



# Strategies for Assessing and Litigating Neighborhood and Adjacent Property Claims

## AAPA's Port Administration and Legal Issues Seminar

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# Understand the Audience

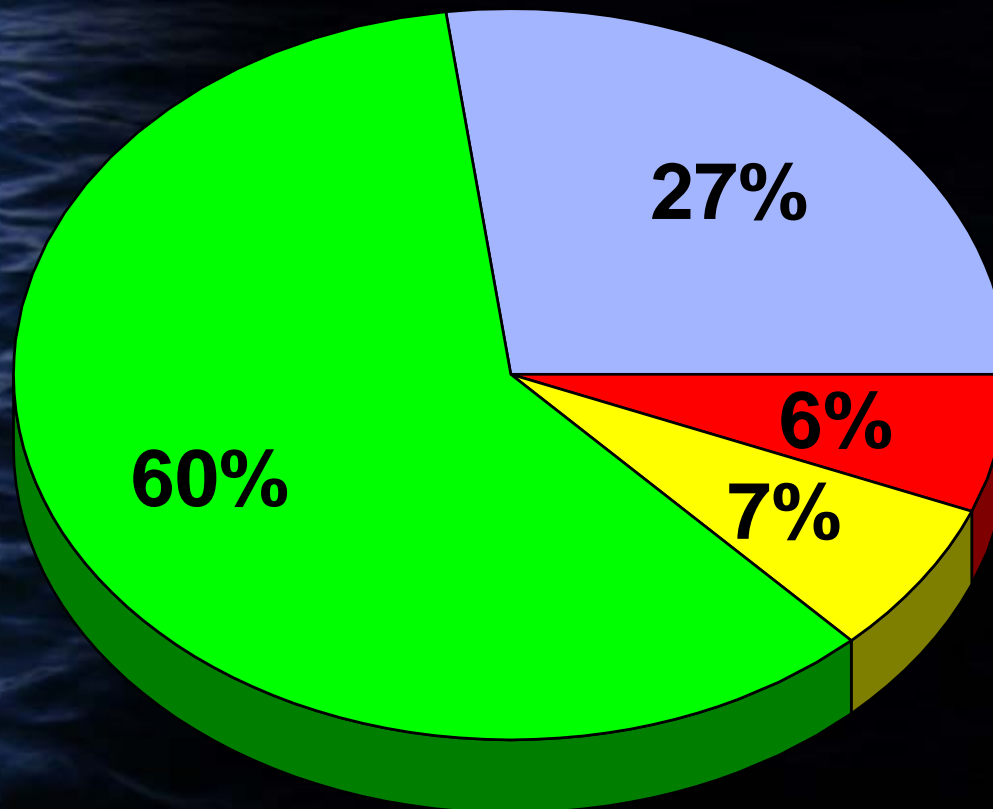
- Environmental Litigation represents a significant financial exposure for all involved
- Huge damage potential for personal injuries, property damages and environmental response/remediation costs
- As plaintiff or defendant, Ports must understand and address the public's predispositions and fears
- The pool of potential jurors have very definite predispositions and beliefs
- You must be cognizant of these fundamental biases and structure your entire case to best address and utilize them

# Jury Focus Research

- 30 potential jurors in Harris County, Texas
- Statistically representative sample of a Harris County Jury Panel
- Two full days of research
- Divided the subjects into 3 jury panels
- Goals:
  - Learn the panel's predispositions/biases
  - Test theories of our case
  - Determine potential outcomes and range of damages
- The following questions were asked of the panelists to learn their biases coming in to the study; they were not given the facts of the case.

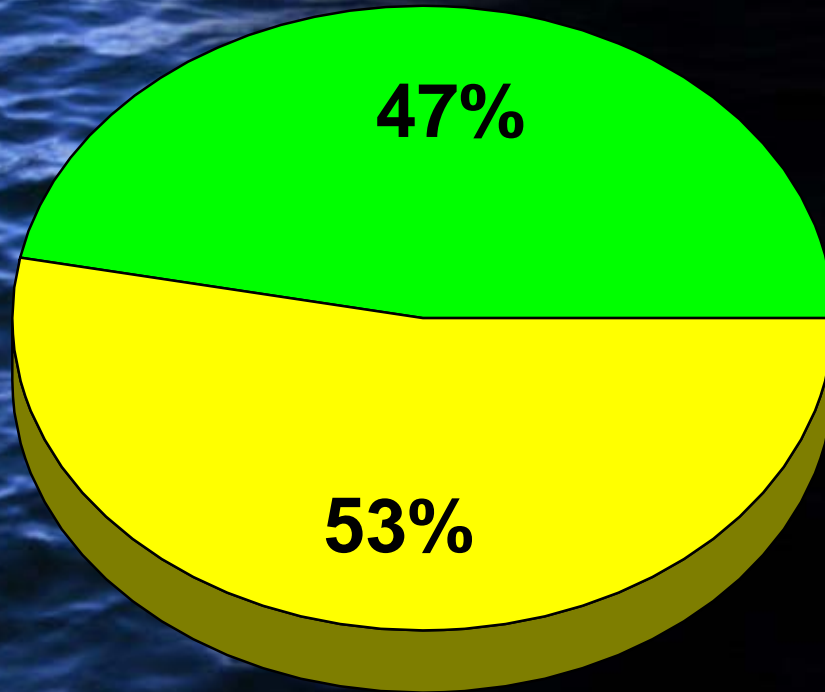
## Do you worry about the chemicals in your air, food, and water?

Yes, a great deal    Yes, some  
Yes, very little    No, not at all

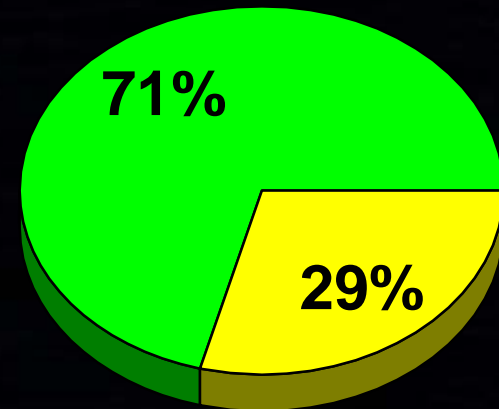


**Do you believe that exposure to even one molecule of a potentially hazardous chemical will always cause long-term health problems?**

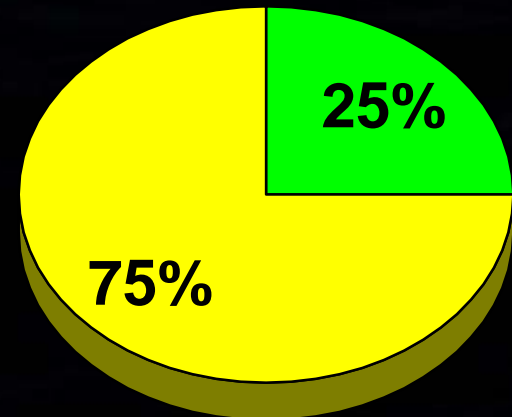
**Yes No**



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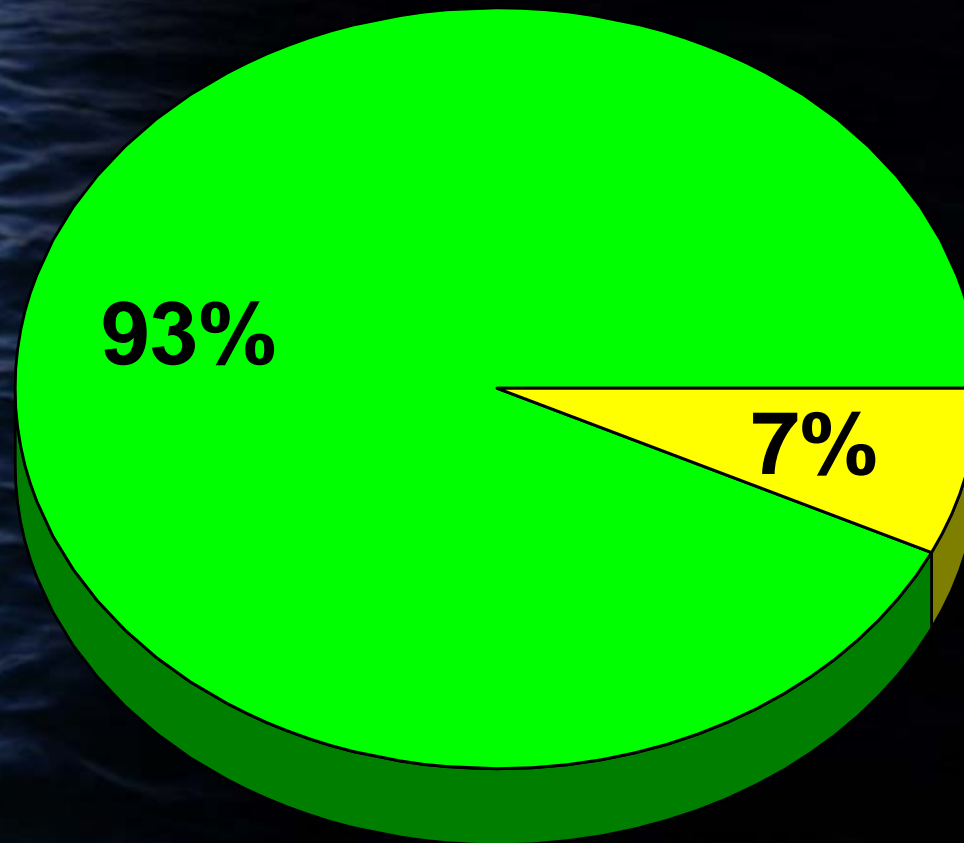
**High Damage Jurors**



**Low Damage Jurors**

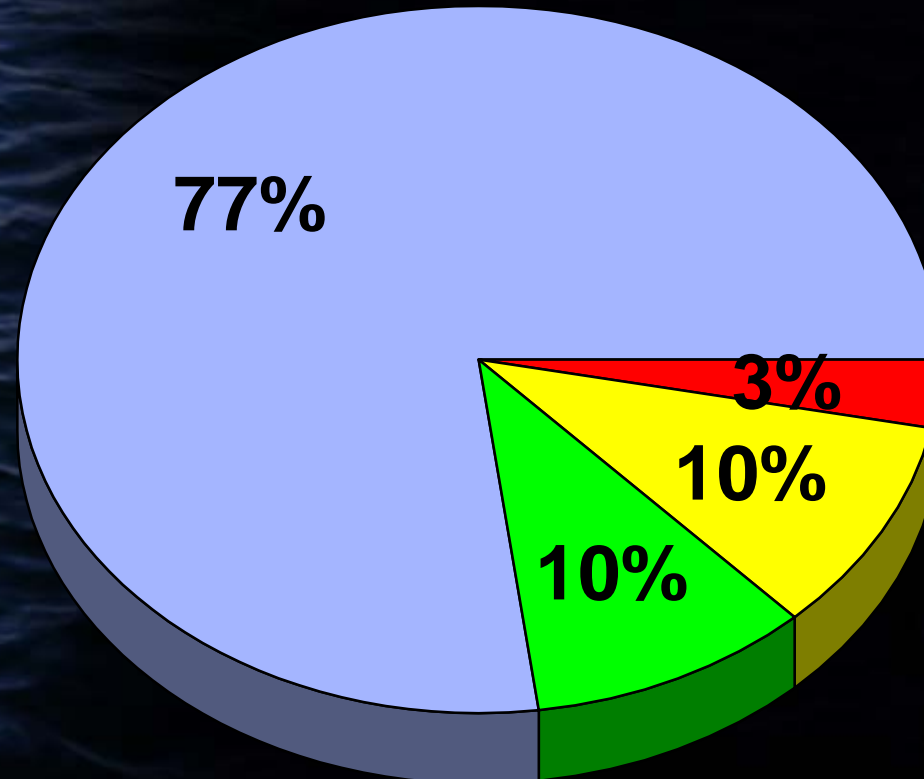
**Would you say Houston has serious problems with industrial pollution (i.e., pollution from local plants and industrial facilities)?**

**Yes No**



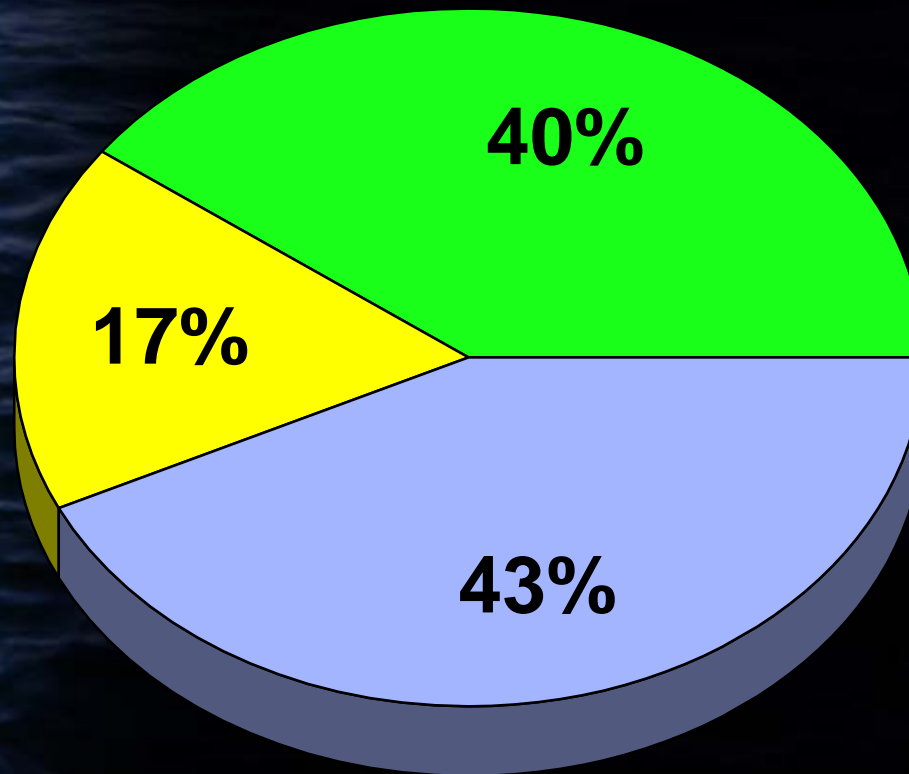
# Who do you believe is most responsible for most of the industrial pollution in Houston?

Local plants/industrial facilities    The government  
Automobiles    Someone/something else



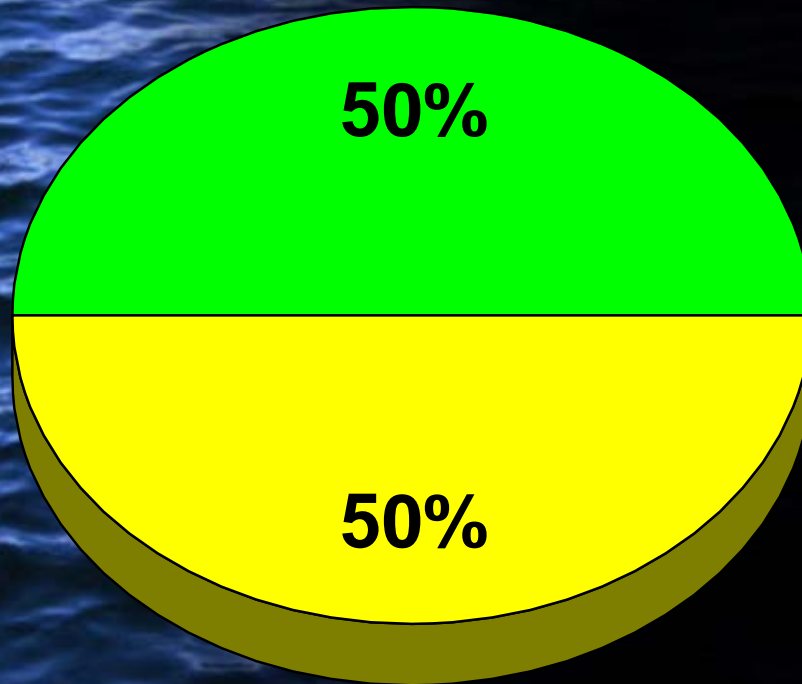
# Most chemical companies are polluting:

■ More than ever before ■ Less than ever before  
■ About the same

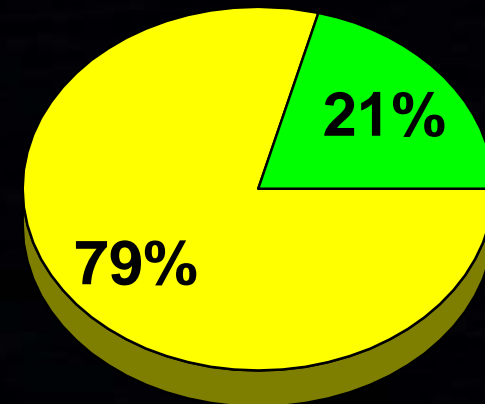


# Do you believe that chemical companies generally provide more benefits or more risks to this community?

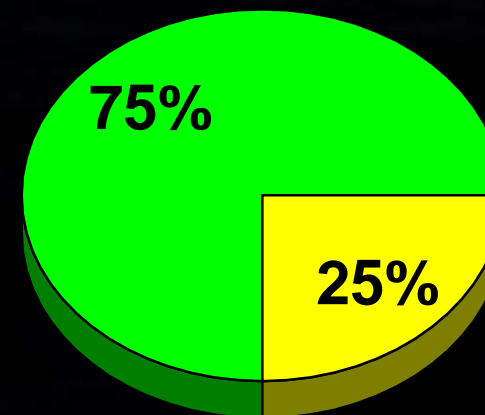
■ Benefits ■ Risks



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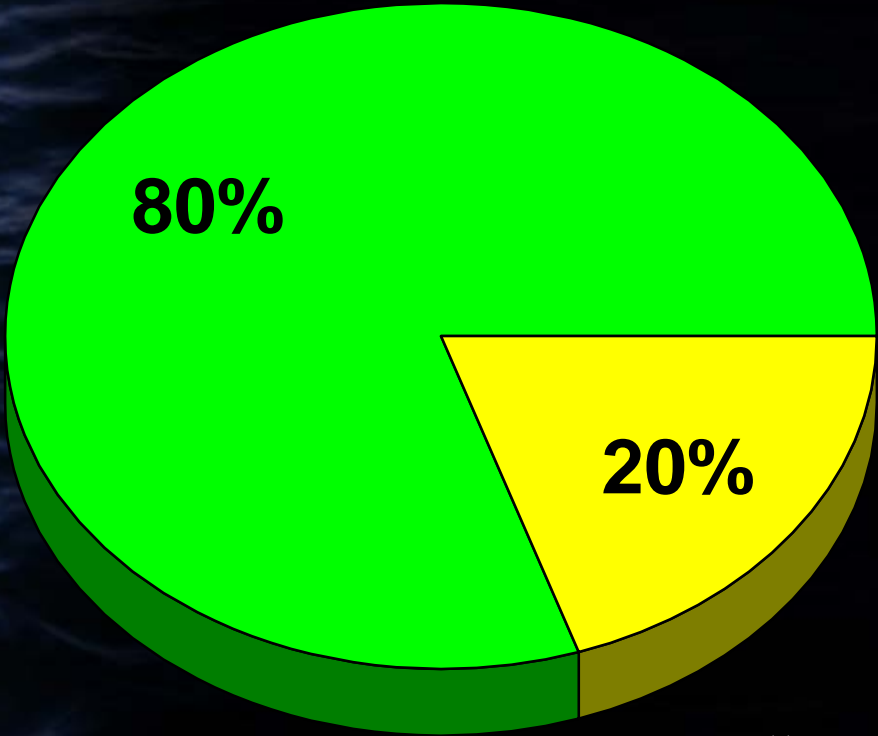
**High Damage Jurors**



**Low Damage Jurors**

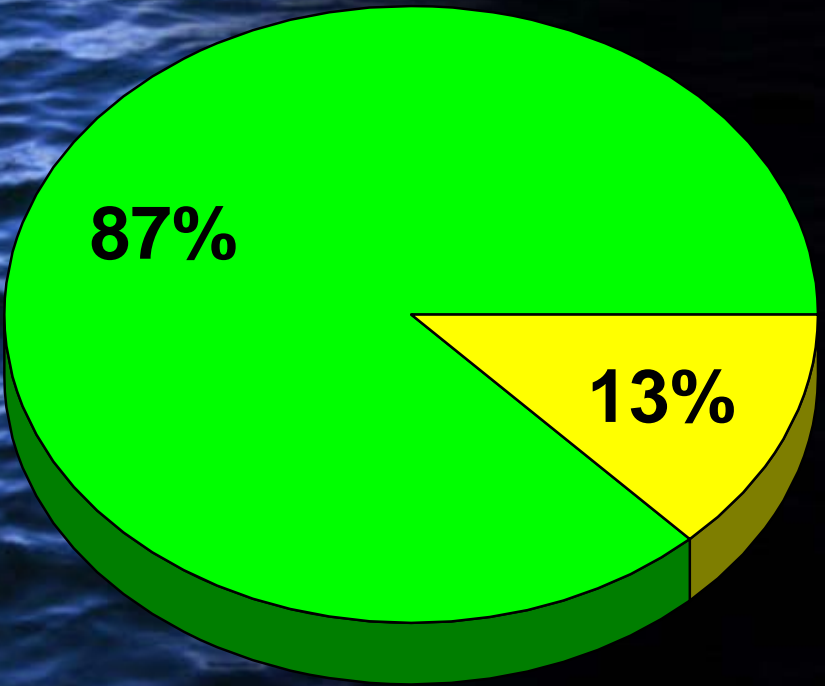
**When it comes to protecting the community from exposure to chemicals or other hazardous substances, do most companies wait until they are forced to take action, or do they take action on their own?**

- Wait until they are forced**
- Take action on their own**

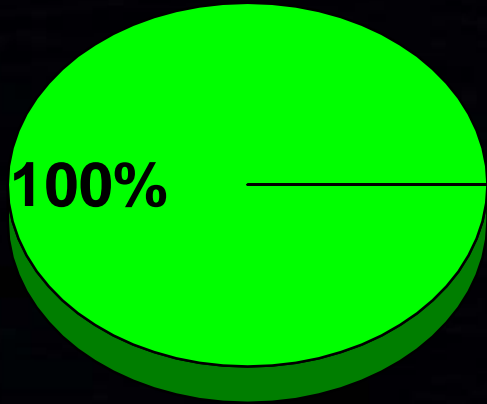


# Do you believe there should be more government regulation of chemical companies?

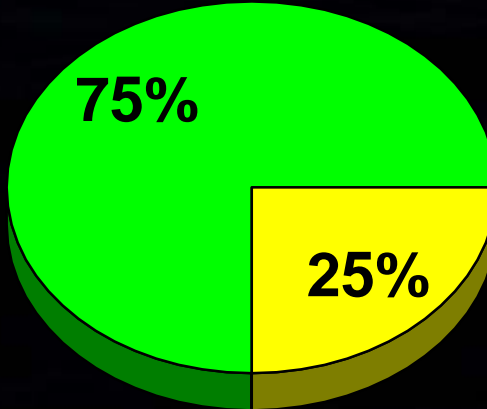
Yes No



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**High Damage Jurors**

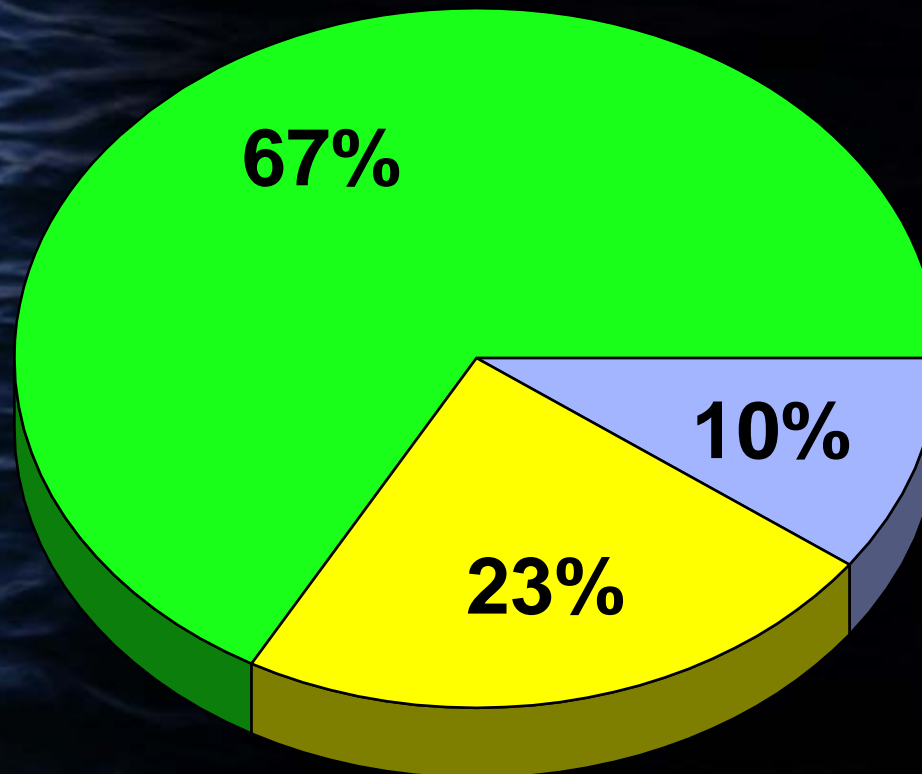


**Low Damage Jurors**



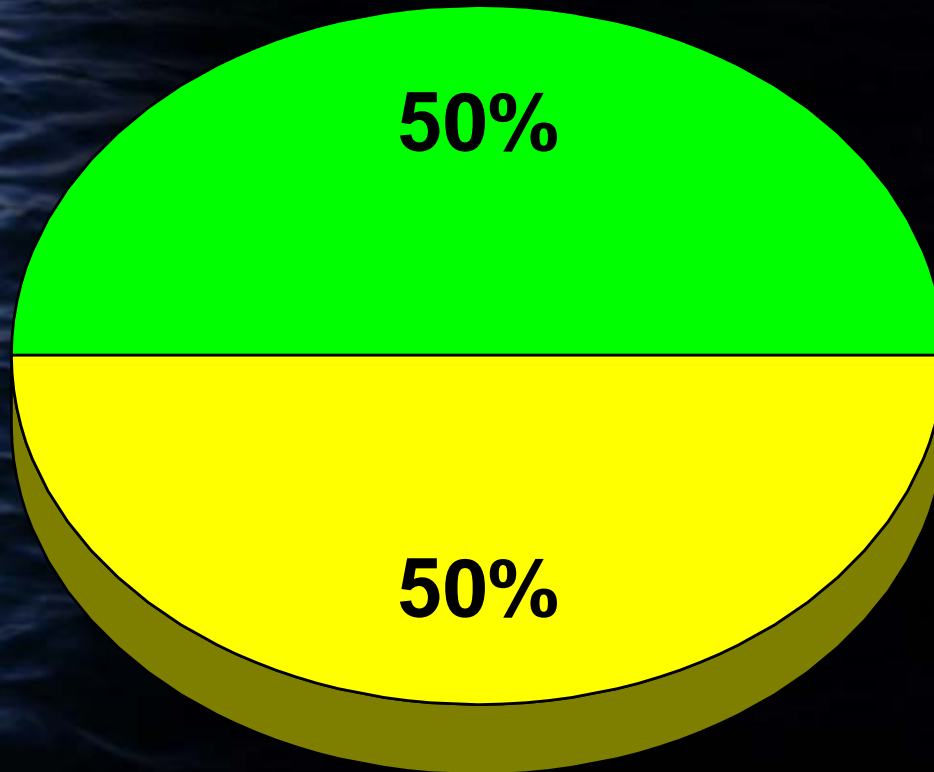
# Do you believe chemical companies constantly lie to the government agencies that regulate them?

- Yes, and the government agencies know it
- Yes, but the government agencies don't know it
- No



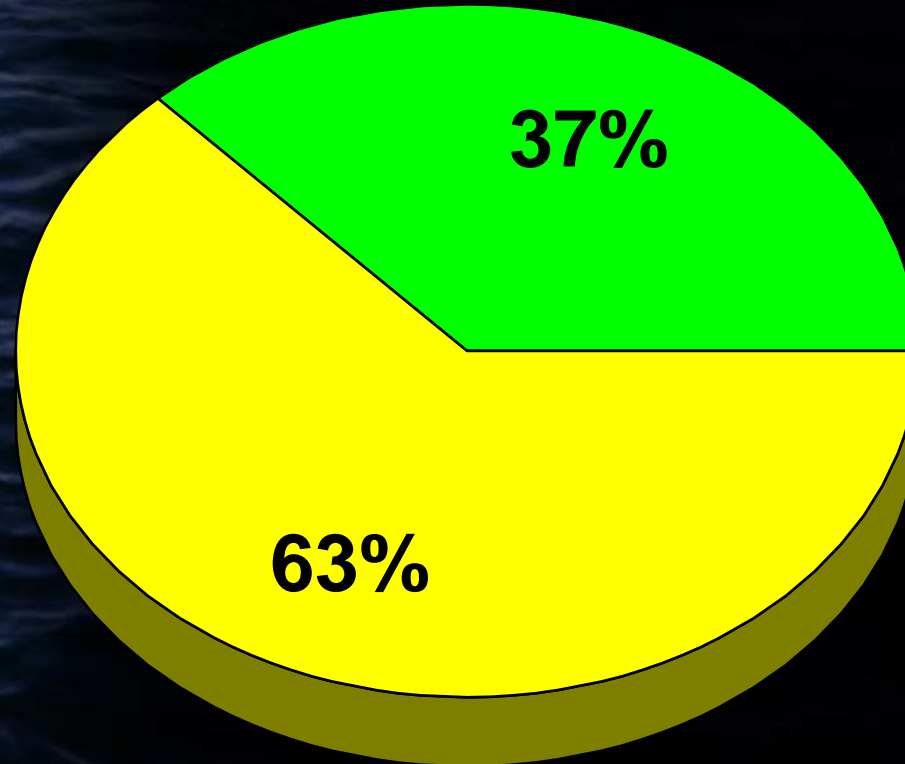
**Do you believe that local chemical plants could prevent all chemical emissions if they really wanted to?**

**Yes No**



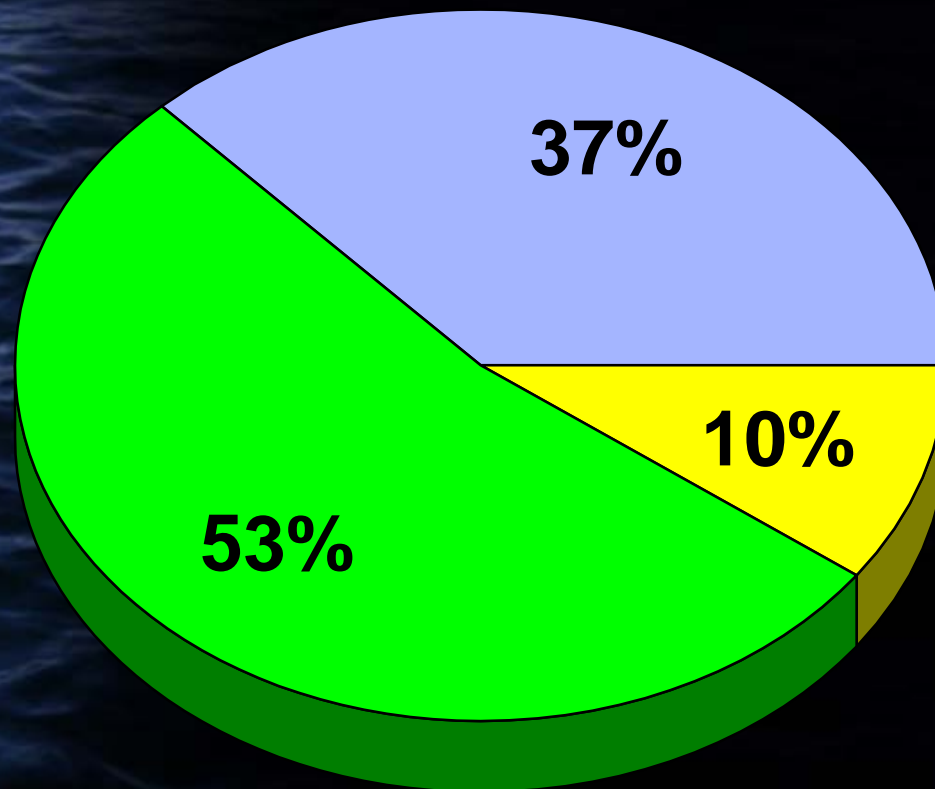
**Do you believe that the government could prevent all chemical emissions if it really wanted to?**

**Yes No**

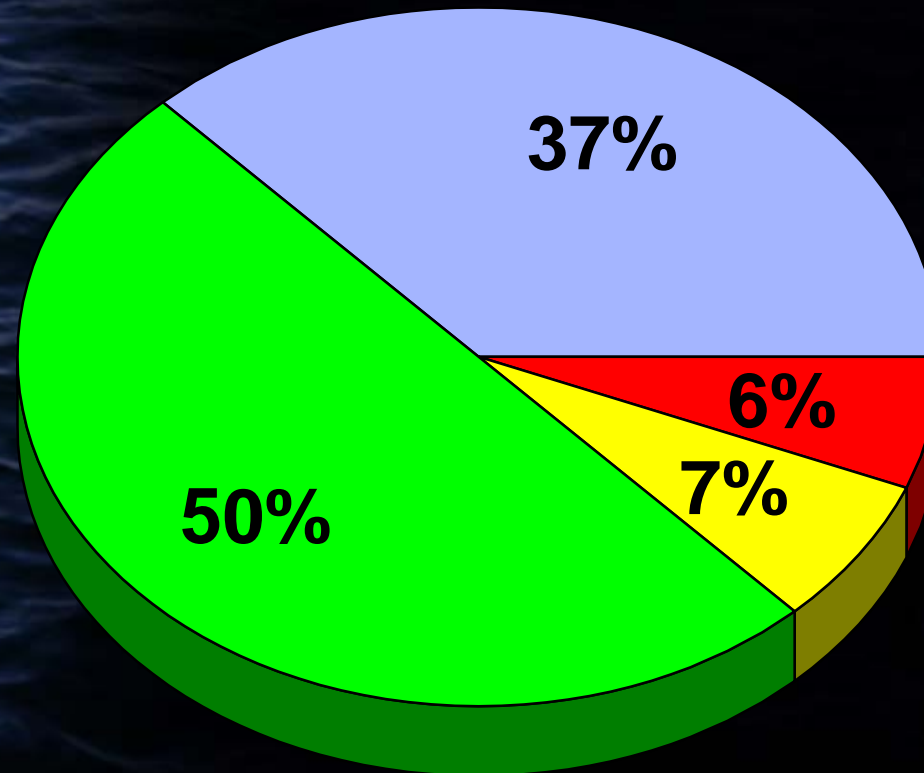


**Most large companies will do whatever they can to avoid responsibility for their mistakes.**

Strongly agree      Somewhat agree  
Somewhat disagree      Strongly disagree

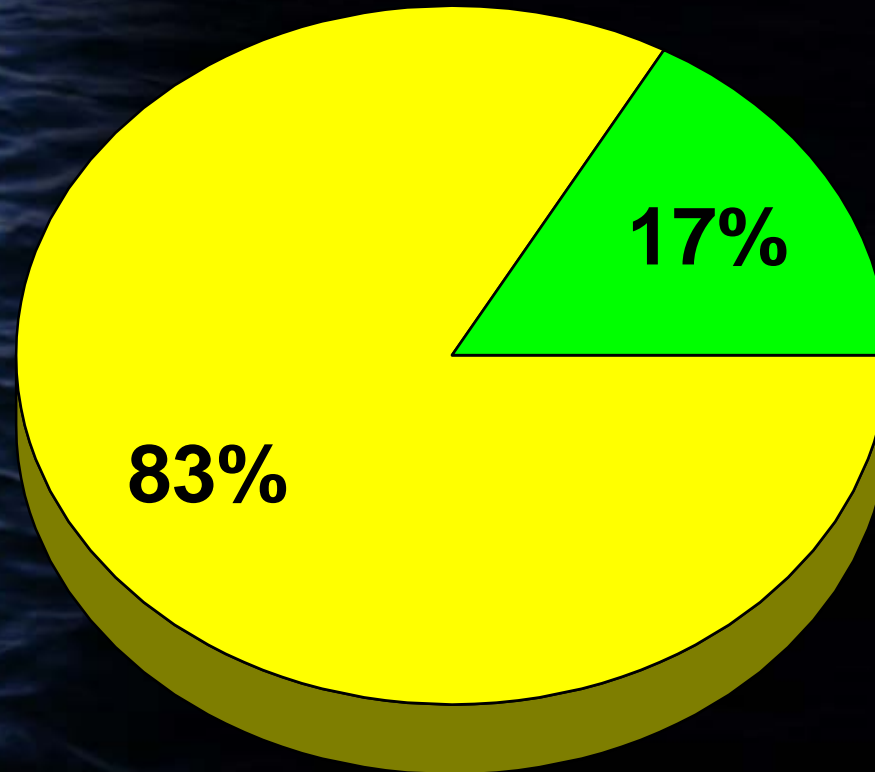


# Parent companies are always responsible for the actions of their subsidiaries.



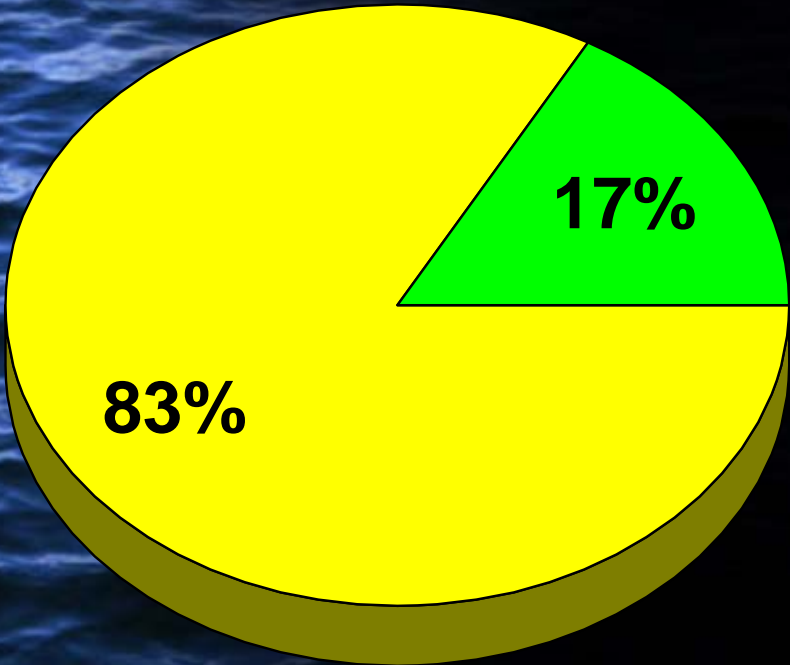
**Do you know anyone who has  
become ill as a result of exposure to an  
environmental or workplace pollutant?**

**Yes No**

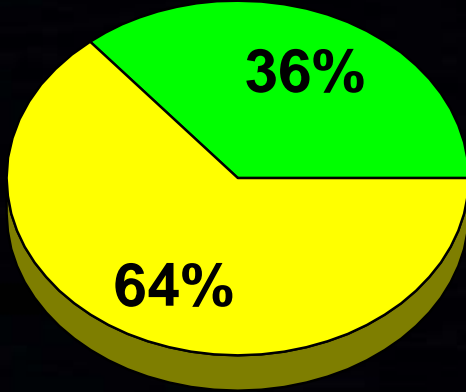


# Have you ever sued anyone?

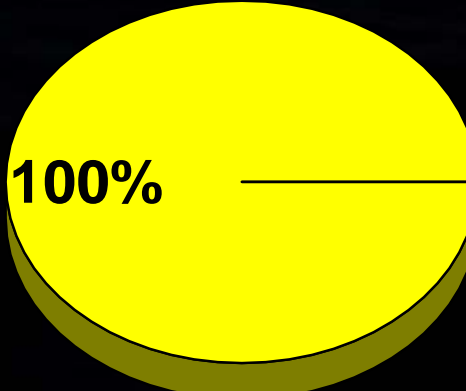
Yes No



**AGGREGATE**



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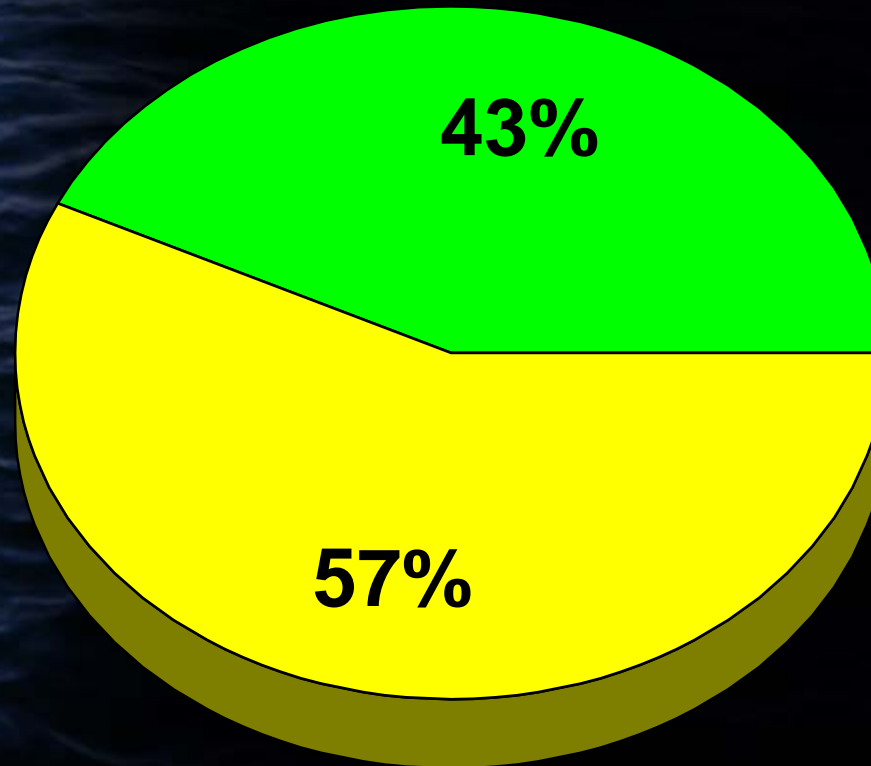


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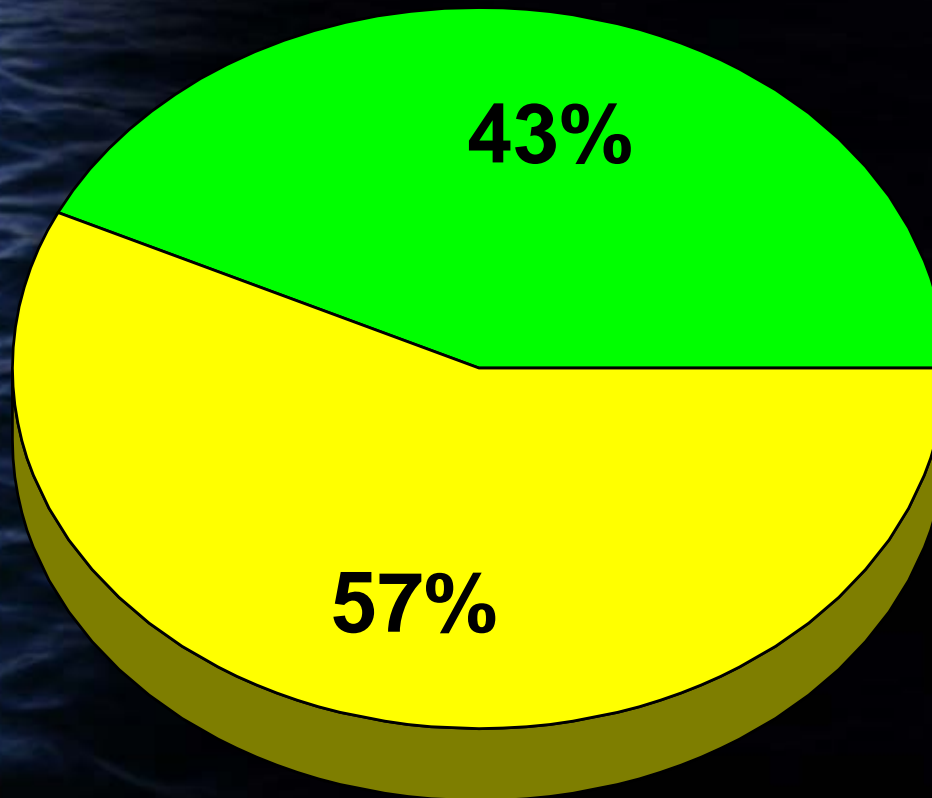
**Do you support current legislation that attempts to put caps on the amount of money a person can recover in a lawsuit?**

**Yes No**

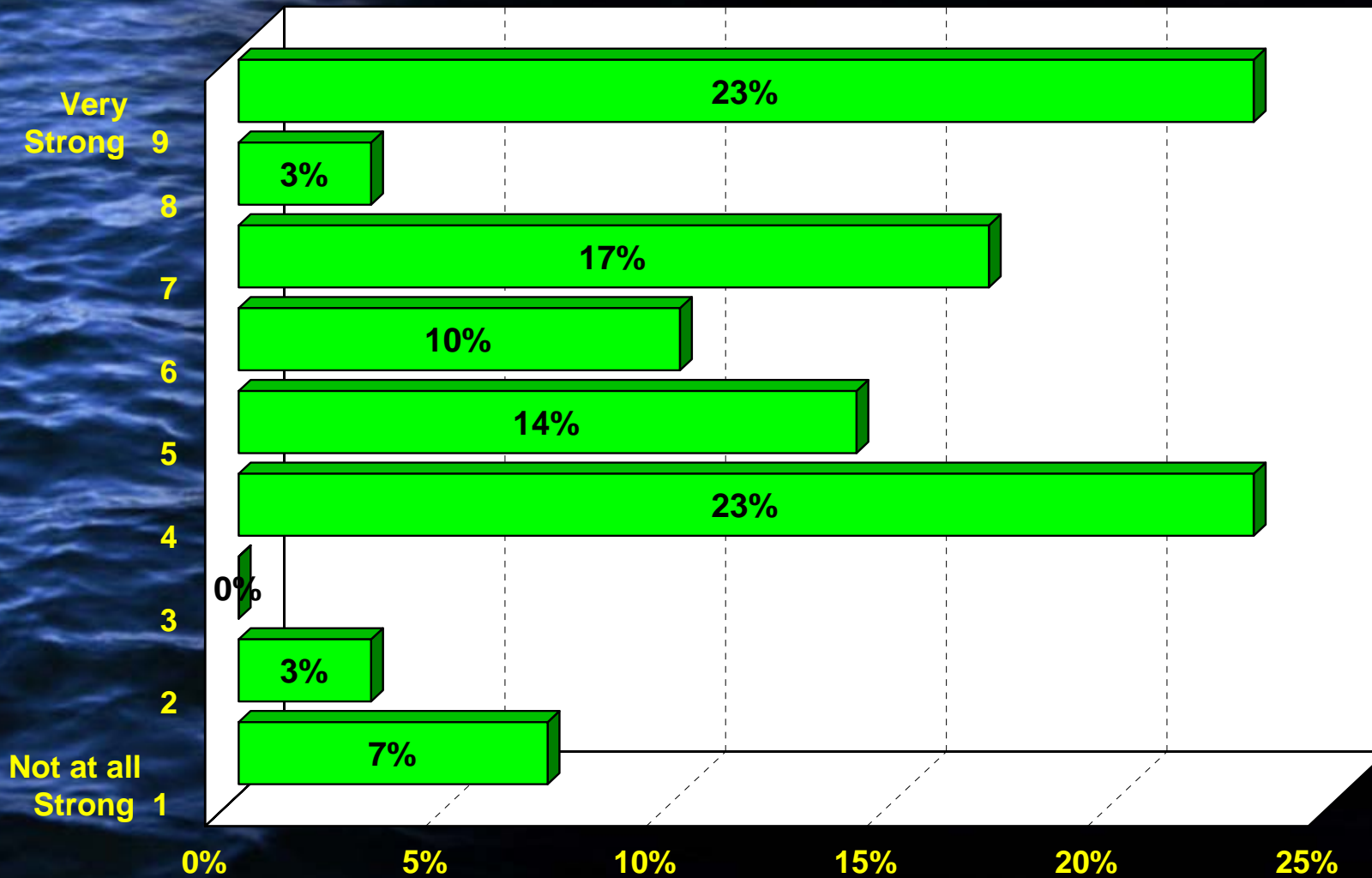


**Do you believe that most lawsuits are frivolous  
(i.e., unjustified or without merit)?**

**Yes No**



# How strong is your desire to punish the chemical companies?



# Results / Recommendations

- Understand and address the jury's bias
- Get the very best experts in the right field
- Use Daubert/Robinson to tip the playing field
- Make the Judge serve the gate-keeper role (or preserve the issues for appeal) for both expert and legal issues
- In putting your case to a jury:
  - Educate the panel through selection process
  - Identify/strike most obvious problem jurors
  - Make your case about: (1) the environment/health with good science; (2) equity and a sense of fairness; and (3) take responsibility for your actions.