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**A New Study Co-Authored by Shari Seidman Diamond Examines the Disappearing Jury Trials**

CHICAGO, Jan. 12, 2021 - A new study co-authored by American Bar Foundation (ABF) Research Professor [Shari Seidman Diamond](#) explains the decline in jury trials and examines factors that can slow down or reverse their disappearance. The study finds that while judges and lawyers agree that jury trials are fairer than other alternatives, jury trials have been suppressed by laws such as mandatory arbitration, damage caps, criminal sentencing guidelines, and mandatory minimum sentences.

Administered by The American Bar Association (ABA) Commission on the American Jury, the study surveyed 1,460 lawyers and judges from 2016 to 2019 on the importance of jury trials in the judicial process. The article, titled "[Reasons for the Disappearing Jury Trial: Perspectives from Attorneys and Judges](#)," was co-authored by Diamond and Jessica M. Salerno, an associate professor of psychology at Arizona State University. Results of the study were published in the *Louisiana Law Review* as part of a symposium issue on "We the Jury."

According to the article, the number of cases decided by jury trials has dropped so dramatically in recent years in both federal and state courts that "the jury trial is an exceptional rather than a commonplace outcome." The percentage of civil jury trials fell from 5.5% in 1962 to 0.8% in 2013. The percentage of criminal jury trials fell from 8.2% in 1962 to 3.6% in 2013.

In their responses to the survey, judges and lawyers said that other case resolution procedures are more predictable, faster, and more cost-effective than jury trials. However, judges and lawyers said that jury trials excel in terms of fairness and are worth the costs associated with them. These favorable responses suggest that measures should be taken to reverse the disappearing trend of jury trials.

The authors recommend steps to help protect jury trials, including eliminating mandatory arbitration and damage caps. Lawyers and judges have indicated that these laws are the most significant influences in reducing jury trial rates in civil cases. They also recommend reforming criminal sentencing guidelines and abolishing mandatory minimums, which discourage jury trials in criminal cases due to the severe penalties attached to these laws. Instead, defendants are pressured to plead guilty.

The survey found that both judges and attorneys rank mediation as the fairest way to resolve civil cases, followed by jury and bench trials, and find arbitration to be the least fair. Survey results also show that lawyers perceive judges and mediators, as well as the opposing parties' attorneys, as the main sources of pressure to settle civil cases and forego trial.

"The factors that have reduced access to and use of jury trials comes at a cost to society," said Diamond. "Our laws need to safeguard citizen participation in the justice system by ensuring that jury trials don't disappear."

The study concludes that as fewer jury trials take place, citizens' ability to provide feedback in the justice system is limited, which "threatens the values of a deliberative democracy."

"These findings from ABF Research Professor Shari Diamond exemplify the type of empirical and interdisciplinary research we strive for at the ABF to help understand and address the most pressing legal issues facing the United States," said ABF Executive Director Ajay K. Mehrotra.

### ***About the American Bar Foundation***

*The [American Bar Foundation](#) (ABF) is among the world's leading research institutes for the empirical and interdisciplinary study of law. The ABF seeks to expand knowledge and advance justice through innovative, interdisciplinary, and rigorous empirical research on law, legal processes, and legal institutions. To further this mission the ABF will produce timely, cutting-edge research of the highest quality to inform and guide the legal profession, the academy, and society in the United States and internationally. The ABF's primary funding is provided by the [American Bar Endowment](#) and the [Fellows of The American Bar Foundation](#).*