

March 2006

Product Liability

U.S. tort costs and cross-border perspectives: 2005

By Thomas R. Cherry

The recently released 2005 Towers Perrin-Tillinghast annual report pegs the costs of the United States' tort system at \$260 billion in 2004, a 5.9 percent increase over the last examined year, which was 2003. Although surely worth the perusal, the 23-page study suggests that the actual significance of the statistics will probably depend on who is doing the interpreting.

Tillinghast admits it has not analyzed the pure cost of claims or the legal system itself, but rather the costs of how the insurance industry operates within the liability system. The methodology used in the report measures three cost components: benefits paid or expected to be paid to third parties (losses), defense costs and the insurance industry's own internal administrative expenses.

The study also looks at tort costs in other countries and finds (to no one's surprise) that U.S. tort costs exceed those of other countries by a large margin. The Tillinghast annual study was not funded or subject to pre-release approval by any organization. Rather than measure the pros and cons of the U.S. tort system, the study has again simply found that the growth in tort costs has exceeded Gross Domestic Product by an average of 2.5 percent for the 54th year in a row.

The report is available at

http://www.towersperrin.com/tillinghast/publications/reports/2005_Tort_Cost/2005_Tort.pdf

This article is for general guidance only and does not contain definitive legal advice.

Contact us at productliability@wilsonelser.com. © 2006 Wilson Elser Moskowitz Edelman & Dicker LLP. All Rights Reserved.