



# American Board of Trial Advocates **Grassroots Recommendations and Toolkit**

Fall 2007

Prepared by

**PUBLIC STRATEGIES INC**

**American Board of Trial Advocates  
Communications & Grassroots Program  
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August 2007

## **Recommendations For ABOTA Communications & Grassroots Program**

### **SITUATION ANALYSIS:**

ABOTA is an elite membership organization with more than 6,300 lawyers and judges dedicated to the preservation of the Seventh Amendment of the U.S. Constitution and to civility in the courtroom.

Despite the efforts of ABOTA and other similarly minded legal organizations, the legal profession has experienced erosion in its reputation and standing over the last 20 years. At the same time, the country has seen a steady decline in the number of civil jury trials.

As documented in “Examining Trial Trends in State Courts: 1976-2002,” the use of trials in the state courts of general jurisdiction has been declining for more than 20 years. From 1976 to 2002, jury trials decreased by 32 percent for civil cases, while bench trials declined by 7 percent.”<sup>1</sup>

As part of ABOTA’s efforts to inform the public of this alarming trend that threatens their basic constitutional rights, the organization has decided to undertake a call to action. It is asking its members to work within their communities to advocate and advance the right to a civil jury trial. ABOTA also has a strong interest in restoring some of the previously lost luster to the legal profession.

The recent research conducted by Public Strategies for ABOTA on this topic suggests that the public would be receptive to an effort designed to reinforce the historical significance of jury trials and to raise awareness about the importance of preserving citizens’ right to a jury trial. Additionally, the research tells us that upon learning about the existence of an organization of attorneys committed to preserving citizens’ right to a civil trial, favorable opinions about this group are a much higher (79 percent, including 36 percent who are very favorable).

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<sup>1</sup> “Examining Trial Trends in State Courts: 1976-2002.” *Journal of Empirical Legal Studies*, Vol. 1, No. 3, Nov. 2004, pp. 755-782.

## **OVERVIEW:**

While ABOTA has several organized national efforts focused outside the legal profession, such as the Justice by the People/Scholastic program and Journalist Law School, it does not currently provide its membership with a community-based turnkey approach to advancing ABOTA's mission to preserve the civil jury trial system. A grassroots-driven effort could help educate and inform key audiences about the importance of civil jury trials and about ABOTA's mission to advance trial civility. Key grassroots audiences across the country targeted for such an approach are:

- community leaders
- junior and senior high school students
- college students
- law school students
- civic and community groups
- reporters, editorial writers and columnists

The recommendations in this memorandum are chiefly the result of the June 1, 2007, brainstorming session conducted with ABOTA's executive committee.

## **OBJECTIVES:**

- To alert citizens to the risks associated with a continued decline in the number of civil jury trials and how that decline affects their rights and future.
- To ensure a continued knowledge that the right to a jury trial is guaranteed under the U.S. Constitution and that a group of legal professionals is committed to the preservation of that right.
- To enhance the public's perceptions and impressions of attorneys by better communicating ABOTA's mission to protect the right to civil jury trials.

## **GRASSROOTS PROGRAM ELEMENTS:**

### **National Overlay**

The addition of several national organizational elements will serve to enhance the grassroots program by providing guidance and incentives to the local effort.

**Masters in Trial:** The Masters in Trial program is ABOTA's crown jewel. By opening some MIT mock trials to journalists, ABOTA has the opportunity to educate reporters who cover law and justice, raise awareness about the decline of jury trials and demonstrate the high ethical and professional standards ABOTA embraces. This could

be achieved through several channels — by either allowing reporters to observe and/or inviting them to serve as jurors at a select number of the mock trials.

The benefits are that the mock trial experience serves as a mini-Journalist Law School experience. It exposes the reporters firsthand to the importance of civil juries and of jury service, it could prompt some reporters to write about their experience and it introduces ABOTA as a resource for comment and background information about the civil litigation the reporters cover.

Speakers Bureau: We recommend that ABOTA undertake a speakers bureau to place ABOTA leadership in appropriate speaking venues at the local and national level. The national effort is important as it will set the tone for local speakers' initiatives, it can be promoted and managed from the Web site, and efforts with national organizations can help create opportunities with the state and regional chapters for the national groups.

At the local level, ABOTA members would be encouraged to speak at venues generated from the national efforts and to use existing relationships with community groups to identify speaking opportunities. To help gather momentum within the organization, we recommend that ABOTA members' efforts be highlighted with pictures and brief biographies on the ABOTA Web site; posting this information will help the marketing function.

Additionally, the effectiveness of a speakers bureau is enhanced when some personnel and resources can be devoted to seeking out appropriate venues and pitching ABOTA's speakers to the targeted events' organizers.

#### Continued Partnership with the National Constitution Center:

- *National Constitution Day:* ABOTA could use National Constitution Day (September 17) as a rallying point for the organization at the national and local levels. Activities could include hosting observance events, submitting op-eds and letters to the editor and sponsoring school-based and community events (singly or in partnership with the National Constitution Center). These activities will raise the profile of National Constitution Day while delivering positive messages about the right to a civil jury trial.
- *Pocket Constitutions:* The National Constitution Center has pocket-sized Constitutions available at nominal costs. ABOTA could work with NCC to distribute these to new citizens at the time of their swearing-in. For example, the Fourth of July is a day for high-profile ceremonies across the country — notably the swearing-in of new citizens at Thomas Jefferson's home, Monticello. Additionally, they could be distributed to students in conjunction with the Scholastic program.

Experts Guide for Reporters: An experts guide is a resource that reporters use when looking for comment on a particular story or trend. Universities, professional and trade associations and think tanks routinely send expert guides to reporters who cover their respective issues. These groups generally print their guides annually, but also use their organizations' Web sites for updates to the information. The guide generally provides basic background information on available sources, areas of expertise and contact information. Given ABOTA's elite membership, this tool would be extremely useful to reporters. Since not all ABOTA members may want to be contacted by reporters, we recommend a self-selection process that would include those members who are interested and allow them to identify their specific areas of expertise.

While we recommend sending the experts guide to law and justice journalists at major news outlets including the national and top 100 newspapers, network and cable television and NPR, the guide also serves as an opportunity to reconnect with reporters who attended the Journalist Law School.

ABOTA members also could distribute the guide locally to legal reporters in their communities. It provides an opportunity to offer a service to the media and build media relationships in a manner that is not self-promotional.

Journalist Law School: ABOTA should continue its active participation in JLS and encourage its members to sponsor journalists for the program. Additionally, ABOTA should work with Loyola to establish and maintain an alumni association of journalists who complete the program. This group should form the backbone of the organization's media outreach efforts. ABOTA should continue to be viewed by JLS alumni as a resource on the state of civil litigation well beyond their completion of classroom work.

We also recommend continuing to discuss opportunities to expand the program outside of the Loyola offering. Travel expenses for reporters would significantly diminish if similar events could be held on the East Coast or in the South.

Justice by the People/Scholastic Program: Use ABOTA's partnership with Scholastic to tap into the teachers network and encourage the use of ABOTA teaching materials and promotion of ABOTA members as guest speakers. ABOTA members in their local school districts can then foster relationships over time via e-mails and continued personal follow up.

### **Grassroots Program Incentives**

ABOTA's members are already leaders in their communities. This initiative is an opportunity for them to call upon their existing relationships and community efforts to remind their neighbors and fellow citizens of the importance of civil jury trials and help the community understand what's at stake as the number of jury trials declines. Equally

important to this initiative is the opportunity for ABOTA members to highlight the ethical and professional standards to which they hold themselves. The research tells us that people think more highly of an organization committed to the preservation of jury trials.

Knowing ABOTA's members are busy and active with their careers and family, the grassroots program's success requires a system of incentives, which will encourage participation.

- Make it easy: Provide "how to" training at an ABOTA meeting breakout session. By attending the training session, members will learn techniques and approaches for securing speaking engagements, potential groups for outreach, how to conduct a media interview, ideas for helping the community recognize National Constitution Day and how to write a letter to the editor or op-ed that gets published.
- Make it important: Reward accomplishment and participation by establishing an annual recognition for the members who distinguish themselves in the grassroots program. The award should be appropriately named, for example, it could be called "The Civil Jury Trial Advocate of the Year" or it could be named for a noted Seventh Amendment advocate like Supreme Court Justice Joseph Story. The recipient should receive the award, be recognized at a widely attended ABOTA meeting and be featured in an article in *Voir Dire*. Members would receive the criteria for the recognition as part of the launch of the grassroots program. (To encourage participation as well as to recognize it, the grassroots program should be refreshed annually and the distribution of materials and award criteria should be distributed on an annual basis.)

Draft criteria for Civil Jury Advocate of the Year Award: To be eligible for the Civil Jury Advocate of the Year Award, ABOTA must establish and communicate criteria for qualification and selection.

For example:

Qualifying speaking opportunities could include but would not limited to:

- Civic and community groups (i.e., Rotary Club, Business and Professional Women, NAACP, LaRaza, Women's Clubs, Junior League, Boy and Girl Scouts, DAR and SAR)
- Schools (i.e., junior high schools, senior high schools, community colleges, four-year colleges, law schools)
- Media groups and organizations (i.e., state press associations, city press clubs or associations)



To be eligible, members must complete four outside speeches related to the importance of the right to a jury trial within a calendar year.

Other activities that members should be encouraged to undertake at the grassroots level are:

National Constitution Day Observance: Members should be encouraged to organize or participate in a local National Constitution Day event that involves the legal profession as well as members of the community outside of the legal profession.

Local elected official outreach: Members should be encouraged to meet with their local elected officials to raise awareness of the issues and seek support for efforts to ensure protection of the right to a jury trial.

Media outreach: Members should contact local reporters who cover courts to establish themselves as expert sources on the right to a civil jury trial and the importance of this right. This effort is an opportunity for ABOTA's voice to be heard in community after community around the country.

Opinions: Members should read their local newspapers and look for appropriate opportunities to write a short, thoughtful letter to the editor or op-ed on protecting the Constitution and preserving citizens' rights to a civil jury trial.



## Memorandum

**To:** Lewis Sifford

**From:** Joe Emery  
David Iannelli

**Date:** August 16, 2007

**Subject:** ABOTA Omnibus Findings

**cc:** J. Sutherland, J. Bratina, J. Householder

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On behalf of the American Board of Trial Advocates, Public Strategies conducted a brief survey of 1,000 U.S. adults between July 30 and August 2, 2007. The telephone survey was fielded as a part of the Ipsos Weekly National Omnibus Survey and contained a total of five questions. The margin of error is +/- 3.1 percentage points. For the first two questions (half-sampled), the margin of error is +/- 4.3 percentage points.

The results are positive overall, and the research suggests that the public would be receptive to an effort designed to reinforce the historical significance of jury trials and to raise awareness about the importance of preserving citizens' right to a jury trial. It is important to remember that the survey did not probe the public's deeper feelings about the legal profession by exploring specific attributes it may associate with lawyers.

Following are key findings from the survey:

- A majority of Americans (53%) say they would prefer that a case be decided by a jury should they become involved in a civil suit as either a plaintiff or a defendant. (Younger and lower income Americans, however, are more likely to select a judge, and those living in the Western part of the U.S. are equally likely to select a judge as they are a jury.)
- When asked whether they would prefer a jury trial versus binding arbitration to settle a legal dispute, a jury trial wins, but by a smaller margin of 47%-41%. (The public may be less familiar with binding arbitration, but even those who are familiar probably do not associate the term with credit card agreements designed to limit consumers' rights in the event of a dispute. It might be beneficial to link binding arbitration to everyday instances where consumers fail to realize that they're relinquishing their right to a jury trial.)

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- Nearly two-thirds agree with the statement that jury trials are guaranteed by the constitution, protect individual rights and serve as a check and balance on courts, judges and lawyers. Majorities across nearly all demographic subgroups agree with this point of view.
- Despite a general preference for a jury trial over a bench trial or binding arbitration, a majority supports “limits” on the number of civil cases heard by juries. This may simply be a matter of the public generally supporting “limits” of any kind, and from a communications standpoint it would be preferable to frame ABOTA’s position as “opposing restrictions” on citizens’ right to a jury trial.
- A majority of Americans have a favorable opinion of attorneys – 58% -- with just 36% saying they have an unfavorable opinion. This carries across all subgroups (favorable opinions are lowest for retirees at 50%).
- Upon learning about the existence of an organization of attorneys committed to preserving citizens’ right to a civil trial, favorable opinions about this group are a much higher 79% (including 36% very favorable).

**ABOTA Omnibus Survey  
August 2007  
n=1,000 Registered Voters Nationwide  
Margin of Error: ±3.1%**

1. [HALF SAMPLE A; N=509] If you were involved in a civil suit and either being sued or suing someone yourself, would you prefer that your case be decided by a [ROTATE] JURY or by a JUDGE?
  - 53 Jury
  - 39 Judge
  - 8 Don't know/unsure (vol.)
  
1. [HALF SAMPLE B; N=491] If you were involved in a legal dispute would you prefer the matter be resolved by [ROTATE] a civil jury trial OR binding arbitration set up by the party with whom you were in dispute?
  - 47 Civil jury trial
  - 41 Binding arbitration
  - 12 Don't know/unsure (vol.)
  
2. Following are two opposing viewpoints.  
 ROTATE  
 [VIEW A] (Some/Others) say that our nation's civil justice system is clogged with lawsuits and it would be better if civil trials were decided by judges rather than by a jury of ordinary citizens who aren't used to weighing complex evidence.  
  
 [VIEW B] (Others/some) say the right to a jury trial is guaranteed in our U.S. Constitution, protects individual rights, and serves as a check and balance on the courts, judges and lawyers.  
  
 With which viewpoint do you agree more?
  - 33 Decide by judge
  - 62 Decide by jury
  - 5 Don't know/unsure (vol.)
  
3. Do you support or oppose changes that would limit the number of civil cases that are heard by juries? And would you say you strongly [SUPPORT/OPPOSE] or just somewhat [SUPPORT/OPPOSE]?
  - 18 Strongly support
  - 36 Somewhat support
  - 20 Somewhat oppose
  - 16 Strongly oppose
  - 9 Don't know/unsure (vol.)
  - Collapsed**
  - 55 Support
  - 37 Oppose
  
4. Overall, would you say that you have a favorable or unfavorable opinion of attorneys? And would you say that is a very [FAVORABLE/UNFAVORABLE] opinion or just somewhat [FAVORABLE/UNFAVORABLE]?
  - 15 Very favorable
  - 43 Somewhat favorable
  - 23 Somewhat unfavorable
  - 13 Very unfavorable
  - 6 Don't know/unsure (vol.)
  - Collapsed**
  - 58 Favorable
  - 36 Unfavorable

5. If you knew that there was an organization of attorneys committed to preserving and protecting your constitutional right to a civil jury trial, would you have a favorable or unfavorable opinion of this particular group of attorneys? And would you say you have a very [FAVORABLE/UNFAVORABLE] opinion or just a somewhat [FAVORABLE/ UNFAVORABLE] opinion?

- 34 Very favorable
- 45 Somewhat favorable
- 9 Somewhat unfavorable
- 5 Very unfavorable
- 7 Don't know/unsure (vol.)
- Collapsed**
- 79 Favorable
- 14 Unfavorable

# ABOTA: Civil Trial Study

<u>1</u>	1a. If you were involved in a civil suit and either being sued or suing someone yourself, would you prefer that your case be decided by a Judge or by a Jury?
<u>2</u>	1a. If you were involved in a civil suit and either being sued or suing someone yourself, would you prefer that your case be decided by a Judge or by a Jury?
<u>3</u>	1b. If you were involved in a legal dispute would you prefer the matter be resolved by a binding arbitration OR civil jury trial set up by the party with whom you were in dispute?
<u>4</u>	1b. If you were involved in a legal dispute would you prefer the matter be resolved by a binding arbitration OR civil jury trial set up by the party with whom you were in dispute?
<u>5</u>	2. With which viewpoint do you agree more?
<u>6</u>	2. With which viewpoint do you agree more?
<u>7</u>	by juries?
<u>8</u>	by juries?
<u>9</u>	4. Overall, would you say that you have a favorable or unfavorable opinion of attorneys?
<u>10</u>	4. Overall, would you say that you have a favorable or unfavorable opinion of attorneys?
<u>11</u>	protecting your constitutional right to a civil jury trial, would you have a favorable or unfavorable opinion of this particular group of attorneys?
<u>12</u>	protecting your constitutional right to a civil jury trial, would you have a favorable or unfavorable opinion of this particular group of attorneys?

1a. If you were involved in a civil suit and either being sued or suing someone yourself, would you prefer that your case be decided by a Judge or by a Jury?

Proportions/Mean: Columns Tested (5% risk level) - AB - C/D/E - F/G/H - I/J/K/L - small base

	Gender		Age				Household Income				Region			
	Total	Male	Female	18-34	35-54	55+	Under \$25K	\$25K- \$50K	\$50K+	Northeast	Midwest	South	West	
	A	B	C	D	E	F	G	H	I	J	K	L		
Base: All respondents asked	506	239	267	114	169	210	124	102	185	109	111	169	117	
Weighted	509	255	255	165	185	146	118	104*	200	113*	113*	168	116*	
Jury	270 53%	142 56%	129 51%	74 45%	108 58%	79 54%	53 45%	54 52%	115 58%	59 52%	56 50%	101 60%	54 46%	
Judge	198 39%	91 36%	107 42%	83 50%	68 37%	46 32%	56 48%	41 39%	75 38%	41 36%	49 43%	54 32%	54 46%	
(DK/NS)	41 8%	22 9%	19 8%	9 5%	9 5%	21 14%	9 7%	9 9%	9 5%	13 12%	8 7%	12 7%	8 7%	



1a. If you were involved in a civil suit and either being sued or suing someone yourself, would you prefer that your case be decided by a Judge or by a Jury?

Proportions/Mean: Columns Tested (5% risk level) - A/B - C/D/E - F/G/H/I - JK - L/M/N/O \* small base; \*\* very small base (under 30) ineligible for sig testing

	Children		Education			Employment Status				Marital Status			Race			
	Total	Yes	No	HS or less	Some College	College Degree	Full Time	Part Time	Not Emp.	Retired	Married	Other	Hispanic	Non-Hispanic White	Non-Hispanic Black	Non-Hispanic Other
		A	B	C	D	E	F	G	H	I	J	K	L	M	N	O
Base: All respondents asked	506	163	343	193	147	159	218	53	77	157	285	216	103	286	87	20
Weighted	509	190	320	181	155	166	239	57*	90*	123	303	201	70*	336	63*	15**
Jury	270	95	175	93	84	89	129	34	42	66	155	111	29	191	37	7
	53%	50%	55%	51%	55%	53%	54%	60%	46%	53%	51%	55%	42%	57%	58%	43%
Judge	198	88	110	77	61	56	97	23	40	37	121	76	36	131	23	5
	39%	46%	34%	43%	40%	34%	41%	40%	44%	30%	40%	38%	51%	39%	36%	32%
(DK/NS)	41	7	34	11	9	22	13	0	9	20	27	14	5	15	4	4
	8%	4%	11%	6%	6%	13%	5%	-	9%	16%	9%	7%	7%	4%	6%	25%

1b. If you were involved in a legal dispute would you prefer the matter be resolved by a binding arbitration OR civil jury trial set up by the party with whom you were in dispute?

Proportions/Mean: Columns Totaled (5% risk level) - A/B - C/D/E - F/G/H - I/J/K/L - small base

	Total		Gender				Age				Household Income				Region			
	Male	Female	A	B	C	D	E	F	G	H	I	J	K	L	Midwest	South	West	
Base: All respondents asked	501	229	272	89	185	221	111	114	197	81	116	197	107					
Weighted	491	230	260	135*	198	152	98*	117*	203	76*	111*	196	107*					
Civil Jury Trial	231	124	107	76	82	69	56	53	93	33	49	111	38					
	47%	54%	41%	57%	41%	46%	57%	46%	46%	44%	44%	56%	36%					
Binding Arbitration	199	85	113	43	96	58	30	56	91	35	48	65	51					
	41%	37%	44%	32%	49%	38%	30%	48%	45%	46%	43%	33%	48%					
(DK/NS)	61	20	40	15	20	24	12	8	19	8	14	21	18					
	12%	9%	16%	11%	10%	16%	12%	7%	9%	10%	13%	11%	17%					

1b. If you were involved in a legal dispute would you prefer the matter be resolved by a binding arbitration OR civil jury trial set up by the party with whom you were in dispute?

Proportions/Mean: Columns Tested (5% risk level) - A/B - C/D/E - F/G/H/I - J/K - L/M/N/O \* small base; \*\* very small base (under 30) ineligible for sig testing

	Children		Education				Employment Status				Marital Status				Race			
	Total	Yes A	No B	HS or less C	Some College D	College Degree E	Full Time F	Part Time G	Not Emp. H	Retired I	Married J	Other K	Hispanic L	Non-Hispanic White M	Non-Hispanic Black N	Non-Hispanic Other O		
Base: All respondents asked	501	160	341	160	154	176	212	47	78	162	273	222	81	291	108	15		
Weighted	491	184	306	137	157	185	237	54*	77*	120	280	205	54*	331	77*	10**		
Civil Jury Trial	231 47%	92 50%	139 45%	78 57%	84 53%	66 35%	111 47%	29 54%	38 50%	52 44%	120 43%	108 53%	28 52%	151 46%	39 50%	4 40%		
Binding Arbitration	199 41%	71 39%	128 42%	39 29%	64 40%	93 50%	105 44%	22 40%	28 36%	43 36%	121 43%	77 38%	14 25%	147 44%	33 43%	5 52%		
(DK/NS)	61 12%	21 11%	40 13%	20 15%	10 6%	26 14%	22 9%	3 6%	11 14%	25 21%	40 14%	20 10%	12 22%	33 10%	5 7%	1 8%		

2. With which viewpoint do you agree more?

Proportions/Mean: Columns Tested (5% risk level) - AB - C/D/E - F/G/H - I/J/K/L

	Gender		Age			Household Income				Region			
	Total	Male A	Female B	18-34 C	35-54 D	55+ E	Under \$25K F	\$25K- \$50K G	\$50K+ H	Northeast I	Midwest J	South K	West L
Base: All respondents	1007	468	539	203	354	431	235	216	382	190	227	366	224
Weighted	1000	485	515	300	383	298	217	221	403	189	224	364	223
Decide by Jury	622 62%	318 66%	304 59%	174 58%	246 64%	190 64%	115 53%	144 65%	264 65%	114 61%	148 66%	228 63%	133 59%
Decide by Judge	327 33%	148 30%	180 35%	116 39%	123 32%	85 29%	90 42%	66 30%	132 33%	62 33%	70 31%	115 32%	80 36%
(DK/NS)	50 5%	19 4%	31 6%	11 4%	14 4%	23 8%	11 5%	11 5%	8 2%	12 7%	7 3%	22 6%	10 4%

2. With which viewpoint do you agree more?

Proportions/Mean: Column's Tested (5% risk level) - A/B - C/D/E - F/G/H/I - J/K - L/M/N/O \* small base

	Children		Education				Employment Status				Marital Status				Race			
	Total	Yes	No	HS or less	Some College	College Degree	Full Time	Part Time	Not Emp.	Retired	Married	Other	Hispanic	Non-Hispanic White	Non-Hispanic Black	Non-Hispanic Other		
	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O			
Base: All respondents	1007	323	684	353	301	335	430	100	155	319	558	438	184	577	195	35		
Weighted	1000	374	626	318	312	351	477	111*	167	243	583	405	124	667	140	25*		
Decide by Jury	622	217	406	188	204	219	314	65	87	156	365	249	58	429	97	15		
	62%	58%	65%	59%	65%	62%	66%	59%	52%	64%	62%	61%	47%	64%	69%	58%		
Decide by Judge	327	146	181	111	98	114	148	39	71	68	189	136	53	215	39	8		
	33%	39%	29%	35%	31%	32%	31%	35%	43%	28%	32%	34%	43%	32%	28%	34%		
(DK/NS)	50	12	39	19	10	19	15	7	9	20	30	21	12	23	4	2		
	5%	3%	6%	6%	3%	5%	3%	6%	5%	8%	5%	5%	10%	3%	3%	8%		

3. Do you support or oppose changes that would limit the number of civil cases that are heard by juries?

Proportions/Mean: Columns Tested (5% risk level) - A/B - C/D/E - F/G/H - I/J/K/L

	Gender		Age				Household income				Region			
	Total	Male	18-34	35-54	55+	Under \$25K	\$25K- \$50K	\$50K+	Northeast	Midwest	South	West	Region	
		A											B	C
Base: All respondents	1007	468	203	354	431	235	216	382	190	227	366	224		
Weighted	1000	485	300	383	298	217	221	403	189	224	364	223		
Strongly Support	185 18%	94 19%	41 14%	91 24%	51 17%	37 17%	49 22%	83 21%	42 22%	35 15%	75 21%	34 15%		
Somewhat Support	361 36%	175 36%	132 44%	125 33%	97 33%	86 40%	81 37%	143 36%	64 34%	91 40%	118 32%	88 40%		
Somewhat Oppose	202 20%	81 17%	68 23%	69 18%	63 21%	47 22%	42 19%	79 20%	32 17%	58 26%	77 21%	35 16%		
Strongly Oppose	165 16%	97 20%	44 15%	69 18%	51 17%	26 12%	29 13%	80 20%	34 18%	30 13%	61 17%	41 18%		
(DK/NS)	87 9%	37 8%	16 5%	30 8%	37 12%	22 10%	20 9%	18 5%	18 10%	11 5%	33 9%	25 11%		
Summary														
Support	546 55%	270 56%	172 57%	215 56%	148 50%	123 57%	130 59%	226 56%	105 56%	125 56%	193 53%	122 55%		
Oppose	367 37%	178 37%	112 37%	138 36%	113 38%	73 34%	71 32%	159 39%	66 35%	88 39%	138 38%	76 34%		

3. Do you support or oppose changes that would limit the number of civil cases that are heard by juries?

Proportions in % means: Columns Tested (5% risk level) - A/B - C/D/E - F/G/H/I - J/K - L/M/N/O \* small base

	Children		Education				Employment Status				Marital Status			Race			
	Total	Yes	No	HS or less	Some College	College Degree	Full Time	Part Time	Not Emp.	Retired	Married	Other	Hispanic	Non-Hispanic White	Non-Hispanic Black	Non-Hispanic Other	
	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O		
Base: All respondents	1007	323	684	353	301	335	430	100	155	319	558	438	184	577	195	35	
Weighted	1000	374	626	318	312	351	477	111*	167	243	583	405	124	667	140	25*	
Strongly Support	185	73	112	66	55	60	100	12	31	40	101	82	19	123	33	7	
	18%	19%	18%	21%	18%	17%	21%	11%	19%	17%	17%	20%	15%	18%	23%	27%	
Somewhat Support	361	158	203	113	118	125	181	50	59	69	212	143	56	241	47	7	
	36%	42%	32%	35%	38%	36%	38%	45%	35%	36%	36%	35%	45%	36%	33%	26%	
Somewhat Oppose	202	58	144	64	66	69	83	22	37	60	122	78	17	139	27	6	
	20%	16%	23%	20%	21%	20%	17%	20%	22%	25%	21%	19%	14%	21%	19%	25%	
Strongly Oppose	165	64	101	44	56	64	83	22	23	37	101	63	12	125	23	2	
	16%	17%	16%	14%	18%	18%	17%	20%	14%	15%	17%	16%	10%	19%	17%	8%	
(DK/NS)	87	21	65	32	17	32	29	5	16	37	48	39	19	39	10	3	
	9%	6%	10%	10%	6%	9%	6%	4%	10%	15%	8%	10%	16%	6%	7%	13%	
Summary																	
Support	546	231	315	179	173	185	281	62	91	110	313	225	75	364	79	13	
	55%	62%	50%	56%	55%	53%	59%	56%	54%	45%	54%	55%	61%	54%	57%	53%	
Oppose	367	122	246	108	122	133	166	44	60	97	223	141	29	265	50	8	
	37%	33%	39%	34%	39%	38%	35%	39%	36%	40%	38%	35%	24%	40%	36%	34%	

4. Overall, would you say that you have a favorable or unfavorable opinion of attorneys?

Proportions/Mean: Columns Tested (5% risk level) - A/B - C/D/E - F/G/H - I/J/K/L

	Gender		Age					Household Income				Region			
	Total	Male	Female	18-34	35-54	55+	Under \$25K	\$25K- \$50K	\$50K+	Northeast	Midwest	South	West		
		A	B	C	D	E	F	G	H	I	J	K	L		
Base: All respondents	1007	468	539	203	354	431	235	216	382	190	227	366	224		
Weighted	1000	485	515	300	383	298	217	221	403	189	224	364	223		
Very Favorable	152 15%	66 14%	87 17%	44 15%	60 16%	44 15%	43 20%	25 11%	58 14%	24 13%	28 12%	68 19%	33 15%		
Somewhat Favorable	430 43%	198 41%	233 45%	146 49%	163 43%	117 39%	87 40%	95 43%	192 48%	90 48%	112 50%	134 37%	94 42%		
Somewhat Unfavorable	230 23%	122 25%	109 21%	73 24%	87 23%	67 23%	48 22%	50 23%	93 24%	36 19%	59 26%	84 23%	52 23%		
Very Unfavorable	129 13%	82 17%	47 9%	24 8%	53 14%	46 16%	25 11%	34 15%	45 11%	26 14%	18 8%	52 14%	33 15%		
(DK/NS)	58 6%	18 4%	40 8%	14 5%	20 5%	23 8%	14 6%	17 8%	9 2%	13 7%	8 4%	26 7%	11 5%		
Summary															
Favorable	583 58%	263 54%	319 62%	189 63%	223 58%	161 54%	130 60%	120 54%	250 62%	114 61%	139 62%	202 55%	127 57%		
Unfavorable	359 36%	204 42%	156 30%	97 32%	141 37%	114 38%	73 34%	84 38%	144 36%	62 33%	77 34%	136 37%	85 38%		



4. Overall, would you say that you have a favorable or unfavorable opinion of attorneys?

Proportions/Mean: Columns Total (5% risk level) - A/B - C/D/E - F/G/H/I - J/K - L/M/N/O \* email base

	Children		Education			Employment Status				Marital Status				Race			
	Total	Yes	No	HS or less	Some College	College Degree	Full Time	Part Time	Not Emp.	Retired	Married	Other	Hispanic	Non-Hispanic White	Non-Hispanic Black	Non-Hispanic Other	
		A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	
Base: All respondents	1007	323	684	353	301	335	430	100	155	319	558	438	184	577	195	35	
Weighted	1000	374	626	318	312	351	477	111*	167	243	583	405	124	667	140	25*	
Very Favorable	152	57	95	58	43	44	59	16	47	30	87	62	33	84	25	4	
	15%	15%	15%	18%	14%	13%	12%	15%	28%	12%	15%	15%	26%	13%	18%	16%	
Somewhat Favorable	430	177	254	130	142	156	225	54	59	91	251	176	48	297	69	10	
	43%	47%	41%	41%	45%	45%	47%	48%	35%	37%	43%	44%	39%	44%	49%	42%	
Somewhat Unfavorable	230	84	146	62	74	93	108	34	32	56	138	91	24	169	23	3	
	23%	23%	23%	19%	24%	26%	23%	30%	19%	23%	24%	22%	19%	25%	17%	12%	
Very Unfavorable	129	39	90	42	41	43	63	7	16	42	72	54	11	87	11	7	
	13%	10%	14%	13%	13%	12%	13%	6%	10%	17%	12%	13%	9%	13%	8%	29%	
(DK/NS)	58	17	41	26	12	15	21	1	12	24	35	23	8	30	11	0	
	6%	4%	7%	8%	4%	4%	4%	1%	7%	10%	6%	6%	7%	5%	8%	2%	
Summary																	
Favorable	583	234	349	188	185	200	284	70	106	121	338	239	81	380	94	15	
	58%	62%	56%	59%	59%	57%	60%	63%	64%	50%	58%	59%	65%	57%	67%	58%	
Unfavorable	359	124	236	104	115	136	171	40	49	98	210	144	35	256	34	10	
	36%	33%	38%	33%	37%	39%	36%	36%	29%	40%	36%	36%	28%	38%	25%	40%	

5. If you knew that there was an organization of attorneys committed to preserving and protecting your constitutional right to a civil jury trial, would you have a favorable or unfavorable opinion of this particular group of attorneys?

Proportions/Mean: Columns Tested (5% risk level) - AB - C/D/E - F/G/H - I/J/K/L

	Gender		Age			Household Income				Region			
	Total	Male	Female	18-34	35-54	55+	Under \$25K	\$25K- \$50K	\$50K+	Northeast	Midwest	South	West
		A	B	C	D	E	F	G	H	I	J	K	L
Base: All respondents	1007	468	539	203	354	431	235	216	382	190	227	366	224
Weighted	1000	485	515	300	383	298	217	221	403	189	224	364	223
Very Favorable	342 34%	177 37%	165 32%	118 39%	129 34%	90 30%	88 41%	75 34%	122 30%	64 34%	72 32%	123 34%	84 38%
Somewhat Favorable	447 45%	198 41%	249 48%	141 47%	176 46%	123 41%	90 42%	106 48%	200 50%	75 40%	118 53%	158 43%	96 43%
Somewhat Unfavorable	90 9%	43 9%	47 9%	23 8%	31 8%	30 10%	13 6%	14 6%	39 10%	20 10%	12 5%	35 10%	24 11%
Very Unfavorable	51 5%	35 7%	16 3%	6 2%	24 6%	22 7%	14 6%	9 4%	20 5%	11 6%	10 5%	25 7%	5 2%
(DK/NS)	70 7%	31 6%	38 7%	11 4%	23 6%	34 11%	11 5%	18 8%	22 5%	20 11%	12 6%	24 6%	14 6%
Summary													
Favorable	789 79%	375 77%	414 80%	259 86%	305 80%	213 71%	179 82%	181 82%	323 80%	138 73%	190 85%	281 77%	181 81%
Unfavorable	141 14%	78 16%	63 12%	29 10%	55 14%	51 17%	27 12%	23 10%	59 15%	31 16%	22 10%	60 16%	28 13%



ABOTA Survey Results  
July 2007

**PUBLIC STRATEGIES INC**

Managing campaigns for corporations, around the clock, around the world.

# Methodology

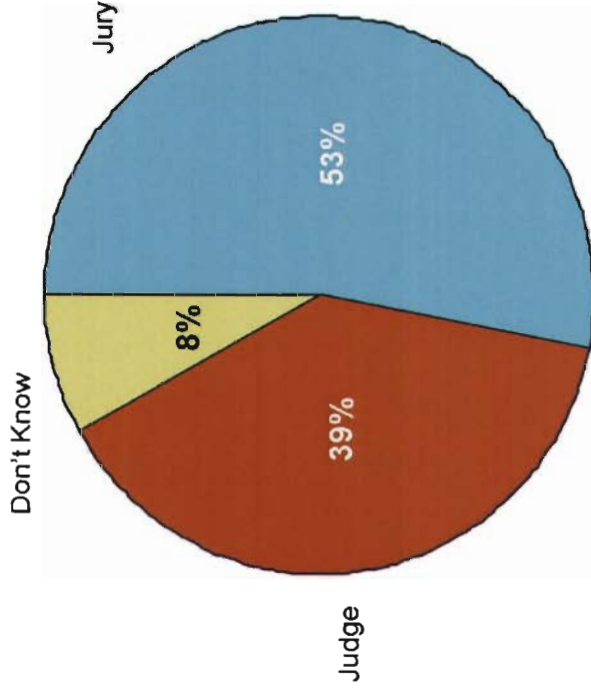
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- Five questions included on Ipsos Weekly National Omnibus Survey
- 1,000 adults nationwide
- Field dates: July 30 - August 2, 2007
- 3.1% margin of error

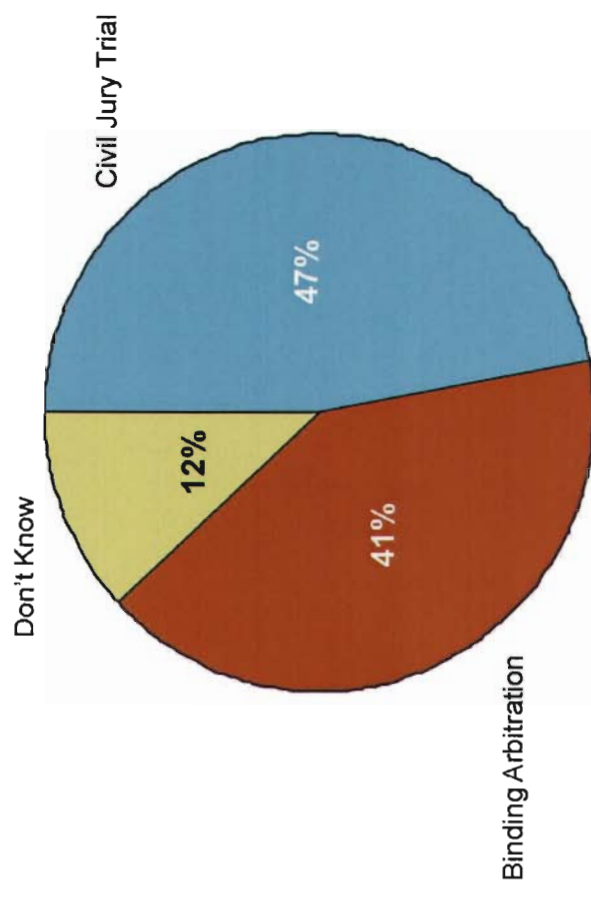
# Trial Preferences

- A majority of Americans would prefer a jury trial over a bench trial.
- A plurality of Americans would prefer a jury trial over binding arbitration.

If you were involved in a civil suit and either being sued or suing someone yourself, would you prefer that your case be decided by a jury or by a judge?



If you were involved in a legal dispute would you prefer the matter be resolved by a civil jury trial or binding arbitration set up by the party with whom you were in dispute?



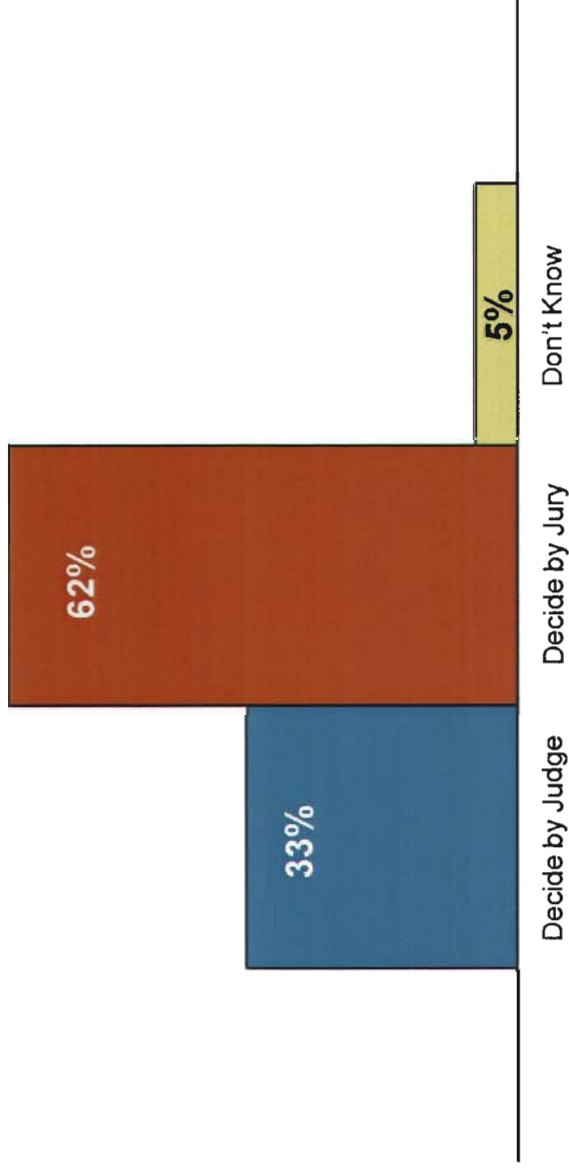
# Support for Jury Trial System

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- Nearly two-thirds prefer the argument that the right to a jury trial is guaranteed in the U.S. Constitution and serves as a check and balance on the courts, judges and lawyers over the notion that the justice system would be better served with judges deciding civil trials instead of juries.
- 

Some say that our nation's civil justice system is clogged with lawsuits and it would be better if civil trials were decided by judges rather than by a jury of ordinary citizens who aren't used to weighing complex evidence. OTHERS say the right to a jury trial is guaranteed in our U.S. Constitution, protects individual rights, and serves as a check and balance on the courts, judges and lawyers.

With which viewpoint do you agree more?



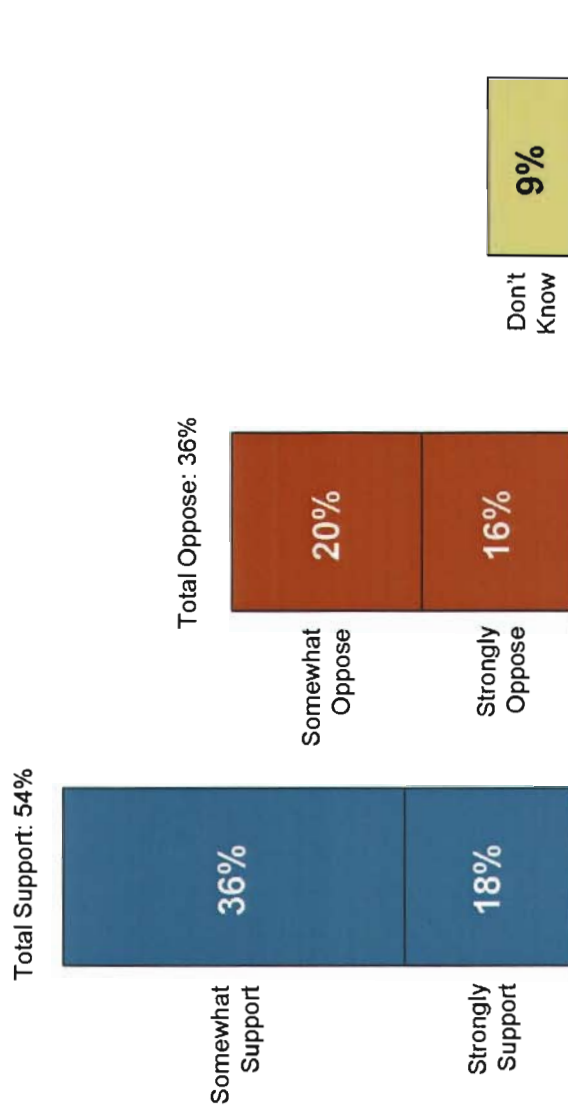
# Limiting Civil Jury Trials

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- Although only one-third think civil trials should be decided by judges, a majority of respondents supports the general concept of making changes that would limit the number of civil jury trials.

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Do you support or oppose changes that would limit the number of civil cases that are heard by juries?

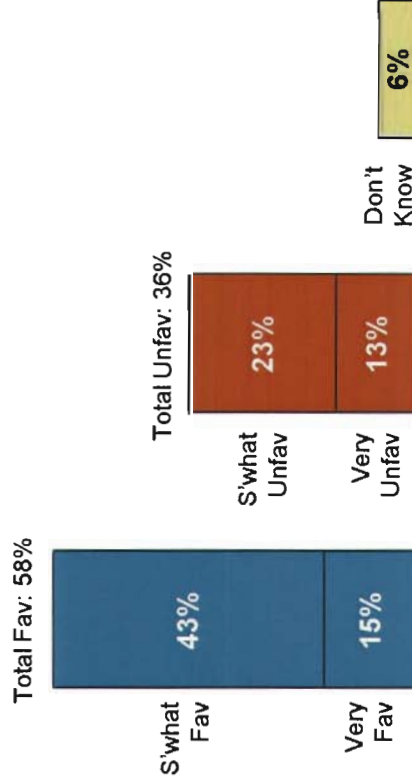




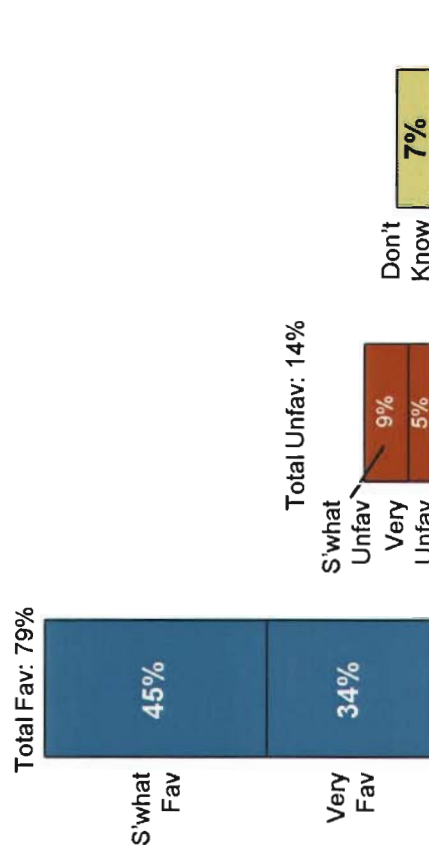
# Perceptions of Attorneys

- A majority of Americans has a favorable opinion of attorneys.
- A strong majority has a favorable opinion about an organization of attorneys committed to preserving citizens' right to a civil trial.

Overall, would you say that you have a favorable or unfavorable opinion of attorneys?



If you knew that there was an organization of attorneys committed to preserving and protecting your constitutional right to a civil jury trial, would you have a favorable or unfavorable opinion of this particular group of attorneys?







# DELIVERING YOUR MESSAGE

## ABOTA MEMBER TOOLKIT

### Preservation of the Seventh Amendment

**E**ngaging your members in advocacy efforts is an effective way to deliver a message on a national scale. Not only will a coordinated communications strategy raise the level of awareness of the importance of the preservation of the Seventh Amendment, but it also will help restore confidence in the legal profession by positioning attorneys as guardians of one of the most fundamental rights.

The toolkit is simple and easy to use. It is deliberately uncomplicated but employs successful, sophisticated grassroots outreach tools.

This toolkit offers samples of mediums through which ABOTA members can tell this important story. For the purposes of these examples, we have used National Constitution Day, September 17 each year, as a natural news hook for outreach to the local news media, civic groups and schools on a day when our Founding Fathers and the establishment of the Bill of Rights are celebrated.

While this toolkit can help you and ABOTA's members prepare for National Constitution Day, these resources can also be used throughout the year. The key is for your members to deliver the message in a coordinated, strategic manner across a number of mediums.

In this toolkit, you will find key messages, how-to guides and samples of communications vehicles, including:

- » Introductory Letter from the President
- » Messages
- » News Release
- » Letters to the Editor
- » Guest Column
- » Media Relations
- » Stump Speech

Using these tools as a guide, members will be able to tailor ABOTA's message and activities leading up to National Constitution Day, and amplify other ongoing efforts of ABOTA on these issues, such as the Justice by the People program and the Journalist Law School.

## COVER LETTER FROM THE PRESIDENT

Dear ABOTA Member:

As a member of this organization, you are keenly aware of the growing threat to our democracy masked as necessary “efficiency” within our stretched judicial system. Make no mistake: The dramatic reduction in the number of civil jury trials in recent years is a wake-up call to anyone interested in preserving a fundamental constitutional right.

It is incumbent upon us to tell the story that no one else is telling – one of our most basic rights as Americans is in jeopardy. While ABOTA continues to engage in this dialogue nationally, the education process on this alarming trend must begin at the local level, in our own backyards.

Numerous studies, including one conducted for ABOTA this year, have demonstrated that there is overwhelming support for the jury trial among Americans. An educated public can help ABOTA advocate for the preservation of one of the foundations of our democracy. To get started, we have developed a basic grassroots communications toolkit to aid your outreach efforts. These examples should serve simply as a how-to guide in getting started with communicating to civic groups, students, the media and other target audiences. While we have used the natural link of National Constitution Day – September 17 each year – to frame these examples, members should always be on the lookout for other opportunities to inform this debate throughout the year.

Moving forward, ABOTA will continue to be a leading voice in this critically important effort. It is my hope that this toolkit will help you raise awareness about the risks associated with reducing the number of civil jury trials. Given what’s at stake, it is our responsibility not only as attorneys, but also as Americans.

Thank you and good luck.

Sincerely,

Lewis R. Sifford  
ABOTA President

## ABOTA KEY MESSAGES

*A NOTE ABOUT MESSAGES: Messages are the building blocks of all communications. They are the key themes and points that will be used in all communications related to support for and preservation of the jury system. However, messages aren't a script and this document is for internal use.*

### Overarching Key Message

Jury trials are a fundamental constitutional right and critical to our democracy. In the Founding Fathers' eyes, the right to a jury trial was on a par with the right to vote and the right to free speech. Juries serve as a check and balance within our judicial system. ABOTA, an organization made up of both civil plaintiff and defense attorneys, is committed to the protection of this essential constitutional guarantee.

- » **The Constitution Guarantees the Right to Trial By Jury:** The right to a jury trial is as essential to the American justice system as the guarantee of legal representation. Whether civil or criminal, every person involved in litigation deserves the opportunity to have a jury trial. ABOTA members fight to protect the right to jury trial against those who seek to limit or end its use.
  - The use of trials in state courts has been declining for more than 20 years. Between 1976 and 2002 jury trials decreased by 32 percent for civil cases.<sup>1</sup>
  - Efforts to limit jury trials in civil matters are an erosion of our constitutional rights.
  
- » **Juries are the Backbone of Our Democracy:** The U.S. jury system is as critical to our democracy as the right to vote itself. Just as voting allows us to participate in the legislative and executive branches of government, jury service allows our voice to be heard in the judiciary. In a country founded on the principle of checks and balances, ABOTA recognizes – just as our country's founders did – that juries provide this important function not only on the courts and judges, but most importantly, on the lawyers who argue before them.

<sup>1</sup>

<sup>1</sup>“Examining Trial Trends in State Courts: 1976-2002.” *Journal of Empirical Legal Studies*, Vol. 1, No. 3, Nov. 2004, pp. 755-782.

- A July 2007 survey conducted for ABOTA found that a majority of Americans (53%) say they would prefer that a case be decided by a jury should they become involved in a civil suit as either a plaintiff or a defendant.
  
- » **An Efficient and Effective Jury System Makes the System Even Stronger:** Jurors are true public servants, who give their time, critical thinking and commitment to impartiality to their fellow Americans. While surveys show that the vast majority of jurors have a favorable opinion about their service, ABOTA understands the disruption that can come with service and is committed to innovations that will make the system more effective and efficient.
  - ABOTA has been collaborating with the National Center for State Courts on jury innovations and supports changes that will limit the time of service, provide more written information about the case and allow jurors to take notes (from American Civil Trial Bar Roundtable, Revised Sept. 9, 2006).

# HOW TO

## NEWS RELEASE

The news release is a fundamental tool in delivering your message to the media. Press releases are generally reserved for announcements and are written in the form of a news story.

A news release must include details, quotes and background information on your announcement. For example, using National Constitution Day as your news “hook,” you can call attention to an activity ABOTA is engaged in surrounding the event and ensure your core message on preservation of the Seventh Amendment is front and center. The news release also is a vehicle to announce state and local ABOTA events and recognitions such as Guardian of the Constitution awards. Each news release should be structured using these basic guidelines:

- » The headline of your release should have a subject and a verb, as in “ABOTA Announces Constitution Day Activities” or State Chapter of ABOTA Honors [Insert Name] with Guardian of the Constitution Award.
- » The first sentence of your release should contain the news. Why is this timely?
- » Include meaningful quotes and avoid legal jargon.
- » Use a news release to report findings (statistics on reduction in number of civil trials), introduce a new program (partnerships with schools) or announce the group’s recognition of an individual.
- » When possible, look for ways to relate regional data to targeted media outlets - the more you can localize the story, the more likely your story will be picked up.
- » Limit the length to one page if possible, and no more than two pages.
- » News releases should be sent via email as well as fax (depending on the media outlet’s preference). Also post the release to the Web site. Distribute the release through these various mediums simultaneously.
- » Send a copy of the release to ABOTA national headquarters to ensure they’re aware of your efforts.

- » End the release with a boilerplate summary paragraph about your organization:
  - *“Founded in 1958, ABOTA is a national association of experienced trial lawyers and judges. ABOTA and its members are dedicated to the preservation and promotion of the civil jury trial right provided by the Seventh Amendment to the U.S. Constitution. The Foundation of ABOTA, formed in 1992, is an affiliated charitable entity, the mission of which is to support the purposes of ABOTA through education and research. ABOTA membership consists of more than 6,300 lawyers and judges spread among 93 Chapters in all 50 States and the District of Columbia. ABOTA publishes Voir Dire magazine, which features in-depth articles on current and historical issues related to constitutional rights, in particular the Seventh Amendment right to trial by jury.”*

## Press Release Format:

FOR IMMEDIATE RELEASE  
Month Date, Year

CONTACT: John Doe  
Phone Number

Headline

City, State -- ABOTA [State/Local Chapter name] announced today....



# HOW TO

## LETTER TO THE EDITOR

A letter to the editor is the traditional forum in which you can share an opinion or correct misinformation on a topic that has been reported in the newspaper. Even in today's on-line news environment, the letters to the editor page continues to be widely read and is a useful tool in ensuring a community dialogue.

### Basic Guidelines

To be considered for publication, the letter should be brief and to the point. Most newspapers have a strict 200-word limit for a letter to the editor to be considered. Most newspapers prefer submission via email, although fax and mail are accepted, and the author must include his or her name, address, daytime, and evening telephone numbers.

Anonymous letters or those that use pseudonyms will not be considered, and most newspapers require that the letter be exclusive, meaning it has not been submitted to or published by any other media.

## Sample Letter to the Editor:

*[Please note: This sample is for guidance purposes. As you read the newspaper, if you see news coverage or opinion that challenges the importance of the civil jury system, you should write a letter relevant to the circumstances.]*

To the editor:

Not surprisingly, your recent article on litigation reform focused on the challenges we face with limited resources and backlogged cases within our judicial system. Without question, there are problems that need to be fixed if we are to ensure the preservation of the rights guaranteed under the Constitution.

But efforts masked as tort reform are too frequently impeding the constitutional right to a jury trial. In fact, between 1976 and 2002, jury trials decreased by 32 percent for civil cases. That's a staggering number, and one that would alarm our Founding Fathers.

In their eyes, the right to a jury trial was on par with the right to vote and the right to free speech. Juries serve as the check and balance on our judicial system, and are a fundamental right critical to our democracy.

As a member of American Board of Trial Advocates, an organization committed to the protection of this essential constitutional guarantee, I believe it's important the public recognizes what's at stake. As Americans, we all have a responsibility to preserve and protect the system that ensures our voices will be heard.

Sincerely,

Name  
Address  
Phone  
E-mail address

# HOW TO

## OP-ED OR GUEST COLUMN

Another useful tool in delivering your message is to write and submit an opinion editorial piece in the form of a guest column to the local newspaper.

Most newspapers have an editorial page, which reflects the opinions of the publisher and editorial staff as well as an Op-Ed page, which carries columns from syndicated journalists as well as guest columns by members of the local community. A guest column affords the opportunity to deliver your message, your way, and is a useful tool in establishing ABOTA members as guardians of the civil jury trial.

Op-Eds or guest columns are typically 500-700 words, but word limits vary from paper to paper. Most outlets have this information readily available on their Web site, or you can contact the editorial page office directly for submission guidelines.

Newspapers view themselves as reflections of the communities they serve, and they welcome comment and opinion from members of the community. Personal stories and local examples around an important community issue will increase the likelihood your guest column will be published.

## Guest Column: Protection of a Fundamental Right

(533 words)

*[Please note: This is for guidance. If you decide to submit an Op-Ed for Constitution Day, you should write a piece that reflects on the importance of the occasion and the right to a jury trial. If appropriate, consider incorporating references to your personal experiences as an attorney and as a member of your community.]*

Much is said, particularly in an election year, about the critical nature of protecting both the right to vote and the right to free speech. We teach it in our classrooms, we watch it in movies and on television, and there are hundreds of groups that exist to protect and preserve those rights.

National Constitution Day – September 17 – affords us the opportunity to reflect on these basic, fundamental rights that are the bedrock of our democracy. It is also a time to draw attention to the Seventh Amendment – our “forgotten right” to a trial by a jury of one’s peers.

One could argue that the American justice system is defined in our consciousness by the jury trial. From *To Kill a Mockingbird* to “Law & Order” reruns, we are both fascinated and respectful of a process that defines a justice system as “of the people, by the people and for the people.”

And yet, there is an alarming trend occurring in our civil courts. The number of jury trials in state courts has been declining for more than 25 years. Between 1976 and 2002, civil jury trials decreased by 32 percent. That’s staggering.

The right to a jury trial is as essential to the American justice system as the guarantee of legal representation. Whether civil or criminal, every person involved in litigation deserves the opportunity to exercise his or her right to a jury trial. Just as voting allows us to participate in the legislative and executive branches of government, jury service allows our voice to be heard in the judiciary.

If we continue to move from jury trials to bench trials or away from the courts completely and to arbitration, we will lose the critical checks and balances that our Founding Fathers believed must be at the center of our judicial system. Juries provide this critical function for courts and judges, and just as importantly, for lawyers who argue before them.

Erosion of this fundamental right poses great risks to Americans, and we have a responsibility to ensure it is preserved and protected. The American Board of Trial Advocates (ABOTA), an organization dedicated to the preservation of the Seventh Amendment, is doing just that. Through innovative programs in the schools and partnerships with the media and community-based organizations, we are educating the public both on the historical significance of the Seventh Amendment, and what we can do to ensure its preservation.

This is not to say the operation of our jury system can't be improved upon. Without question, we must create more efficiency to restore citizens' confidence in the system. ABOTA, in collaboration with the National Center for State Courts, is advocating changes that will improve the system such as limiting the time of service, providing more written information to jurors, and allowing note-taking. Improving the system's effectiveness will make the system even stronger.

So, as we celebrate National Constitution Day and the rights upon which this great nation was founded, let's remember the importance of preserving the Seventh Amendment.

# HOW TO

## ENGAGE REPORTERS

Reporters always need experts who can contribute to their understanding of everything from broad public policy issues to a specific legal point in a trial. It's very likely that you already know and may have a relationship with the reporters in your community.

Most reporters who cover courts are not lawyers and welcome insights and knowledge from lawyers who don't have a stake in the outcome of a trial. (They're also interested in talking to the lawyers who do have a stake in the outcome, but an independent voice provides disinterested commentary that helps inform their coverage.) You can be an important source of relevant information about the courts and the law and the importance of the jury system to these reporters.

If you don't already know the local reporters who cover courts, you can easily figure out by reading the newspaper and looking for the reporter's byline in the newspaper and watching the television news to see who reports on courts and legal matters.

Once you establish your list of contacts, the rules of engagement are straightforward:

- » Be prompt in responding to reporters' calls or e-mails.
- » Seek opportunities to provide them guidance and comments that are appropriate. Recognize your comfort zone in providing comment. As a "source," you don't have to comment every time.
- » Keep in touch.

### Promptness is a Virtue

Every reporter, even a reporter for a weekly, works under a tight deadline. When they reach out for an expert opinion or to get a comment on an issue, they need a prompt response – even if you can't help them.

If you develop a reputation for promptly responding to calls and e-mails, they will consider you a reliable resource.

A reporter's call or e-mail should be returned, whenever possible, within 30 minutes. That does not mean that you should agree to do an interview on the spot. It means you acknowledge the outreach and if an interview is appropriate, you agree on a time (before the reporter's deadline) at which the interview will take place.

### Keep in Touch

Read their work. When a reporter writes a particularly insightful story, e-mail that reporter and say so. When a reporter writes a story that has potential for a follow-up, share that information.

While all of these suggestions will be helpful in building and maintaining your new media relationships, do not ever forget to exercise common sense. Do not engage in overkill by too much contact. Do not pander – only send compliments when a compliment is warranted.

## Inside the Interview

As noted in the Media Relations checklist, one of the key attributes of a successful interview is that you were relaxed. That does not mean, however, that you were asleep at the switch. To succeed in an interview setting, it is important that you:

- » Set the ground rules
- » Remain focused
- » Understand reporter tactics
- » Control the interview through response techniques

### Setting the Rules

One of the most common misunderstandings that arises between interviewer and interviewee is in defining what, precisely, it means when something is on-the-record or off. Some media outlets have wisely developed specific policies addressing this question so that their reporters and the subjects those reporters interview understand just what is meant when the phrase, "this is off the record," is used.

Unfortunately, other organizations don't have such policies and leave it to the discretion of reporter and subject to understand the meaning of those terms. This has frequently led to confrontation and, on rare occasions, litigation when information shared that the interviewee believed was not going to be used appears in print or on television or radio.

Therefore, it is sensible to have a clear definition for this terminology that, should the need arise, can be explicitly stated and agreed to prior to an interview. The rules are rather simple:

- » **Unless you and the reporter agree, before something is said, everything you say is on the record.** From your idle chatter about the weather to your deepest thoughts about the topic of your interview, it is all fair game for use by the reporter. If and only if both parties are in complete agreement that something is on background or not for the record, it must be considered available for publication with attribution to you.
- » **"On background" means the reporter can use what you say, but will not attribute it to you by name.** The most common example of this is in coverage of the White House, when a reporter uses a phrase such as "senior administration official." This can sometimes serve as a useful artifice in which an interview subject can feel more comfortable sharing information that will advance a story while minimizing the risk of repercussions for having done so.
- » **"Off-the-record" means the information cannot be used unless it can be verified by an outside source.** Misunderstandings about this are often the source of conflict between an interviewer and an interviewee. Frequently, reporters will manage to verify and use an off-the-record tip and the originator of that tip will be angry that the information appeared. Understand, off-the-record does not mean the information cannot be used. It simply means the reporter, if interested, must look elsewhere to properly source that information. If you don't want something to appear in a story, simply don't mention it.



With certain exceptions, the best course of action is to remain on-the-record throughout every interview. Information that you wish to share on background or off-the-record can be transmitted via your media relations team in a post-interview conversation.

### **Maintain your Focus**

Reporters, especially experienced reporters, do not suffer from the delusion that what you are saying in an interview is spontaneous. They understand the concept of message development and talking points. Many chafe at this and attempt to move a subject “off message” in hopes of acquiring a somewhat less varnished version of the truth.

It is, therefore, incumbent upon you as the interviewee to maintain a laser-like focus on the message you wish to convey. While commentators and the public frequently laud the so-called “straight shooter” who speaks “off the cuff,” it is the rare straight shooter who doesn’t shoot himself in the foot.

### **Understand Reporter Tactics**

While most interviews are relatively non-confrontational and straightforward, it is important to understand some of the key tactics some reporters use to tease out the kind of comments they are seeking. Those tactics include:

- » **The confrontational interview** – in which the reporter engages in a relentless challenge of everything an interviewee says, frequently relying on real or perceived deviations from past statements to suggest dishonesty. This type of interview clearly illustrates the importance of message discipline.
  
- » **The “helpful” interview** – in which the reporter attempts to steer the course of the conversation by setting up the interviewee for a particular quote. By making an incomplete statement and ending it with a pregnant pause (“Would you say that the judge was out of line...”) the reporter is hoping that the subject will fill in the blank and provide the quote the reporter wants. Even if you completely agree with the reporter’s characterization, it’s important that you say it in your own words.

- » **The interpretive interview** – Similar to the helpful interview but much more insidious is the interview in which the reporter offers interpretations of what you are saying. “So what you are saying is, you expect the jury to...” If that is what you are saying and, more importantly, what you want to be saying, say it in your own words. However, when this tactic is used to get new and previously unstated information, it should be deflected. Frequently, the false premise accompanies this tactic. Listen closely to the interpretation, do not credit it and through your response, move the reporter back to your message.
- » **The repetitive interview** – If you ever walk out of an interview with the thought that you were asked the same question repeatedly, that’s probably because you were. Reporters use this tactic when they aren’t satisfied with the message that is being delivered. By repeatedly asking the same question, in slightly modified form, the reporter is hoping the subject gets frustrated enough or feels sympathetic enough to go off message and say something new and more interesting. One of the challenges of a disciplined approach to messaging is recognizing that no matter how bored you are with your talking points, they must be repeated as frequently as the reporter repeats the question.
- » **The sympathetic interview** – While the experience can be pleasant, this tactic can be dangerous. It is designed to stroke your ego in hopes that you will relax and drop your guard. It is an attempt to drive you off message.
- » **The disruptive interview** – Broadcast reporters in live interview settings most often use this tactic, but print journalists use it from time to time. In this setting, the interviewee struggles to get a word in edge-wise amidst constant interruption. Overcoming this tactic requires patience, a measured tone and an insistence that one be permitted to respond to the question.

### Control the Interview

Fortunately, the tactics one must employ in order to overcome the many varied interview styles are universal. While a reporter and editor have the ultimate control over how a story is presented, by working to control the interview you have a better chance of making sure your message comes across in that story.

- » **Never do an interview on the spot** – Don't go on the record right away. Ask about a deadline and commit to reconnecting with the reporter in advance of that deadline. Ask questions about the reporter's goals, what kind of story is being prepared, when it is likely to run and who else is being interviewed. Use the time between the initial call and the interview to consult with your media advisors and refresh yourself on your key messages.
- » **Set a time limit** – Sometimes reporters want just a few minutes of your time. On other occasions, however, they'll take as much time as you give them. Limit the session. In most cases, 20 minutes is the optimum time for an interview. Rarely should it go longer than 30 minutes.
- » **Don't volunteer the negative** – If the question is negative ("Aren't all lawyers just looking for a legal loophole?") the answer is not a verbatim denial ("No, lawyers aren't all looking for a loophole."). Simply say, "That is not true," and pivot immediately to your affirmative message.
- » **Bridge to safety** – When a question takes you off message, use a bridging statement to get back on. When you bridge, you push off the reporter's attempt to get you off your agenda and regain control. Effective bridging statements include:
  - "The real question is..."
  - "What you should understand is..."
  - "What is really at stake here is..."
  - "The fact of the matter is..."

- » **Respond to a question's intent** – Although you do not have to answer the question in the way the reporter wishes, you need to acknowledge the intent of the question. The premise may be false or accusatory, but your answer should respect the subject of the question as you bridge back to your message.
  
- » **Flag the message** – Signal your most important points to the reporter. Let the reporter know that your most important quote is coming by using flags. Potential phrasing includes:
  - “The key issue here is...”
  - “If you take one thing away from this conversation it would be...”
  - “What your readers need to know...”
  
- » **Don't fill the empty air** – There is nothing wrong with silence. When you've answered the question, you've answered it. If a reporter simply sits and stares, stare back (politely). There is no need to run the risk of driving yourself off message by continuing to talk.
  
- » **Draw a circle around yourself** – If you don't know the answer to a question, say so and move on.

By controlling the conversation, delivering your messages and maintaining a positive demeanor, you are more likely to gain the respect of the reporter and more likely to get your message across in the story. There are no guarantees in either life or an interview, but by understanding a reporter's tactics and utilizing the tactics outlined above you vastly increase your odds of success.

# HOW TO

## STUMP SPEECH

One of the core elements of any community outreach strategy is to identify community and civic groups that can be educated and turned into advocates. To determine potential groups, identify educational, community and civic groups in your area that host guest speakers. It's likely that you are already a member of one or more of these groups or have friends who are members.

Suggested targets include, but are not limited to:

- » Civic and community groups (Rotary Club, Junior League, Kiwanis, Boy and Girl Scouts, NAACP)
- » Schools (junior high schools, senior high schools, community colleges, four-year colleges and law schools)
- » Media groups and organizations (i.e., state press associations, city press clubs or associations)

Once these groups have been identified, speaking engagements can be explored and scheduled to deliver the basic messages and begin to build support for the effort. As you schedule speaking opportunities, you'll want to "know your audience" before you address them. Be sure to work with the group's coordinator for speakers to determine format. You also may want to inquire about additional information on the group and the members before the speech.

The basic stump speech should be 8-10 minutes in length, contain timely, relevant examples and encompass the core messages. Time should be allotted for a question-and-answer period, which often leads to discussion of how this issue translates on the local level and how to get involved.

Once you have confirmed a speaking opportunity, you'll want to personalize and tailor your basic speech so that it's appropriate to your audience (i.e., to an audience of students, the message should be about the historical significance of the establishment of this right and how it is their rights that are being protected).

## Sample National Constitution Day Stump Speech: Preserving a Fundamental Right

*September 17, 2008 (800 words)*

*[Please note: This is for guidance. You can adapt this speech, which is intended for use around National Constitution Day activities, for non-National Constitution Day speaking opportunities.]*

In classrooms across the country today, teachers are engaging in specially tailored lessons to underscore the significance of our Constitution and the principles upon which it was written. You can just picture children dressed as our Founding Fathers reenacting the momentous event 221 years ago that established the United States government as it exists today.

National Constitution Day affords us the opportunity to reflect on the basic, fundamental rights that are the bedrock of our democracy. Particularly in an election year, there is no shortage of attention given to our basic rights – specifically our right to vote and the right to free speech. These rights are uniquely American and fiercely protected by we, the people, as the cornerstone of what makes this nation great.

But what is often lost in these celebrations and remembrances is the right that has arguably sustained our democracy for more than two centuries – the right to a civil jury trial, otherwise known as the Seventh Amendment.

One could argue that the American justice system is defined in our consciousness by the jury trial. From *To Kill a Mockingbird* to “Law & Order” reruns, we are both fascinated and respectful of a process that defines a justice system as “of the people, by the people and for the people.”

And yet, in today's world, that very right is in jeopardy. While it may not capture the daily headlines, there is an alarming trend occurring in our civil courts. The use of jury trials in state courts has been declining for more than 25 years. Between 1976 and 2002, civil jury trials decreased by 32 percent. That's staggering.

It's important to look at the origin of the jury trial to understand its significance. Our Founding Fathers approached this issue with a wise, yet simple, view. If two people have a dispute, they have a right to bring that dispute before a group of fellow citizens for resolution. These jurors – strangers to those involved in the dispute – will make a judgment based on the facts of the case and the rule of law. The parties involved will accept that decision, and justice will be served. Having come from England, our founders felt strongly that a jury of one's peers rather than a judge beholden to the monarch should settle civil disputes.

The right to a jury trial is as essential to the American justice system as the guarantee of legal representation. Whether civil or criminal, every person involved in litigation deserves the opportunity to a jury trial. Just as voting allows us to participate in the legislative and executive branches of government, jury service allows our voice to be heard in the judiciary.

Critics of the jury trial would have you believe that it is an antiquated, time-consuming process that can no longer meet the demands of a much more complex judicial system. These individuals believe that the more disputes that can be settled by a judge, the more efficient and effective we will be in the administration of justice. That's simply wrong.

If we continue to move from jury to judge, we will lose the critical checks and balances that our Founding Fathers recognized must be at the center of our judicial system. Juries provide this critical function for courts and judges, and just as importantly, for lawyers who argue before them.

And the American people agree. Research indicates that an overwhelming majority of Americans would want a jury, not a judge, to decide their case if they were on trial. As Thomas Jefferson put it, “trust the process that trusts the people.”

Erosion of this fundamental right poses great risks, and the American people must be made aware of this growing threat. The American Board of Trial Advocates (ABOTA), an organization dedicated to the preservation of the Seventh Amendment, is doing just that. Through innovative programs in the schools and partnerships with the media and community-based organizations, we are educating the public both on the historical significance of the Seventh Amendment, and what we can do to ensure its preservation.

This is not to say our jury system does not need some tweaking. Without question, we must create more efficiency to restore citizens’ confidence in the operation of the system. ABOTA is collaborating with the National Center for State Courts to advocate changes that will limit the time of service, provide more written information to jurors, and allow note taking. Improving the system’s effectiveness will make the system even stronger.

So, as we celebrate the rights upon which this great nation was founded, let’s remember the importance of ensuring the preservation of all those rights. When it comes to the protection of our basic rights as Americans, the cost of inaction is simply too high a price to pay.