

of the mock jurors and state poll participants, where 58 percent of mock jurors and 79 percent of the poll respondents agreed that lawyers encourage people to file unnecessary lawsuits. Sizeable majorities in Hans' study felt that the perceived growth in lawsuits reflected a societal breakdown and caused increased insurance premiums.

If the studies that disprove the existence of a litigation crisis are correct, then why is public opinion so overwhelmingly convinced that there is one? Scholars whom Hans cites conclude that the belief comes primarily from exposure to two sources: media reporting about lawsuits and negative advertising campaigns sponsored by business and insurance groups. They found that the media give an artificially high impression of plaintiffs' win rates and verdict amounts. For example, the median jury award for the cases reported in the magazines examined in the study was \$1.75 million, whereas the median award in studies from the courts ranged from \$51,000 to \$318,000. Negative advertising has proven as effective in keeping verdicts down as in defeating political candidates. Media reporting that depicts verdicts as unwarranted and excessive and advertising campaigns that warn the public about the prevalence of frivolous lawsuits trigger a psychological effect known as the "availability bias," which holds that "one is more likely to judge ... [an] event as one that commonly occurs." Thus, if jurors have been exposed to media reports and negative advertising characterizing lawsuits as frivolous, they are more likely to consider the case before them to be frivolous.

Corporations, too, face some biases when they go before civil juries. These come from the public's perception of the power that large corporations wield and the privileges they receive as a result of it. While most jurors believe that corporations should be judged in court by the same standards as individuals, some say that their corporate status justifies their being held to a higher standard. Identifying a defendant as a corporation increases the

likelihood that it will be found liable. Corporations are perceived as having larger organizational capability and more resources, and therefore greater expertise and power to control events. Hans found that, if an accident is tied to the principal purpose of the corporation, then jurors are more likely to find the corporation liable, as, for example, if Ford is sued in a products liability case for a car defect that caused injury. Jurors are more likely to find that a corporation's power to control events associated with its core purpose warrants a higher duty if, Hans found, jurors feel that they are marginalized in society and lack the ability to influence public policy through the political process. Thus, minorities and those who earn less and lack education are advocates of "higher standards." Those who feel that corporations should be held to the same standard as individuals are wealthier, are better educated, and feel that they have more overall clout in society.

Businesses should be heartened by Hans' findings that the jurors, mock jurors, and poll participants were strongly supportive of the concepts of free enterprise. Some quibbled with the extent of power corporations exercise in society, and jurors' confidence in business conduct improved as the size of the enterprise decreased. The responses to Hans' questionnaires showed that the public had the least amount of confidence in insurance companies.

Even in cases with high verdicts, Hans found that few jurors were influenced by animus toward corporate defendants. They were more often driven by specific evidence than they were by anti-business attitudes. In fact, business attitudes proved to be an insignificant predictor of outcome. Belief in the existence of a litigation crisis was much more likely to signal a juror's predilections. Those who had favorable attitudes toward business fit a clear pattern; they were better educated, politically conservative, and male.

A persistent belief in the business world is that too often jurors play the role of modern-day Robin Hoods, awarding big verdicts against wealthy

corporate defendants. Using her three groups — jurors, mock jurors, and opinion poll respondents — Hans sought to determine "whether a corporate defendant's financial strength is one of the variables that affects a jury's award." She concluded that the evidence did not support that view. "[T]he Robin Hood jury appears to be nearly as mythical as the character on which it is based." Providing financial data to jurors in one experiment had no effect on the jurors' judgments about either negligence or damages. If anything, jurors were often concerned about a defendant's ability to pay, although almost all jurors were aware that insurance figured in the picture somewhere, either to pay a liability claim for the defendant or to pay medical costs for the plaintiff. Jurors' concerns about the ability to pay may be a manifestation of views they had about the impact of tort litigation on society, a belief that Hans' study shows significantly favors the defense.

Hans' focus is on the role of the jury, and she finds ample evidence of its continued viability as a fact-finding body that is not intent on stifling corporations or the marketplace. She concludes with the prediction that "a civil justice system without a jury would evolve in a way that more reliably served the elite and business interests, although the changes might be small and difficult to detect."

In the final analysis, Hans believes that one of the best arguments for the jury system is that judges support it and, in the vast majority of cases, agree with juries' verdicts. The judges see room for improvement, but the changes are to fine-tune the system rather than to overhaul it. She quotes no less a student of American society than Alexis de Tocqueville on the beneficial role of the jury: "Juries, especially civil juries, instill some of the habits of the judicial mind into every citizen, and just these habits are the very best way of preparing people to be free. It spreads respect for the courts' decisions and for the idea of right throughout all classes. ... [The jury] should be regarded as a free school which is always open and in