

U.S. Tort Cost Trends: 2008 Update  
(November 2008)

Towers Perrin's 12<sup>th</sup> study of U.S. tort costs indicated that tort costs in 2007 rose for the first time in two years. Joining us to discuss findings from that report is its author, Russ Sutter, a Towers Perrin principal.

**McNamara:** Russ, what is the current landscape of U.S. tort costs?

**Sutter:** The U.S. tort system in 2007 cost \$252 billion, an increase of \$5.1 billion (or 2.1%) over 2006. Putting it in simplest terms, that translates into about \$835 for every man, woman and child in the U.S.

Further, overall economic growth in the U.S. in 2007 was 4.8%, a decrease from 6.1% in 2006. As such the ratio of tort costs to GDP shrank last year – the fourth consecutive decline.

**McNamara:** What are some of the factors that led to the tort cost increase in 2007?

**Sutter:** One glaring finding is that in 2007 we saw the largest increase in personal tort costs since 2003. This served to push higher the overall increase in costs. The increase in personal tort costs was the result of a rise in auto accident frequency, the first such rise we've seen since 1999.

The total tort costs from commercial lines in 2007 increased 1.0% from 2006. However, the 2007 costs were below the levels seen in each of 2003 through 2005. The reduction from those prior years appears to be attributable to a reduction in the number of claims.

**McNamara:** How do asbestos claims play into the overall findings?

**Sutter:** The lower increase in commercial tort costs is partly attributable to asbestos. Insured asbestos losses increased approximately \$1.2 billion in 2007. This was lower than the comparable increase of \$7.3 billion 2004 and \$7 billion in 2005.

Still, while we have seen a sharp drop in asbestos litigation, the asbestos battle is still on. For insurers and other companies involved with asbestos, such litigation is still a costly threat that will be with us for a long time to come.

**McNamara:** What kind of tort activity do you see both in the short and long term?

**Sutter:** The fallout of the 2007 sub-prime mortgage fiasco, the global financial crisis and the potential of increased activity in the area of employment practices liability, among other areas, leads me to believe that U.S. tort costs will increase 4% in 2008, and an additional 5% in both 2009 and 2010.

The list of potential defendants could expand to groups such as mortgage brokers, appraisers and investment banks. Even peripheral defendants, such as auditing firms and attorneys advising the targeted firms, won't be spared.

The implosion and resulting government involvement in firms such as Bear Stearns, Lehman Brothers, Fannie Mae and AIG will undoubtedly lead to further litigation. What's still unclear, however, is the exact amount of money that will change hands as a consequence of this litigation.

While the financial crisis is putting upward pressure on tort costs in 2008, there are offsetting factors. We see only minor increases in costs related to auto accidents. In addition, medical malpractice costs continue to remain fairly stable.

**McNamara:** Russ, thank you for your insights on U.S. tort cost trends.