



Buyers Up • Congress Watch • Critical Mass • Global Trade Watch • Health Research Group • Litigation Group
Joan Claybrook, President

Businesses File Four Times More Lawsuits than Individuals and Are Sanctioned Much More Often than Individuals for Frivolous Suits

In a recent study, Frequent Filers, Public Citizen surveyed the number of annual case filings in two states (Arkansas and Mississippi) and two local jurisdictions (Cook County, Ill., and Philadelphia, Pa.). The four court systems surveyed are geographically diverse and represent urban and rural areas of the nation. They appear to be the only jurisdictions that require attorneys to provide sufficient detail to distinguish business-initiated suits from trial attorney-initiated suits. The study also surveyed the 100 most recent sanctions by federal judges for frivolous case filings. Our study found the following:

Finding #1: American businesses file four times as many lawsuits as do individuals represented by trial attorneys.

The survey of case filings found that businesses were 3.3 to 5.8 times more likely to file lawsuits than were individuals. This comes as businesses and politicians are campaigning to limit citizens' rights to sue over everything from medical malpractice damages to defective products. By way of comparison, there are 40 times more American consumers (281 million) than there are American businesses (7 million).

State-specific findings for 2001 include:

- Mississippi: In this state that the American Tort Reform Association (ATRA) has labeled in 2003 a "judicial hell hole," businesses were 5.8 times more likely to file suit than were individuals. There were 45,891 business lawsuits filed that year compared to 7,959 lawsuits by individuals.
- Philadelphia, Pa.: Businesses there filed cases at a 3.3-to-1 ratio compared to individuals; there were 64,698 business lawsuits compared with 19,751 individual lawsuits brought by trial attorneys.
- Arkansas: Arkansas businesses filed 4.4 lawsuits for every one lawsuit filed by trial attorneys on behalf of individuals – 20,868 vs. 4,786.
- Cook County, Ill.: Businesses went to the courthouse 5.8 times more often than trial attorneys representing individuals. The number of business lawsuits filed was 137,890 compared with 26,938 by individuals.

Finding #2: Businesses are sanctioned far more often in federal courts for filing frivolous claims or defenses than are trial attorneys representing plaintiffs in tort claims.

A separate Public Citizen survey found that businesses and their attorneys were 69 percent more likely than individual tort plaintiffs and their attorneys to be sanctioned by federal judges under Rule 11 for filing frivolous claims or defenses. Rule 11 of the Federal Rule of Civil Procedures permits judges the right to impose sanctions that range from reprimands and denial of fees to fines, dismissal of claims and injunction from further litigation.

Of the 100 most recent cases of federal judges imposing Rule 11 sanctions throughout the country between 2001 and 2004, 27 were against businesses or their attorneys while only 16 were against plaintiffs who brought tort cases or their attorneys. Only individuals representing themselves without counsel were sanctioned more often than businesses (35 cases). The remaining 22 sanctions occurred in non-tort cases filed by individuals with attorneys.

Finding #3: The insurance industry — one of the strongest advocates for restricting the legal rights of consumers and patients — is also one of the biggest users of the court system.

In Cook County, Ill., insurance companies filed about 8,000 lawsuits in 2002 — 35 times the number of class actions filed there by individuals that year. In fact, insurers file so many suits — mostly “subrogation” suits designed to recover the expense of covering their own policy holders — that last year the American Insurance Association asked to be exempted from a model lawsuit “reform” law that would limit citizen access to the courts and that they otherwise support.

To view Public Citizen’s full report (including a description of our research methodology) go to:
http://www.citizen.org/documents/Frequent_Filers_FINAL