

Article: Estimating the Cost of Civil Litigation (NCSC 2013)



Complaints about litigation costs have likely existed for as long as the legal profession, but those costs are extremely difficult to measure. Most studies of litigation costs rely on surveys that ask lawyers to report costs in a sample of actual cases filed in court. However, many attorneys decline to respond citing attorney-client confidentiality, which undermines the reliability of study findings. Another source of information about litigation costs are insurance industry reports, but these typically fail to disclose their study methods or the assumptions built into their estimation models.

To obtain reliable estimates of litigation costs, the National Center for State Courts (NCSC) developed an alternative method of cost estimation: the Civil Litigation Cost Model (CLCM). The NCSC model relies on the amount of time expended by attorneys in various litigation tasks in a variety of civil cases filed in state courts. This event-

based approach to estimating litigation costs is an adaptation of the methods employed by the NCSC for court workload studies. Because these tasks take place sequentially in civil litigation, the use of this approach permitted the NCSC to estimate litigation costs for cases that resolve at different stages in the litigation.

Recommended Citation: Paula Hannaford-Agor & Nicole L. Waters, *Estimating the Cost of Civil Litigation*, NCSC: Court Statistics Project, 20 Caseload Highlights 1 (Jan 2013).

Last updated on August 31, 2020.

Year published: 2013

Document Author:

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