

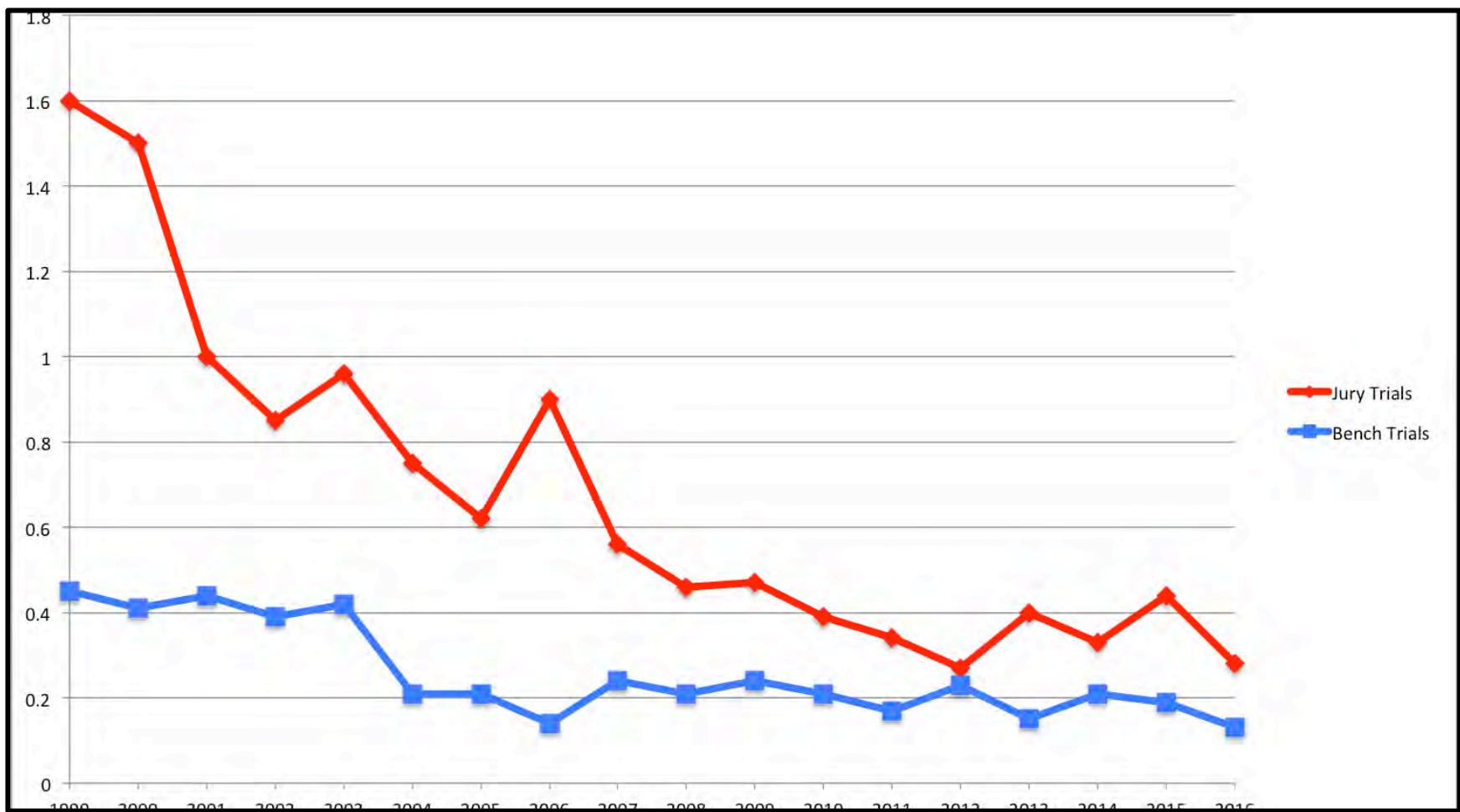
# CIVIL JURY PROJECT

at NYU School of Law

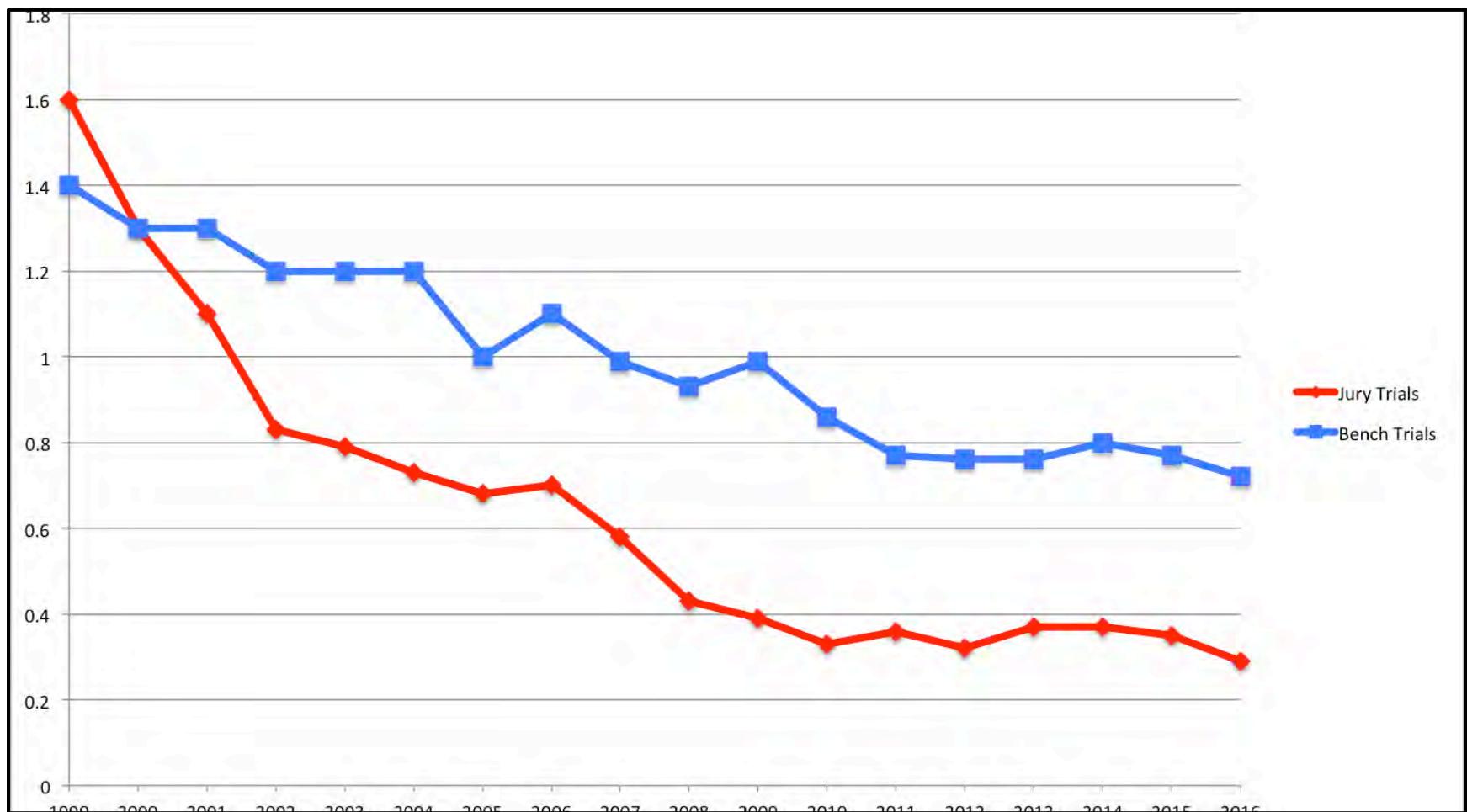
## The Death of the Civil Jury Trial

Stephen D. Susman  
Eighth Judicial Conference  
Cleveland, OH 44113  
May 11, 2018

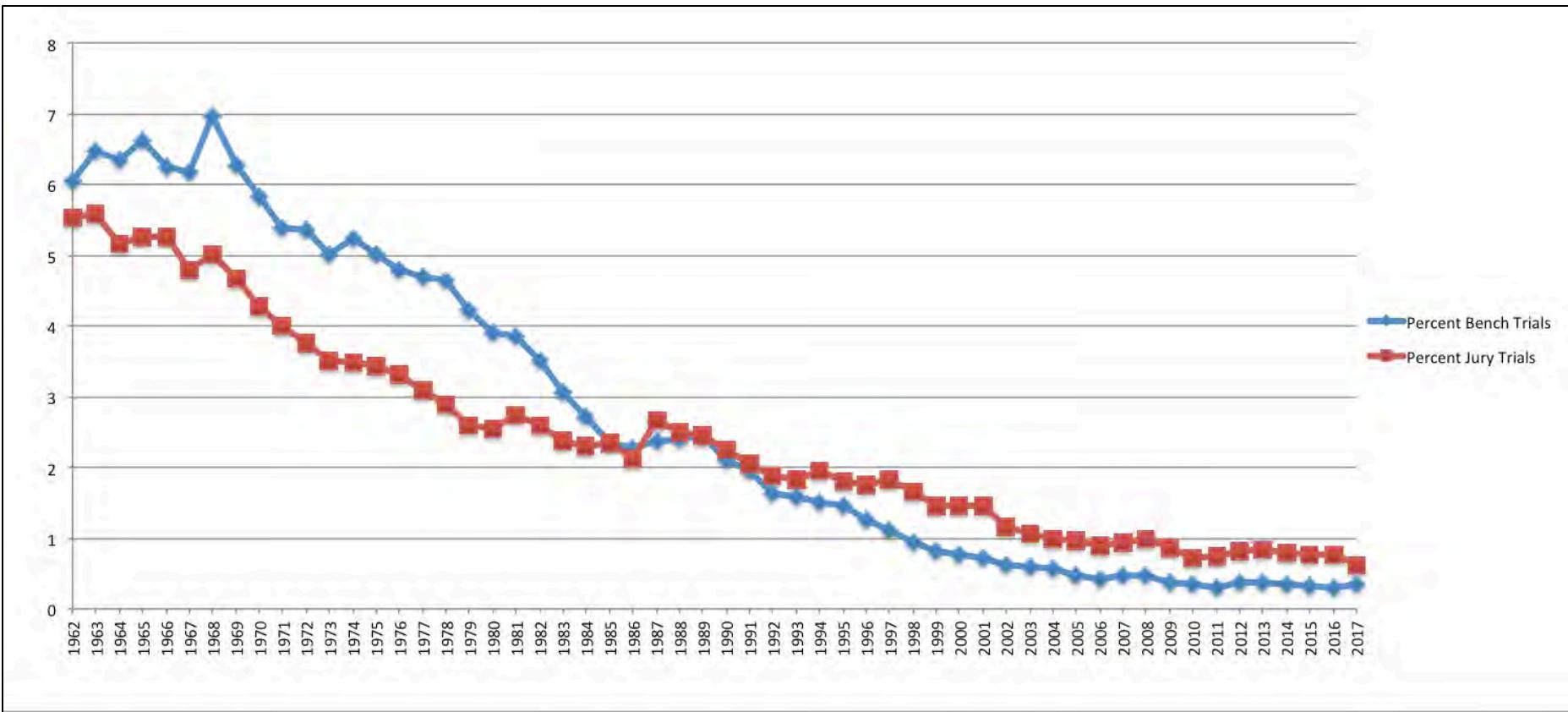
# Percentage of Civil Terminations by Bench and Jury Trial, Cuyahoga County Court of Common Pleas, General Division 1999-2016



# Percentage of Civil Terminations by Bench and Jury Trial, Ohio State Court of Common Pleas, General Division 1999-2016



# Percentage of Civil Terminations by Bench and Jury Trial, Federal Courts 1962-2017



# Reasons for Decline – Very Difficult to Change

- Discovery rules allow parties to discover the facts without having to go to trial
- Managerial judging
- Enforceability of arbitration clauses in contracts of adhesion
- Elimination of causes of actions as result of lawsuit abuse movement: tort reform, medical mal reform, securities law reform, class action reform, etc.
- Procedural screens to make sure remaining causes of action are plausible: motions to dismiss pleading; motions for s.j.; Daubert motions; limine motions
- Caps on damages (e.g., medical mal; punitives) remove the incentive to go to trial
- MDL consolidation and bell-weather trials of mass tort cases reduce the need for trials to dispose of large number of cases
- Absence of confidentiality exposes defs to further litigation or administrative sanctions
- Jury consultant and mock trials are able to predict results of trials

# Reasons for Decline – Comparatively Easy to Change

- Expense of discovery
- Delay in getting to trial
- Judicial insistence on mediation as pre-condition for trial setting
- Lack of real trial lawyers
- Insufficient judicial education
- Repeat litigants' perception that juries exclude educated and skilled citizens and that juries are deprived of decisional tools available to judges and arbitrators
- Public's perception that there is still a litigation explosion and that most lawsuits are frivolous and many juries are runaway
- Public's ignorance of historical reasons for jury trials and public dispute resolution and the relevance of those reasons today

# www.CivilJuryProject.law.nyu.edu



The screenshot shows the homepage of the Civil Jury Project. At the top right is the NYU Law logo. The main content area features a large image of a courtroom jury box with twelve people seated. Below this are two rows of microphones and a row of people seated at a long table, likely陪审团成员 (jurors) and court staff. On the left, there's a graphic of a white and blue 3D block. The text "CIVIL JURY PROJECT" is prominently displayed, followed by "at NYU School of Law". A navigation bar at the bottom includes links for ABOUT, CALENDAR, VIDEOS, SCHOLARSHIP, RESEARCH, RESOURCES, COMMENTARY, and CONTACT US.

## The civil jury is in decline. What are the implications?

In 1962, juries resolved 5.5 percent of federal civil cases; since 2005, the rate has been below one percent. The Civil Jury Project at NYU School of Law examines how the civil jury trial became a vanishing feature of the American legal landscape and looks at the consequence for the legal system and society more broadly.

[Learn more >](#)

# Cleveland Jury Improvement Lunch, April 19, 2018



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[www.WethePeopleWeTheJury.com](http://www.WethePeopleWeTheJury.com)

# THE CIVIL JURY IS IN DECLINE.

What are the implications?

ACT NOW



RECEIVED A JURY  
SUMMONS?



CURRENTLY SERVING  
JURY DUTY?



SERVED JURY  
DUTY BEFORE?

# Invitation Card for Jurors



## CIVIL JURY PROJECT

at NYU School of Law

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### Make Your Voice Heard

By sitting on a jury, you have provided a tremendous service to your community and country. We here at the Civil Jury Project of the New York University School of Law sincerely thank you. Our Project is committed to studying and bettering the jury system.

We invite you to visit [www.WethePeopleWetheJury.com](http://www.WethePeopleWetheJury.com) to discuss and critique your recent experience. Your responses will not be shared, and will be used only to help us study and improve America's juries.

You can also contact us at [CivilJuryProject@law.nyu.edu](mailto:CivilJuryProject@law.nyu.edu) if you have any concerns. Again, we thank you for your service.

# Social Media: Twitter & Facebook



# IADC: Order in the Classroom

