CUMULATIVE TRAUMA DRAMA: (CT) CLAIMS AND THEIR IMPACT ON CALIFORNIA WORKERS' COMPENSATION SYSTEM

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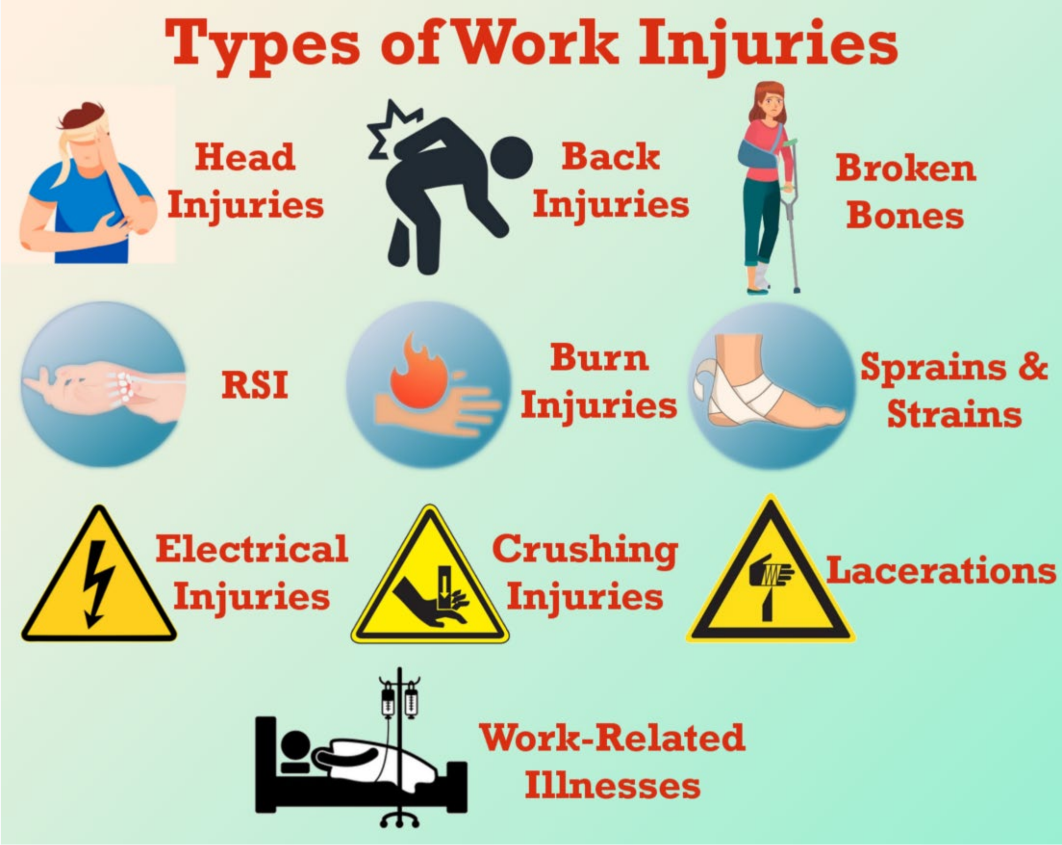
DISCLAIMER

The information presented is for general educational and discussion purposes only. It does not constitute formal legal advice. Opinions expressed are strictly those of the presenters.

NOW, JUST WHAT ARE CUMULATIVE TRAUMA (CT) CLAIMS?

HOW DO THEY DIFFER FROM A SPECIFIC INJURY?



STATUTORY FRAMEWORK

LC § 3208.1(b) Definition

Injuries from repetitive physical or mental traumatic activities over time causing disability or need for treatment.

- **Exposure:** Can range from 1 day to many years.
- **Liability:** LC 5500.5 limitation typically restricts exposure to the last year of injurious work.
- **Examples:** Carpal tunnel, occupational hearing loss, and psychiatric stress.

ESTABLISHING THE DATE OF INJURY

LC § 5412

The standard for determining the "Date of Injury" in CT cases, distinct from specific injuries.

Knowledge

Date the employee knew or should have known work was the cause.

Disability

The first date of wage loss or medical restrictions due to the injury.

STATUTE OF LIMITATIONS CHALLENGES

- **Defense Burden:** Statute of Limitations (SOL) is exceptionally difficult to defend in CT cases due to the LC 5412 definition.
- **Triggers:** The 1-year clock does NOT necessarily run from the last day worked.
- **Post-Termination:** Claims can be triggered months or years after separation if medical knowledge is established later.
- **WCAB Stance:** The Board is generally loath to deny a case based solely on SOL without overwhelming evidence of knowledge.

PRE-FILING MITIGATION STRATEGIES

Proactive Prevention

- Ergonomic Assessment Programs
- Wellness & Task Variety
- Strict Personnel Record-Keeping

Exit Protocols

- Notice of Rights Documentation
- MPN Notice Acknowledgements
- Termination Survey: Verify No Injuries

POST-FILING: RESPONSE TIMELINE

REPORT

Immediate referral to Carrier/TPA

INVESTIGATE

Duty of Good Faith under CCR § 10109

COLLECT

Personnel Files & Job Descriptions

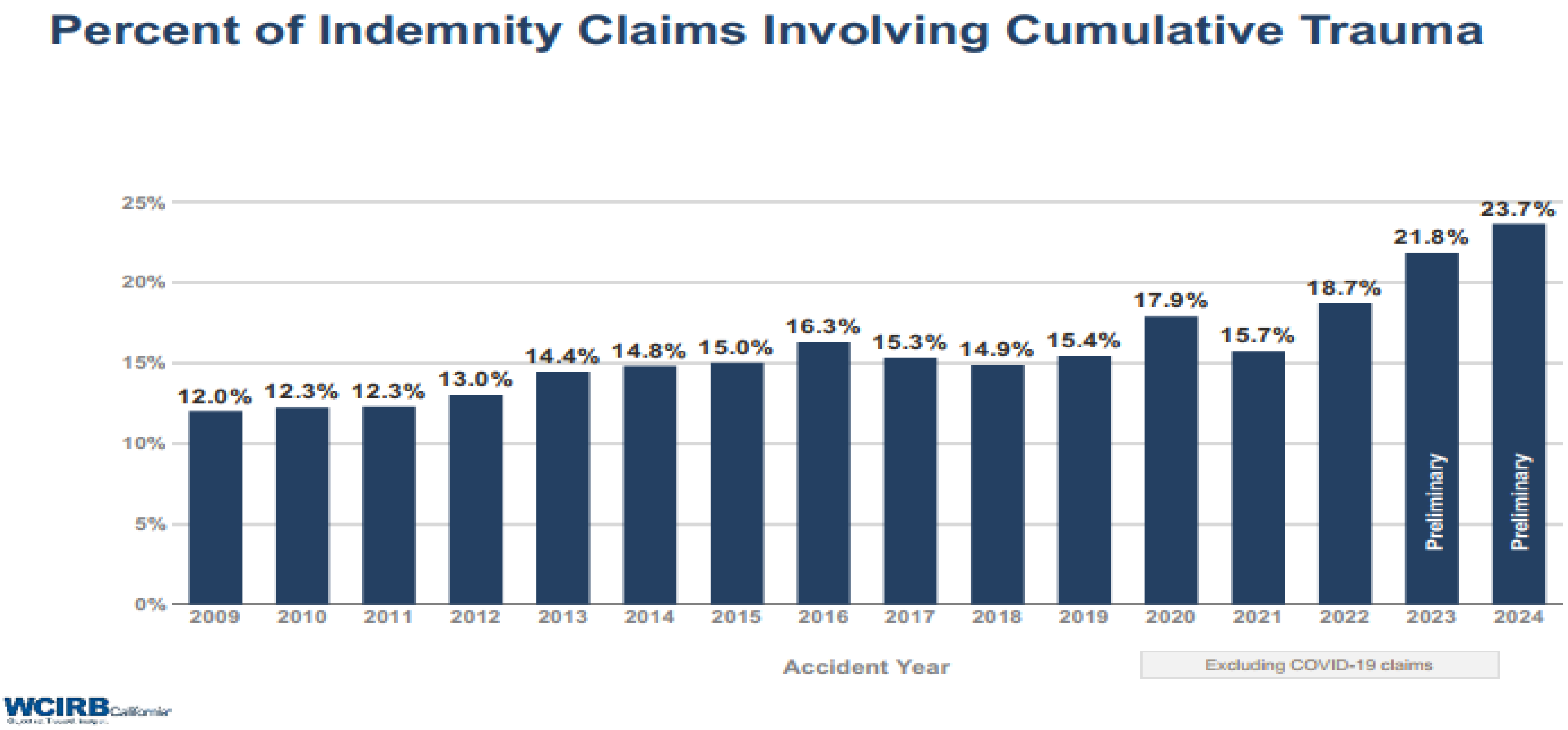
RETAIN

Engage Defense Counsel for Discovery

MARKET DYNAMICS & RISING COSTS

- **Cost Drivers:** Cumulative Trauma claims represent a growing portion of system costs and insurance combined ratios.
- **Rate Impact:** Frequency increases in California—especially Southern California—are primary drivers of rate hikes.
- **System Expansion:** Applicant Atorney firms are now aggressively shifting focus to Northern California jurisdictions.

MARKET DYNAMICS & RISING COSTS



THE SOCAL OUTLIER

#1

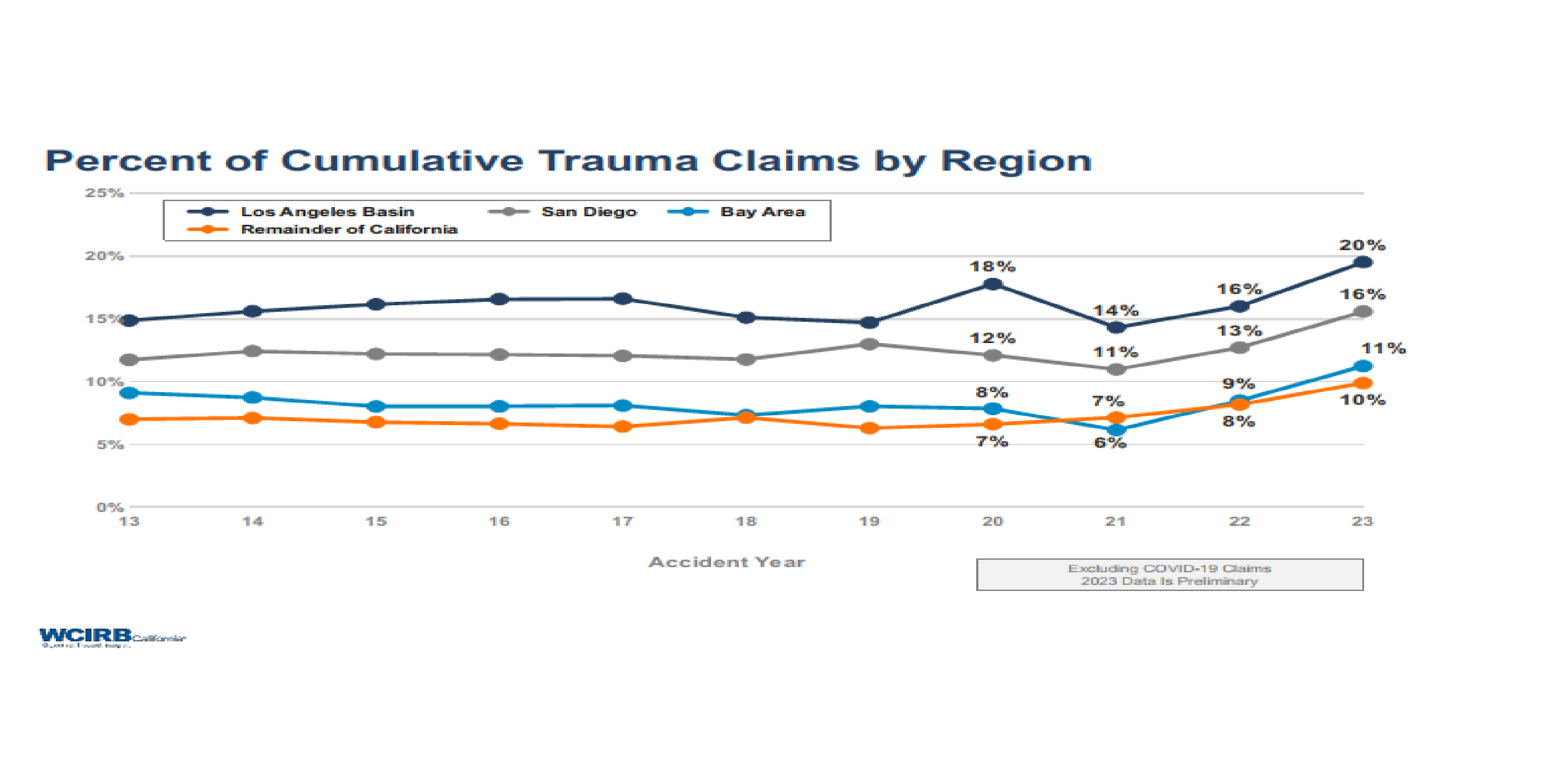
Los Angeles Region

Geographic Activity

Southern California remains the national outlier for cumulative trauma frequency. Higher density of AA firms and specific medical-legal ecosystems drive this trend.

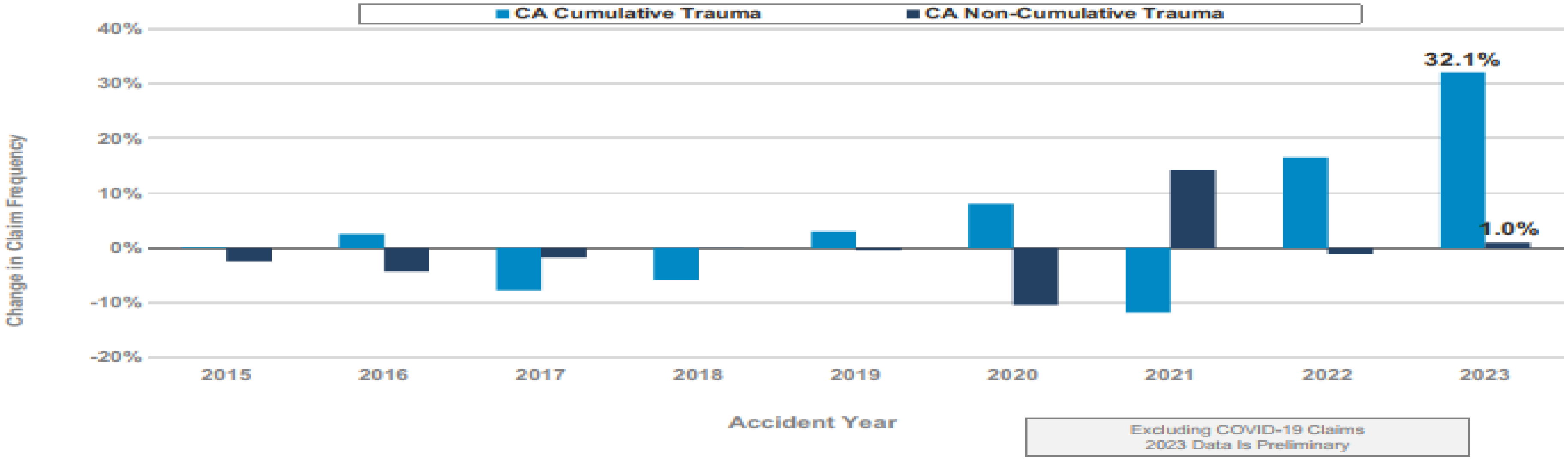
Note: Northern California is currently seeing an influx of traditional SoCal filing patterns.

THE SOCAL OUTLIER CONTINUED



- **Applicant Firms in So Cal now starting to file CT claims in Northern California**

Indemnity Claim Frequency by Claim Type



WCIRB California

RICARDO LARA
CALIFORNIA INSURANCE COMMISSIONER

July 15, 2025

The Honorable Gavin Newsom
Governor, State of California
1021 O Street, Suite 9000
Sacramento, CA 95814

The Honorable Mike McGuire
Senate President pro Tempore
California State Senate
1021 O Street, Suite 8518
Sacramento, CA 95814

The Honorable Robert Rivas
Speaker of the Assembly
California State Assembly
1021 O Street, Suite 8330
Sacramento, CA 95814

Re: Important Update on California's Workers' Compensation System

Dear Governor Newsom, Senate President pro Tempore McGuire, and Speaker Rivas:

I am writing to you with an important update regarding California's workers' compensation system. As you know, this system serves both injured workers and employers and, when balanced, provides medical treatment and compensation to injured workers and protects employers from excessive costs. California law charges my Department with issuing an average advisory pure premium rate each year based on our analysis of data on claims and cost trends. After more than a decade of steady or decreasing rates, this year, the data supports an increase in the average advisory pure premium rate. My order with regard to the average advisory pure premium rate reflects an early warning of growing costs in the workers' compensation system that may need further study to inform possible actions by the State Legislature and Governor.

This year, there was consensus among actuarial experts that costs are rising and a meaningful increase in the average pure premium rate is justified and supported by the data. Experts on behalf of my Department, the Workers' Compensation Insurance Rating Bureau (Bureau), and the Bureau's public members differed only slightly on how much the rate should increase. My Department's experts recommended an average advisory pure premium rate of $1.52 per $100 of payroll – an 8.7% increase over last year's approved rate.

The Governor and Legislature acted over a decade ago to enact far-reaching reforms that have helped to reduce workers' compensation rates. For the past decade, the pure premium rates adopted by myself and the previous insurance commissioner have shown continued progress toward reducing excessive costs in the system while protecting injured workers. Because higher insurance rates can affect businesses' ability to hire and sustain financial growth, it is important to be aware of early warning signs and respond appropriately.

My Department's independent analysis has identified several drivers of increased costs namely:

- Higher medical treatment and medical-legal costs
- Escalating costs associated with adjusting claims
- A greater number of projected cumulative trauma claims

As a result of these particular cost drivers, accident-year combined ratios over the past few years through December 31, 2024, have risen significantly. Combined ratios are an important measure of insurance companies' condition, reflecting the difference between projected losses, loss adjustment expenses, other insurer expenses for an accident year, and the calendar year earned premium; a ratio above 100% reflects that companies are spending more on claims compared to the premium earned. For the most recent four accident years, the projected combined ratio has exceeded 110% and is estimated to be 123% in 2024 -- the highest level in nearly 15 years.

Attached are two documents -- my Department staff's Proposed Decision and Order along with my Order adopting my staff's recommendation -- that provide more information on these cost drivers along with my Department's reasoning for supporting an increase in the average advisory pure premium rate. I believe the data available by my Department can inform policy action, and I commit my Department's actuarial expertise to provide further insights to assist with any potential future public policy efforts. I look forward to working with you as we continue to protect our state's injured workers and businesses.

Best regards,

RICARDO LARA
Insurance Commissioner
State of California

cc: The Honorable Lola Smallwood-Cuevas, Chair, Senate Committee on Labor, Public Employment and Retirement
The Honorable Tony Strickland, Vice Chair, Senate Committee on Labor, Public Employment and Retirement
The Honorable Lisa Calderon, Chair, Assembly Committee Insurance
The Honorable Greg Wallis, Vice Chair, Assembly Committee Insurance

Attachments

LITIGATION & PANEL TACTICS

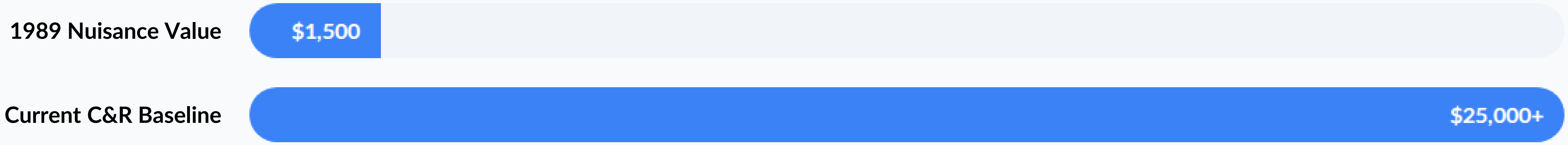
The "Multiple CT" Strategy

Firms are filing multiple overlapping CTs to obtain separate panels for the same body parts. Always ensure timely separate determinations (Accept/Deny) for each distinct claim number.

Medical-Legal Management

Aggressively manage QME selection. Applicant Counsel firms prefer Chiropractic and Pain Management specialists. Verify claim numbers and DOIs match exactly in panel requests to prevent procedural games.

SETTLEMENT ECONOMICS



Resolution decisions must balance Litigation Defense Costs (Medical-Legal, 5710 Fees) against long-term risk exposure.

CT POINTERS AND TAKEAWAYS:

KNOWLEDGE

PREVENTION

AGGRESSIVE DEFENSE TO BRING EARLY AND TIMELY RESOLUTION

LEGISLATIVE CHANGES

QUESTIONS?

Thank you for your attention.

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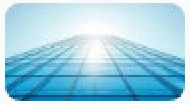
IMAGE SOURCES



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