Mega Claims and Cumulative Trauma in California: Early Warning Signs That Can Protect Your Loss Ratio

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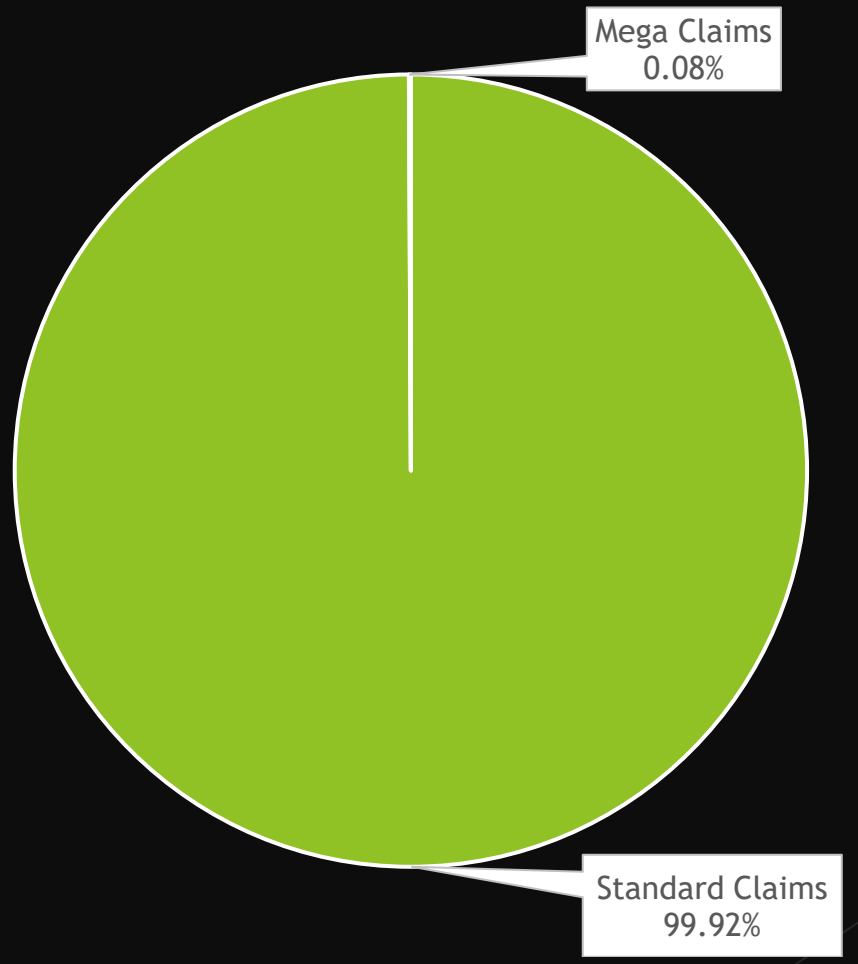
High Exposure “Mega” Claims

- High exposure workers’ compensation claims arise relatively infrequently, but pose the greatest challenges to, employers, carriers and defense counsel alike.
- These claims can be handled in a way to mitigate costs if they’re **identified** early and **defended** diligently.
- The combined loss ratio is greatly impacted by Mega Claims

Mega Claim Frequency

In December 2024, the WCIRB jointly released, with 9 other state rating bureaus, a new report re: Countrywide Mega Claims which provided new insights into common characteristics of mega claims.

- A **mega claim** is a claim incurring losses exceeding **$2 million**.
- Between 2001 and 2021, about **0.08%** (or about **1 in 1250**) claims became mega claims.

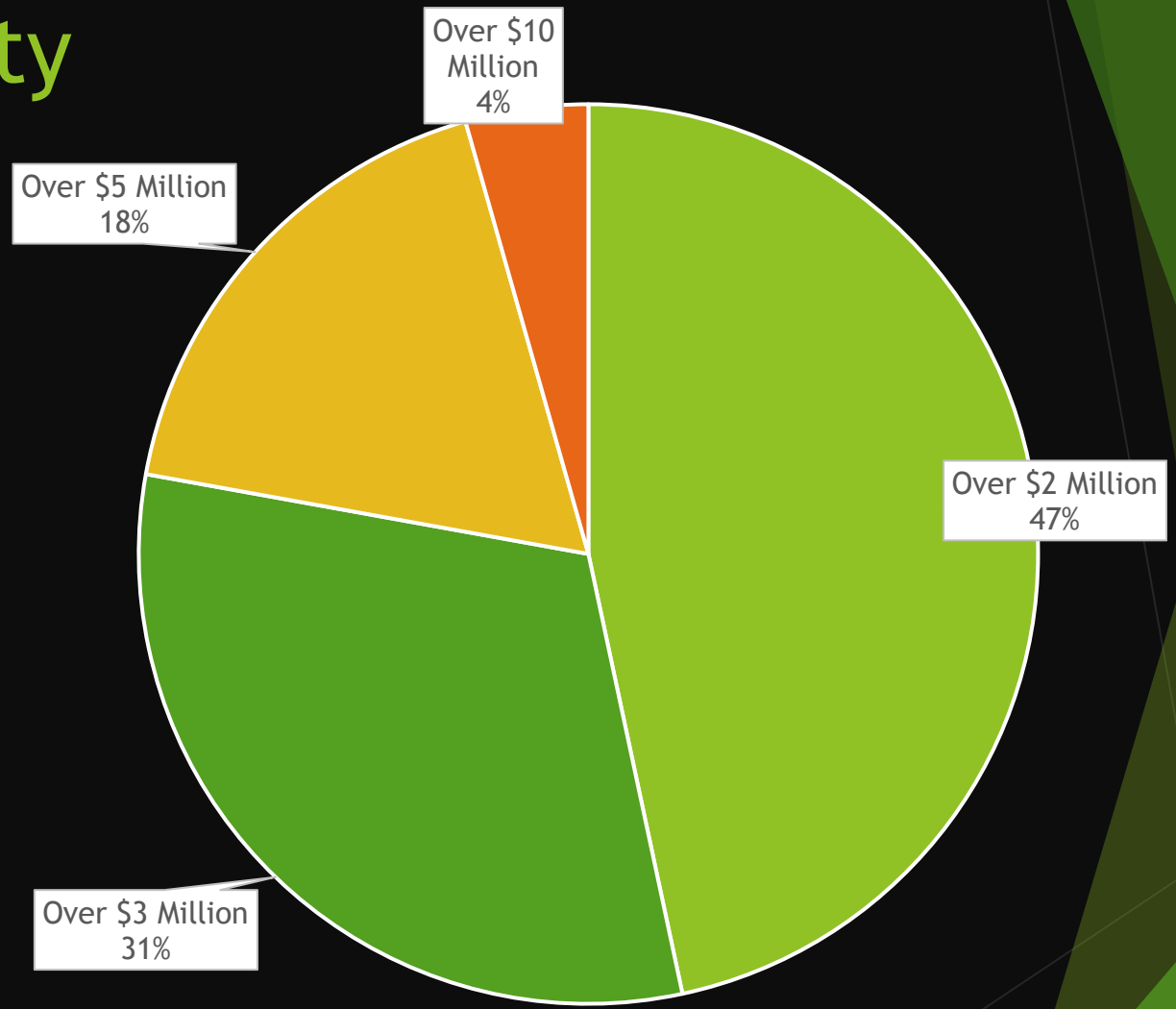


***Source**: 12/12/2024, Countrywide Mega Claim Report 2001-2021*
https://www.wcirb.com/sites/default/files/2024-12/countrywide_mega_claims_-_final_version.pdf

Mega Claim Severity

Despite accounting for just 0.08% of injuries, these claims can incur costs of over **$10 Million:**

- **47%** of mega claims cost between $2 and $3 million.
- **31%** of mega claims cost between $3 and $5 million.
- **18%** of mega claims cost between $5 and $10 million.
- **4%** of mega claims cost over $10 million.



***Source**: 12/12/2024, Countrywide Mega Claim Report 2001-2021 (average claim count for first policy year)*
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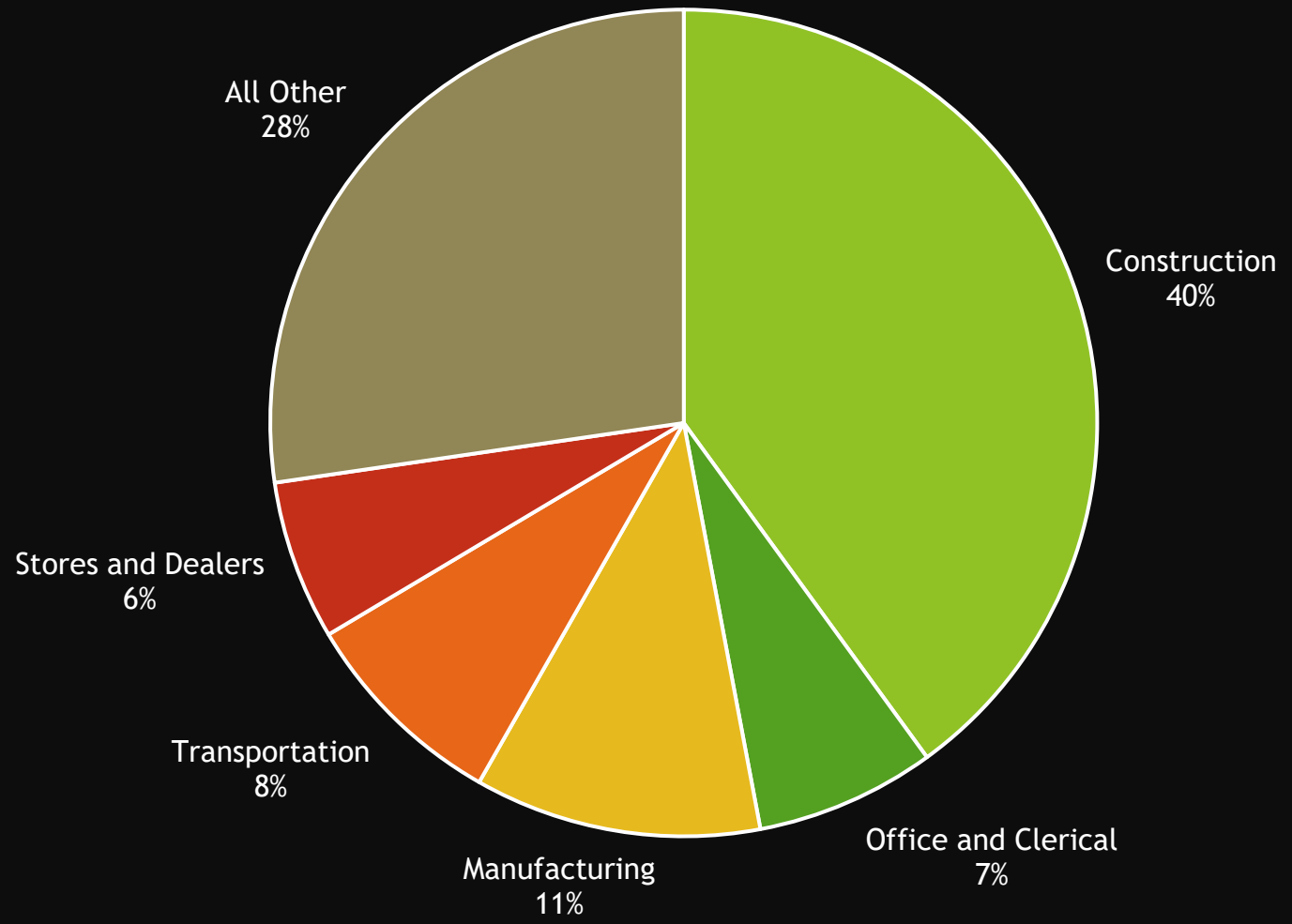
Mega Claim Warning Signs

Warning Signs: Industry and Occupation



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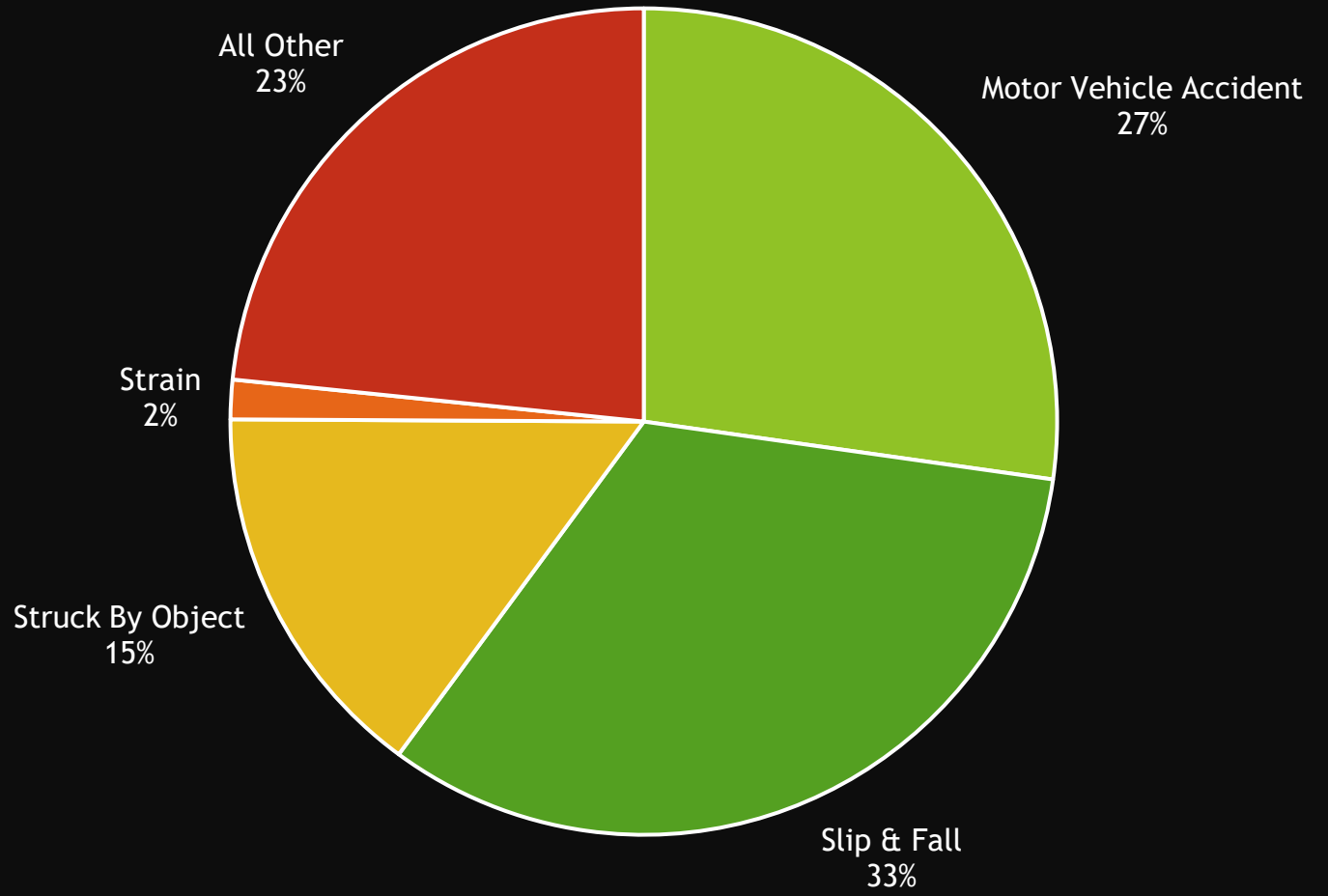
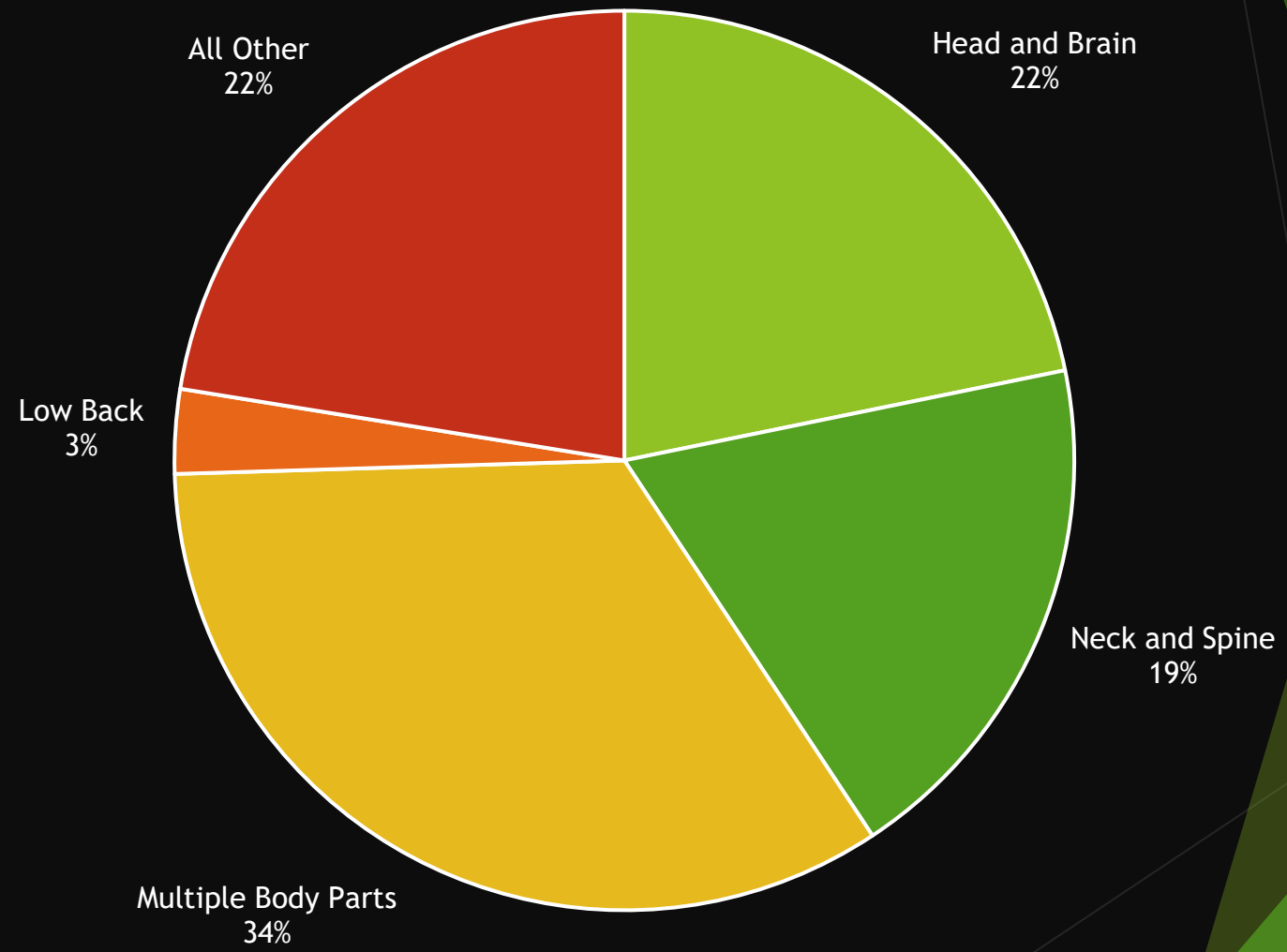
Warning Signs: Mechanism of Trauma



Motor Vehicle Accidents comprise less than **5% of claims**, but **27% of mega claims**.

Warning Signs: Injured Part of Body

Head and Brain comprise of 22% of mega claims, but only approx 3% of all indemnity claims.



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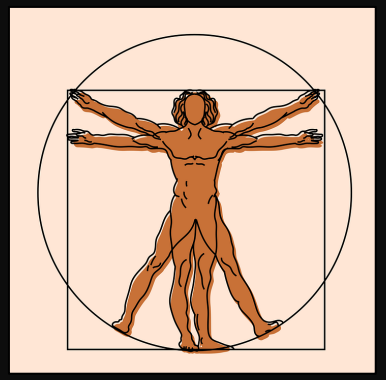
Warning Signs

Applicant Attorney

Some AA's regularly add body parts and dates of injury to expand claims as much as possible.



Body Parts and Number of Specialties

The more parts and specialties alleged, the more costly the defense, and the higher the potential liability. Some body parts more valuable than others.

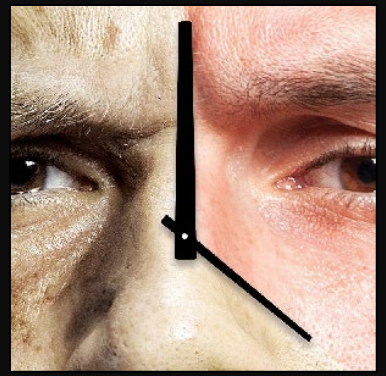
Potential for Home Care or Other Costly Treatment

Look for facts that could suggest costly care. Will treatment require complex and expensive procedures? Will the injury limit the applicant's ability to function independently, including while and after they recover?

Warning Signs: Age

Potential Medicare Involvement

Try to resolve claims before Medicare is involved because claims needing an MSA are more difficult to resolve.



Age

Older applicants are more likely to have abnormal findings that could be attributed at least partially to their injury.

Warning Signs

Opioids and Other Strong Prescription Use

Prescription medications can cause medical issues and a lack of interest in working.

Drugs, Smoking, and Alcohol

Substance users are more likely to have health issues that could be brought into the claim.

Pre-Existing Comorbidities and Medical Conditions

Pre-existing conditions may increase costs if any portion is industrial. Comorbidities (such as obesity, diabetes, hypertension, etc.) may delay or complicate treatment, or lead to poor treatment outcomes (compared to healthier patients).

Warning Signs

Prior Litigation History

This can provide ammunition to defend the claim, show the applicant's mindset, and may show where the claim will go.

Psychological Issues

Pre-existing psych issues can morph into a comp claim. They can result in tending to feel more pain or think "catastrophically." They are easily claimed, costly to litigate, and difficult to rebut.

Cumulative Trauma Claim Cost Drivers

Cumulative Trauma: The Legal Framework

Unlike a specific injury, a CT claim is built on repetition over time — which makes its boundaries, and its defenses, a matter of dates.

LAB. CODE § 3208.1

What a CT injury is

Repetitive mentally or physically traumatic activities, extending over a period of time, that combine to cause disability or the need for medical treatment.

LAB. CODE § 5412

Date of injury

Not the last day worked — it is when disability first occurs AND the employee knew (or should have known) the work caused it.

LAB. CODE § 5500.5

Who pays

Liability is generally limited to the last year of injurious exposure — and can be spread across multiple employers and carriers during that period.

WCIRB STUDY - *Emerging Patterns of Cumulative Trauma Claims*

Released June 10, 2026

- Compares two claim surveys: accident years **2013–2015** against accident years **2022–2024**, so the trends shown are measured changes, not one-time snapshots.
- Built from WCIRB unit statistical data and medical transaction data reported by California carriers — not survey opinion or anecdote.
- Covers claim frequency, litigation rates, medical-legal and interpreter utilization, allocated loss adjustment expense (ALAE), and geographic/industry concentration statewide.
- This is the same body that sets California's advisory pure premium rates — its claim data underlies the rates every carrier in this room is already pricing to.

Source: *06/10/2026, WCIRB Emerging Patterns of Cumulative Trauma Claims*
https://www.wcirb.com/sites/default/files/2026-06/emerging_patterns_of_cumulative_trauma_claims-2026-06-10.pdf

COST IMPACT

CT Claims Have Become a Major Cost Driver

25%

of California workers' compensation pure premium is now attributable to cumulative trauma claims — with CT pure premium more than doubling since 2021.

> *"Think about that. One out of every four premium dollars is now funding cumulative trauma claims."*

Source: *06/10/2026, WCIRB Emerging Patterns of Cumulative Trauma Claims*
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CLAIM COMPLEXITY

CT Claims Are Fundamentally Different

39%

of CT claims involve multiple body parts, compared with just 10% of specific-injury claims.

> *"This is where claim complexity begins." — the same multi-body-part pattern we just saw driving our Mega Claims.*

Source: *06/10/2026, WCIRB Emerging Patterns of Cumulative Trauma Claims*
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LITIGATION

Litigation Is Almost Guaranteed

99%

of post-termination CT claims involve litigation.

> *"When I see a post-termination CT, I don't ask if it will become litigated. The statistics tell us it almost certainly already is."*

Source: *06/10/2026, WCIRB Emerging Patterns of Cumulative Trauma Claims*
https://www.wcirb.com/sites/default/files/2026-06/emerging_patterns_of_cumulative_trauma_claims-2026-06-10.pdf

MEDICAL-LEGAL COSTS

The Cost of Litigation Continues to Increase

37%

of medical payments on CT claims are now medical-legal costs — up from roughly 24% a few years ago.

> *"More dollars are being spent proving the claim than treating the claim."*

Source: *06/10/2026, WCIRB Emerging Patterns of Cumulative Trauma Claims*
https://www.wcirb.com/sites/default/files/2026-06/emerging_patterns_of_cumulative_trauma_claims-2026-06-10.pdf

TIMING

Timing Matters

58%

of CT claims are first filed after employment ends — up from 44% a decade ago.

> *This is exactly why our post-termination defense section matters as much as it does.*

Source: *06/10/2026, WCIRB Emerging Patterns of Cumulative Trauma Claims*
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OBSERVATIONS

Impact on California Employers

- The majority of CT litigation is handled by Los Angeles–area applicant attorneys, regardless of where the employee actually worked.

Source: *06/10/2026, WCIRB Emerging Patterns of Cumulative Trauma Claims*
https://www.wcirb.com/sites/default/files/2026-06/emerging_patterns_of_cumulative_trauma_claims-2026-06-10.pdf

Why CT Claims Create Unexpected Exposure

The quiet cost driver

CT claims rarely look like high exposure claims on day one. Their cost comes from litigation, late reporting, and disputes over coverage — not from the injury mechanism itself.

Almost always litigated

The vast majority are attorney-driven filings, often arriving as an Application rather than an employee report — frictional costs start immediately.

Multiple body parts/specialties

Typical pleadings allege several body systems (orthopedic, internal, psyche, sleep), inflating medical-legal costs and settlement values.

Multiple defendants

The § 5500.5 exposure window pulls in prior employers and carriers — contribution disputes add complexity and delay.

Late or post-employment filing

Many CT claims are first reported after the employment relationship sours or ends — when witnesses, records, and goodwill are hardest to secure.

THE BRIDGE — CT × MEGA CLAIMS

Where CT Claims Can Become Mega Claims

Multiple body parts are baked in — WCIRB's own report notes CT claims are more likely to involve multiple injured body parts.

Harder work for longer period – Longer they do hard work, more likely to have significant CT injury.

PD and Life Pension Exposure — because CT claims often involve multiple body parts, PD ratings combine and can cross thresholds into life pension territory, which is a classic mega-claim driver.

Comorbidities extending treatment — CT claimants (often long-tenured, older workers) frequently have complicating conditions (diabetes, obesity, prior injuries) that slow recovery and add medical cost.

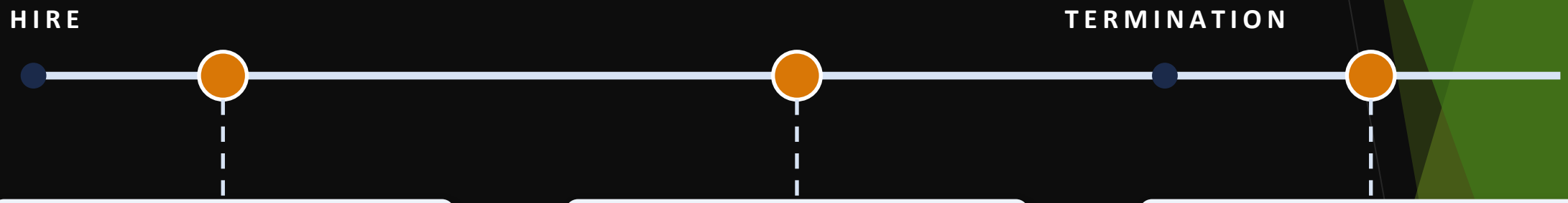
Psychiatric involvement is rising — utilization of psychological/psychiatric medical-legal services on CT claims has grown faster than on non-CT claims (Chart 18).

Source: *06/10/2026, WCIRB Emerging Patterns of Cumulative Trauma Claims*
Athens/RLG Mega Claims Warning Sign Framework

Cumulative Trauma Claim Defense Strategy

Timing Is the Red Flag

Three filing patterns on the employment timeline should trigger immediate scrutiny.



Shortly after hire

A CT alleged within weeks or months of hire points to exposure earned elsewhere. Question whether this employer truly contributed injurious exposure — and preserve the prior-employment trail.

On the eve of termination

Claims surfacing amid discipline, layoff notice, or performance disputes often track the employment conflict, not a medical event. Document the personnel timeline immediately.

After employment ends

Post-termination filings raise the § 3600(a)(10) defense — but only if you can show the claim was first made after notice of termination and no exception applies.

The Non-Psych Post-Termination Defense — § 3600(a)(10)

The Rule

A claim filed after notice of termination or layoff is not compensable unless the employee proves an exception applies.

NOTE: Psych Post-Termination Injury Defense is codified in LC § 3208.3(e)

Key exceptions that defeat the defense

1. Employer had notice of the injury before the notice of termination or layoff
2. Medical records existing before termination contain evidence of the injury
3. For a specific injury: the date of injury is after notice of termination but before its effective date
4. **For a CT injury: the date of injury (§ 5412) falls after the notice of termination or layoff**

Early Identification & Investigation Playbook

The first 30 days decide whether the timing defenses survive. Move on all six fronts at once.

Flag the timing on intake

Screen every new claim against hire date, discipline history, and termination status — route matches to senior handling.

Lock down the personnel file

Preserve the termination notice, performance records, and the exact dates notice was given and the claim was made.

Pull prior medical & claim history

Canvass prior treatment, group health records, and index/ISO history for pre-existing conditions and earlier claims.

Map the full work history

Identify all employers and carriers in the § 5500.5 window; tender notice early to preserve contribution rights.

Take statements early

Interview supervisors and coworkers on job duties and the separation while memories are fresh — before depositions shape the story.

Decide compensability deliberately

Use the 90-day investigation period strategically; a reflexive denial or acceptance forfeits leverage either way.

Key Takeaways: CT Claims

1. **CT exposure is a timing problem**

   The date of injury, the exposure window, and the filing date — not the injury mechanism — determine who pays and how much.

2. **The red flags are visible at intake**

   Short tenure, pending discipline, and post-termination filing can be screened automatically on day one.

3. **Defenses decay; investigate immediately**

   § 3600(a)(10) and § 5500.5 only work when the personnel, medical, and employment record is preserved early.

4. **Decide with a complete file**

   Use the investigation period to build the record — strategy beats reflex on both acceptance and denial.

CASE EXAMPLE #1

- **Applicant**: 56-year-old male construction worker.
- **DOI**: 30-year CT claim resulting from various construction tasks of heavy lifting, working on knees, etc.
- **Body Parts**: lumbar/thoracic/cervical spine, upper extremities, and lower extremities.
- **AA**: Notorious for adding body parts/systems over time, but sometimes willing to settle early.
- **Coverage**: Coverage for the last 3 years of the CT = 100% exposure per LC 5500.5.
- Personal medical records received indicate the following:
  - Stage 4 chronic kidney disease.
  - Diabetes Type II for 10 years.
  - Hypertension for 10 years.
  - Prior surgery to lumbar spine with hardware never removed.

CASE EXAMPLE #2

- **Applicant**: 38-year-old male.
- **DOI**: ST on 06/01/2023 when applicant slipped and fell on a wet floor.
- **Body Parts**: lumbar/thoracic/cervical spine, upper extremities, lower extremities, and head/brain.
- **AA**: One that is usually open to early settlement and not a brain injury specialist.
- * Records show various injuries including a potential TBI.
- * No brain injury found by the diagnostics, but records show multiple cuts on scalp/face, and complaints of headaches/memory problems/double vision.
- * Applicant had prior injury with similar complaints, but records don’t show extent.

Thank You For Attending!

For a copy of the updated slides, please send an email to:

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