

BULLETIN

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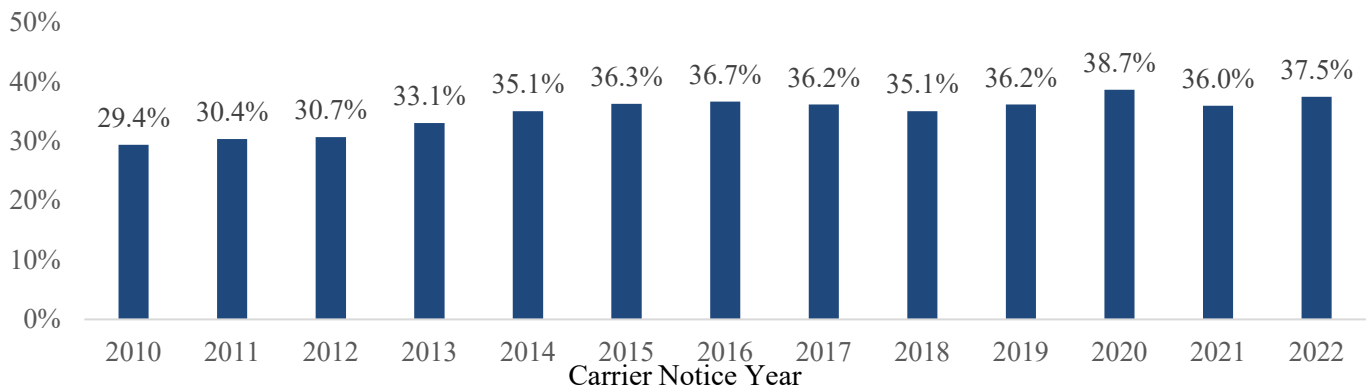
March 1, 2024

Recent data show that cumulative trauma (CT) claims comprise 37.5 percent of litigated claims in the California workers' compensation system, and a CWCI analysis of the variables that are most strongly associated with these claims finds that the region in which the claimant resides has the strongest influence on the likelihood of these claims – far more than any other demographic and occupational variables that were analyzed, save tenure.

Unlike specific injuries, such as fractures or lacerations that result from a single event, CT injuries are defined under California Labor Code §3208.1(b) as injuries "...occurring as repetitive mentally or physically traumatic activities extending over a period of time, the combined effect of which causes any disability or need for medical treatment." The CWCI analysis, based on data derived from a sample of 1.4 million California workers' compensation claims with 2010 to 2022 claims administrator notification dates, tracks the growth of CT claims, both as a percentage of all claims and as a percentage of litigated claims, over the 13-year study period. The study also examines variables often associated with increased CT claim frequency among litigated claims, including region (based on the injured worker's ZIP code), attorney involvement, and the mix of stand-alone claims versus multiple/concurrent claims from a single injured worker. In addition, the study uses regression analyses to estimate the statistical impact that variables such as industry, age, job tenure with the at-injury employer, and average weekly wage have on the likelihood of a CT claim.

From 2010 through 2022, CT claims increased from 29.4 percent of all litigated claims in the California system to 37.5 percent. Most of that growth occurred between notice years 2010 and 2016, after which the percentage fluctuated between 35.1 percent and 38.7 percent, with the high point reached in 2020 – the first year of the pandemic.

CT Claims as a Percentage of All 2010-2022 Calif WC Litigated Claims



Breaking the 2010-2022 results out by region, the study found that CT claims' share of all litigated claims was fairly stable in Northern California and the Central Valley, but the percentage of CT claims in both areas did increase in 2022. Southern California had significant growth throughout the period. The sharpest increase was in the Inland Empire/Orange County, where CT claims jumped from 30.2 percent of the litigated claims in 2010 to 40.6 percent in 2022, slightly more than the increase in Los Angeles County, where CT claims went from 38.6 to 48.7 percent of the litigated claims, and San Diego where CT claims increased from 25.0 percent of the litigated claims to 33.4 percent.

Data from the most recent five years in the study (carrier notice years 2018-2022) show that 70 percent of the CT claims were litigated, which is nearly 3-1/2 times the litigation rate for non-CT claims from the same period. Using data from the 2018-2022 litigated claims, the study took a closer look at the characteristics associated with CT claims. The first of

these characteristics was whether the CT claim was a stand-alone claim or a “group” claim in which the employee had one or more additional work injury claims with the same employer. That analysis found that 78.5 percent of the CT claims were stand-alone claims, while 21.5 percent were group claims. Just under 2/3 of the group claims involved a specific injury claim along with a single CT claim while just over 1/3 involved at least two CT injuries with or without a specific injury. Data on the injured body part showed that multiple body parts/systems represented the largest share of CT claims (43.0 percent), nearly three times the proportion for non-CT claims.

A review of the CT rates across nine major industry sectors showed that CT claims were most prevalent in the manufacturing sector, where they accounted for nearly half (48.8 percent) of the litigated claims, which was almost twice the proportion noted in the construction sector. The food service sector had the second highest CT rate, with 46.9 percent of the claims in this sector involving CT injuries, while the agriculture sector had the lowest CT rate (24.2 percent). Regression results showed that while the type of industry influences CT rates, for most sectors other factors such as region and job tenure play a comparable role.

The breakdown of the 2018-2022 litigated claims by region confirmed that the historical “L.A. Effect” on CT claims is still at work, as just over half (50.6 percent) of the litigated claims from L.A. County residents during this 5-year span involved CT injuries – by far the highest rate in the state. The Inland Empire/Orange County ranked second, with a CT claim rate of 40.6 percent, while the rate in San Diego was 31.3 percent. As was the case with the data dating back to 2010, the lowest CT claim rates in the state were in the Central Valley, where 19.4 percent of the litigated claims involved CTs, and in Northern California – most notably in the Bay Area, where the rate was 22.5 percent. Regression results showed that the differences between the regions were only partially explained by differences in other underlying claim characteristics.

Other factors examined in the study included claimant age, with workers under the age of 30 having a somewhat lower CT rate (28.3 percent) than workers who are over 30, whose CT rates ranged from 35.1 to 38.8 percent, though more than a third of all CT claims in the study involved injured workers who were under 40. Data on the claimant’s average weekly wage revealed considerably higher CT rates at the lower end of the wage scale, with CT rates of 40 percent for workers making less than \$300 per week and 42.1 percent for the those earning \$300 to \$599 per week. In contrast, workers making more than \$900 per week all had similar CT rates, with CT claims representing between 30.0 and 31.7 percent of their litigated claims. For both age and average weekly wage, the regression analyses showed that the characteristics were not strong predictors of CT rates compared to other factors.

Next to region, differences in tenure were shown to have the strongest impact on differential CT rates based on regression results. Employees with less than a year of tenure at the time of injury had a much lower CT rate (26.0 percent) than more tenured workers as CT rates increased incrementally as tenure increased, climbing as high as 49.0 percent among workers with more than 10 years on the job.

CWCi’s analysis of CT claims has been published in a Research Note, **Cumulative Trauma and Litigated Claims in the California Workers’ Compensation System**. The report is available to the public for \$21 from the Institute’s online store www.cwci.org/store.html, and is available to CWCi members and subscribers who log in to the Research section of the website at <https://www.cwci.org/research.html>.

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