

NEWSALERT



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Workers' Compensation

Cumulative Trauma Claims Driving Costs

ONE OF the largest writers of workers' compensation insurance in California recently sounded the alarm about the growth of costly cumulative trauma claims in the state.

In a recent earnings call with analysts, the insurer, Employers Holdings, highlighted the drag these claims have on its results. This came a month after the Workers' Compensation Insurance Rating Bureau noted in its recent rate filing the oversized impact of CT claims on overall workers' comp claims.

While some claims are legitimate, many are filed by workers after they are terminated, thanks to lawyers who approach them after they are laid off.

The typical claims allege gradual injuries sustained over years of repetitive motions, exposure or strain, rather than from a single accident or incident. They're common in industries involving repetitive motion, heavy lifting or prolonged exposure to harmful conditions.

California is the only state that allows cumulative stress claims in workers' compensation and one of only a few to permit claims after termination.

In 2023, CT claims accounted for 21.8% of all workers' comp claims in the state, compared to 18.5% the year prior and 15.6% in 2021, according to the Rating Bureau.

The numbers

- 40% of cumulative trauma claims in California are filed after a worker is terminated.
- 98% of cumulative trauma claims are litigated.
- Fully denied CT claims still end up costing over \$10,000 on average and many remain open even after five years.

Source: Workers' Compensation Insurance Rating Bureau of California

Cumulative trauma claim characteristics

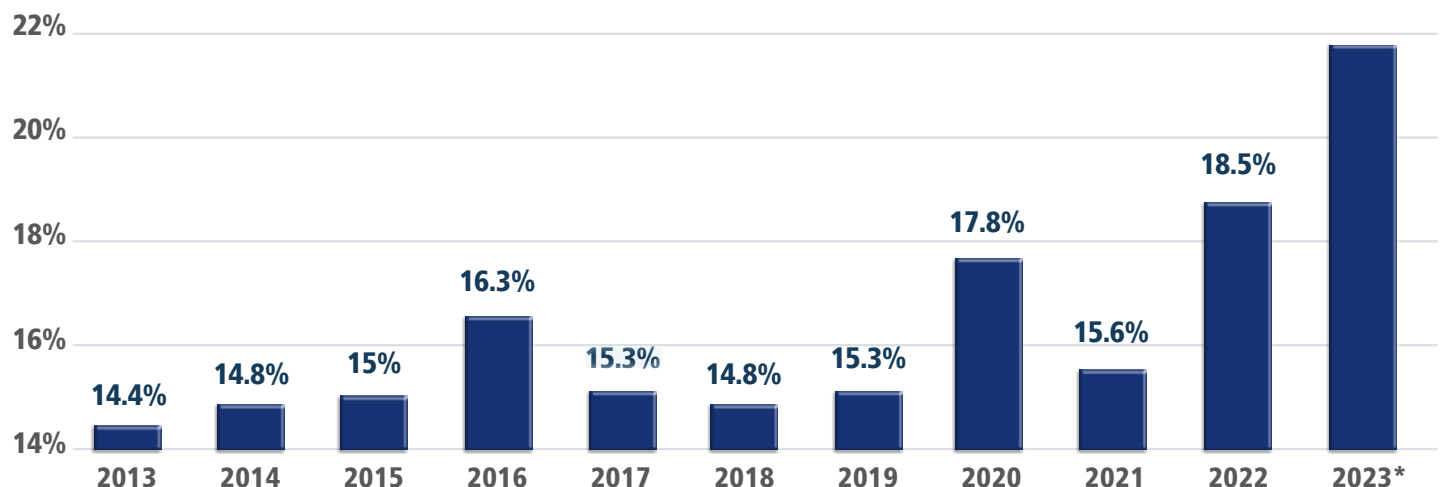
- They are more likely to involve multiple injured body parts,
- Long delays between the time of injury and when time the claim is filed, and
- Involvement of an applicant's attorney hired by the claimant.

The Rating Bureau found in a recent report that post-termination CT claims were initially less costly, but the longer they stay open, the more quickly costs accelerate.

That's compared to regular CT claims filed by workers who are still working for their employer, which start off more expensive but tend to develop more slowly over time.

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INCREASING SHARE OF CUMULATIVE INJURY CLAIMS



Source: WCIRB

*based on preliminary data

Ransomware Escalates: Physical Threats Against CEOs

A NEW SURVEY has found that in 40% of ransomware incidents in the U.S., CEOs or other executives were physically threatened if their organizations did not pay the ransom demanded by hackers.

The findings in Semperis' "2025 Ransomware Risk Report" highlight other pressure tactics, such as ransomware criminals threatening to file regulatory complaints to force payment. The study's findings emphasize the need for businesses to remain vigilant against ransomware threats that can completely shut down their networks and websites until they pay ransom.

Ransomware threat growing

- 78% of firms reported being targeted within the past 12 months.
- 55% of those that paid a ransom did so more than once, with 29% paying three or more times.
- 15% of firms that paid never received usable decryption keys, or received corrupted ones.
- 23% recovered within a day, while 18% needed up to a month.

Source: Semperis' "2025 Ransomware Risk Report"

New tactics

Physical threats – Ransomware actors are resorting to extreme measures to pressure victims into paying, including threats of physical harm to business executives. In the past 12 months, 40% of incidents involved physical threats against executives, according to the Semperis report.

Threats of reporting to regulators – In 47% of attacks, ransomware criminals threatened to file regulatory complaints against victim companies if they refused to pay.

Other tactics – In early 2025, Cisco Talos reported that the Chaos ransomware group threatened additional damage by launching DDoS attacks and spreading news of the breach to competitors and clients if payment was withheld.

What businesses can do

- Address vulnerabilities and strengthen defenses to improve the ability to recover if an attack occurs.
- Regularly back up your data to an offline or secure location.
- Train staff to spot e-mails that may contain ransomware and avoid opening attachments or clicking on links from unknown or suspicious senders.
- Ensure your organization has well-documented, clearly communicated crisis response and recovery processes, and practice them in test scenarios that mirror real-world conditions.
- Hold vendors and partners with system access accountable to the same security and recovery standards you require internally.
- Install updates to your operating system, web browsers and other software as soon as they become available.

The takeaway

Even companies with solid defenses are penetrated. Consider purchasing cyber insurance, which can help your organization recover from a ransomware hit or other cyberattack. In some cases, the insurer can help you avoid paying the ransom without compromising your ability to continue operating.

If you have questions about cyber insurance, give us a call.



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CT Claims Are Spreading from Southern California

The takeaway

While these claims have long been a persistent problem in Southern California, they are spreading to other parts of the state, including the Bay Area and Sacramento, Katherine Antonello, CEO of Employers Holdings, said during the company's earnings call in August 2025.

They've become such a burden on the system that California Insurance Commissioner Ricardo Lara acknowledged the rising frequency of these claims when approving a recent workers' comp benchmark rate increase.

Employers should strive to reduce the risk of repetitive motion

and cumulative injuries as part of good safety practice. At the same time, it's important to document all injuries and near misses.

If a CT claim is filed, employers should conduct thorough investigations, meticulously document workplace hazards and training, and assess possible links between the injury and work.

Also check with your insurer to ensure the claim was filed within the state's statute of limitations, which is one year. For post-termination claims, the clock starts on the worker's last day of employment.

For claims by active employees, the statute of limitations has not yet begun.

Construction Defect Litigation on the Rise

CONSTRUCTION DEFECT lawsuits, a constant presence in the building industry, are on the rise, and legal observers expect the trend to continue over the next few years.

There are several factors driving the increase, including a continuing construction industry labor shortage, contractors working on tight schedules to rebuild properties in areas devastated by natural disasters and growing high-dollar court judgments.

Since insurance coverage for construction defect claims is not iron-clad, it's important for construction firms, contractors, architects, engineers and even material suppliers to understand the drivers behind this trend and how to protect their financial interests.

Why defect claims are increasing

Skilled labor shortage – The construction industry has faced a sustained shortage of skilled workers for more than a decade, with recent estimates showing a gap of roughly 500,000 workers nationwide. According to Seyfarth Shaw's "2025 Commercial Litigation Outlook," 30% to 40% of the construction workforce is made up of immigrants, and a significant portion is undocumented. Immigration policy shifts and the long-term difficulty in attracting new workers to the trades have kept the talent pipeline thin.

A smaller labor pool increases the likelihood of errors, substandard workmanship and oversights that later become the basis for defect claims.

Urgency in post-disaster rebuilding – Natural disasters such as hurricanes and wildfires are another factor driving defect risk. Rebuilding efforts after disasters have sometimes involved loosening or waiving certain permit and inspection requirements to speed up construction.

These measures can increase the risk of workmanship or design issues that later surface as legal disputes.

More complex and higher-value projects – In many markets, builders are taking on increasingly complex projects, from high-end custom homes valued at tens of millions to major medical facilities and infrastructure projects.

Larger budgets and intricate designs often mean more stakeholders, more specialized materials and more potential points of failure.

Litigation dynamics and 'nuclear verdicts' – Plaintiff attorneys are increasingly filing defect claims as close as possible to the statute of limitations, typically up to 10 years after project completion.

At the same time, the growing number of multi-million-dollar verdicts is pushing jury awards higher, particularly when property damage or perceived negligence is involved. This trend is making construction defect cases more attractive to plaintiffs' firms.

The insurance gap

There is no single insurance policy that specifically covers construction defects. While certain policies may respond to related losses, coverage is often limited and dependent on the circumstances:

- **Commercial general liability** – May provide coverage if the defect results in property damage or bodily injury, often through the products-completed operations portion of the policy.
- **Builder's risk** – Protects a project during construction but generally doesn't respond after completion unless the defect arises and is addressed before handover.
- **Professional liability** – Covers architects, engineers and design professionals for claims stemming from design errors or professional negligence.

Many defects, especially those related solely to poor workmanship without resulting property damage, may fall outside these policies.

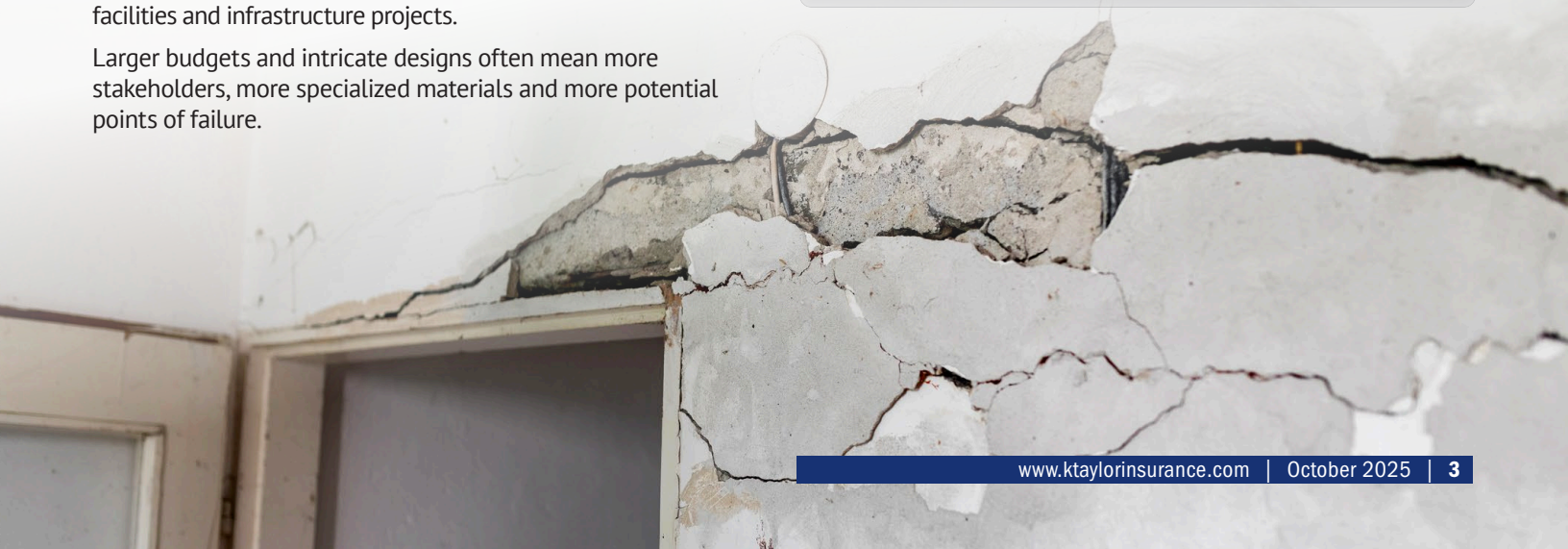
What you can do

Tighten quality control – Implement formal inspection and sign-off processes at every stage of construction.

Vet subcontractors thoroughly – Require proof of adequate insurance and consider naming subs as additional insureds.

Document everything – Maintain detailed records of design changes, materials used, inspections and client approvals.

Review insurance programs – Work with us to identify gaps in coverage, confirm policy terms and explore endorsements or additional limits where possible.



Proposed Ballot Initiative Seeks Repeal of Prop. 103

AN INSURANCE agent has filed papers with the state of California to qualify an initiative for the 2026 election that would repeal Proposition 103, a landmark insurance measure that has tightly regulated property and auto insurance rates since 1989.

Since 1989, Prop. 103 has required insurance companies to submit requests for rate changes to the California Department of Insurance (DOI). Under the law, the insurance commissioner is required to review those filings, decide whether they are justified, and can deny or limit increases. Consumers and advocacy groups are also allowed to intervene in the process, giving the public a voice in rate decisions.

The measure also made the post of insurance commissioner an elected position instead of one appointed by the governor.

Critics of Prop. 103 say the law slows down the rate approval process, which can drag out for months or even years due to bureaucratic obstacles. Proponents say it keeps insurance companies in check and that having an elected insurance commissioner allows them to act without political interference.

What the proposed initiative would do

The measure, dubbed the California Insurance Market Reform Act of 2026, was submitted by Elizabeth Hammack, an independent insurance agent, who argued that Prop. 103 has led to dysfunction and delays that have worsened California's insurance crisis.

Key elements of the measure

- Replace the elected insurance commissioner with an appointee chosen by the governor and confirmed by the state Senate.
- Establish stricter timelines for the DOI to act on rate filings, generally requiring decisions within 120 days.
- End the intervenor system that allows consumer advocates to challenge rate filings at insurers' expense.
- Require wildfire risk maps to be updated every three years and allow insurers to factor in reinsurance costs and wildfire mitigation activities when setting rates.

Supporters and critics weigh in

Some in the insurance industry say the lengthy approval process under Prop. 103 has made it difficult to adjust rates in line with rising risks, especially from wildfires.

Insurers also argue that delays and a provision requiring any rate hike request of 7% or more to trigger a DOI hearing have discouraged larger filings. As a result, most insurers have limited their requests to 6.9%, which they say has been inadequate in recent years due to rapidly rising claims costs for both property and auto insurance.

Combined with increasingly destructive wildfires, the difficult approval process and insurers' inability to use certain

forecasting models have prompted many companies to restrict writing homes and commercial properties in the state.

Consumer groups oppose the new proposal. They say Prop. 103 has saved Californians billions of dollars on auto insurance and kept home insurance rates more affordable than in many other states. Critics warn that repealing it would open the door to steep premium hikes with less accountability.

Long odds ahead

For now, the initiative remains a long shot. To make the November 2026 ballot, supporters must gather more than 546,000 valid signatures by next spring, a tall order without major funding. Consumer Watchdog, the advocacy group founded by Prop. 103's author, has dismissed the campaign as unserious and underfunded.

If it does qualify, the proposal could set up a high-stakes battle between consumer advocates and insurers at a time when California residents are already frustrated with rising premiums and shrinking coverage options.



If you have any questions regarding any of these articles or have a coverage question, please contact your broker at:

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