

PUBLIC LIABILITY FOR INDIANA HIGHWAYS (Part 1)

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LAWSUITS PENDING AGAINST INDIANA

As of January 1, 1977, the state of Indiana had 282 tort claims pending with a claimed liability of over \$64 million, plus 62 open-ended claims, for a total of 344 tort claims. As of the same date, 241 lawsuits were pending with a liability demand of over \$98 million, plus 23 open-ended suits, for a total of 264 lawsuits. Thus, at the end of 1976 over \$162 million dollars of potential liability was being defended by the claims and compensation section of the Attorney General's Office. Of the 264 lawsuits, 217 were against the state highway commission for alleged negligent design, construction, maintenance, and signing of state roads.

TRAFFIC ENGINEERS CAN EXPECT TO BE WITNESSES

In 1976 the state paid \$2,063,686.09 on tort claims, judgments, and settlements while disposing of over \$70 million of potential liability. The volume of litigation in this area has steadily increased since the Campbell decision in 1972 and will continue to increase in the foreseeable future. In the absence of favorable rulings from the Indiana Supreme Court on pending questions of possible sovereign immunity due to the "discretionary function" doctrine, every traffic engineer may assume he will be a witness in a tort case with the next five years. He will have to justify his engineering decisions to 12 laymen who are faced with a seriously injured plaintiff or the grieving survivors. Obviously, not all such defenses will be successful, but the engineering professional can, by his actions and his ability to communicate to a jury, vastly improve the chances that there will be no recovery.