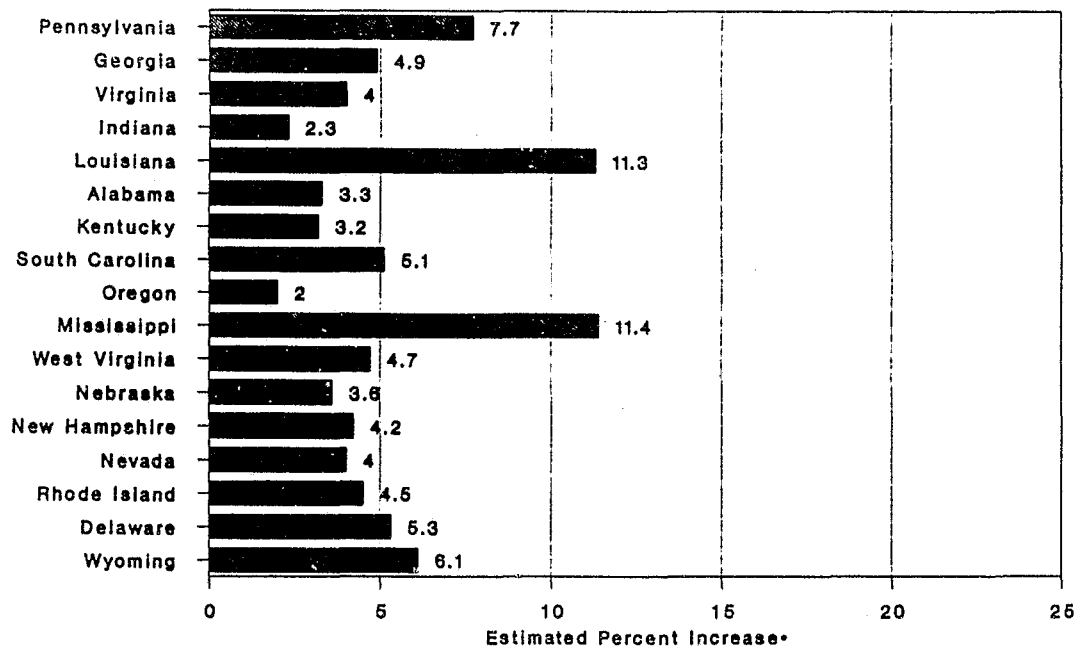
\*Data are from all states which report contracts as a separate category of civil cases.

**Figure 18**  
**Increase in State Tort Filings**  
**Under Total Abolition**



•Data are from all states which report torts as a separate category of civil cases.

**Estimated Increase in Torts**



•Data are estimated from population because these states do not report torts as a separate category of civil cases.

TABLE 16  
Manner of Disposition, Federal Diversity Cases

States	Total Terminations	Termination Through No Action	Percentage of Terminations By No Action	Termination Through Trial	Percentage of Terminations By Trial	Termination Through Jury Trial	Percentage of Terminations By Jury Trial
California	3497	1409	40	229	7	127	4
New York	4364	1956	45	251	6	159	4
Texas	4667	989	21	831	18	739	16
Florida	1705	654	38	116	7	72	4
Pennsylvania	5261	1002	19	434	8	313	6
Illinois	5177	2206	43	96	2	55	1
Ohio	1433	521	36	117	8	35	6
Michigan	2526	740	29	151	6	118	5
New Jersey	1769	588	33	105	6	28	2
North Carolina	599	234	39	57	10	42	7
Georgia	2212	1291	58	258	7	130	6
Virginia	1251	595	48	184	15	104	8
Massachusetts	1571	549	35	88	6	69	4
Indiana	1269	397	31	51	4	39	3
Missouri	1308	700	54	147	11	103	8
Tennessee	1153	489	42	117	10	75	7
Wisconsin	479	189	39	37	8	27	6
Washington	525	267	51	26	5	14	3
Maryland	1053	326	31	88	8	66	6
Louisiana	2618	631	24	236	9	116	4
Minnesota	748	368	49	27	4	20	3
Alabama	1500	318	21	184	12	119	8
Kentucky	815	241	30	76	9	66	8
South Carolina	1091	224	21	114	10	90	8
Arizona	470	254	54	14	3	7	1
Colorado	692	33	5	40	6	28	4
Puerto Rico	320	15	5	31	10	20	6
Oklahoma	2161	565	26	153	7	111	5
Connecticut	779	534	69	63	8	35	4
Iowa	393	114	29	27	7	16	4
Oregon	536	388	72	37	7	23	4
Mississippi	1640	848	52	160	10	105	6
Kansas	761	490	64	48	6	32	4
Arkansas	848	343	40	101	12	74	9
West Virginia	688	157	23	30	4	21	3
Utah	378	177	47	26	7	17	5
Nebraska	316	195	62	31	10	18	6
New Mexico	415	158	38	32	8	19	5
Maine	386	72	19	31	8	28	7
Hawaii	342	218	64	9	3	0	0
New Hampshire	284	53	19	35	12	26	9
Nevada	575	279	49	26	5	13	2
Idaho	246	17	7	18	7	13	5
Rhode Island	263	86	33	46	17	37	14
Montana	331	122	37	13	4	7	2
South Dakota	167	82	49	25	15	16	10
North Dakota	139	51	37	19	14	10	7
Delaware	176	63	36	22	13	19	11
District of Columbia	907	569	63	55	6	44	5
Vermont	141	94	67	35	25	26	18
Alaska	135	101	75	3	2	1	1
Wyoming	168	67	40	32	19	19	11
TOTALS	63249	23029	36%*	5078	8%*	3562	6%*

\*Percentages are based upon national totals, not an average of percentages in the columns.

court administrators and chief justices have expressed the opinion that the bottom line effect of the transfer of diversity jurisdiction will be the number of trials that the newly-transferred cases would require. By this standard, the consequences of abolishing diversity jurisdiction would affect four states the most--Texas (831 trials), Pennsylvania (434), Georgia (258) and Louisiana (236). The proportion of cases terminated by trial varied by state from a low of two percent in Alaska and Illinois to a high of 25% in Vermont. In Vermont, terminations either through no court action or by trial (and mostly jury trials at that) account for 91% of the total dispositions. Other states with high trial rates include Wyoming, Texas, and Rhode Island. (The proportion of jury trials to all trials varied from 0 in Hawaii to 90% in Maine, with the average state terminating 65% of its trials by using juries.)

## Chapter IV

### Barring In-State Plaintiffs from Initiating Diversity Actions

The proposal to bar plaintiffs from invoking diversity jurisdiction in their home states would substantially curtail diversity filings. The pie chart, Figure 19, shows the proportion of diversity cases filed by each category of plaintiff. The Administrative Office of U.S. Courts data identify the state of citizenship of the principal plaintiff only. In making estimates of the reduction in federal caseload that would occur with diversity transfer, the Administrative Office uses only data from in-state individual plaintiffs, because corporations may be considered residents of the several states where they do business. That practice is followed here. (Data on in-state corporate plaintiffs are presented in Appendix B to satisfy the curiosity of those who may wonder about the effects of including in-state corporation plaintiffs in the analysis.)

#### A. Estimated Number of Cases to Be Transferred

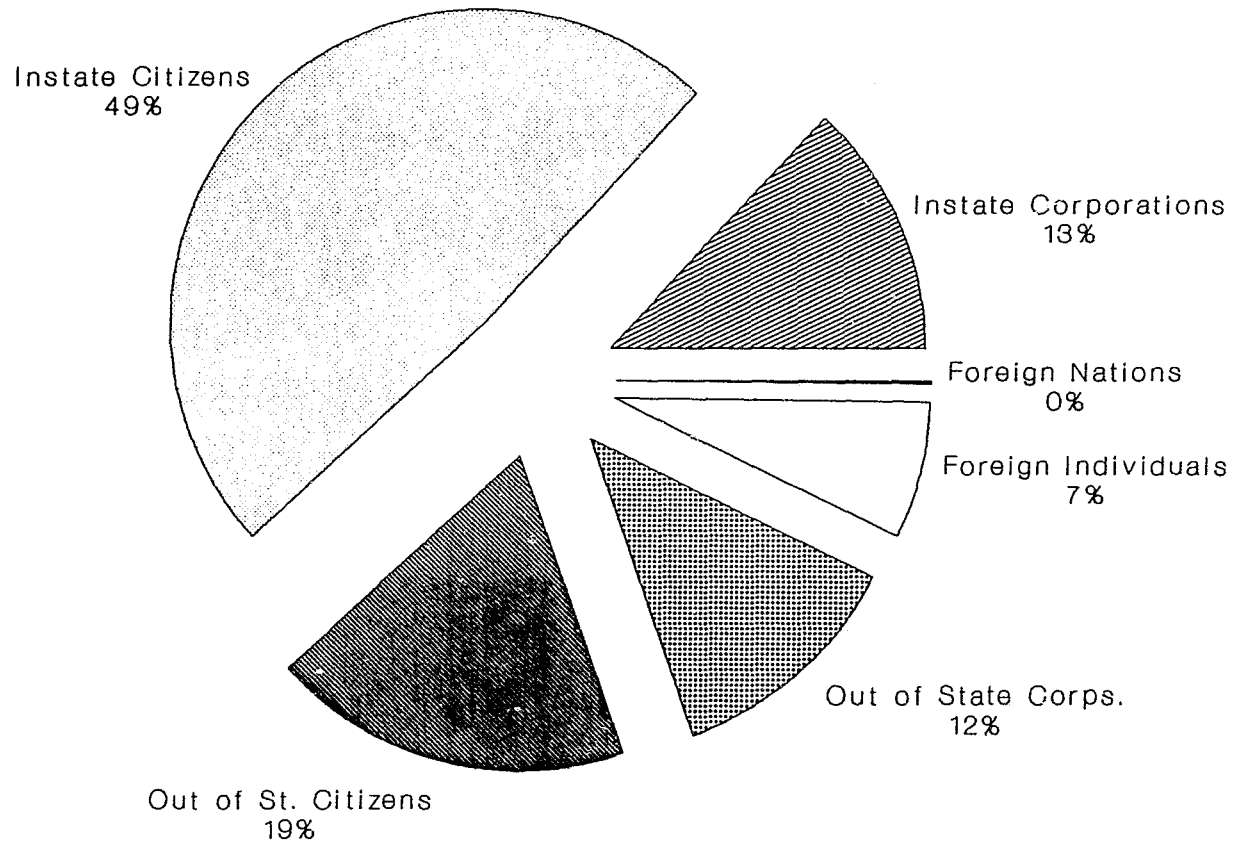
##### 1. Total Filings

Table 17 shows the total number of diversity cases filed by in-state individual plaintiffs in FY 1987. If venue for in-state individual plaintiffs were restricted, almost half (32,400 of the 66,408) of the diversity cases would have been transferred from federal jurisdiction to state jurisdiction. Note that many more tort cases than contract cases would be transferred. Figure 20 depicts the number of filings each state would have received in 1987 if the proposal to restrict venue were adopted.

The strong positive correlation (.83) between in-state citizen diversity filings and state population parallels the relationship already established between total diversity filings and population. Simply put,

# Figure 19

## Origin of Diversity Plaintiffs



Total Diversity Cases=66,408.

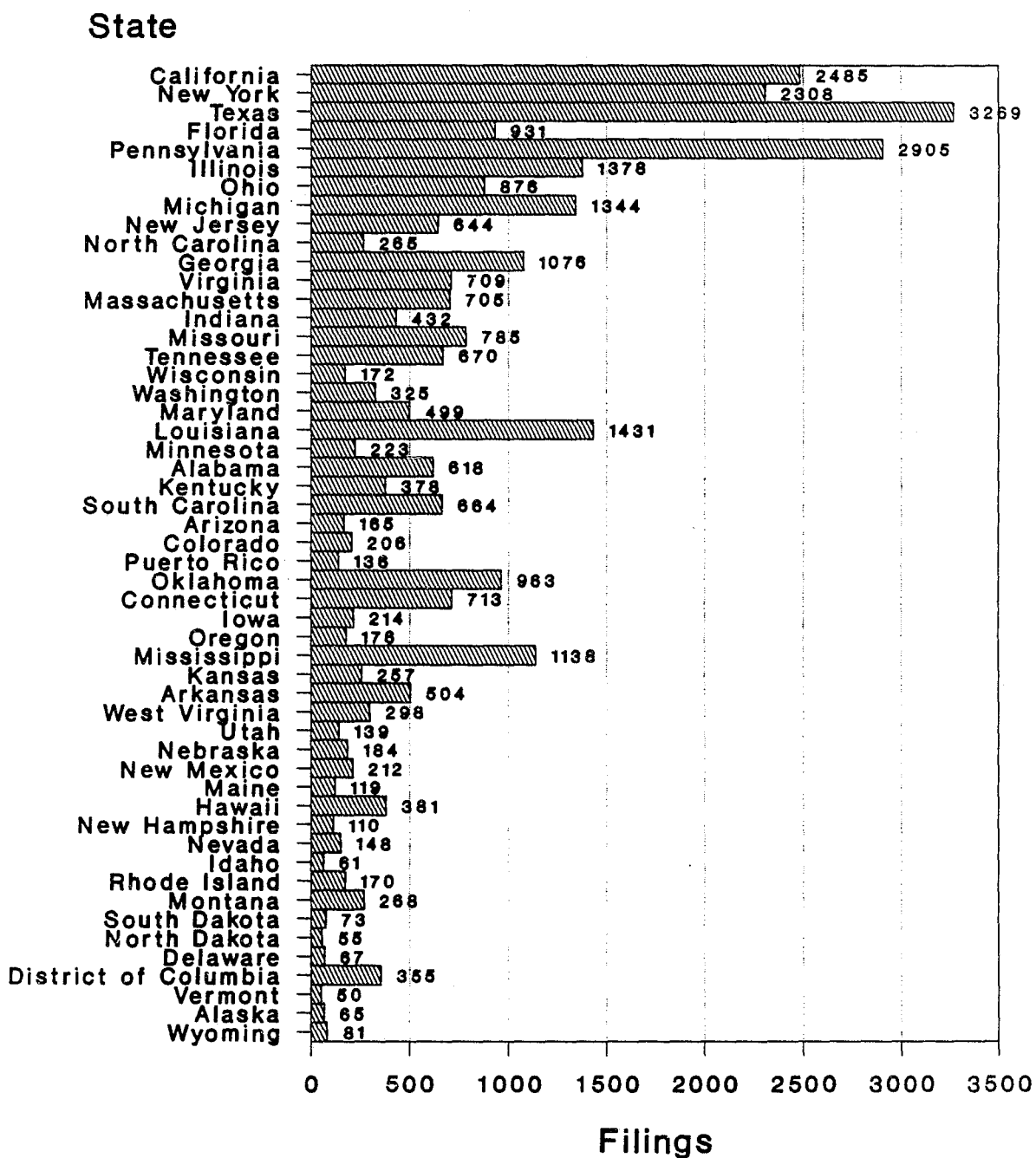
TABLE 17  
IN-STATE CITIZEN DIVERSITY FILINGS BY STATE

<u>States</u>	<u>Total In-State Citizen Filings</u>	<u>Tort</u>	<u>Contract</u>	<u>Real Property</u>
California	2485	973	1479	33
New York	2308	1671	611	26
Texas	3269	2550	675	44
Florida	931	489	434	8
Pennsylvania	2905	1912	966	27
Illinois	1378	726	608	44
Ohio	876	585	283	8
Michigan	1344	823	510	11
New Jersey	644	389	249	6
North Carolina	265	144	119	2
Georgia	1076	706	354	16
Virginia	709	469	224	16
Massachusetts	705	528	168	9
Indiana	432	251	156	25
Missouri	785	510	267	8
Tennessee	670	393	260	17
Wisconsin	172	94	75	3
Washington	325	207	117	1
Maryland	499	342	152	5
Louisiana	1431	1067	339	25
Minnesota	223	117	103	3
Alabama	618	300	303	15
Kentucky	378	216	154	8
South Carolina	664	435	218	11
Arizona	165	83	79	3
Colorado	206	81	120	5
Puerto Rico	136	86	49	1
Oklahoma	963	422	492	49
Connecticut	713	586	117	10
Iowa	214	123	76	15
Oregon	176	90	84	2
Mississippi	1138	710	417	11
Kansas	257	143	99	15
Arkansas	504	317	177	10
West Virginia	298	175	107	16
Utah	139	53	79	7
Nebraska	184	129	50	5
New Mexico	212	116	92	4
Maine	119	86	32	1
Hawaii	381	326	53	2
New Hampshire	110	78	29	3
Nevada	148	42	100	6
Idaho	61	38	21	2
Rhode Island	170	91	75	4
Montana	268	157	102	9
South Dakota	73	42	30	1
North Dakota	55	22	33	0
Delaware	67	36	30	1
District of Columbia	355	240	106	9
Vermont	50	35	14	1
Alaska	65	20	41	4
Wyoming	81	45	28	8
<b>TOTALS</b>	<b>32,400</b>	<b>20,269</b>	<b>11,556</b>	<b>575</b>
<b>MEAN</b>	<b>623</b>	<b>390</b>	<b>222</b>	<b>11</b>
<b>MEDIAN</b>	<b>340</b>	<b>212</b>	<b>117</b>	<b>8</b>



# Figure 20

## Individual In-State Diversity Plaintiffs



Total Cases = 32,400

larger states can expect more diversity cases if venue is restricted just as they could expect to receive a larger number of diversity cases if diversity jurisdiction were completely abolished.

## 2. Filings Per Population

In-state citizens' diversity filings per population is shown in Table 18. With respect to the total number of in-state plaintiff filings, the District of Columbia again has the highest ratio. Other states that would receive an unusually high ratio of diversity filings per population are Mississippi, Hawaii, Montana and Oklahoma. States receiving disproportionately fewer filings per population are Wisconsin, North Carolina, and Puerto Rico. Interestingly enough, states with low in-state diversity filings per population have both unusually low tort and contract filings. The pattern with respect to unusually high in-state plaintiff filings is mixed. The District of Columbia, Mississippi, and Montana have disproportionately high filings per population for both tort and contract cases, whereas Oklahoma's high proportion of in-state filings is primarily a result of high contract filings and Hawaii's high rate is attributable to the large proportion of tort filings.

## 3. Filings Per Judge

Table 19 shows the number of in-state citizen filings per judge. When number of judges are considered, South Carolina will receive the most in-state filings (21) per judge. Other states receiving an unusually high proportion of filings per judge are Hawaii, Mississippi, Oklahoma, and Virginia. Neither the District of Columbia nor Montana, jurisdictions which also were expected to receive a high proportion of filings per population, came out unusually high on this measure. Wisconsin, Puerto Rico, and Minnesota would receive an unusually low

TABLE 18

## IN-STATE CITIZEN DIVERSITY FILINGS PER POPULATION

<u>States</u>	<u>State Population (in thousands)</u>	<u>Total Citizen Filings</u>	<u>Total Filings Per 100,000 Population</u>	<u>Tort Filings Per 100,000 Population</u>	<u>Contract Filings Per 100,000 Population</u>
California	27663	2485	9	4	5
New York	17825	2308	13	9	3
Texas	16789	3269	19	15	4
Florida	12023	931	8	4	4
Pennsylvania	11936	2905	24	16	8
Illinois	11582	1378	12	6	5
Ohio	10784	876	8	5	3
Michigan	9200	1344	15	9	6
New Jersey	7672	644	8	5	3
North Carolina	6413	265	4	2	2
Georgia	6222	1076	17	11	6
Virginia	5904	709	12	8	4
Massachusetts	5855	705	12	9	3
Indiana	5531	432	8	5	3
Missouri	5103	785	15	10	5
Tennessee	4855	670	14	8	5
Wisconsin	4807	172	4	2	2
Washington	4538	325	7	5	3
Maryland	4535	499	11	8	3
Louisiana	4461	1431	32	24	8
Minnesota	4246	223	5	3	2
Alabama	4083	618	15	7	7
Kentucky	3727	378	10	6	4
South Carolina	3425	664	19	13	6
Arizona	3386	165	5	2	2
Colorado	3296	206	6	2	4
Puerto Rico	3292	136	4	3	1
Oklahoma	3272	963	29	13	15
Connecticut	3211	713	22	18	4
Iowa	2834	214	8	4	3
Oregon	2724	176	6	3	3
Mississippi	2625	1138	43	27	16
Kansas	2476	257	10	6	4
Arkansas	2388	504	21	13	7
West Virginia	1897	298	16	9	6
Utah	1680	139	8	3	5
Nebraska	1594	184	12	8	3
New Mexico	1500	212	14	8	6
Maine	1187	119	10	7	3
Hawaii	1083	381	35	30	5
New Hampshire	1057	110	10	7	3
Nevada	1007	148	15	4	10
Idaho	998	61	6	4	2
Rhode Island	986	170	17	9	8
Montana	809	268	33	19	13
South Dakota	709	73	10	6	4
North Dakota	672	55	8	3	5
Delaware	644	67	10	6	5
District of Columbia	622	355	57	39	17
Vermont	548	50	9	6	3
Alaska	525	65	12	4	8
Wyoming	490	81	17	9	6
Total		32,400			
Mean		623	15	9	5
Median		340	12	7	4

TABLE 19

## IN-STATE CITIZEN DIVERSITY FILINGS PER JUDGE

<u>States</u>	<u>In-State Citizen Filings</u>	<u>Number of Judges</u>	<u>In-State Citizen Filings Per Judge</u>
California	2485	724	3
New York	2308	387	6
Texas	3269	375	9
Florida	931	362	3
Pennsylvania	2905	330	9
Illinois	1378	363	4
Ohio	876	339	3
Michigan	1344	196	7
North Carolina	265	72	4
Georgia	1076	135	8
Virginia	709	122	6
Massachusetts	705	61	12
Indiana	432	206	2
Missouri	785	133	6
Tennessee	670	128	5
Washington	325	133	2
Maryland	499	109	5
Louisiana	1431	192	7
Alabama	618	124	5
Kentucky	378	91	4
South Carolina	664	31	21
Arizona	165	101	2
Colorado	206	121	2
Puerto Rico	136	92	1
Oklahoma	963	71	14
Iowa	214	100	2
Oregon	176	85	2
Mississippi	1138	79	14
Kansas	257	146	2
Arkansas	504	70	7
West Virginia	298	60	5
Utah	139	29	5
Nebraska	184	48	4
New Mexico	212	59	4
Maine	119	16	7
Hawaii	381	24	16
New Hampshire	110	25	4
Nevada	148	35	4
Idaho	61	33	2
Rhode Island	170	19	9
Montana	268	41	7
South Dakota	73	35	2
North Dakota	55	26	2
Delaware	67	17	4
Alaska	65	29	2
Wyoming	81	17	5
<u>States with Non-Comparable Judge Figures</u>			
New Jersey	644	321	2
Wisconsin	172	197	1
Minnesota	223	224	1
Connecticut	713	139	5
District of Columbia	355	51	7
Vermont	50	25	2
Total	32,400	6,948	
Mean	623	134	5
Median	340	92	4

ratio of in-state filings per judge. Again, note that Wisconsin and Minnesota are both states where the inability to distinguish judges eligible to decide diversity cases tends to understate the impact of diversity filings.

B. Complexity of Cases Transferred

1. Caseload Composition

Table 20 shows how the caseload composition varies between total diversity filings and in-state citizen filings. In all states but Delaware, closing federal courts to in-state plaintiffs would mean that the percentage of torts transferred to states would be higher than would be the case if diversity jurisdiction were abolished completely. In all states but Illinois, barring in-state plaintiffs from filing in federal court, rather than abolishing diversity jurisdiction altogether, would increase the proportion of contract cases transferred.

2. Increase in State Filings

The question of how the transfer of federal torts and contracts would affect the states cannot be resolved completely because so many jurisdictions do not separate civil filings into tort and contract categories. This information is available for nearly one-half of the states and estimates of tort filings are made for an additional 17 states.

Table 21 lists tort filings figures for 28 states and contract filings for 22 and calculates the percentage increase in state tort and contract caseloads under this option. Assuming again some equivalence among state and federal cases, Table 21 shows that Hawaii would receive the largest burden of cases under the venue restriction option (an 18% increase). Other states receiving a large proportion of cases (i.e. increasing their caseload by 5% or more) include Arkansas, Montana, and Texas.

TABLE 20

TORTS AND CONTRACTS AS A PERCENT OF TOTAL DIVERSITY  
AND IN-STATE CITIZEN PLAINTIFF CASES

States	Contracts as Percentage of Total Diversity Filings	Contracts as Percentage of In-State Citizen Plaintiff	Percentage Difference	Torts as Percentage of Total Diversity Filings	Torts as Percentage of In-State Citizen Plaintiff	Percentage Difference
California	69	60	-9	29	39	10
New York	54	26	-28	45	72	27
Texas	37	21	-16	62	78	16
Florida	60	47	-13	38	53	15
Pennsylvania	47	33	-14	52	66	14
Illinois	36	44	8	19	53	35
Ohio	46	32	-14	53	67	14
Michigan	54	38	-16	45	61	16
New Jersey	57	39	-19	42	60	18
North Carolina	66	45	-21	33	54	21
Georgia	49	33	-16	50	66	16
Virginia	46	32	-14	52	66	14
Massachusetts	40	24	-16	58	75	17
Indiana	36	36	0	34	58	24
Missouri	50	34	-16	48	65	17
Tennessee	49	39	-10	49	59	10
Wisconsin	63	44	-19	35	55	20
Washington	52	36	-16	47	64	17
Maryland	49	30	-19	50	69	19
Louisiana	39	24	-14	59	75	16
Minnesota	61	46	-15	37	52	15
Alabama	65	49	-16	31	49	18
Kentucky	50	41	-9	48	57	9
South Carolina	45	33	-12	52	66	14
Arizona	65	48	-17	34	50	16
Colorado	65	58	-7	31	39	8
Puerto Rico	39	36	-3	58	63	5
Oklahoma	61	51	-10	33	44	11
Connecticut	44	16	-28	54	82	28
Iowa	47	36	-11	48	57	9
Oregon	61	48	-13	36	51	15
Mississippi	40	37	-3	59	62	3
Kansas	54	39	-16	41	56	15
Arkansas	45	35	-10	53	63	10
West Virginia	47	36	-11	48	59	11
Utah	65	57	-8	29	38	9
Nebraska	44	27	-17	54	70	16
New Mexico	51	43	-8	46	55	9
Maine	29	27	-2	69	72	3
Hawaii	35	14	-21	63	86	23
New Hampshire	37	26	-11	60	71	11
Nevada	74	68	-6	25	28	3
Idaho	51	34	-17	43	62	19
Rhode Island	51	44	-8	46	53	7
Montana	46	38	-8	49	59	10
South Dakota	41	41	0	55	58	3
North Dakota	71	60	-11	29	40	11
Delaware	45	45	0	55	54	-1
District of Columbia	39	30	-9	58	68	10
Vermont	36	28	-8	64	70	6
Alaska	72	63	-9	26	31	5
Wyoming	49	35	-14	44	56	12
Mean	50	39	-11	46	59	13
Median	49	36	-13	48	59	11

TABLE 21: INCREASE IN TORTS AND CONTRACTS PER STATE

States	State Torts	State Contracts	State Torts and Contracts	Federal Torts	Federal Contracts	Federal Torts and Contracts	Percent Increase in Torts and Contracts
California	137455			973	1479	2452	
New York	92538	23650	116188	1671	611	2282	2
Texas	40764	56835	97599	2550	675	3225	3
Florida	35453	57076	92529	489	434	923	1
Ohio	29375			585	283	868	
Michigan	29756			823	510	1333	
North Carolina	8981	4824	13805	144	119	263	2
Massachusetts	14251	3994	18245	528	168	696	4
Missouri	10483	7571	18054	510	267	777	4
Tennessee	13597	8257	21854	393	260	653	3
Wisconsin	9545	42323	51868	94	75	169	0
Washington	8007	14352	22359	207	117	324	1
Maryland	12938	7323	20261	342	152	494	2
Minnesota	10739	8760	19499	117	103	220	1
Arizona	12260	25680	37940	83	79	162	0
Colorado	3666	18979	22645	81	120	201	1
Puerto Rico	4811	4944	9755	86	49	135	1
Connecticut	15385	21176	36561	586	117	703	2
Kansas	3588	9305	12893	143	99	242	2
Arkansas	5606	26900	32506	317	177	494	2
Utah	1351			53	79	132	
New Mexico	4037	11734	15771	116	92	208	1
Maine	1786	1082	2868	86	32	118	4
Hawaii	1785	1690	3475	326	53	379	11
Idaho	1376			38	21	59	
Montana	1792	4234	6026	157	102	259	4
North Dakota	551	3594	4145	22	33	55	1
Alaska	1664			20	41	61	

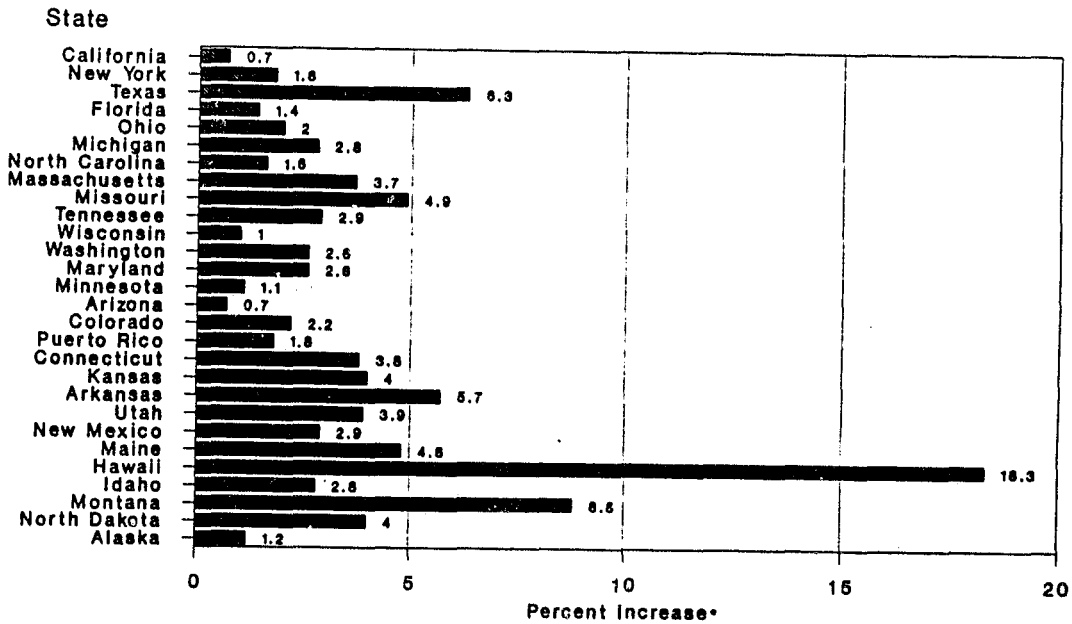
Source: State court data are from Court Statistics Project, State Court Caseload Statistics: Annual Report, 1987 (Williamsburg, VA: National Center for State Courts, 1989).

Figure 21 depicts the percent increase in tort caseloads not only for the states in Table 21, but also for those states where tort filings can be estimated based on population. Estimates were made for the 17 states with two-tiered court systems in addition to four states listed in Table 21, Mississippi, Louisiana, and Pennsylvania would also receive a disproportionately large increase in torts if federal courts were closed to in-state citizen plaintiffs.



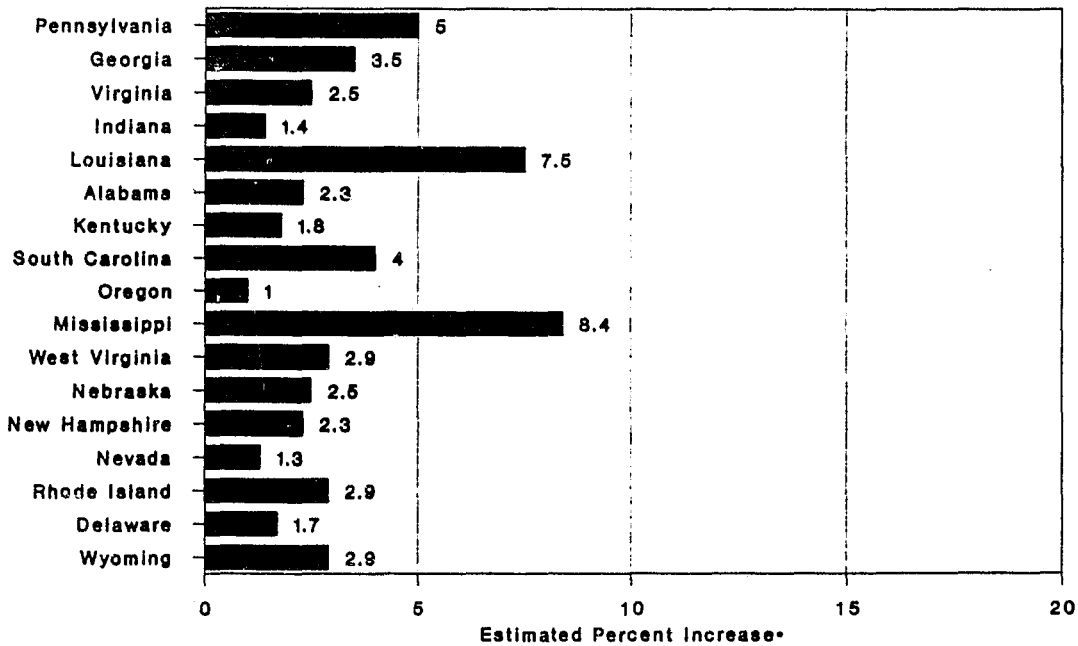
## Figure 21

### Increase in State Tort Filings If In-State Individuals Barred From Filing



•Data are from all states which report torts as a separate category of civil cases.

#### Estimated Increase in Torts



•Data are estimated from population because these states do not report torts as a separate category of civil cases.

## CHAPTER V

### Effects of Raising the Jurisdictional Limit

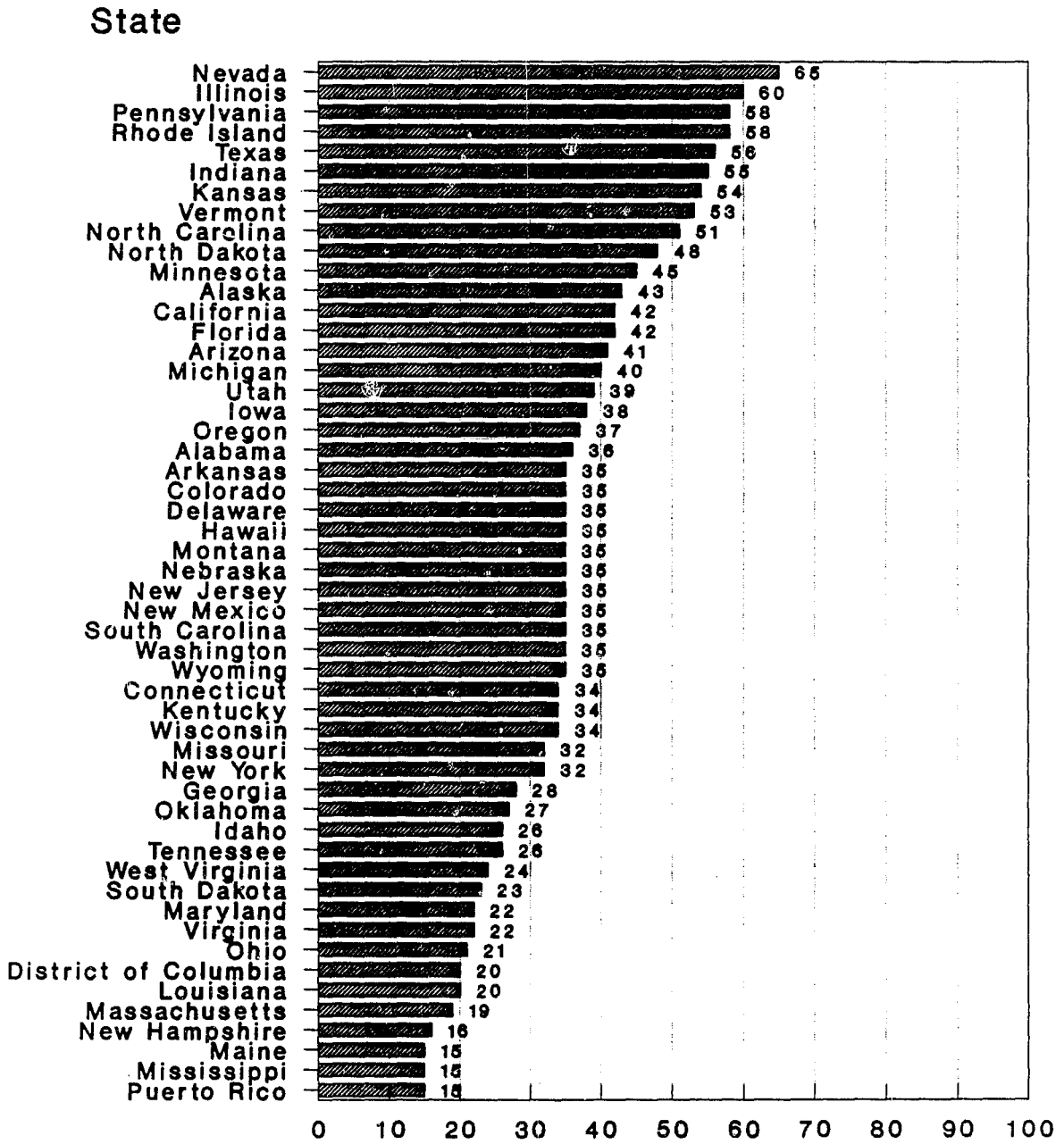
There has been an amount-in-controversy requirement for cases based upon diversity of citizenship jurisdiction ever since the Judiciary Act of 1789 established the amount at \$500. The dollar demanded remained at \$500 for nearly a century until it was raised to \$2,000 in 1887, then to \$3,000 by 1911, and to \$10,000 in 1958. During the course of this research the federal jurisdictional limit was again raised to \$50,000. Therefore, all diversity cases where the amount-in-controversy is less than \$50,000 will go to state courts after May 18, 1989. Accordingly, this research will provide baseline data against which the changes in diversity filings can be evaluated in the years to come.

The total number of diversity cases filed in federal court is highly correlated with the consumer price index, which suggests a tie to inflation.<sup>48</sup> The American Bar Association calculated that it would take approximately \$35,000 in current dollars to equal the \$10,000 jurisdictional limit established in 1958.<sup>49</sup> This inflation means that, in relative terms, cases are being filed in U.S. District Court now that could not have been filed in 1958. It also means that, in effect, the new legislation raised the jurisdictional limit only \$15,000 once inflation is taken into account.

The second reason is that so much data on dollar amount demanded is missing that the number of cases where the amount-in-controversy is \$50,000 or less must be estimated for all states. The estimation procedures used were discussed in Chapter II.

# Figure 22

## Percentage of Diversity Cases With Amount Demanded of \$50,000 or Less



Note: estimates based on available amount demanded data

A. Estimated Number of Cases to Be Transferred

1. Total Filings

The percentage of total diversity cases in which the amount demanded was \$50,000 or less is given in Figure 22. About a third (35%) of all cases filed in federal court in FY 1987 involved amounts-in-controversy of \$50,000 or less. Puerto Rico, Mississippi and Maine were the three states with the lowest percentage of cases (15%) with dollar demands under \$50,000. On the other hand, over 60% of the diversity cases filed in Nevada and Illinois were for dollar amounts under \$50,000. The large number (1772) of real property diversity cases where the dollar demand is \$50,000 or less helps to explain why Illinois' filings under \$50,000 were so high. Figure 23 graphically displays the estimates of the number of cases filed in which the amount in controversy was \$50,000 or less.

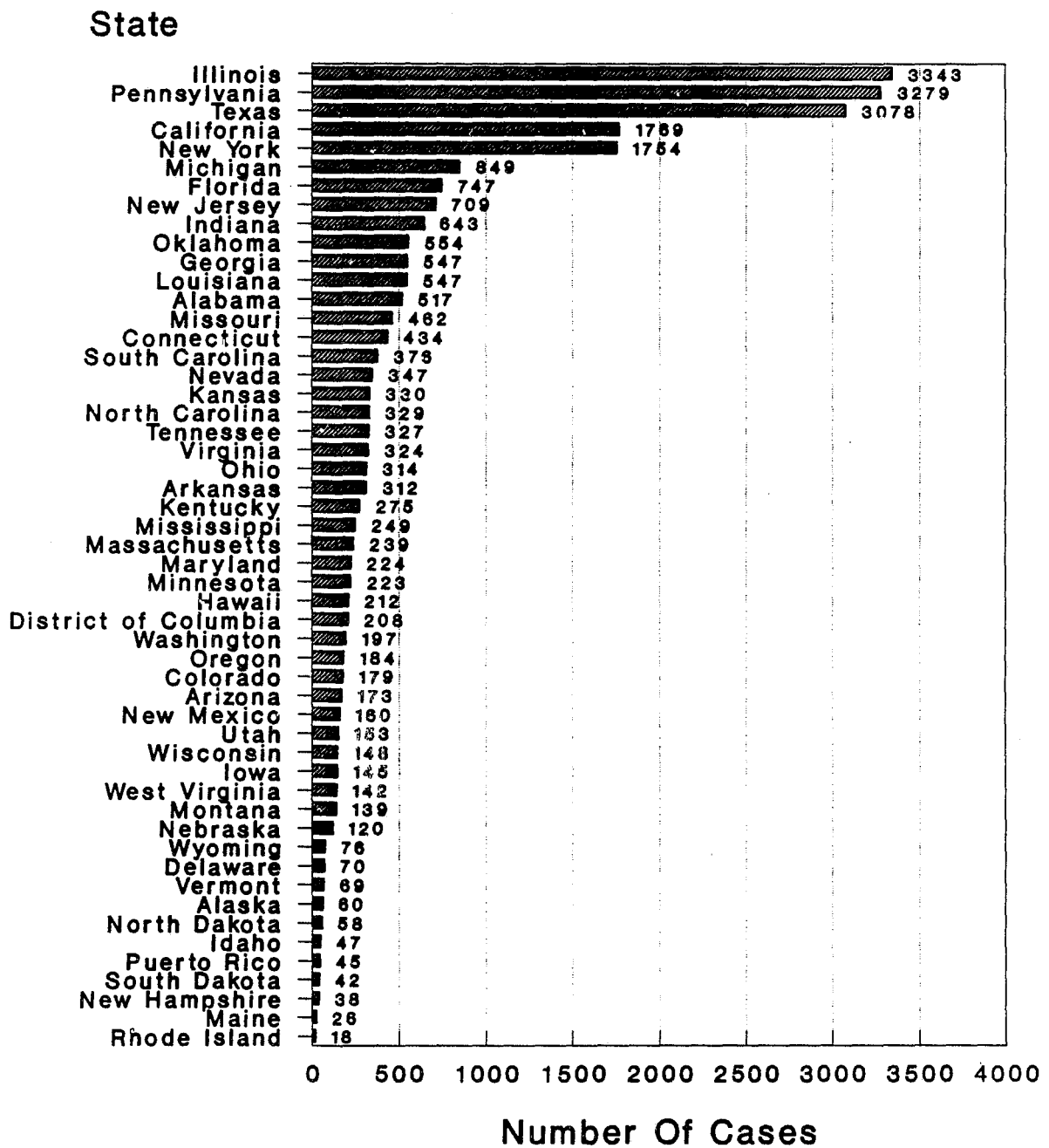
2. Filings Per Population

Table 22 shows diversity filings per population for cases where the dollar demanded was \$50,000 or less. By this criterion, Nevada, The District of Columbia, Illinois, and Pennsylvania would have the largest number of filings per population and Puerto Rico, Rhode Island, Maine, Ohio, and Wisconsin would have the smallest.

3. Filings Per Judge

Estimated number of filings where dollar demand was \$50,000 or less per judge is listed in Table 23. Using the per judge criteria, South Carolina, Pennsylvania, Nevada and Hawaii would receive proportionately more of these cases than other states would.

**Figure 23**  
**Estimated Number of Diversity Cases**  
**With Amount Demanded of \$50,000 or Less**



Note: estimates based on available amount demanded data

TABLE 22

ESTIMATED NUMBER OF DIVERSITY CASES  
WITH DOLLAR DEMAND OF \$50,000 OR LESS

<u>States</u>	<u>State Populations (in thousands)</u>	<u>Total Number of Federal Diversity Filings</u>	<u>Percentage of Diversity Cases With \$ Demanded of \$50,000 or Less</u>	<u>Estimated Diversity Cases With \$ Demanded of \$50,000 or Less</u>	<u>Estimated Filings Per 100,000 Population</u>
California	26981	4182	42	1769*	7
New York	17772	5032	32	1754	10
Texas	16789	5537	56	3078	18
Florida	12023	1787	42	747*	6
Pennsylvania	11936	5642	58	3279	27
Illinois	11582	5532	60	3343	29
Ohio	10784	1503	21	314	3
Michigan	9200	2117	40	849*	9
New Jersey	7672	2025	35	709*	9
North Carolina	6413	644	51	329	5
Georgia	6222	1961	28	547	9
Virginia	5904	1480	22	324	5
Massachusetts	5855	1233	19	239	4
Indiana	5531	1179	55	643	12
Missouri	5103	1449	32	462	9
Tennessee	4855	1252	26	327	7
Wisconsin	4807	430	34	148	3
Washington	4538	568	35	197*	4
Maryland	4535	1037	22	224	5
Louisiana	4461	2759	20	547	12
Minnesota	4246	491	45	223	5
Alabama	4083	1416	36	517	13
Kentucky	3727	803	34	275	7
South Carolina	3425	1073	35	376*	11
Arizona	3386	417	41	173	5
Colorado	3296	512	35	179*	5
Puerto Rico	3292	299	15	45	1
Oklahoma	3272	2024	27	554	17
Connecticut	3211	1289	34	434	14
Iowa	2834	377	38	145*	5
Oregon	2724	496	37	184	7
Mississippi	2625	1630	15	249	9
Kansas	2476	606	54	330	13
Arkansas	2388	882	35	312	13
West Virginia	1897	604	24	142	7
Utah	1680	392	39	153	9
Nebraska	1594	343	35	120*	8
New Mexico	1500	459	35	160	11
Maine	1187	185	15	26	2
Hawaii	1083	606	35	212*	20
New Hampshire	1057	238	16	38	4
Nevada	1007	537	65	347	34
Idaho	998	185	26	47	5
Rhode Island	986	310	58	18	2
Montana	809	396	35	139*	17
South Dakota	709	180	23	42	6
North Dakota	672	119	48	58	9
Delaware	644	200	35	70*	11
District of Columbia	622	1053	20	208	33
Vermont	548	132	53	69	13
Alaska	525	139	43	60	11
Wyoming	490	216	35	76*	16
TOTALS	246,691	66,408		25,810	
MEAN		1,277			
MEDIAN		625			

\*Estimates based on national averages rather than state averages.

TABLE 23  
ESTIMATED NUMBER OF DIVERSITY CASES  
PER STATE JUDGE \$50,000 OR LESS

<u>States</u>	<u>Number of General Jurisdiction Judges</u>	<u>Estimated Number of Cases with Amount Demanded of \$50,000 or Less</u>	<u>Estimated Number of Cases Per Judge</u>
California	724	1769*	2
New York	387	1754*	5
Texas	375	3078	8
Florida	362	747*	2
Pennsylvania	330	3279	10
Illinois	363	3343	9
Ohio	339	314	1
Michigan	196	849*	4
North Carolina	72	329	5
Georgia	135	547	4
Virginia	122	324	3
Massachusetts	61**	239	4
Indiana	206	643	3
Missouri	133	462	3
Tennessee	128	327	3
Washington	133	197*	1
Maryland	109	224	2
Louisiana	192	547	3
Alabama	124	517	4
Kentucky	91	275	3
South Carolina	31	376*	12
Arizona	101	173	2
Colorado	121	179*	1
Puerto Rico	92	45	1
Oklahoma	71	554	8
Iowa	100	145*	1
Oregon	85	184	2
Mississippi	79	249	3
Kansas	146	330	2
Arkansas	70	312	4
West Virginia	60	142	2
Utah	29	153	5
Nebraska	48	120*	3
New Mexico	59	160	3
Maine	16	26	2
Hawaii	24	212*	9
New Hampshire	25	38	2
Nevada	35	347	10
Idaho	33	47	1
Rhode Island	19	18	1
Montana	41	139*	3
South Dakota	35	42	1
North Dakota	26	58	2
Delaware	17	70*	4
Alaska	29	60	2
Wyoming	17	76*	4
<u>States with Non-Comparable Judge Figures</u>			
New Jersey	321	709*	2
Wisconsin	197	148	1
Minnesota	224	223	1
Connecticut	139	434	3
District of Columbia	51	208	4
Vermont	25	69	3

\* Estimates based on national averages rather than state averages.

\*\*Superior Court Department Judges Only.

## B. Complexity of Cases Transferred

### 1. Caseload Composition

Table 24 shows the breakdown of diversity filings where the amount-in-controversy is less than \$50,000 into torts and contracts. Of the 20,199 filings from 39 states estimated to be transferred, 10,589 would be contracts and 6966 would be torts. In terms of average state percentages, a much larger proportion of contracts (63%) than torts (31%) would be transferred. This proportion, however, is affected strongly by the unusually large number of real property cases in Illinois and Indiana. Accordingly, estimates of the number of tort cases with dollar amount demanded of \$50,000 or less were based upon the ratio between tort and contract filings in 37 states. Removing the Illinois and Indiana figures, changed the ratio of estimated tort to contract filings (40% and 58% respectively).

### 2. Increase In State Filings

Between the 39 states where estimates in dollar amount were possible, the 28 states where state data on torts are available, and the 22 states where state data on contracts were available, there were only 14 states where it was possible to calculate percentage increase in state filings. Without using further estimates, of these, the largest percentage increase was Hawaii with four percent. Using the estimates prepared in Table 24, however, enables us to predict the impact in many more states. Table 25 and Figure 24 shows the result of that analysis. States that may expect a five percent increase in filings are Texas and Hawaii. Pennsylvania and Utah could expect to receive a four percent increase in tort filings.



### 3. Jury Trials

The manner of disposition for federal diversity cases terminated in FY 1987 in which the amount in controversy was \$50,000 or less is presented in Appendix C. The table was not included in the main body of the report to emphasize that the data must be viewed with caution. The number of terminations where the amount in controversy is unknown is likely to be high, probably about a third of all terminations, if the dollar demanded data missing for filings is any indication, and unevenly distributed. On the premise that data not available at filing will not be available at termination, states in which less than half of the dollar amounts was reported at filing are marked with an asterisk. Most states so marked do appear to have fewer total terminations than expected. The reader will recall, for example, that only two percent of the filings in the U.S. District Court in Colorado specified amount in controversy. In Appendix C, the number of the terminations for diversity filings of \$50,000 or less in Colorado is only 23. Although there was some hesitation about including this table in the text at all because of the missing dollar information, for some states this will be the most useful information in the report. From the data presented in Appendix C states will be able to estimate the additional number of trials caused by the increase in the federal jurisdictional limit to \$50,000.

Despite the problems of underreporting of dollar amount demanded in the states marked with an asterisk, the aggregate national figures are revealing. For example, the 42 percent of cases in which the dollar amount demanded was \$50,000 or less were terminated through no court action, or six percentage points higher than the proportion of total diversity cases terminated without court action. Similarly the proportion of cases under \$50,000 terminated by trial (6.5%) is less than

TABLE 24

## \$50,000 OR LESS CASES BY CASETYPE

<u>States</u>	<u>Estimated Number Cases With Demand of \$50,000 or Less</u>	<u>Tort Cases \$50,000 or Less</u>	<u>Contract Cases \$50,000 or Less</u>	<u>Real Property Cases \$50,000 or Less</u>
New York	1754	281	1456	17
Texas	3078	2216	831	31
Pennsylvania	3279	1541	1672	66
Illinois	3343	535	1036	1772
Ohio	314	98	207	9
North Carolina	329	79	247	3
Georgia	547	170	372	5
Virginia	324	94	227	3
Massachusetts	239	67	165	7
Indiana	643	103	71	469
Missouri	462	157	300	5
Tennessee	327	72	255	0
Wisconsin	148	46	99	3
Maryland	224	36	186	2
Louisiana	547	197	334	16
Minnesota	223	100	119	4
Alabama	517	124	357	36
Kentucky	275	110	160	5
Arizona	173	67	106	0
Puerto Rico	45	9	31	5
Oklahoma	554	89	426	39
Connecticut	434	113	317	4
Oregon	184	35	147	2
Mississippi	249	92	152	5
Kansas	330	142	171	17
Arkansas	312	112	191	9
West Virginia	142	38	100	4
Utah	153	50	95	8
New Mexico	160	53	107	0
Maine	26	9	17	0
New Hampshire	38	8	30	0
Nevada	347	56	288	3
Idaho	47	11	35	1
Rhode Island	18	6	12	0
South Dakota	42	16	23	3
North Dakota	58	17	41	0
District of Columbia	208	65	135	8
Vermont	69	45	23	1
Alaska	60	17	39	4

Estimates based upon national averages.

Iowa	145	58
Nebraska	120	48
Delaware	70	28
Wyoming	76	30
Michigan	849	340
Florida	747	299
Montana	139	56
Hawaii	212	85
South Carolina	376	150
California	1,769	708
Washington	197	79
New Jersey	709	248
Colorado	179	77

TABLE 25

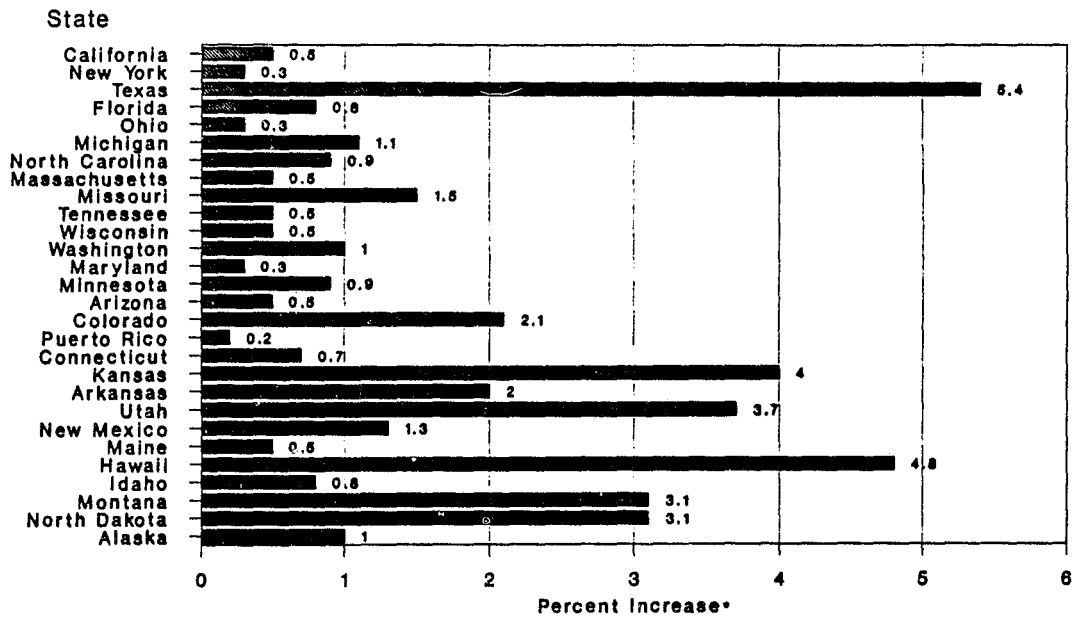
ESTIMATED INCREASE IN STATE TORT FILINGS  
 ASSUMING A FEDERAL JURISDICTION LIMIT OF \$50,000

	Estimated Number of Tort Cases Under \$50,000	Number of State Tort Filings	Estimated Percentage Increase In Tort Filings
California	708*	137,455	1
New York	281	92,538	**
Texas	2216	40,764	5
Florida	299*	35,453	1
Pennsylvania	1541	38,311*	4
Illinois	535	—	—
Ohio	98	29,375	**
Michigan	340*	29,756	1
New Jersey	284*	—	—
North Carolina	79	8981	1
Georgia	170	19971*	1
Virginia	94	18950*	1
Massachusetts	67	14251	1
Indiana	103	17753*	1
Missouri	157	10483	2
Tennessee	72	13597	1
Wisconsin	46	—	—
Washington	79*	8007	**
Maryland	36	12,938	**
Louisiana	197	14318*	1
Minnesota	100	—	—
Alabama	124	13105*	1
Kentucky	110	11962*	1
South Carolina	150*	10993*	1
Arizona	67	12260	1
Colorado	77*	3666	2
Puerto Rico	9	4811	**
Oklahoma	89	—	—
Connecticut	113	—	—
Iowa	58*	—	—
Oregon	35	8743*	**
Mississippi	92	8425*	1
Kansas	142	3588	**
Arkansas	112	5606	2
West Virginia	38	6089*	1
Utah	50	1351	4
Nebraska	48*	5116*	1
New Mexico	53	4037	1
Maine	9	1786	1
Hawaii	85*	1785	5
New Hampshire	8	3393*	**
Nevada	56	3232*	2
Idaho	11	1376	1
Rhode Island	6	3165*	**
Montana	56*	1792	3
South Dakota	16	—	—
North Dakota	17	551	3
Delaware	28*	2067*	1
District of Columbia	65	—	—
Vermont	45	—	—
Alaska	17	1664	1
Wyoming	30*	1573*	2

\*Estimates based on national averages rather than state averages.

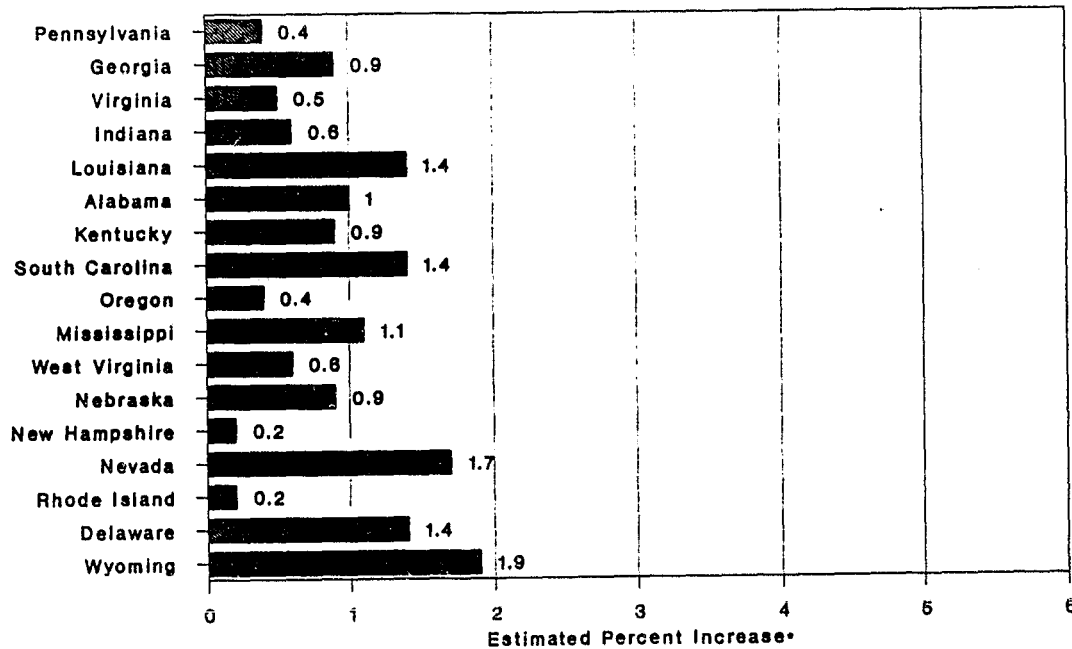
\*\*Less than 1%

**Figure 24**  
**Increase in State Tort Filings**  
**When Dollar Amount Is Raised to \$50,000**



\*Data are from all states which report torts as a separate category of civil cases.

**Estimated Increase in Torts**



\*Data are estimated from population because these states do not report torts as a separate category of civil cases.

the proportion of total diversity cases terminated by trial (8%). The comparable figures for jury trials are similar (4.6% and 6% respectively). It is not surprising to find that cases in which the amount in controversy is \$50,000 or less are more likely to be settled without court action and less likely to require trials (non-jury or jury) than cases where the dollar amount demanded is over \$50,000.

A comparison of the pattern of terminations in Appendix C with those in Table 16 show that again Colorado and Puerto Rico have the lowest percentage of terminations without court action and Alaska, Connecticut and Oregon have the highest percentage of terminations without court action. In other words, the three states which have a high percentage of terminations without court action overall also have a high percentage of terminations without court action for cases with amounts if controversy is under \$50,000. However, California, District of Columbia, and Wyoming have a large percentage of cases involving amounts over \$50,000 terminated without court action, but not a large number of diversity cases overall terminating without court action.

In absolute terms, Texas and Pennsylvania would receive the most trials. The proportion of cases under \$50,000 terminated by trial varied from a low of zero for Arizona, Colorado and Idaho (one percent in Illinois and Indiana) to 21 percent in Rhode Island, Texas, and Vermont. Again, these proportions are similar to the ones reported for termination by trial in all diversity cases.

The estimates presented in this chapter are a baseline against which to measure actual changes in both federal and state filings. In 1958, when the amount-in-controversy jurisdictional limit was raised from \$3,000 to \$10,000, the number of cases declined by approximately 8,367 cases (from 25,709 to 17,342 filings or 33%) the next year, and it took

14 years for the filings to increase to their 1958 level. Unfortunately, the transition from the \$10,000 to the \$50,000 jurisdictional limit will occur on May 18, 1989--near the end of FY 1989. Therefore, the FY 1989 data will not clearly reflect any changes in filing patterns. Indeed, filings under \$50,000 may actually increase as attorneys struggle to file cases before the May deadline. Only when FY 1990 data are reported will it be possible to determine if the decline in number of federal cases under \$50,000, and consequently the increase in the number of cases reverting to state courts, is as great as predicted.

## CHAPTER VI

### Contrasts and Conclusions

This chapter will attempt to bring together the research findings of the earlier chapters. The research question was how state courts would be affected if federal diversity jurisdiction were eliminated or curtailed. This question can be best answered by examining the effects on state court caseloads of each of the three major proposals to abolish or curtail federal diversity jurisdiction, including the increase in federal jurisdiction to \$50,000 which has already become law. Appendix E provides a state-by-state summary of how the proposed changes in diversity jurisdiction would affect individual states. The remaining portion of this chapter discusses the effect on the states as a whole.

#### A. Contrasts in Case Distribution

##### 1. Total Filings

Assuming that one filing in federal district court would have resulted in one filing in state court if diversity jurisdiction were transferred, completely abolishing diversity jurisdiction in FY 1987 would have added 66,408 filings to state courts. Closing federal courts to individual in-state plaintiffs would have added 32,400 (49% of the total) filings to state courts in FY 1987. Raising the jurisdictional limit would have transferred an estimated 25,000 (43% of the total) diversity filings from federal court to state courts. Table 26 shows the number of cases that would have been filed in state courts if diversity jurisdiction had been abolished or curtailed in FY 1987. Pennsylvania would have received the most diversity filings under the assumption of total abolition, Texas would have received the most under the assumption that the diversity option would be closed to in-state plaintiffs, and Illinois is expected to receive the greatest number of filings under the

TABLE 26

NUMBER DIVERSITY FILINGS ESTIMATED TO BE TRANSFERRED TO STATE COURTS  
UNDER THREE PROPOSALS TO CHANGE FEDERAL DIVERSITY JURISDICTION

<u>States</u>	<u>Total Diversity Filings</u>	<u>Total In-State Citizen Diversity Filings</u>	<u>Estimated Filings With Dollar Demand of \$50,000 or Less</u>
California	4182	2485	1769*
New York	5482	2308	1754
Texas	5537	3269	3078
Florida	1787	931	747*
Pennsylvania	5642	2905	3279
Illinois	5532	1378	3343
Ohio	1503	876	314
Michigan	2117	1344	849*
New Jersey	2025	644	709*
North Carolina	644	265	329
Georgia	1961	1076	547
Virginia	1480	709	324
Massachusetts	1233	705	239
Indiana	1179	432	643
Missouri	1449	785	462
Tennessee	1252	670	327
Wisconsin	430	172	148
Washington	568	325	197*
Maryland	1037	499	224
Louisiana	2759	1431	547
Minnesota	491	223	223
Alabama	1416	618	517
Kentucky	803	378	275
South Carolina	1073	664	376*
Arizona	417	165	173
Colorado	512	206	179*
Puerto Rico	299	136	45
Oklahoma	2024	963	554
Connecticut	1289	713	434
Iowa	377	214	145*
Oregon	496	176	184
Mississippi	1630	1138	249
Kansas	606	257	330
Arkansas	882	504	312
West Virginia	604	298	142
Utah	392	139	153
Nebraska	343	184	120*
New Mexico	459	212	160
Maine	185	119	26
Hawaii	606	381	212*
New Hampshire	238	110	38
Nevada	537	148	347
Idaho	185	61	47
Rhode Island	310	170	18
Montana	396	268	139*
South Dakota	180	73	42
North Dakota	119	55	58
Delaware	200	67	70*
District of Columbia	1053	355	208
Vermont	132	50	69
Alaska	139	65	60
Wyoming	216	81	76*

\*Estimates based on national averages rather than state averages.



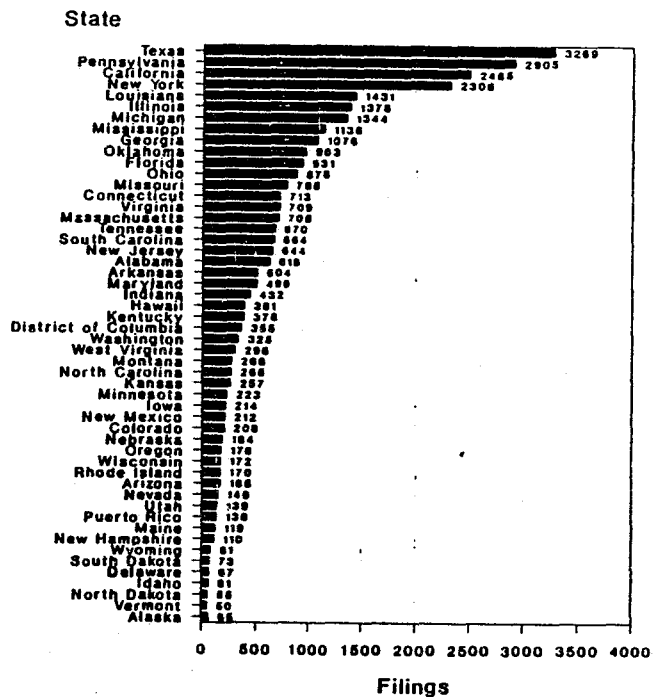
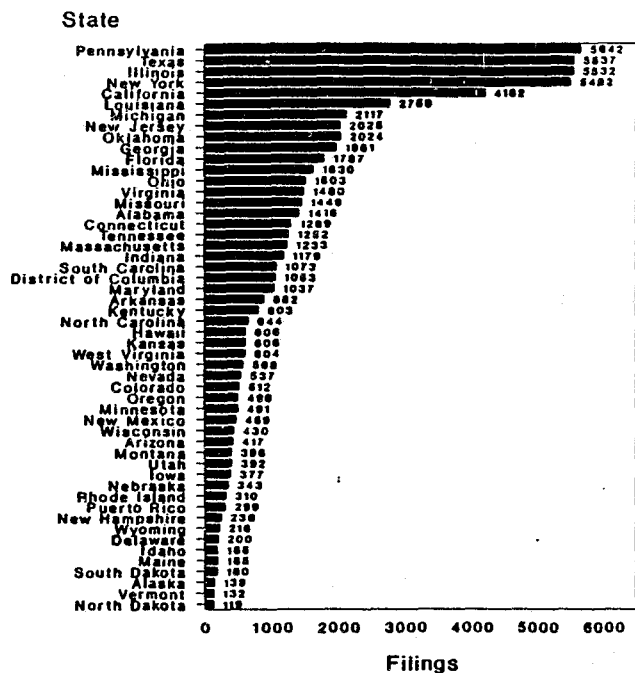
new law raising the federal jurisdiction limits to \$50,000. Half of the states would receive more than 625 filings (median), and half less than 625 under the assumption of total abolition. Under the assumption that federal courts would be closed to in-state individual plaintiffs the median number of filings would be 340. Under the new law that raises the federal jurisdiction limits to \$50,000, the median number of filings would be 232. If diversity jurisdiction had been eliminated in FY 1987, North Dakota would have received 119 new filings. If in-state plaintiffs were barred from filing diversity actions, Vermont would have received 50 additional cases. Finally, if the legislation raising federal amount in controversy amounts to \$50,000 had been in effect in FY 1987, Rhode Island would have received 18 new filings. Figure 25 graphically compares filings under all three proposals.

Which counties would receive the most diversity filings if federal diversity jurisdiction were abolished? This is a difficult question to answer because "County of Residence of First Listed Plaintiff" is not given for out-of-state plaintiffs. (If the U.S. Government is plaintiff, the county where the first listed defendant resides is named.) Appendix D to this report lists the counties which had approximately 100 or more diversity filings in FY 1987. Not surprisingly, the counties with the most filings were also the largest: Los Angeles (1,360), New York (1,351), Philadelphia (1,200) and Cook (1,109). The large proportion (33%) of the filings with out-of-state plaintiffs make conclusions drawn on the basis of county data tenuous.

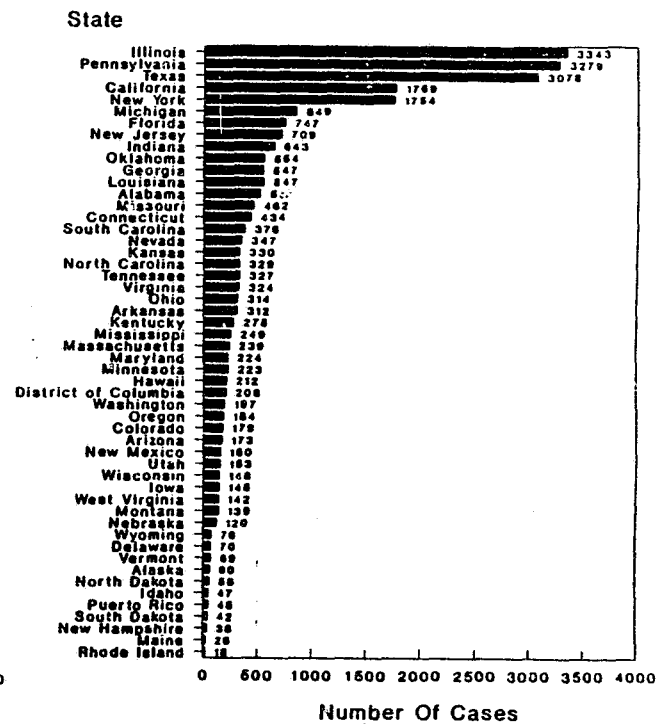
This research also investigated the question of how the doubling of diversity filings between FY 1977 and FY 1987 affected the distribution of filings among states. A close examination of Table 2 reveals that the dramatic increase has been proportionate among states.

**Figure 25**  
**Filings Affected By The Three Proposals**  
 Individual In-State Diversity Plaintiffs

Total Diversity filings By State



Estimated Number of Diversity Cases  
 With Amount Demanded of \$50,000 or Less



Note: estimator based on available amount demanded data

Generally, states which would have received the largest proportion of the 31,678 filings in FY 1977 would have received the largest proportion of the 67,125 filings in FY 1987. The only exceptions to this conclusion are Illinois and Texas, but in both of these states the state share of total diversity filings dropped in FY 1988. The conclusion remains that the increase has been proportionate among states.

## 2. Filings Per 100,000 Population

The diversity cases per 100,000 population that would have gone to states in FY 1987 under the three proposals for transfer are presented in Table 27. Under the assumption of total abolition, the median filings per 100,000 would be 25; under the assumption that in-state plaintiffs are barred from invoking federal diversity jurisdiction; the diversity filings per 100,000 would be 15, and under the assumption that the dollar amount demanded was raised to \$50,000, the median filings per 100,000 would be 9.

Based upon diversity filings per 100,000 population, the District of Columbia would have received the most diversity filings under two of the three proposals and second highest filings, after Nevada, under the new law raising federal diversity jurisdiction to \$50,000. This is not surprising given the number of out-of-state individuals, including aliens, who work in Washington, D.C. and who are therefore eligible to file in federal court under diversity jurisdiction. The complete abolition of diversity jurisdiction or the closing of federal courts to in-state plaintiffs would have similar impacts on several states. In addition to the District of Columbia, Mississippi, Oklahoma, Louisiana and Hawaii would receive disproportionately large filings per population. Raising the jurisdiction limit to \$50,000 appears to

TABLE 27  
 DIVERSITY FILINGS PER POPULATION  
 UNDER THREE PROPOSALS

States	State Population (in Thousands)	Total Diversity Filings Per 100,000 Population	In-State Citizen Plaintiff Filings Per 100,000 Population	Estimated Filings with Dollar Demands of \$50,000 or Less Per 100,000 Population
California	27663	15	9	7*
New York	17825	31	13	10
Texas	16789	33	19	18
Florida	12023	15	8	6*
Pennsylvania	11936	47	24	27
Illinois	11582	48	12	29
Ohio	10784	14	8	3
Michigan	9200	23	15	9*
New Jersey	7672	26	8	9*
North Carolina	6413	10	4	5
Georgia	6222	32	17	9
Virginia	5904	25	12	5
Massachusetts	5855	21	12	4
Indiana	5531	21	8	12
Missouri	5103	28	15	9
Tennessee	4855	26	14	7
Wisconsin	4807	9	4	3
Washington	4538	13	7	4*
Maryland	4535	23	11	5
Louisiana	4461	62	32	12
Minnesota	4246	12	5	5
Alabama	4083	35	15	13
Kentucky	3727	22	10	7
South Carolina	3425	31	19	11*
Arizona	3386	12	5	5
Colorado	3296	16	6	5*
Puerto Rico	3292	9	4	1
Oklahoma	3272	62	29	17
Connecticut	3211	40	22	14
Iowa	2834	13	8	5*
Oregon	2724	18	6	7
Mississippi	2625	62	43	9
Kansas	2476	24	10	13
Arkansas	2388	37	21	13
West Virginia	1897	32	16	7
Utah	1680	23	8	9
Nebraska	1594	22	12	8*
New Mexico	1500	31	14	11
Maine	1187	16	10	2
Hawaii	1083	56	35	20*
New Hampshire	1057	23	10	4
Nevada	1007	53	15	34
Idaho	998	19	6	5
Rhode Island	986	31	17	2
Montana	809	49	33	17*
South Dakota	709	25	10	6*
North Dakota	672	18	8	9.
Delaware	644	31	10	11*
District of Columbia	622	169	57	33
Vermont	548	24	9	13
Alaska	525	26	12	11
Wyoming	490	44	17	16*
MEAN		31	19	10
MEDIAN		25	15	9

\*Estimates based on national averages rather than state averages.

disproportionately affect a different set of states: Nevada, Pennsylvania, Florida and Hawaii, as well as the District of Columbia.

### 3. Filings Per Judge

The ability of states to respond to increases in diversity filings will depend upon many factors, including the number of filings currently being filed in state courts and the number of general jurisdiction judges. In this report, the number of judges is used as a surrogate measure for all court resources needed to process the additional caseload. Obviously, research needs to be conducted to assess the abilities of specific states and trial courts of general jurisdiction to respond to the increased case filings.

Table 28 shows the filings per judge that would have been transferred to state courts if diversity jurisdiction had been abolished or modified in FY 1987. Filings per judge in South Carolina, Oklahoma, Pennsylvania, and Hawaii would be high under all three alternatives. Abolishing diversity jurisdiction or barring in-state plaintiffs from filing in federal court would have affected Massachusetts and Mississippi as well. The District of Columbia would receive disproportionately large filings if diversity jurisdiction had been abolished totally, but not if the ability of in-state citizens plaintiffs to file in federal courts was eliminated. Again, raising the dollar amount to \$50,000 appears to result in disproportionate filings for a different set of states (e.g. Illinois, Nevada and Texas) than are affected by other two proposals.

### B. Case Complexity

#### 1. Caseload Composition

Table 29 shows the composition of the caseloads that would have been transferred to state courts under each of the three proposals. If diversity jurisdiction were abolished, a roughly equal proportion of

TABLE 28

## DIVERSITY FILINGS PER JUDGE UNDER THREE PROPOSALS

<u>States</u>	<u>Number of General Jurisdiction Judges</u>	<u>Total Diversity Filings Per Judge</u>	<u>In-State Citizen Plaintiff Filings Per Judge</u>	<u>Estimated Filings with Dollar Demands of \$50,000 or Less Per Judge</u>
California	724	6	3	2
New York	387	14	6	4
Texas	375	15	9	8
Florida	362	5	3	2
Pennsylvania	330	17	9	10
Illinois	363	15	4	9
Ohio	339	4	3	1
Michigan	196	11	7	4
North Carolina	72	9	4	5
Georgia	135	15	8	4
Virginia	122	12	6	3
Massachusetts	61	20	12	4
Indiana	206	6	2	3
Missouri	133	11	6	3
Tennessee	128	10	5	3
Washington	133	4	2	1
Maryland	109	10	5	2
Louisiana	192	14	7	3
Alabama	124	11	5	4
Kentucky	91	9	4	3
South Carolina	31	35	21	12
Arizona	101	4	2	2
Colorado	121	4	2	1
Puerto Rico	92	3	1	1
Oklahoma	71	29	14	8
Iowa	100	4	2	1
Oregon	85	6	2	2
Mississippi	79	21	14	3
Kansas	146	4	2	2
Arkansas	70	13	7	4
West Virginia	60	10	5	2
Utah	29	14	5	5
Nebraska	48	7	4	3
New Mexico	59	8	4	3
Maine	16	12	7	2
Hawaii	24	25	16	9
New Hampshire	25	10	4	2
Nevada	35	15	4	10
Idaho	33	6	2	1
Rhode Island	19	16	9	1
Montana	41	10	7	3
South Dakota	35	5	2	1
North Dakota	26	5	2	2
Delaware	17	12	4	4
Alaska	29	5	2	2
Wyoming	17	13	5	4
<u>States with Non-Comparable Judge Figures</u>				
New Jersey	321	6	2	
Wisconsin	197	2	1	1
Minnesota	224	2	1	1
Connecticut	139	9	5	3
District of Columbia	51	21	7	4
Vermont	25	5	2	3
MEAN		11	7	3
MEDIAN		10	6	3

TABLE 29  
 PERCENTAGE OF TORTS AND CONTRACTS UNDER THE THREE PROPOSALS

States	<u>Total Abolition</u>		<u>In-State Citizen Plaintiffs</u>		<u>Estimated Filings \$50,000 or Less</u>	
	<u>Percentage Torts</u>	<u>Percentage Contracts</u>	<u>Percentage Torts</u>	<u>Percentage Contracts</u>	<u>Percentage Torts</u>	<u>Percentage Contracts</u>
California	29	69	39	60		
New York	45	54	72	26	16	83
Texas	62	37	78	21	72	27
Florida	38	60	53	47		
Pennsylvania	52	47	66	33	47	51
Illinois	19	36	53	44	16	32
Ohio	53	46	67	32	32	66
Michigan	45	54	61	38		
New Jersey	42	57	60	39		
North Carolina	33	66	54	45	24	75
Georgia	50	49	66	33	31	68
Virginia	52	46	66	32	29	70
Massachusetts	58	40	75	24	28	68
Indiana	34	36	58	36	16	11
Missouri	48	50	65	34	34	65
Tennessee	49	49	59	39	23	78
Wisconsin	35	63	55	44	31	66
Washington	47	52	64	36		
Maryland	50	49	69	30	16	83
Louisiana	59	39	75	24	16	61
Minnesota	37	61	52	46	45	52
Alabama	31	65	49	49	24	68
Kentucky	48	50	57	41	41	58
South Carolina	52	45	66	33		
Arizona	34	65	50	48	38	62
Colorado	31	65	39	58		
Puerto Rico	58	39	63	36	20	68
Oklahoma	33	61	44	51	16	78
Connecticut	54	44	82	16	26	73
Iowa	48	47	57	36		
Oregon	36	61	51	48	18	80
Mississippi	59	40	62	37	37	61
Kansas	41	54	56	39	43	52
Arkansas	53	45	63	35	36	61
West Virginia	48	47	59	36	27	70
Utah	29	65	38	57	33	62
Nebraska	54	44	70	27		
New Mexico	46	51	55	43	33	67
Maine	69	29	72	27	36	64
Hawaii	63	35	86	14		
New Hampshire	60	37	71	26	21	79
Nevada	25	74	28	68	16	83
Idaho	43	51	62	34	22	75
Rhode Island	46	51	54	44	36	64
Montana	49	46	59	38		
South Dakota	55	41	58	41	39	55
North Dakota	29	71	40	60	29	71
Delaware	55	45	54	45		
District of Columbia	58	39	68	30	31	65
Vermont	64	36	70	28	65	33
Alaska	26	72	31	63	29	63
Wyoming	44	49	56	35		
MEAN	46	50	59	38	31	63
MEDIAN	48	49	59	37	29	66

torts and contracts would have been transferred. If in-state citizen plaintiffs were barred from filing diversity cases, more torts than contracts would be transferred to state courts. The raising of the federal jurisdiction limit to \$50,000 means that more contracts than torts will be transferred to state courts. The average percentages listed in Table 29 underestimate the ratio of torts to contracts because of the unusually large number of real property filings in Illinois and Indiana. Removing those two states from the averages does not alter the conclusion that more contracts than torts will be transferred when the jurisdictional limit is raised to \$50,000, but increases the proportion of torts from 31% to 40%.

## 2. Increase in State Torts

When added to the total state tort filings, the percentage increase caused by transfer of all or some portion of tort diversity caseloads is small. Of the 45 states where tort data can be estimated, Hawaii would experience the largest percentage increase under two of the three proposals. Table 30 shows the percentage increase in torts for all the states where data are available or can be estimated. Under the first two alternatives, Montana, Louisiana, and Mississippi, in addition to Hawaii, would receive the largest percentage increases in tort filings. Under the new law raising the federal jurisdictional limit to \$50,000, Alabama, Kentucky and Idaho would receive the largest increase in tort filings.

## C. Which States Will Be Affected Disproportionately?

This report has attempted to measure the effects on state trial courts of abolishing diversity jurisdiction, barring in-state plaintiffs from filing diversity actions, or raising the federal jurisdictional limit to \$50,000. All three proposals will affect some states



TABLE 30

## PERCENT INCREASE IN STATE TORTS UNDER THREE PROPOSALS

<u>States</u>	<u>State Torts</u>	<u>Percent Increase in State Torts Under Total Abolition</u>	<u>Percent Increase in Torts If State Plaintiffs Are Barred From Filing</u>	<u>Percent Increase of Estimated Torts with Dollar Demanded under \$50,000**</u>
California	137,155	9	1	1
New York	92,538	3	2	*
Texas	40,764	8	6	5
Florida	35,453	2	1	1
Ohio	29,375	3	2	*
Michigan	29,756	3	3	1
North Carolina	8,981	2	2	1
Massachusetts	14,251	5	4	2
Missouri	10,483	7	5	2
Tennessee	13,597	5	3	1
Washington	8,007	3	3	*
Maryland	12,938	4	3	*
Arizona	12,260	1	1	1
Colorado	3,666	4	2	2
Puerto Rico	4,811	4	2	*
Kansas	3,588	7	4	*
Arkansas	5,606	8	6	2
Utah	1,351	8	4	4
Maine	1,786	7	5	1
Hawaii	1,785	21	18	5
Idaho	1,376	5	3	10
Montana	1,792	11	9	3
North Dakota	551	6	4	3
Alaska	1,664	2	1	1
New Mexico	4,037	5	3	1
<u>Estimated</u>				
Pennsylvania	38,311	8	5	4
Georgia	19,971	5	4	1
Virginia	18,950	4	3	1
Indiana	17,753	2	1	1
Louisiana	14,318	11	8	1
Alabama	13,105	3	2	10
Kentucky	11,962	3	2	10
South Carolina	10,993	5	4	1
Oregon	8,743	2	1	*
Mississippi	8,425	11	8	1
West Virginia	6,089	5	3	1
Nebraska	5,116	4	3	1
New Hampshire	3,393	4	2	*
Nevada	3,232	4	1	2
Rhode Island	3,165	5	3	*
Delaware	2,067	5	2	1
Wyoming	1,573	6	3	2

\*Percentage is less than 1%.

\*\*Percentage increases were not estimated for the following states where all torts, regardless of civil jurisdiction, would go to a single-tiered court: Connecticut, District of Columbia, Illinois, Iowa, Minnesota, New Jersey, Oklahoma, South Dakota, Vermont, and Wisconsin. Any percentages calculated, therefore, would greatly underestimate the impact of any change in diversity jurisdiction.

disproportionately depending upon which criteria are used to measure impact.

Measuring diversity filings as proportion of state population, total filings, and general jurisdiction judges, Flango and Blair determined that the abolition of diversity jurisdiction or restriction of venue for in-state plaintiffs would have a disproportionately high impact on nine states: Georgia, Kansas, Massachusetts, Minnesota, Mississippi, New York, Rhode Island, South Carolina, and Wyoming. (However, Rhode Island, Wyoming, and perhaps South Carolina, had enough judges to handle the extra filings without the addition of new judges, leaving only six or seven states which would require additional judgeships.)

This report uses three measures: filings per population, filings per judge and percentage increase in tort filings to estimate the impact of diversity transfer on states. Darkened states on the map (Figures 26, 27, and 28) would be disproportionately affected under each of the three alternatives. The solid black states would receive a disproportionate number of filings regardless of which of the three measures are used. The cross-hatched states would be disproportionately affected using two of the three measures. Regardless of the alternative or the measures used, Hawaii, Pennsylvania and perhaps Oklahoma will clearly be affected disproportionately by any change in diversity jurisdiction. Mississippi, Louisiana, Arkansas, and the District of Columbia will receive a disproportionately high number of transfers under the proposals to abolish diversity jurisdiction or to bar in-state plaintiffs from filing diversity actions in federal court, but not under the new law raising federal amount-in-controversy limits to \$50,000. Nevada, Texas and perhaps Illinois will receive a disproportionately high number of filings under the new law increasing the federal jurisdictional limit to \$50,000.

Interestingly enough, the states that would be disproportionately affected by a transfer of diversity jurisdiction in 1987, differ from the states that would have been affected had diversity jurisdiction been transferred in 1976. The exceptions are Mississippi and Oklahoma, which were expected to receive a disproportionately high number of filings per 100,000 population in 1976 as well as 1987. Because the distribution of filings among states does change over time, there is more reason to monitor the number of diversity filings in federal courts. When the data on federal diversity cases filed in FY 1990 are available, and the consequences of the increase in the jurisdiction limit are known, a new baseline will be established from which the impact of further alterations in diversity jurisdiction can be measured. Until that time, research will be conducted in the degree to which tort and contract diversity cases filed in federal court are equivalent to tort and contract cases filed in state court so that the impact of any further changes in diversity jurisdiction in states can be more accurately measured.

# Figure 26

## States Disproportionately Affected By Total Abolition of Diversity Jurisdiction

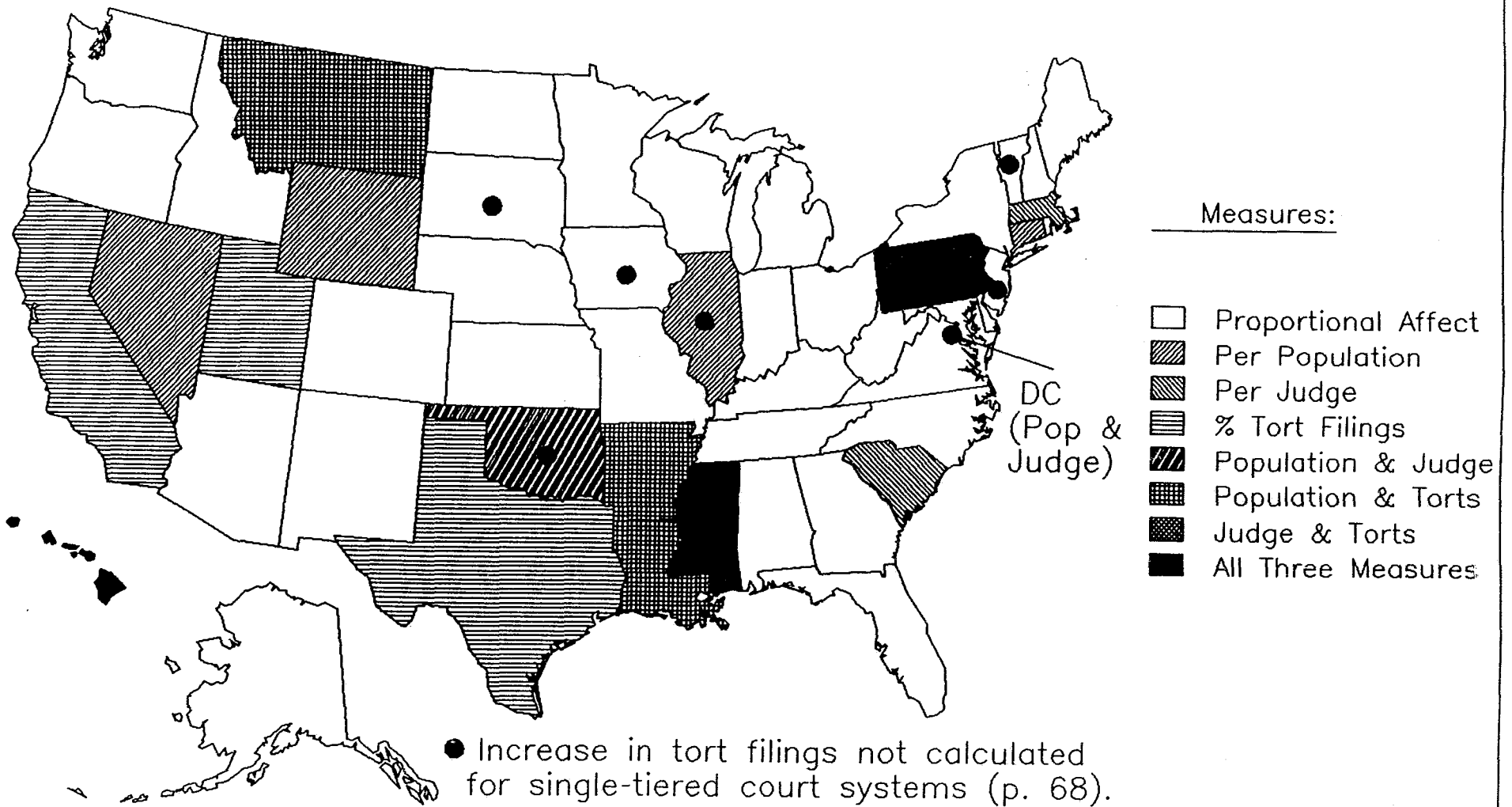
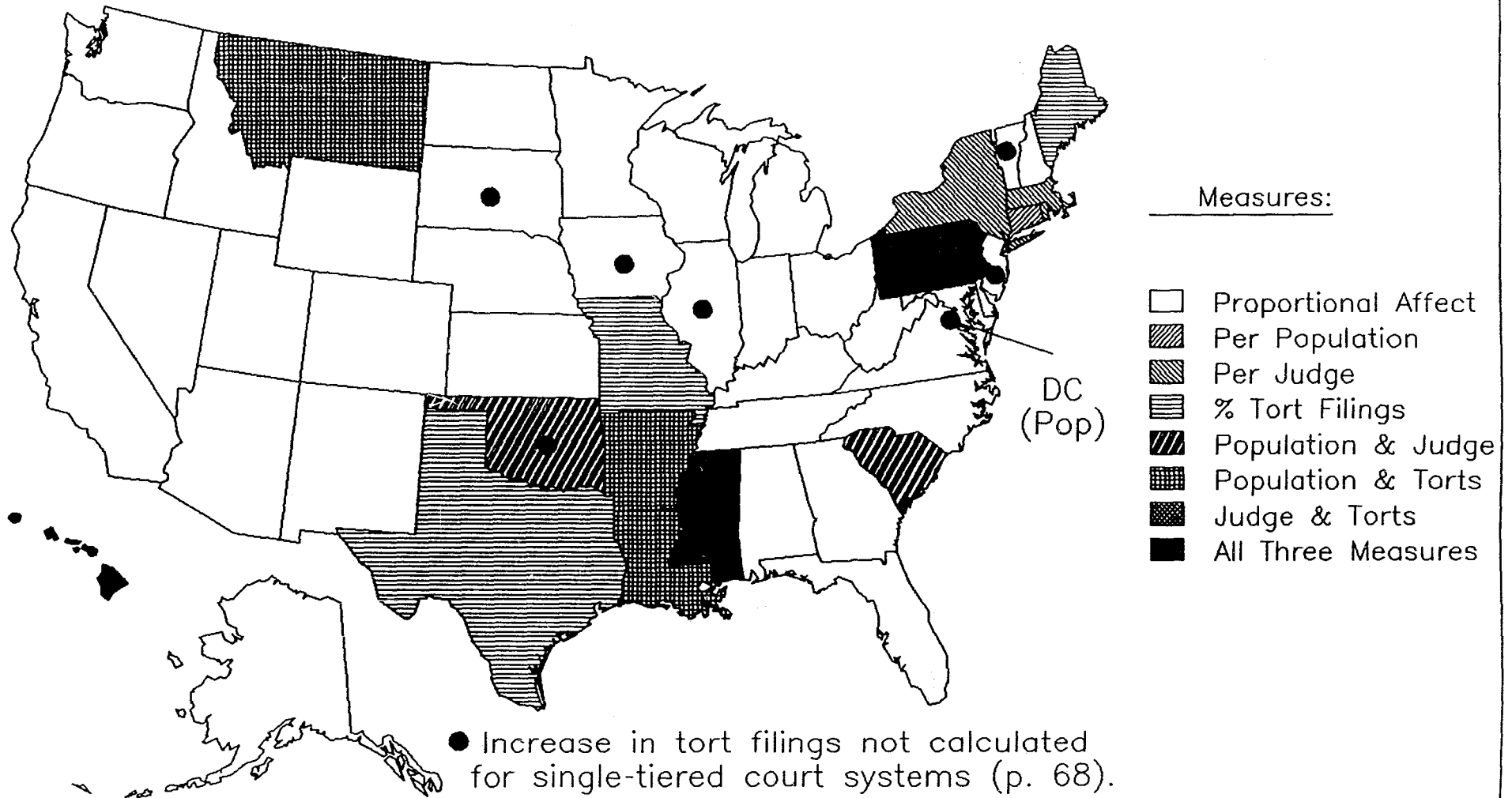


Figure 27  
 States Disproportionately Affected  
 If In-State Individuals Are Barred From Filing





## FOOTNOTES

<sup>1</sup> CH.230,§11, 1 Stat 73 and is presently provided by 28 U.S.C. §1332(a)(I)(1970). James W. Moore and Donald T. Weckstein, "Diversity Jurisdiction: Past, Present, and Future," 43 Texas Law Review 1-10 (November 1964). See P. Bator, P. Mishkin, D. Shapiro and H. Wechsler, Hart and Wechsler's The Federal Courts and the Federal System (2nd ed.) 1051-1060, 1973, for a history of statutory development. For a description of diversity jurisdiction, see Wright, Miller and Cooper, Federal Practice and Procedure: Jurisdiction, Sections 3601-3642 (1975).

<sup>2</sup> Marcia Coyle, "Time to Kill Diversity Jurisdiction?" 10 The National Law Journal (February 29, 1988) quotes Chief Justice Rehnquist's statements in the 1987 report. Warren E. Burger, "Chief Justice Burger's 1977 Report to the American Bar Association," 63 A.B.A. Journal, 504 (1977). When Bork was Solicitor General, he expressed his opposition to diversity jurisdiction in Department of Justice Committee on Revision of the Federal Judicial System, The Needs of Federal Courts 13-25 (1977).

<sup>3</sup> Report of the Proceedings of the Judicial Conference of the United States 8 (March 1977); Testimony of Hon. Robert J. Sheran, Chief Justice of the Supreme Court of Minnesota, on behalf of the Conference of Chief Justices, Hearings before the Subcommittee on Improvements in Judicial Machinery of the Committee on the Judiciary, United States Senate, Ninety-Fifth Congress Federal Diversity of Citizenship Jurisdiction (Washington, D.C.: U.S. Government Printing Office, 1978) p. 85. A 1977 survey of federal district and appellate judges show a majority favor the abolition of diversity jurisdiction, Shapiro, "Federal Diversity Jurisdiction: A Survey and a Proposal" 91 Harvard Law Review 317, 332-339 (1977).

<sup>4</sup> Scalia's, "Remarks Before Fellows of the American Bar Foundation and National Council of Bar Presidents," New Orleans, February 15, 1987 quoted in the National Center's Washington Memorandum (March 13, 1987).

<sup>5</sup> Katherine E. Douglas, Jeanna F. Celeste, and John M. Dawson, "A Justice Impact Statement on the Abolition of Diversity Jurisdiction." Report submitted to Department of Justice, April 1980, p. 6.

<sup>6</sup> Bernard S. Meyer, "Justice, Bureaucracy, Structure and Simplification" 42 Maryland Law Review 672 (1983).

<sup>7</sup> Quoted in Marcia Coyle, op cit., 40.

<sup>8</sup> Robert D. Dames, Jr. "Diversity is for Litigants, Not Courts or Judges" The National Law Journal p. 12 (April 4, 1988).

<sup>9</sup> Note, "The Choice Between State and Federal Court in Diversity Cases in Virginia" 51 Virginia Law Review 178, 179 (1965) and Jerry Goldman and Kenneth Marks "Diversity Jurisdiction and Local Bias: A Preliminary Empirical Inquiry" 9 Journal of Legal Studies (1980) p. 93.

<sup>10</sup> Marvin Summers, "Analyses of Factors that Influence Choice of Forum in Diversity Cases" 47 Iowa Law Review 933 (1962).

- <sup>11</sup> Kristin Bumiller, "Choice of Forum in Diversity Cases: Analysis of a Survey and Implications for Reform" 15 Law and Society Review (1980-81) 760.
- <sup>12</sup> Henry J. Friendly, Federal Jurisdiction: A General View (New York: Columbia University Press, 1973), pp. 147-148 and H. Ted Rubin "An Idea Whose Time Has Gone" 70 ABA Journal 6,17 (1984); but see testimony of John R. Gibson, President of the Missouri Bar Association, Hearings before the Subcommittee on Improvements in Judicial Machinery, op. cit., p. 192 in which he expressed the fear that elected judges would favor local residents.
- <sup>13</sup> Bumiller, op. cit., 773.
- <sup>14</sup> Bumiller, op. cit., 768.
- <sup>15</sup> Eichner, "Diversity Jurisdiction: An Idea Whose Time Has Not Gone" 71 A.B.A. Journal, 4,5 (1985).
- <sup>16</sup> Jolanta Perlstein, "Lawyer's Strategies and Diversity Jurisdiction" 3 Law and Policy Quarterly p. 321.
- <sup>17</sup> Bumiller, op. cit., p. 762.
- <sup>18</sup> Butler and Eure, "Diversity in the Court System: Let's Abolish It." 11 Virginia Bar Association Journal 4,7 (1985).
- <sup>19</sup> Friendly, loc. cit. and J. Woodford Howard Jr. and Jerry Goldman, "The Variety of Litigation Demand in Three United States Courts of Appeals" 47 George Washington University Law Review (1978) 223.
- <sup>20</sup> National Mut. Ins. Co. v. Tidewater Transfer Co., 337 U.S. 582 (1949).
- <sup>21</sup> See, e.g. Anthony Partridge, The Budgetary Impact of Possible Changes in Diversity Jurisdiction (Washington, D.C.: Federal Judicial Center, 1988).
- <sup>22</sup> Victor E. Flango and Nora F. Blair, "The Relative Impact of Diversity Cases on State Trial Courts," 2 State Court Journal (Summer 1978), 20-26.
- <sup>23</sup> Annual Report of the Director of the Administrative Office of United States Courts 1985 (Washington, D.C.: U.S. Government Printing Office, 1985) pp. 273, 308, 310.
- <sup>24</sup> Quoted in Marcia Coyle, "Time to Kill Diversity Jurisdiction?" 10 National Law Journal (February 29, 1988).
- <sup>25</sup> See Preliminary Report on Efficiency in the Administration of Justice, 28 (1914). Charles W. Joiner, "Corporations as Citizens of Every State Where They Do Business: A Needed Change in Diversity Jurisdiction" 70 Judicature 291 (1987), is an excellent source of background information on the proposal.



- <sup>26</sup> See S. 939, H.R. 11508, 72nd Cong. 1st Sess. (1932).
- <sup>27</sup> See H.R. 130, 96th Cong. 1st Session (1979); H.R. 2202, 9th Cong. 1st Session (1979); H.R. 3689-3693, 98th Cong. 1st Sess. (1983).
- <sup>28</sup> "Legislative Developments: Congress Debates Proposals to Limit Diversity Jurisdiction" 9 Litigation News 5 (1984). During the presidential campaign, Michael Dukakis opposed legislation to abolish diversity jurisdiction. See "The Candidates Respond," ABA Journal 56 (October, 1988).
- <sup>29</sup> American Law Institute, Study of the Division of Jurisdiction Between State and Federal Courts, 1969. A recent proposal by U.S. District Judge Charles W. Joiner would restrict diversity jurisdiction of some multi-state corporations, loc. cit.
- <sup>30</sup> Ibid. p. 124.
- <sup>31</sup> Partridge, op. cit., p. 13.
- <sup>32</sup> David P. Currie, "The Federal Courts and the American Law Institute, Pt. II, 36 University of Chicago Law Review 268, 295 (1969) from his sample of 386 cases, Partridge, op. cit., p. 17 found 41 (10.6%) in which the amount-in-controversy clearly was \$50,000 or less, 116 (30.1%) where the ad damnum could plausibly have been redrawn to claim more than \$50,000 and 229 (59.3%) where jurisdiction would be unaffected.
- <sup>33</sup> Horton v. Liberty Mutual Insurance Co. 367 U.S. 348 (1961).
- <sup>34</sup> Arnold v. Troccoli, 344 F.2d 842 (2nd Cir., 1965).
- <sup>35</sup> Bumiller, op. cit., pp. 763-767.
- <sup>36</sup> Marc Galanter, The Life and Times of the Big Six: or, The Federal Courts Since the Good Old Days (Madison, Wisconsin: Institute for Legal Studies, Disputes Processing Research Program, August, 1988) pp. 14, 19; this report will also be published in 1988 Wisconsin Law Review, pg. 921.
- <sup>37</sup> Ibid., p. 19.
- <sup>38</sup> Court Statistics and Information Management Project, State Court Caseload Statistics: Annual Report, 1984 (Williamsburg, Va.: National Center for State Courts, June 1986) p. 182 states that "...the single best predictor of civil filings in state courts is total state population." Correlations between population and tort and contract filings are reported throughout this report where appropriate.
- <sup>39</sup> The source for 1987 state population figures is U.S. Bureau of Census, Current Population Reports, series P-25. For a discussion of variations in state tort filing rates, see Robert T. Roper "The Propensity to Litigate in State Trial Courts, 1981-1984, 1984-1985." Justice System Journal 262-281 (1986) and Courts Statistics and Information Management Project, State Court Caseload Statistics: Annual Report, 1985, (Williamsburg, VA: National Center for State Courts, 1987).

<sup>40</sup> We are indebted to James Jezek of the Colorado Judicial Department for suggesting this possibility.

<sup>41</sup> Court Statistics Project, State Court Organization, 1987 (Williamsburg, Va.: National Center for State Courts, 1988).

<sup>42</sup> As recently as March 1986, the U.S. Judicial Conference reaffirmed its long-standing request that Congress eliminate diversity jurisdiction. See Report of the Proceedings of the Judicial Conference of the United States (Washington, D.C.: Superintendent of Documents, 1986) p. 72.

<sup>43</sup> Partridge, op. cit., p. 8.

<sup>44</sup> The correlation between state population and federal diversity cases minus real property filings increases only slightly to .84.

<sup>45</sup> This proportion is not an artifact of the year chosen. In 1986, the Northern District of Illinois accounted for 45% of all real property filings and in 1988, 61% of all real property filings in the United States.

<sup>46</sup> Court Statistics Project, State Court Caseload Statistics: Annual Report, 1987 (Williamsburg, Va.: National Center for State Courts, 1989).

<sup>47</sup> Robert Tobin, Daniel J. Valuzzi, and Samuel D. Conti, Iowa Tort Liability Study (North Andover, Mass: Northeastern Regional Office of the National Center for State Courts, 1986), p. 16.

<sup>48</sup> We are indebted to H. Stuart Cunningham, Clerk of the United States District Court for the Northern District of Illinois for this observation.

<sup>49</sup> Hearing on Omnibus Court Reform, Statement of Robert MacCrate quoted in Legislative History, House Report No. 100-889, Judicial Improvements Act, P.L. 100-702, p. 6006.

## APPENDIX A

### Methodological Appendix

#### A. Modification of Federal Data Set

Chapter II discusses how this research is based upon diversity cases actually filed in FY 1987 and excludes cases filed in FY 1986, but reported to the U.S. Administrative Office in FY 1987. For those who may be interested in whether exclusion of late reports affects the analysis conducted, Table A1 presents the differences in data sets by state.

#### B. Estimates Based on Regression Analysis

Regression analysis is the standard technique used to estimate the effect of the explaining variable (in this case population) on the variable to be explained (diversity filings). Estimates of diversity filings per state based on regression analysis are fairly accurate, as shown in Table A2. Because regression requires that data be normally distributed, because population is so closely related to case filings, and because regression estimates are influenced by extreme data points, in this particular instance inferring the proportion of diversity cases from proportion of state population actually produced slightly better estimates of diversity filings than did regression analysis. The methodologically-oriented reader may wish to compare the estimates produced in Table A1 with those produced in Table 10.

Tables A3 and A4 illustrate the relationship between population and contract and tort filings respectively.

TABLE A1

COMPARISON OF TOTAL DIVERSITY FILINGS REPORTED BY  
U.S. ADMINISTRATIVE OFFICE WITH FILINGS USED IN THIS RESEARCH

<u>States</u>	<u>State Populations (in thousands)</u>	<u>Total Number of Diversity Filings Reported by U.S. AOC</u>	<u>Total Number of Federal Diversity Filings</u>	<u>Difference</u>
California	27663	4224	4182	42
New York	17825	5521	5482	39
Texas	16789	5564	5537	27
Florida	12023	1807	1787	20
Pennsylvania	11936	5668	5642	26
Illinois	11582	5574	5532	42
Ohio	10784	1526	1503	23
Michigan	9200	2156	2117	39
New Jersey	7672	2043	2025	18
North Carolina	6413	645	644	1
Georgia	6222	1975	1961	14
Virginia	5904	1489	1480	9
Massachusetts	5855	1246	1233	13
Indiana	5531	1194	1179	15
Missouri	5103	1458	1449	9
Tennessee	4855	1265	1252	13
Wisconsin	4807	432	430	2
Washington	4538	574	568	6
Maryland	4535	1040	1037	3
Louisiana	4461	2785	2759	26
Minnesota	4246	494	491	3
Alabama	4083	1422	1416	6
Kentucky	3727	812	803	9
South Carolina	3425	1078	1073	5
Arizona	3386	418	417	1
Colorado	3296	520	512	8
Puerto Rico	3292	303	299	4
Oklahoma	3272	2035	2024	11
Connecticut	3211	1295	1289	6
Iowa	2834	378	377	1
Oregon	2724	537	496	41
Mississippi	2625	1786	1630	156
Kansas	2476	609	606	3
Arkansas	2388	884	882	2
West Virginia	1897	608	604	4
Utah	1680	397	392	5
Nebraska	1594	344	343	1
New Mexico	1500	463	459	4
Maine	1187	185	185	0
Hawaii	1083	607	606	1
New Hampshire	1057	240	238	2
Nevada	1007	549	537	12
Idaho	998	187	185	2
Rhode Island	986	313	310	3
Montana	809	397	396	1
South Dakota	709	182	180	2
North Dakota	672	120	119	1
Delaware	644	201	200	1
District of Columbia	622	1060	1053	7
Vermont	548	134	132	2
Alaska	525	143	139	4
Wyoming	490	216	216	0
TOTALS	246,691	67,125	66,408	

TABLE A2

## REGRESSION ESTIMATES OF TOTAL TORT/CONTRACT DIVERSITY FILINGS

<u>STATES</u>	<u>State Population (in thousands)</u>	<u>Total Filings (torts and contracts)</u>	<u>Estimates Based Upon Population</u>	<u>Difference</u>	<u>Percentage Difference</u>
California	27663	4120	6184	-2064	-33
New York	17825	5418	4044	1374	34
Texas	16789	5460	3819	1641	43
Florida	12023	1758	2782	-1024	-37
Pennsylvania	11936	5567	2764	2803	101
Illinois	11582	3045	2687	358	13
Ohio	10784	1479	2513	-1034	-41
Michigan	9200	2091	2169	-78	-4
New Jersey	7672	2001	1836	165	9
North Carolina	6413	635	1562	-927	-59
Georgia	6222	1932	1521	411	27
Virginia	5904	1451	1452	0	0
Massachusetts	5855	1214	1441	-227	-16
Indiana	5531	819	1371	-552	-40
Missouri	5103	1433	1278	155	12
Tennessee	4855	1230	1224	6	1
Wisconsin	4807	422	1213	-791	-65
Washington	4538	562	1155	-593	-51
Maryland	4535	1030	1154	-124	-11
Louisiana	4461	2696	1138	1558	137
Minnesota	4246	484	1091	-607	-56
Alabama	4083	1352	1056	296	28
Kentucky	3727	784	978	-194	-20
South Carolina	3425	1045	913	132	15
Arizona	3386	413	904	-491	-54
Colorado	3296	493	885	-392	-44
Puerto Rico	3292	291	884	-593	-67
Oklahoma	3272	1902	879	1023	116
Connecticut	3211	1264	866	398	46
Iowa	2834	357	784	-427	-54
Oregon	2724	481	760	-279	-37
Mississippi	2625	1609	739	870	118
Kansas	2476	574	706	-132	-19
Arkansas	2388	862	687	175	25
West Virginia	1897	573	580	-7	-1
Utah	1680	370	533	-163	-31
Nebraska	1594	336	514	-178	-35
New Mexico	1500	444	494	-50	-10
Maine	1187	181	426	-245	-58
Hawaii	1083	597	403	194	48
New Hampshire	1057	231	398	-167	-42
Nevada	1007	529	387	142	37
Idaho	998	175	385	-210	-55
Rhode Island	986	300	382	-82	-22
Montana	809	378	344	34	10
South Dakota	709	172	322	-150	-47
North Dakota	672	118	314	-196	-62
Delaware	644	198	308	-110	-36
District of Columbia	622	1028	303	725	239
Vermont	548	131	287	+156	-54
Alaska	525	136	282	-146	-52
Wyoming	490	201	274	-73	-27

TABLE A3  
REGRESSION ESTIMATES OF CONTRACT DIVERSITY CASES FROM POPULATION

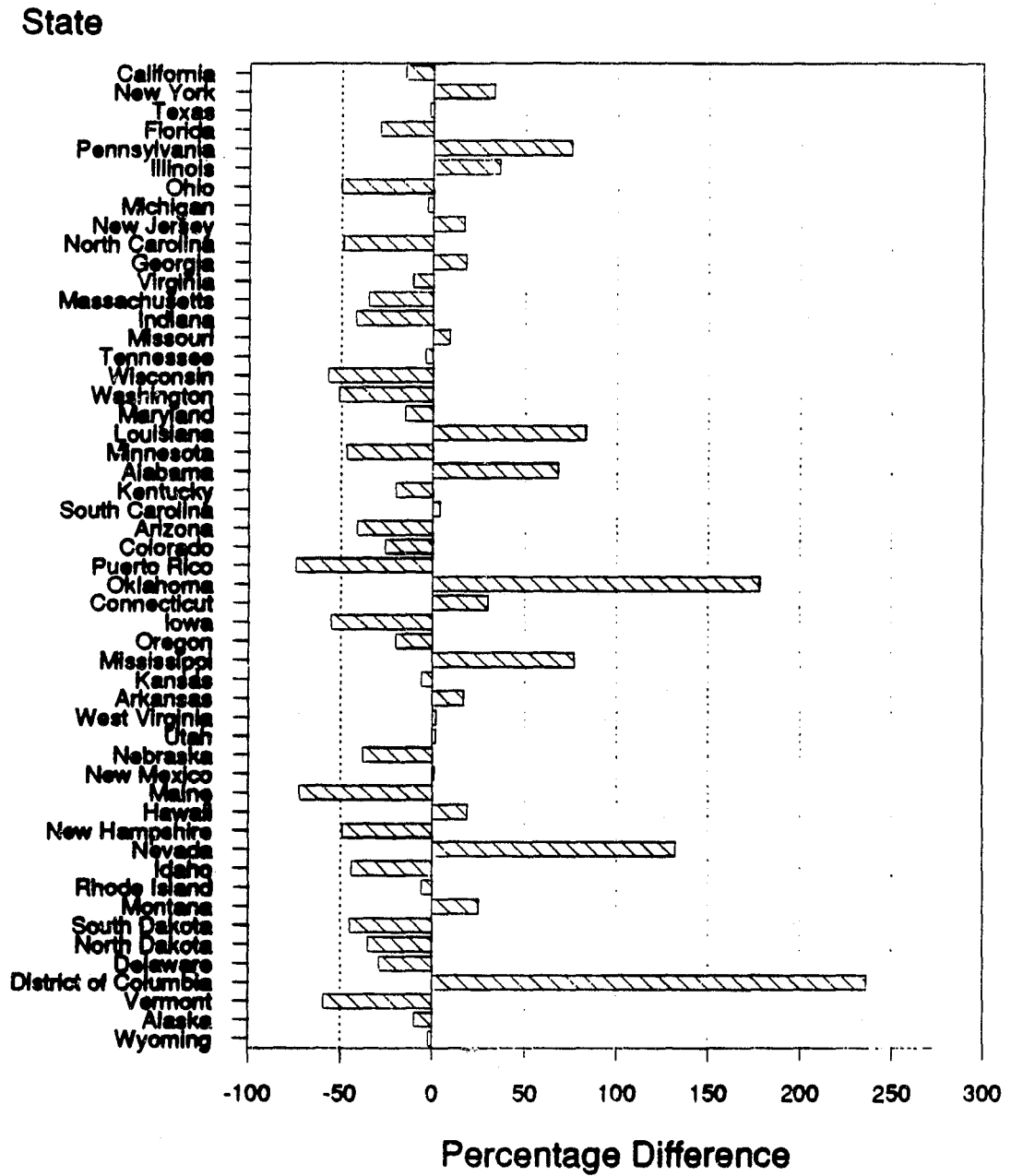
<u>STATES</u>	<u>State Population (in thousands)</u>	<u>Contract Filings</u>	<u>Estimates Based Upon Population</u>	<u>Difference</u>	<u>Percentage Difference</u>
California	27663	2902	3422	-520	-15
New York	17825	2948	2222	726	33
Texas	16789	2044	2095	-51	-2
Florida	12023	1075	1514	-439	-29
Pennsylvania	11936	2636	1503	1133	75
Illinois	11582	1989	1460	529	36
Ohio	10784	688	1363	-675	-50
Michigan	9200	1133	1170	-37	-3
New Jersey	7672	1151	983	168	17
North Carolina	6413	422	830	-408	-49
Georgia	6222	955	806	149	18
Virginia	5904	686	768	-82	-11
Massachusetts	5855	495	762	-267	-35
Indiana	5531	419	722	-303	-42
Missouri	5103	731	670	61	9
Tennessee	4855	614	640	-26	-4
Wisconsin	4807	270	634	-364	-57
Washington	4538	293	601	-308	-51
Maryland	4535	509	601	-92	-15
Louisiana	4461	1080	591	489	83
Minnesota	4246	300	565	-265	-47
Alabama	4083	918	545	373	68
Kentucky	3727	401	502	-101	-20
South Carolina	3425	485	465	20	4
Arizona	3386	272	460	-188	-41
Colorado	3296	332	449	-117	-26
Puerto Rico	3292	118	449	-331	-74
Oklahoma	3272	1242	446	796	178
Connecticut	3211	569	439	130	30
Iowa	2834	177	393	-216	-55
Oregon	2724	304	380	-76	-20
Mississippi	2625	649	368	281	77
Kansas	2476	328	349	-21	-6
Arkansas	2388	397	339	58	17
West Virginia	1897	285	279	6	2
Utah	1680	256	252	4	2
Nebraska	1594	150	242	-92	-38
New Mexico	1500	232	230	2	1
Maine	1187	53	192	-139	-72
Hawaii	1083	214	179	35	19
New Hampshire	1057	89	176	-87	-49
Nevada	1007	395	170	225	132
Idaho	998	95	169	-74	-44
Rhode Island	986	158	168	-10	-6
Montana	809	182	146	36	25
South Dakota	709	73	134	-61	-45
North Dakota	672	84	129	-45	-35
Delaware	644	89	126	-37	-29
District of Columbia	622	414	123	291	236
Vermont	548	47	114	-67	-59
Alaska	525	100	111	-11	-10
Wyoming	490	105	107	-2	-2

TABLE A4  
REGRESSION ESTIMATES OF TORT DIVERSITY CASES FROM POPULATION

<u>STATES</u>	<u>State Population (in thousands)</u>	<u>Tort Filings</u>	<u>Estimates Based Upon Population</u>	<u>Difference</u>	<u>Percentage Difference</u>
California	27663	1218	2762	-1544	-56
New York	17825	2470	1822	648	36
Texas	16789	3416	1723	1693	98
Florida	12023	683	1268	-585	-46
Pennsylvania	11936	2931	1260	1671	133
Illinois	11582	1056	1226	-170	-14
Ohio	10784	791	1150	-359	-31
Michigan	9200	958	999	-41	-4
New Jersey	7672	850	853	-3	0
North Carolina	6413	213	733	-520	-71
Georgia	6222	977	715	262	37
Virginia	5904	765	684	81	12
Massachusetts	5855	719	680	39	6
Indiana	5531	400	649	-249	-38
Missouri	5103	702	608	94	16
Tennessee	4855	616	584	32	5
Wisconsin	4807	152	579	-427	-74
Washington	4538	269	554	-285	-51
Maryland	4535	521	553	-32	-6
Louisiana	4461	1616	546	1070	196
Minnesota	4246	184	526	-342	-65
Alabama	4083	434	510	-76	-15
Kentucky	3727	383	476	-93	-20
South Carolina	3425	560	448	112	25
Arizona	3386	141	444	-303	-68
Colorado	3296	161	435	-274	-63
Puerto Rico	3292	173	435	-262	-60
Oklahoma	3272	660	433	227	52
Connecticut	3211	695	427	268	63
Iowa	2834	180	391	-211	-54
Oregon	2724	177	381	-204	-53
Mississippi	2625	960	371	589	159
Kansas	2476	246	357	-111	-31
Arkansas	2388	465	348	117	33
West Virginia	1897	288	302	-14	-5
Utah	1680	114	281	-167	-59
Nebraska	1594	186	273	-87	-32
New Mexico	1500	212	264	-52	-20
Maine	1187	128	234	-106	-45
Hawaii	1083	383	224	159	71
New Hampshire	1057	142	221	-79	-36
Nevada	1007	134	217	-83	-38
Idaho	998	80	216	-136	-63
Rhode Island	986	142	215	-73	-34
Montana	809	196	198	-2	-1
South Dakota	709	99	188	-89	-47
North Dakota	672	34	185	-151	-82
Delaware	644	109	182	-73	-40
District of Columbia	622	614	180	434	241
Vermont	548	84	173	-89	-51
Alaska	525	36	171	-135	-79
Wyoming	490	96	167	-71	-43

# Figure A-1

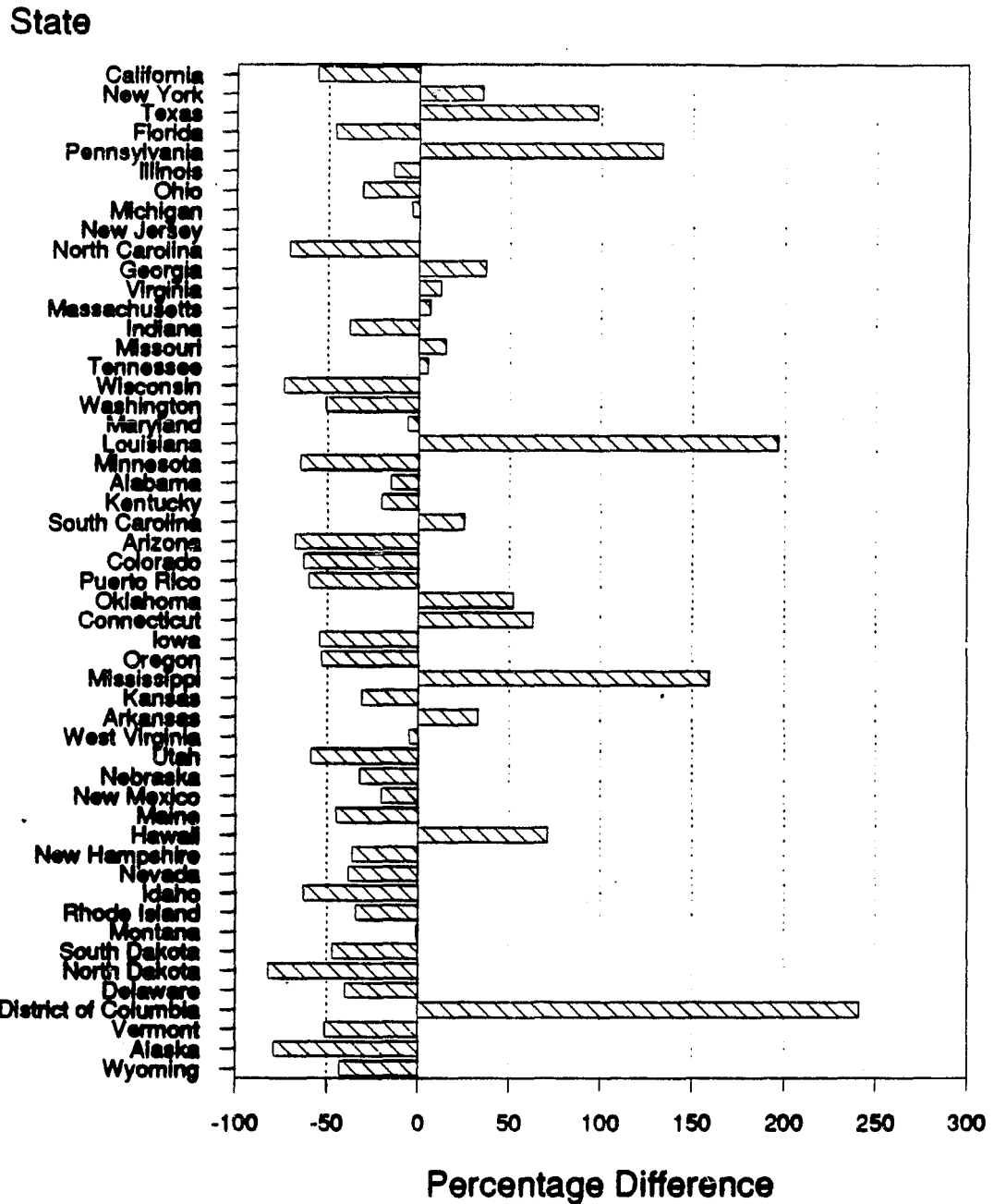
## Percentage Difference between Actual and Estimated Contract Diversity Cases





# Figure A-2

## Percentage Difference between Actual and Estimated Tort Diversity Cases



## APPENDIX B

### In-State Corporate Plaintiffs

This section is appended for those interested in the consequences of a diversity transfer for in-state corporations. The analysis is valid only to the extent that corporations would not be able to become out-of-state corporations for the purposes of filings. The reader is also reminded that plaintiff's residence codes were changed in December of 1984 and that some districts may still be using older codes. Thus, the data on in-state corporations may be less reliable than data on in-state individual plaintiffs.

#### 1. Total Corporate Filings

Table B1 shows the number of diversity cases filed in each state by in-state corporations in FY 1987. These 8,672 filings were 13% of all diversity filings and 21% of the total cases filed by in-state plaintiffs.

#### 2. Corporate Filings Per Population

In-state corporate filings per 100,000 population are presented in Table B2. This table shows that the District of Columbia, Nevada, Oklahoma and New York would receive disproportionately more in-state corporation filings per population than other states would.

#### 3. Corporate Filings Per Judge

Table B2 also presents the in-state corporate filings per judge for each state. On this measure, South Carolina, New York, Oklahoma, Wyoming and Nevada would receive an unusually high proportion of corporate diversity filings per judge--3 per judge. Of course, even one complex corporate case could disrupt normal operations in most general jurisdiction courts.

TABLE B1  
CASELOAD COMPOSITION OF DIVERSITY FILINGS  
BY IN-STATE CORPORATIONS

<u>States</u>	<u>Tort</u>	<u>Contract</u>	<u>Real Property</u>	<u>Total In-State Corporations</u>
California	62	302	6	370
New York	217	1091	15	1323
Texas	101	447	10	558
Florida	44	240	2	286
Pennsylvania	157	447	11	615
Illinois	61	425	30	516
Ohio	39	144	2	185
Michigan	33	225	3	261
New Jersey	76	404	3	483
North Carolina	11	125	1	137
Georgia	71	167	8	246
Virginia	113	116	1	230
Massachusetts	25	124	1	150
Indiana	43	74	8	125
Missouri	28	111	0	139
Tennessee	52	122	2	176
Wisconsin	10	76	0	86
Washington	7	49	1	57
Maryland	73	85	0	158
Louisiana	34	233	8	275
Minnesota	15	95	0	110
Alabama	20	147	3	170
Kentucky	35	55	1	91
South Carolina	49	80	3	132
Arizona	8	54	1	63
Colorado	12	60	1	73
Puerto Rico	28	25	2	55
Oklahoma	65	155	10	230
Connecticut	29	49	6	84
Iowa	23	24	1	48
Oregon	26	87	2	115
Mississippi	48	54	3	105
Kansas	5	78	2	85
Arkansas	19	56	4	79
West Virginia	31	41	5	77
Utah	59	13	3	75
Nebraska	22	37	0	59
New Mexico	13	29	2	44
Maine	19	6	1	26
Hawaii	47	3	3	53
New Hampshire	25	28	1	54
Nevada	22	83	0	105
Idaho	3	23	0	26
Rhode Island	7	33	1	41
Montana	7	18	2	27
South Dakota	14	16	0	30
North Dakota	1	8	1	10
Delaware	8	13	1	22
District of Columbia	44	79	3	126
Vermont	5	9	0	14
Alaska	4	8	2	14
Wyoming	19	33	1	53
TOTALS	1989	6506	177	8672
MEAN	38	125	3	167
MEDIAN	27	75	2	98

TABLE B2  
IN-STATE CORPORATION PLAINTIFF FILINGS  
PER POPULATION AND PER JUDGE

States	State Population (in thousands)	Total In-State Corporation Filings	Corporate Filings Per 100,000 Population	Number of Judges	Corporate Filings Per Judge
California	27663	270	1	724	1
New York	17825	1323	7	387	3
Texas	16789	558	3	375	1
Florida	12023	286	2	362	1
Pennsylvania	11936	615	5	330	2
Illinois	11582	516	4	363	1
Ohio	10784	185	2	339	1
Michigan	9200	261	3	196	1
North Carolina	6413	137	2	72	2
Georgia	6222	246	4	135	2
Virginia	5904	230	4	122	2
Massachusetts	5855	150	3	61	2
Indiana	5531	125	2	206	1
Missouri	5103	139	3	133	1
Tennessee	4855	176	4	128	1
Washington	4538	57	1	133	*
Maryland	4535	158	3	109	1
Louisiana	4461	275	6	192	1
Alabama	4083	170	4	124	1
Kentucky	3727	91	2	91	1
South Carolina	3425	132	4	31	4
Arizona	3386	63	2	101	1
Colorado	3296	73	2	121	1
Puerto Rico	3292	55	2	92	1
Oklahoma	3272	230	7	71	3
Iowa	2834	48	2	100	*
Oregon	2724	115	4	85	1
Mississippi	2625	105	4	79	1
Kansas	2476	85	3	146	1
Arkansas	2388	79	3	70	1
West Virginia	1897	77	4	60	1
Utah	1680	75	4	29	3
Nebraska	1594	59	4	48	1
New Mexico	1500	44	3	59	1
Maine	1187	26	2	16	2
Hawaii	1083	53	5	24	2
New Hampshire	1057	54	5	25	2
Nevada	1007	105	10	35	3
Idaho	998	26	3	33	1
Rhode Island	986	41	4	19	2
Montana	809	27	3	41	1
South Dakota	709	30	4	35	1
North Dakota	672	10	1	26	*
Delaware	644	22	3	17	1
Alaska	525	14	3	29	*
Wyoming	490	53	11	17	3
<u>States with Non-Comparable Judge Figures</u>					
New Jersey	7672	483	6	321	2
Wisconsin	4807	86	2	197	*
Minnesota	4246	110	3	224	*
Connecticut	3211	84	3	139	1
District of Columbia	622	126	20	51	2
Vermont	548	14	3	25	1
TOTALS		8672		6948	
MEAN		167	4	134	1
MEDIAN		98	3	92	1

\* Less than one.

4. Increase In-State Filings

Table B3 separates corporate in-state plaintiff filings into tort and contract filings. This table shows that corporate plaintiffs file proportionately more contract cases and fewer tort cases than do in-state citizens. Only in Hawaii, Alaska, Utah and Maine do in-state corporate plaintiffs file a smaller proportion of contract diversity cases and a larger proportion of tort diversity cases than citizen plaintiffs do.

TABLE B3

PROPORTION OF CONTRACT AND TORT CASES FILED  
BY IN-STATE CORPORATE PLAINTIFFS

States	Torts as % of	Torts as % of	Percentage	Contracts as %	Contracts as % of	Percentag
	In-State Citizen	In-State Corporation		of In-State	In-state Corporations	
	<u>Plaintiff Filings</u>	<u>Plaintiff Filings</u>	<u>Difference</u>	<u>Citizen Filings</u>	<u>Plaintiff Filings</u>	<u>Differenc</u>
California	39	17	22	60	82	-22
New York	72	16	56	26	82	-56
Texas	78	18	60	21	80	-59
Florida	53	15	38	47	84	-37
Pennsylvania	66	26	40	33	73	-40
Illinois	53	12	41	44	82	-38
Ohio	67	21	46	32	78	-46
Michigan	61	13	48	38	86	-48
New Jersey	60	16	44	39	84	-45
North Carolina	54	8	46	45	91	-46
Georgia	66	29	37	33	68	-35
Virginia	66	49	17	32	50	-18
Massachusetts	75	17	58	24	83	-59
Indiana	58	34	24	36	59	-23
Missouri	65	20	45	34	80	-46
Tennessee	59	30	29	39	69	-30
Wisconsin	55	12	43	44	88	-44
Washington	64	12	52	36	86	-50
Maryland	69	46	23	30	54	-24
Louisiana	75	12	63	24	85	-61
Minnesota	52	14	38	46	86	-40
Alabama	49	12	37	49	86	-37
Kentucky	57	38	19	41	60	-19
South Carolina	66	37	29	33	61	-28
Arizona	50	13	37	48	86	-38
Colorado	39	16	23	58	82	-24
Puerto Rico	63	51	12	36	45	-9
Oklahoma	44	28	16	51	67	-16
Connecticut	82	35	47	16	58	-42
Iowa	57	48	9	36	50	-14
Oregon	51	23	28	48	76	-28
Mississippi	62	46	16	37	51	-14
Kansas	56	6	50	39	92	-53
Arkansas	63	24	39	35	71	-36
West Virginia	59	40	19	36	53	-17
Utah	38	17	21	57	79	-22
Nebraska	70	37	33	27	63	-36
New Mexico	55	30	25	43	66	-23
Maine	72	73	-1	27	23	4
Hawaii	86	89	-3	14	6	8
New Hampshire	71	46	25	26	52	-26
Nevada	28	21	7	68	79	-11
Idaho	62	12	50	34	88	-54
Rhode Island	54	17	37	44	80	-36
Montana	59	26	33	38	67	-29
South Dakota	58	47	11	41	53	-12
North Dakota	40	10	30	60	80	-20
Delaware	54	36	18	45	59	-14
District of Columbia	68	35	33	30	63	-33
Vermont	70	36	34	28	64	-36
Alaska	31	29	2	63	57	6
Wyoming	56	36	20	35	62	-27
MEAN	59	29	31	39	68	-31
MEDIAN	59	26	33	37	70	-32

APPENDIX C

MANNER OF DISPOSITION FOR FEDERAL DIVERSITY CASES  
WITH AMOUNT-IN-CONTOVERSY OF \$50,000 OR LESS

States	Total Terminations	Termination Through No Court Action	Percentage of Terminations By No Action	Termination Through Trial	Percentage of Terminations By Trial	Termination Through Jury Trial	Percentage of Terminations By Jury Trial
California*	336	227	68%	16	5%	11	3%
New York	1035	592	57%	41	4%	24	18%
Texas	1345	313	23%	289	21%	265	20%
Florida*	359	146	41%	24	7%	15	4%
Pennsylvania	1844	531	29%	124	7%	96	5%
Illinois	2893	1308	45%	36	1%	25	1%
Ohio	243	99	41%	17	7%	14	6%
Michigan*	410	145	35%	18	4%	15	4%
New Jersey*	269	97	36%	12	4%	4	1%
North Carolina	221	101	46%	18	8%	11	5%
Georgia	671	363	54%	31	5%	27	4%
Virginia	233	131	56%	34	15%	14	6%
Massachusetts	281	115	41%	14	5%	10	4%
Indiana	427	96	22%	5	1%	3	1%
Missouri	344	227	66%	29	8%	19	6%
Tennessee	254	120	47%	26	10%	12	5%
Wisconsin	146	61	42%	9	6%	4	3%
Washington*	48	26	54%	1	2%	0	0%
Maryland	248	73	29%	23	9%	16	6%
Louisiana	509	139	27%	36	7%	9	2%
Minnesota	271	152	56%	11	4%	11	4%
Alabama	444	120	27%	23	5%	13	3%
Kentucky	194	63	32%	14	7%	9	5%
South Carolina*	132	18	14%	13	10%	9	7%
Arizona	85	52	61%	0	0%	0	0%
Colorado*	23	0	0%	0	0%	0	0%
Puerto Rico	68	5	7%	8	12%	3	4%
Oklahoma	493	165	33%	19	4%	12	2%
Connecticut	128	90	70%	4	3%	2	2%
Iowa*	77	23	30%	2	3%	1	1%
Oregon	86	68	79%	7	8%	3	3%
Mississippi	319	198	62%	22	7%	14	4%
Kansas	270	168	62%	17	6%	11	4%
Arkansas	230	100	43%	17	7%	11	5%
West Virginia	130	33	25%	9	7%	7	5%
Utah	76	43	57%	5	7%	3	4%
Nebraska*	58	36	62%	5	9%	2	3%
New Mexico	79	42	53%	3	4%	2	3%
Maine	139	12	9%	13	9%	13	9%
Hawaii*	57	40	70%	1	2%	0	0%
New Hampshire	64	9	14%	13	20%	7	11%
Nevada	341	185	54%	12	4%	6	2%
Idaho	49	8	16%	0	0%	0	0%
Rhode Island	13	3	23%	4	31%	2	15%
Montana*	40	22	55%	1	3%	0	0%
South Dakota	33	18	55%	4	12%	0	0%
North Dakota	55	29	53%	2	4%	0	0%
Delaware*	36	15	42%	4	11%	4	11%
District of Columbia	137	90	66%	7	5%	4	3%
Vermont	53	39	28%	11	21%	9	17%
Alaska	38	31	82%	2	5%	0	0%
Wyoming*	18	12	67%	3	17%	2	11%
TOTALS	16,352	6,799	42%	1,061	6.5%	754	4.6%

\*States which reported less than half of the amount in controversy data at filing.

APPENDIX D

COUNTIES LIKELY TO RECEIVE  
100 OR MORE DIVERSITY CASES

<u>STATE/DISTRICT</u>	<u>TOTAL DIVERSITY FILINGS</u>	<u>FILINGS BY OUT-OF-STATE PLAINTIFFS</u>	<u>PERCENTAGE OF FILINGS IN-STATE</u>	<u>COUNTIES WITH ABOUT 100 CASES OR MORE</u>	<u>NUMBER OF CASES</u>
California - Northern ..	1224	272	78%	San Francisco Alameda Santa Clara	231 127 150
Eastern ...	259	50	81%		
Central ...	2370	827	65%	Los Angeles Orange	1360 288
Southern ..	329	60	82%		
Total .....	4182	1209	71%		
New York - Northern ....	529	24	95%	Albany Onondaga	123 123
Eastern .....	1321	415	69%	Nassau Queens Suffolk	331 217 216
Southern ....	3216	1245	61%	Bronx Kings New York West Chester	106 222 1351 863
Western .....	416	56	87%	Erie Monroe	97 186
Total .....	5482	1740	68%		
Texas - Northern .....	1749	1043	41%	Tarrant Dallas Orange	124 404 205
Eastern .....	1947	152	92%	Jefferson Harris	925 670
Southern .....	1322	388	71%		
Western .....	519	133	75%		
Total .....	5537	1716	70%		
Florida - Northern .....	113	15	87%		
Middle .....	867	99	89%	Hillsborough Broward Dade	160 196 474
Southern .....	808	2	99%		
Total .....	1787	116	94%		
Pennsylvania - Eastern .	4039	1561	61%	Bucks Chester Delaware Montgomery Philadelphia	200 105 241 389 1200
Middle ..	552	103	81%		
Western .	1051	407	61%	Allegheny	388
Total ...	5642	2071	63%		
Illinois - Northern ....	4922	3319	33%	Cook	1109
Central .....	200	44	88%		
Southern ....	410	77	81%	Madison St. Clair	122 97
Total .....	5532	3440	38%		
Ohio - Northern .....	884	132	85%	Cuyahoga Franklin Hamilton	348 91 176
Southern .....	619	127	80%		
Total .....	1503	259	83%		
Michigan - Eastern .....	1826	404	78%	Macomb Oakland Wayne	110 368 716
Western .....	291	51	83%		
Total .....	2117	455	79%		
New Jersey .....	2025	630	69%	Essex	170



Appendix D  
(continued)

<u>STATE/DISTRICT</u>	<u>TOTAL DIVERSITY FILINGS</u>	<u>FILINGS BY OUT-OF-STATE PLAINTIFFS</u>	<u>PERCENTAGE OF FILINGS IN-STATE</u>	<u>COUNTIES WITH ABOUT 100 CASES OR MORE</u>	<u>NUMBER OF CASES</u>
North Carolina - Eastern	204	0	100%		
Middle	137	47	66%		
Western	303	2	99%	Mecklenburg	120
Total	644	49	93%		
Georgia - Northern .....	1287	467	64%	Fulton	296
				Cobb	89
				DeKalb	85
				Polk	126
Middle .....	270	69	74%		
Southern .....	404	148	63%		
Total .....	1961	684	65%		
Massachusetts .....	1233	404	67%	Essex	105
				Middlesex	216
				Norfolk	118
				Suffolk	131
Virginia - Eastern .....	1124	579	48%	Fairfax	105
Western .....	356	160	55%		
Total .....	1480	739	50%		
Indiana - Northern .....	666	397	40%	Marion	108
				Lake	120
Southern .....	513	208	59%		
Total .....	1179	605	49%		
Missouri - Eastern .....	932	149	65%	St. Louis	357
				St. Louis (City)	89
Western .....	517	131	75%		
Total .....	1449	280	81%		
Tennessee - Eastern ....	662	196	71%	Knox	107
Middle .....	355	0	100%	Davidson	181
Western ....	235	71	70%		
Total .....	1252	267	79%		
Wisconsin - Eastern ....	268	87	67%		
Western ....	162	30	81%		
Total .....	430	117	73%		
Louisiana- Eastern .....	1479	446	70%	Jefferson	241
				Orleans	400
Middle .....	315	77	76%	East Baton Rouge	130
Western .....	965	225	73%	Calcasieu	161
Total .....	2759	748	73%		
Maryland .....	1037	437	58%	Montgomery	107
				Baltimore City	230
Washington - Eastern ...	149	51	66%		
Western ...	419	174	58%	King	163
Total .....	568	225	60%		
Minnesota .....	491	149	70%	Hennepin	130
Alabama - Northern .....	803	320	60%	Jefferson	217
Middle .....	249	126	49%		
Southern .....	364	108	70%	Mobile	184
Total .....	1416	554	61%		
Kentucky - Eastern .....	421	80	81%		
Western .....	382	74	81%		
Total .....	803	154	81%		
South Carolina .....	1073	165	85%	Charleston	96
				Greenville	113
				Richland	94
Arizona .....	417	158	62%	Maricopa	153

Appendix D  
(continued)

<u>STATE/DISTRICT</u>	<u>TOTAL DIVERSITY FILINGS</u>	<u>FILINGS BY OUT-OF-STATE PLAINTIFFS</u>	<u>PERCENTAGE OF FILINGS IN-STATE</u>	<u>COUNTIES WITH ABOUT 100 CASES OR MORE</u>	<u>NUMBER OF CASES</u>
Colorado .....	512	245	52%	Denver	83
Puerto Rico .....	299	167	44%		
Oklahoma - Northern ....	475	164	34%	Oklahoma	389
Eastern .....	187	2	99%		
Western .....	1362	629	54%		
Total .....	2024	795	61%		
Connecticut .....	1289	441	66%	Fairfield Hartford New Haven New London	148 278 265 96
Iowa - Northern .....	154	8	95%		
Southern .....	223	23	90%		
Total .....	377	31	92%		
Oregon .....	496	200	60%	Multnomah	158
Mississippi - Northern .	458	159	65%	Harrison Jackson	145 265
Southern .	1172	296	75%		
Total ....	1630	455	72%		
Kansas .....	606	272	55%		
Arkansas - Eastern .....	471	86	82%	Pulaski	124
Western .....	411	151	63%		
Total .....	882	237	73%		
West Virginia - Northern	150	2	99%		
Southern	454	131	71%		
Total	604	133	78%		
Utah .....	392	0	100%		
Nebraska .....	343	129	63%		
New Mexico .....	459	213	54%	Bernalillo	106
Maine .....	185	29	85%		
Hawaii .....	606	168	72%		
New Hampshire .....	238	107	55%		
Idaho .....	185	99	46%		
Rhode Island .....	310	30	90%		
Nevada .....	537	215	60%	Clark	282
Montana .....	396	78	80%		
South Dakota .....	180	78	57%		
North Dakota .....	119	67	44%		
Delaware .....	200	110	45%	Kent	105
District of Columbia ...	1053	666	37%	D.C.	376
Vermont .....	132	65	51%		
Alaska .....	139	60	57%		
Wyoming .....	216	85	61%		
Totals	66,408				

## APPENDIX E

### CAPSULE SUMMARY OF THE EFFECT OF PROPOSED CHANGES IN FEDERAL DIVERSITY JURISDICTION BY STATE

This is a summary of the results of the analysis of the effects of the proposed changes in federal diversity jurisdiction presented by state for the convenience of readers interested in the impact of legislation or proposed legislation on particular states. Under each of the three proposals, total abolition of diversity jurisdiction, the proposal to bar in-state plaintiffs from initiating federal diversity actions, and the new law increasing the jurisdictional limit to \$50,000, are five measures:

1. Number of filings are diversity cases filed in U.S. District Court in FY 1987. To the extent that federal court cases are more complex than state court cases, these figures will underestimate the effects on states of any transfer in federal diversity jurisdiction.
2. Number of trials are cases disposed by trial in U.S. District Court in FY 1987. The number of trials involving in-state citizen plaintiffs is not available. In FY 1987, the average federal bench trial required 8.4 judge hours and the average jury trial required 19.3 judge hours.
3. Percentage change in torts is the number of diversity tort filings estimated to be transferred to the state divided by the number of state tort cases filed in 1987. Figures marked with an asterisk (\*) represent estimates of the number of state tort filings. The NA (not available)

symbol indicates that estimates could not be calculated for states where all torts go to a single-tiered court of civil jurisdiction.

4. Filings per general jurisdiction judge is the number of diversity cases expected to have been transferred in 1987 under each of the three proposals divided by the number of state general jurisdiction court judges or full judges in states that distinguish judges from associate judges or magistrates. The total number of judges were used in states that neither separate civil courts into limited and general jurisdiction categories nor separate judges into two categories: judges eligible to hear all cases regardless of amount-in-controversy (equivalent to general jurisdiction judges) and judges restricted to hearing cases below a specified dollar amount (equivalent to limited jurisdiction judges). Measures based on number of total judges, marked by a double asterisk (\*\*), may underestimate the effect on states of any transfer of federal diversity jurisdiction.

5. Filings per 100,000 population is the number of federal diversity cases that would have been transferred in 1987 under each of the three proposals divided by population. Because this measure often results in a small fraction, the per capita figure is multiplied by 100,000 to facilitate comparison.

A number symbol (#) is used in conjunction with the last three measures to indicate disproportionately large figures, i.e. those states that would be affected more than others by a change in diversity jurisdiction.

## ALABAMA

### I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
1416	184	3%	11	35

### II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Actions.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
618	--	2%	5	15

### III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
517	23	10% #	4	13

## ALASKA

### I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
139	3	2%	5	26

### II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Actions.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
65	--	1%	2	12

### III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
60	2	1%	2	11

## ARIZONA

### I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
417	14	1%	4	12

### II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Action

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
165	--	1%	2	5

### III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
173	0	1%	2	5

## ARKANSAS

### I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
882	101	8% #	13	37#

### II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Actions.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
504	--	6% #	7	21#

### III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
312	17	2%	4	13

## CALIFORNIA

### I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
4182	229	9% #	6	15

### II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Actions.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
2485	--	1%	3	9

### III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
1769*	16	1%	2	7

## COLORADO

### I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
512	40	4%	4	16

### II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Actions.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
206	--	2%	2	6

### III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
179*	0	2%	1	5*

## CONNECTICUT

### I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
1289	63	NA	9**	40#

### II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Action

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
713	--	NA	5**	22#

### III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
434	4	NA	3**	14

## DELAWARE

### I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
200	22	5%	12	31

### II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Actions.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
67	--	2%	4	10

### III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
70*	4	1%	4	11*



## DISTRICT OF COLUMBIA

### I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
1053	55	NA	21** #	169#

### II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Actions.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
355	--	NA	7** #	57#

### III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
208	7	NA	4** #	33#

## FLORIDA

### I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
1787	116	2%	5	15

### II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Actions.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
931	--	1%	3	8

### III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
747*	24	1%	2	6*

## GEORGIA

### I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
1961	258	5%	15	32

### II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Action

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
1076	--	4%	8	17

### III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
547	31	1%	4	9

## HAWAII

### I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
606	9	21% #	25#	56#

### II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Actions.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
381	--	18% #	16#	35#

### III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
212*	1	5% #	9#	20#

## IDAHO

### I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
185	18	5%	6	19

### II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Actions.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
61	--	3%	2	6

### III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
47	0	10% #	1	5

## ILLINOIS

### I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
5532	96	NA	15	48#

### II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Actions.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
1378	--	NA	4	12

### III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
3343	36	NA	9#	29#

# INDIANA

## I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
1179	51	2%	6	21

## II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Action

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
432	--	1%	2	8

## III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
643	5	1%	3	12

# IOWA

## I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
377	27	NA	4	13

## II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Actions.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
214	--	NA	2	8

## III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
145*	2	NA	1	5*

## KANSAS

### I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
606	48	7%	4	24

### II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Actions.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
257	--	4%	2	10

### III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
330	17	<u>Less Than</u> 1%	2	13

## KENTUCKY

### I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
803	76	3%	9	22

### II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Actions.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
378	--	2%	4	10

### III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
275	14	10% #	3	7

## LOUISIANA

### I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
2759	236	11% #	14	62#

### II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Actions.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
1431	--	8% #	7	32#

### III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
547	36	1%	3	12

## MAINE

### I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
185	31	7%	12	16

### II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Actions.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
119	--	5% #	7	10

### III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
26	13	1%	2	2

## MARYLAND

### I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
1037	88	4%	10	23

### II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Actions.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
499	--	3%	5	11

### III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
224	23	<u>Less Than</u> 1%	2	5

## MASSACHUSETTS

### I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
1233	88	5%	20#	21

### II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Actions.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
705	--	4%	12#	12

### III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
239	14	2%	4	4

## MICHIGAN

### I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
2117	151	3%	11	23

### II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Actions

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
1344	--	3%	7	15

### III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
849*	18	1%	4	9

## MINNESOTA

### I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
491	27	NA	2**	12

### II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Actions.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
223	--	NA	1**	5

### III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
223	11	NA	1**	5



# MISSISSIPPI

I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
1630	160	11% #	21#	62#

II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Actions.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
1138	--	8% #	14#	43#

III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
249	22	1%	3	9

# MISSOURI

I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
1449	147	7%	11	28

II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Actions.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
785	--	5%	6	15

III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
462	29	2%	3	9

## MONTANA

### I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
396	13	11%#	10	49#

### II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Actions

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
268	--	9%#	7	33#

### III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
139*	1	3%	3	17*#

## NEBRASKA

### I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
343	31	4%	7	22

### II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Actions.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
184	--	3%	4	12

### III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
120*	5	1%	3	8*

## NEVADA

### I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
537	26	4%	15	53#

### II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Actions.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
148	--	1%	4	15

### III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
347	12	2%	10#	34#

## NEW HAMPSHIRE

### I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
238	35	4%	10	23

### II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Actions.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
110	--	2%	4	10

### III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
38	13	<u>Less Than</u> 1%	2	4

## NEW JERSEY

### I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
2025	105	NA	6**	26

### II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Actions

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
644	--	NA	2**	8

### III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
709*	12	NA	2**	9

## NEW MEXICO

### I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
459	32	5%	8	31

### II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Actions.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
212	--	3%	4	14

### III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
160	3	1%	3	11

## NEW YORK

### I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
5482	251	3%	14	31

### II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Actions.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
2308	--	2%	6#	13

### III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
1754	41	<u>Less Than</u> 1%	4	10

## NORTH CAROLINA

### I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
644	57	2%	9	10

### II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Actions.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
265	--	2%	4	4

### III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
329	18	1%	5	5

## NORTH DAKOTA

### I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
119	19	6%	5	18

### II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Action

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
55	--	4%	2	8

### III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
58	2	3%	2	9

## OHIO

### I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
1503	117	3%	4	14

### II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Actions.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
876	--	2%	3	8

### III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
314	17	<u>Less Than</u> 1%	1	3

# OKLAHOMA

## I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
2024	153	NA	29#	62#

## II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Actions.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
963	--	NA	14#	29#

## III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
554	19	NA	8#	17#

# OREGON

## I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
496	37	2%	6	18

## II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Actions.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
176	--	1%	2	6

## III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
184	7	<u>Less Than</u> 1%	2	7

## PENNSYLVANIA

### I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
5642	434	8% #	17#	47#

### II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Action

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
2905	--	5% #	9#	24#

### III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
3279	124	4% #	10#	27#

## PUERTO RICO

### I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
299	31	4%	3	9

### II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Actions.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
136	--	4%	1	4

### III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
45	8	<u>Less Than</u> 1%	1	1



## RHODE ISLAND

### I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
310	46	5%	16	31

### II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Actions.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
170	--	3%	9#	17

### III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
18	4	<u>Less Than</u> 1%	1	2

## SOUTH CAROLINA

### I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
1073	114	5%	35#	31

### II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Actions.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
664	--	4%	21#	19#

### III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
376*	13	1%	12#	11*

## SOUTH DAKOTA

### I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
180	25	NA	5	25

### II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Actions

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
73	--	NA	2	10

### III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
42	4	NA	1	6

## TENNESSEE

### I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
1252	117	5%	10	26

### II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Actions.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
670	--	3%	5	14

### III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
327	26	1%	3	7

## TEXAS

### I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
5537	831	8% #	15	33

### II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Actions.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
3269	--	6% #	9	19

### III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
3078	289	5%	8#	18

## UTAH

### I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
392	26	8% #	14	23

### II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Actions.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
139	--	4%	5	8

### III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
153	5	4% #	5	9

## VERMONT

### I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
132	35	NA	25**	24

### II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Actions

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
50	--	NA	5**	9

### III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
69	11	NA	2**	13

## VIRGINIA

### I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
1480	184	4%	12	25

### II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Actions.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
709	--	3%	6	12

### III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
324	34	1%	3	5

## WASHINGTON

### I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
568	26	3%	4	13

### II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Actions.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
325	--	3%	2	7

### III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
197*	1	<u>Less Than</u> 1%	1	4*

## WEST VIRGINIA

### I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
604	30	5%	10	32

### II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Actions.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
298	--	3%	5	16

### III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
142	9	1%	2	7

## WISCONSIN

### I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
430	37	NA	2**	9

### II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Action

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
172	--	NA	1**	4

### III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
148	9	NA	1**	3

## WYOMING

### I. Proposal to Abolish Federal Diversity Jurisdiction.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
216	32	6%	13	44#

### II. Proposal to Bar In-State Plaintiffs From Initiating Federal Diversity Action

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
81	--	3%	5	17

### III. Law Which Raises Federal Jurisdiction Limit to \$50,000.

<u>1. Number of Filings</u>	<u>2. Number of Trials</u>	<u>3. Percent Change In Torts</u>	<u>4. Filings Per General Jurisdiction Judge</u>	<u>5. Filings Per 100,000 Population</u>
76*	3	2%	4	16*