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Legal Sidebar

The Right to a Jury Trial in Civil Cases Part 1: Introduction and Historical Background

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This Legal Sidebar is the first in a five-part series that discusses a unique feature of the American legal system—the constitutional right to a jury trial in federal civil cases at law. During the Constitution's ratification, the Anti-Federalist, known by the pseudonym the "Federal Farmer," argued that the Constitution should expressly provide a right to civil jury trials because "the well born," who would comprise the judiciary, "are generally disposed, and very naturally too, to favour those of their own description." Included as part of the Bill of Rights, the right to civil jury trials, according to a 2020 study, is seen by many judges, as well as plaintiff and defense attorneys, as providing a fairer way to resolve lawsuits than bench trials or arbitration. The use of jury trials to resolve civil cases, however, decreased from 5.5% in 1962 to less than 1% in 2013, with some attributing this to damage caps and mandatory binding arbitration. Members of Congress interested in civil litigation or federal court operations may find the constitutional right to jury trials in civil cases of interest. (For additional background on this topic and citations to relevant sources, see the *Constitution of the United States of America, Analysis and Interpretation*.)

The Seventh Amendment guarantees a jury trial in civil cases seeking monetary damages in federal court and limits the circumstances under which courts may overturn a jury's findings of fact. The Seventh Amendment provides as follows: "In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law."

Although the right to a jury trial in civil cases at law is rooted in English common law and was important during the colonial era, it initially was omitted from the Constitution. The First Congress, however, ultimately adopted the right as one of the Bill of Rights, which became effective in 1791. Since then, the Supreme Court has interpreted the phrase "Suits at common law" under the Seventh Amendment as preserving the right of trial by jury in civil cases as it "existed under the English common law when the amendment was adopted." This means that the Seventh Amendment does *not* guarantee a trial by jury in cases under admiralty and maritime law and in other proceedings historically tried by a court instead of a jury, nor does it reach statutory proceedings unknown to the common law concerning the enforcement of statutory "public rights" created by Congress.

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While the Seventh Amendment traces its roots to English common law, some historians trace the origin of the English jury as far back as Ancient Greece. Sir William Blackstone, in his influential treatise on English common law titled *Commentaries on the Laws of England*, called the right "the glory of the English law" and necessary for "[t]he impartial administration of justice," which, if "entirely entrusted to the magistracy, a select body of men," would be subject "frequently [to] an involuntary bias towards those of their own rank and dignity."

From England, the colonists brought the right to a jury trial across the Atlantic. The civil jury played an important role during the colonial era. The colonies stoutly resisted the King of England's efforts to diminish this right, and the Declaration of Independence identified the denial of "the benefits of trial by jury" as one of the grievances that led to the American Revolution. Despite this right's prominence in Colonial America, however, a right to a civil jury trial was not included in the original draft of the Constitution.

Records of the Philadelphia Convention show that the delegates twice raised the issue of whether the Constitution should include a right to a jury trial. On September 12, 1787, toward the end of the Convention, Hugh Williamson of North Carolina "observed to the House that no provision was yet made for juries in Civil cases and suggested the necessity of it." Some delegates expressed support for such a provision but observed that the diversity of state courts' practices in civil trials made it impossible to draft a suitable provision. This latter concern appears to have served as the basis for defeating a motion, brought by another delegate on September 15, 1787, to insert a clause in Article III, § 2, to guarantee that "a trial by jury shall be preserved as usual in civil cases."

After the Convention, many opponents of the Constitution's ratification cited the omission of a right to a jury trial with such "urgency and zeal" that they almost prevented the states from ratifying the Constitution. Some opponents of the Constitution claimed that the absence of a provision requiring civil jury trials in a Constitution that mandated jury trials in criminal cases implied that the use of a jury was abolished in civil cases. In the *Federalist Papers*, Alexander Hamilton refuted this assertion, expressing the view that the Constitution's silence on civil jury trials merely meant "that the institution [would] remain precisely in the same situation in which it is placed by the State constitutions."

In ratifying the Constitution, several states urged Congress to provide a right to a jury in civil cases as one of the amendments. The right was included in the list of amendments James Madison proposed to the First Congress, which adopted the right as one of the Bill of Rights. It does not appear that the proposed amendment's text or meaning was debated during its passage. The Seventh Amendment became effective as part of the Bill of Rights in 1791.

This Legal Sidebar series covers the right to a jury trial in civil cases at law. Part 2 discusses the meaning of the Seventh Amendment qualifying language "Suits at common law" and the identification of civil cases to which the right applies. Parts 3 and 4 examine the distinction between legal and equitable claims, the treatment of cases that combine elements of both, and the roles of the judge and jury in civil cases. Part 5 concludes with a discussion of the bar on judges from reexamining a jury's factual findings.

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