



# Covering Accident Costs: Insurance, Liability, and Tort Reforms

*Mark Rahdert*

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Over the past century, tort law and insurance have developed deeply intertwined legal and economic roots. Insurance usually determines whether tort cases are brought to trial, whom plaintiffs sue, how much they claim, who provides the defense, how the case gets litigated, the dynamics of the settlement, and how much plaintiffs ultimately recover. But to what extent should liability rules be influenced by insurance? In this study, Mark Rahdert identifies the leading arguments both in favor of and against what he terms the "insurance rationale"—the idea that tort law should be structured to facilitate victim access to assured compensation.

The insurance rationale has been a leading force in the development of product liability law and, as a component of accident compensation, has significantly influenced pro-plaintiff advances in principal areas of tort law. However, the insurance rationale is also the source of great controversy. Critics charge that liability rules deliberately set to maximize plaintiffs' access to insurance funds have corrupted the system, causing insurance costs to spiral upward uncontrollably. Considering the strengths and weaknesses of both sides of the current debate, Rahdert develops a modified version of the insurance rationale that can become a tool for evaluating future tort reform proposals.

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