



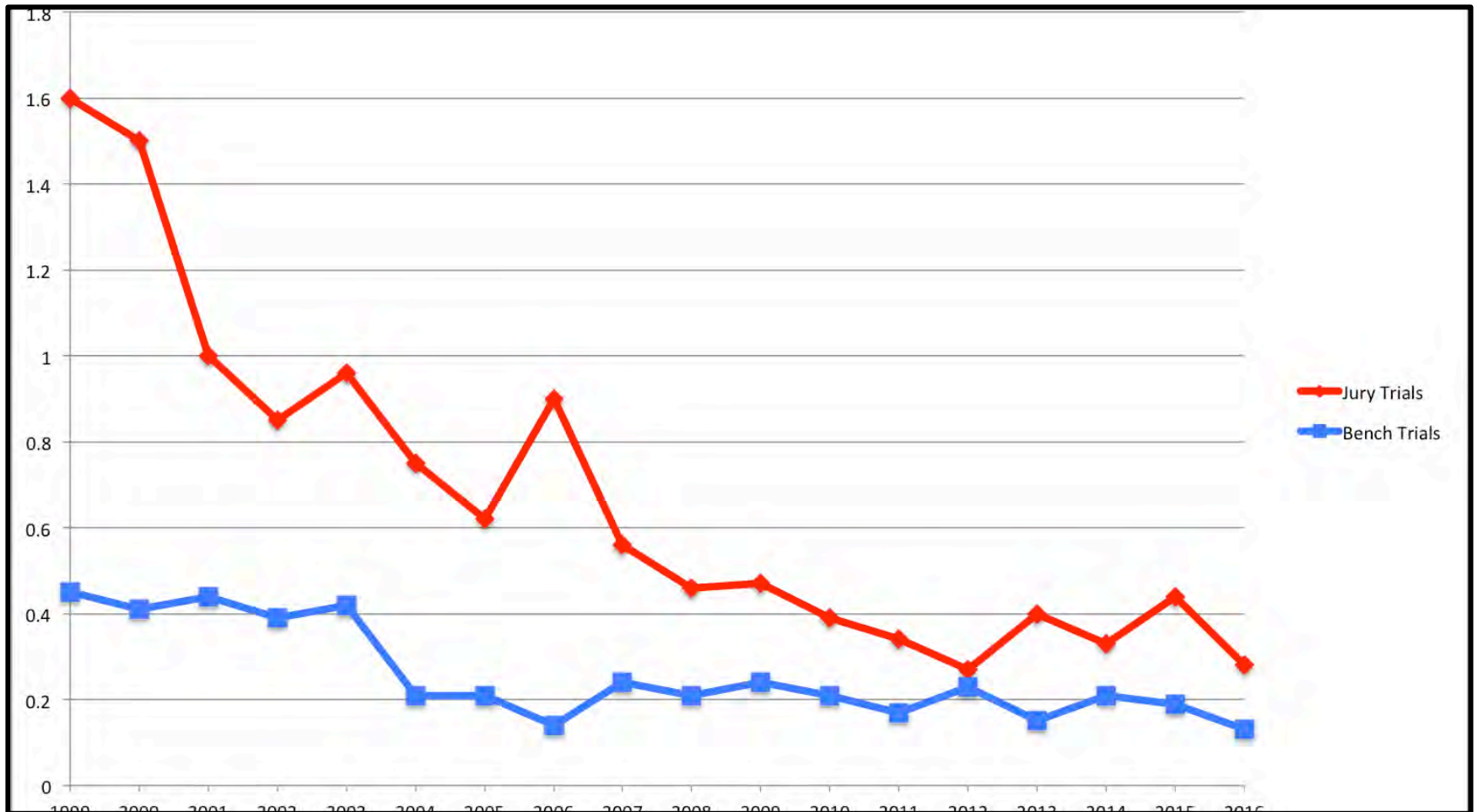
CIVIL JURY PROJECT

at NYU School of Law

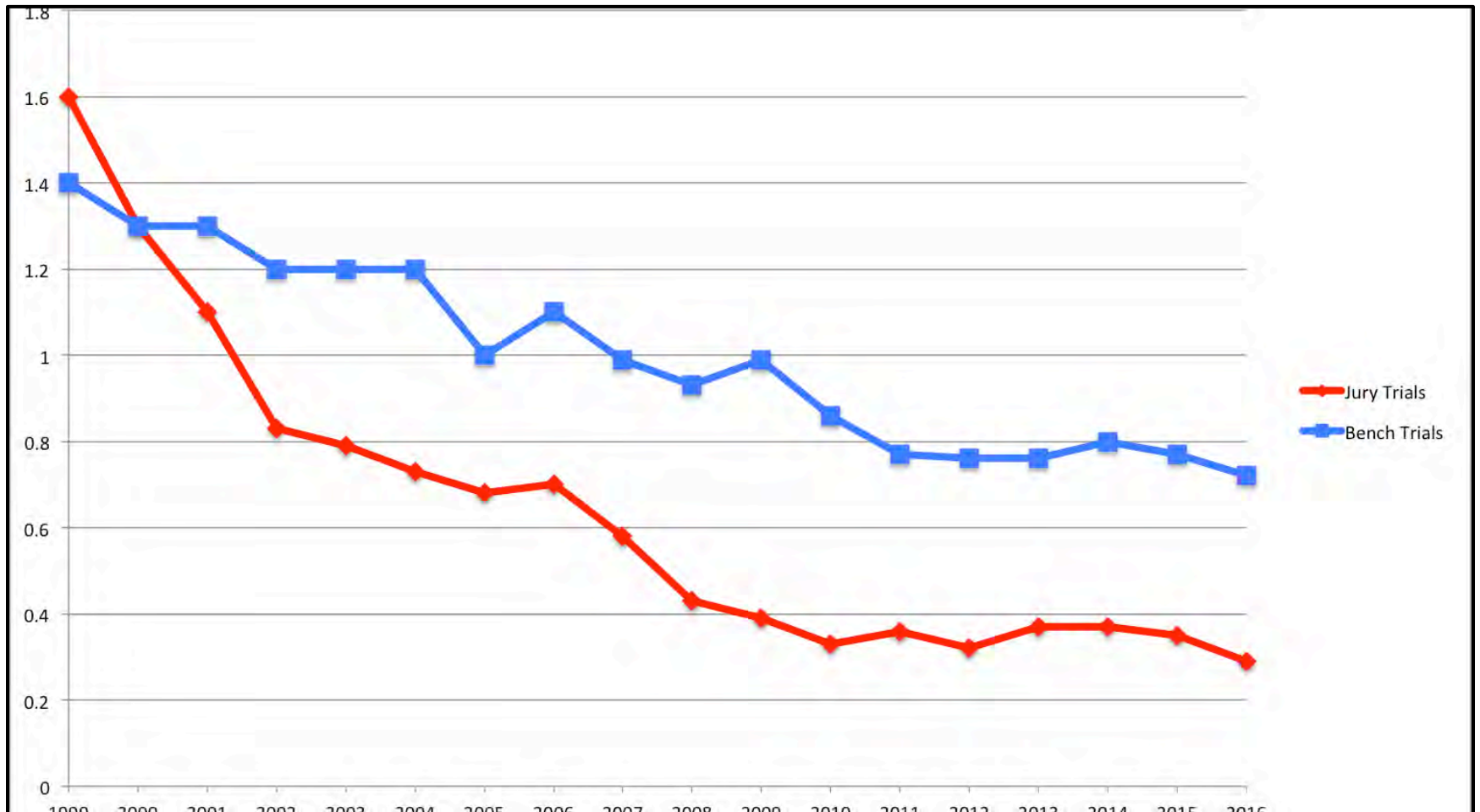
The Death of the Civil Jury Trial

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

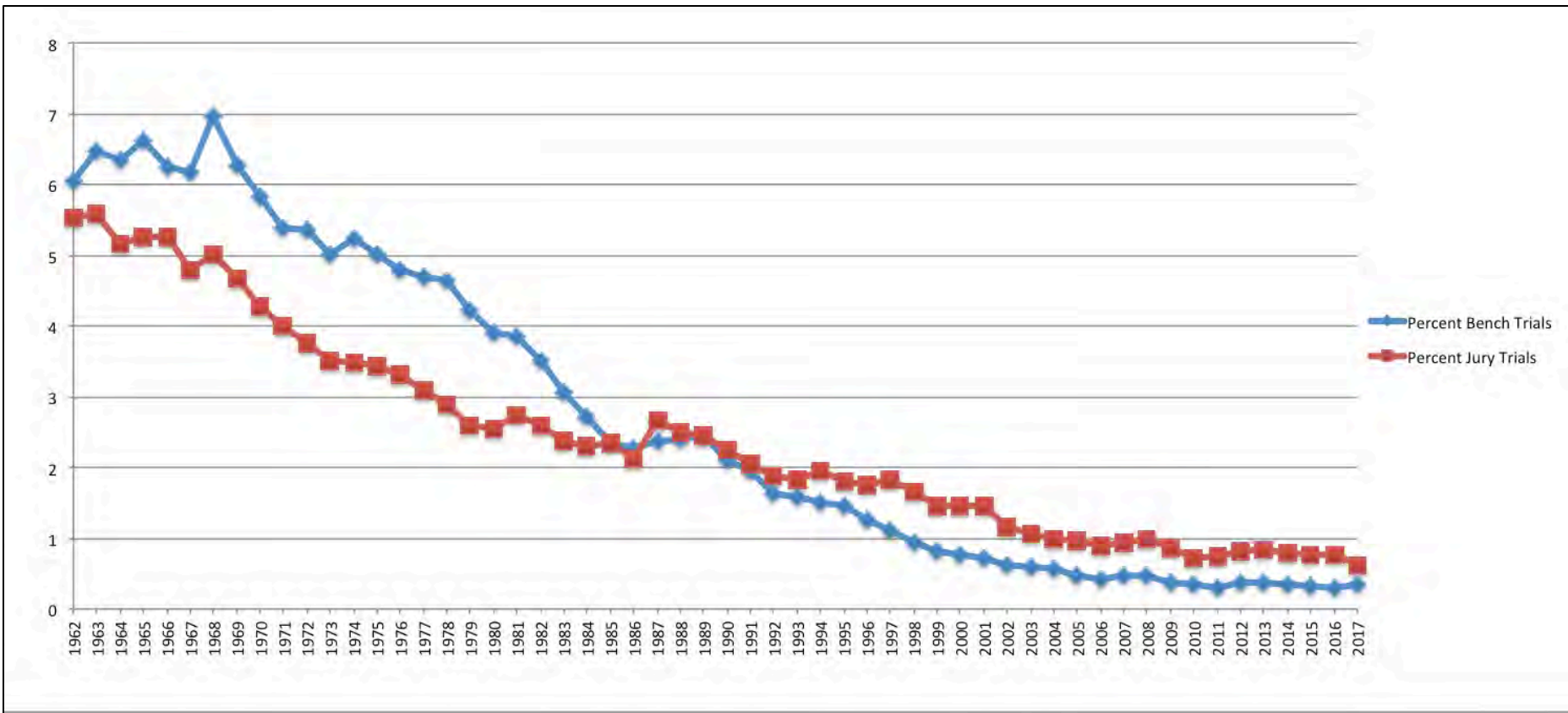
Percentage of Civil Terminations by Bench and Jury Trial, Cuyahoga County Court of Common Pleas, General Division 1999-2016



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



CIVIL JURY PROJECT
at NYU School of Law

[ABOUT](#) [CALENDAR](#) [VIDEOS](#) [SCHOLARSHIP](#) [RESEARCH](#) [RESOURCES](#) [COMMENTARY](#) [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



Federal Bar Association



CIVIL JURY PROJECT
at NYU School of Law



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

ICCDCVJP17.1 • Proof: 2 • 4.27.17 • VS

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 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 if you have any concerns. Again, we thank you for your service.

Social Media: Twitter & Facebook



NYU CivilJuryProject

@JuryMatters

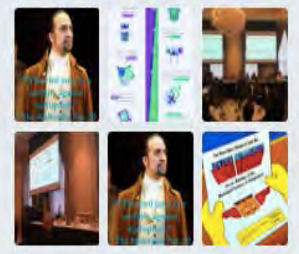
The Civil #Jury Project is aimed at studying, improving, and restoring the pivotal role of the #7thAmendment. #JuryDuty

New York, NY

civiljuryproject.law.nyu.edu

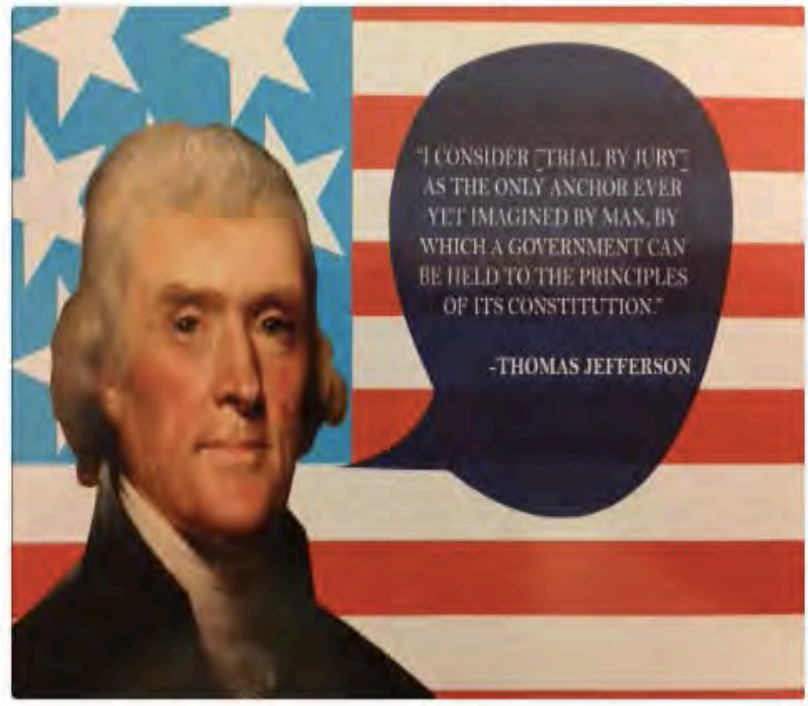
Joined October 2016

124 Photos and videos



NYU CivilJuryProject
@JuryMatters

The Seventh Amendment guarantees your right to trial by civil #jury. Learn more at WethePeopleWetheJury.com



10:00 AM · 8.05.2017

IADC: Order in the Classroom

