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NATIONAL CONSUMER GROUP SLAMS INSURER “TORT COST” REPORT

NEW YORK – A major new analysis released today by Americans for Insurance Reform (AIR) finds that a recent claim by the insurance consulting firm Towers Perrin (now called Towers Watson) that the U.S. tort system costs \$254.7 billion is highly exaggerated and misleading, based on unverifiable and flawed work, and is completely inappropriate for evaluating the U.S. tort system. Even with all of its flaws and padded numbers, the Towers Perrin report, *2009 Update on U.S. Tort Cost Trends*, still finds that tort system costs are growing slower than medical inflation, that medical malpractice trends are completely stable, that the U.S. tort cost environment is “relatively benign,” and that costs are less today, compared to GDP, than they were in 1983.

AIR’s critique, *Towers Perrin: “Grade F” For Fantastically Inflated “Tort Cost” Report*, is co-written by actuary J. Robert Hunter, Director of Insurance for the Consumer Federation of America (CFA), former Commissioner of Insurance for the State of Texas, and former Federal Insurance Administrator under Presidents Carter and Ford; and by Joanne Doroshow, Executive Director of the Center for Justice & Democracy.

Co-author J. Robert Hunter said, “It is really past time for Towers to stop publishing such flawed data year after year. The fact that they persist despite criticism after criticism shows a deep disdain for fair and accurate presentation of facts.”

Joanne Doroshow said, “Even with all of its faults, which are extensive, the Towers Perrin report gives no credence whatsoever to any notion that tort costs are out of line, particularly medical malpractice costs. Policymakers and opinion leaders should be extremely wary of how this document is used, because it is routinely presented in a misleading manner by corporate lobbyists who seek to weaken the tort system and limit consumers’ legal rights against corporate wrongdoing, so-called ‘tort reform.’ Fear-mongering is typical, for example, as taxpayers are often misled to believe they are paying these inflated costs in the form of a ‘tort tax’ or ‘litigation tax.’ Yet the Towers Perrin report provides absolutely no support for such a contention, nor for the insurance industry’s ‘tort reform’ agenda.”

Among AIR’s findings are:

- Towers Perrin figures do not represent the costs of the legal system. For example, the report does not examine jury verdicts, settlements, lawyers' fees, court costs, or any actual costs of what might generally be considered the "tort" system.
- Towers Perrin examines only insurance losses whether or not a lawsuit was filed, plus insurers "guess" (historically, widely overstated) of what future losses could be, plus all of the industry's bloated overhead (salaries, bonuses, lobbying costs, jet planes etc.).
- Towers Perrin greatly pads its numbers by:
 - incorrectly counting as a "tort cost" the transfer of money from wrongdoers to victims, such as \$500 to fix a dented car door;
 - including insurance costs whether or not a lawsuit was filed, including such incidents as common fender benders;
 - including billions of dollars of insurer future estimates of claims - not actual costs;
 - including billions of dollars of certain first party coverages, like auto insurance medical payments;
 - including the immense costs of operating the wasteful and inefficient insurance industry, an industry that is not fully competitive due to its exemption from anti-trust laws; fully 26.1 percent of Towers Perrin total "tort cost" figures are these administrative expenses, such as multi-million dollar salaries and bonuses of insurance industry executives, perks like private jets and country club memberships, lobbying and advertising expenses, rent and utilities for insurance company headquarters and commission paid to agents.
- Towers Perrin adjusts figures without any basis and fails to provide explanations or sources;
- Identifies as medical malpractice "costs", which are largely unverifiable, all insurer expenses, which amount to fully 36.1 percent of its total cost figures; as for actual claims and reserves, Towers Perrin numbers are more than three times those of A.M. Best, considered the insurance industry standard;
- Towers Perrin entirely ignores the amount of money the civil justice system saves the economy in terms of injuries and deaths that are prevented due to safer products and practices, wages not lost, health care expenses not incurred, and so on.
- Towers Perrin's calculations are not discounted one cent for the benefit that is gained from repairing damage.

Doroshow, said, "These figures have no connection whatsoever to the costs of lawsuits, litigation or the courts, for which there is no evidence of any increase at all. For Towers Perrin to call their study 'U.S. Tort Cost Trends' is intellectually dishonest. These figures are so misleading that they are completely irrelevant to any discussion of the civil justice system."

The full study can be found at: <http://www.insurance-reform.org/>.

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