

# 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

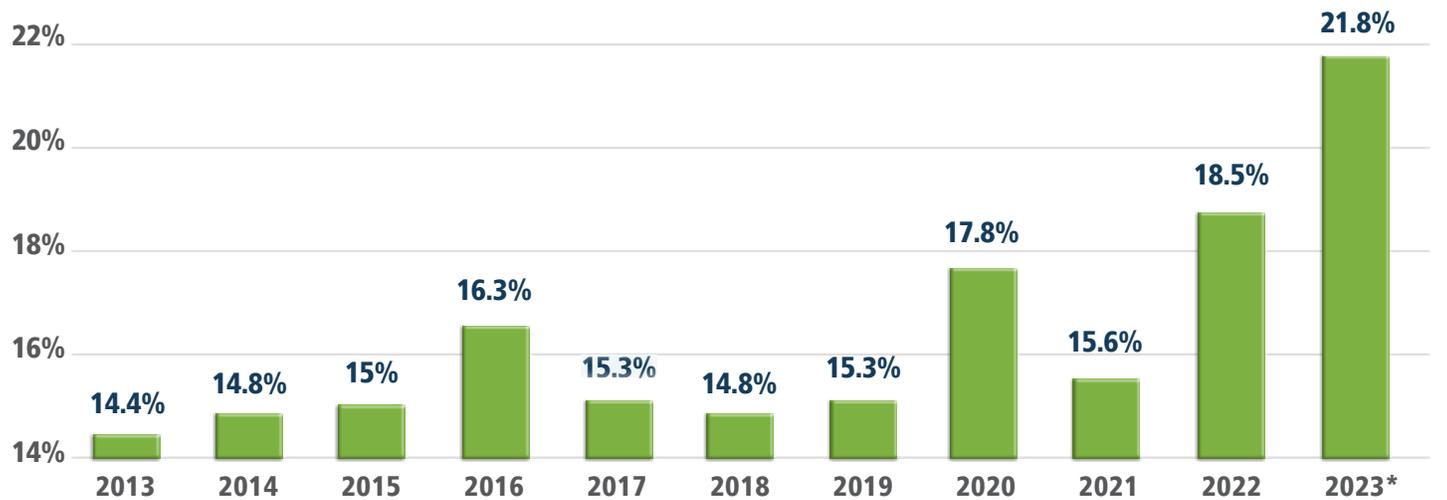
- They are more likely to involve multiple injured body parts,
- Long delays between the time of injury and when time the claim is filed, and
- Involvement of an applicant's attorney hired by the claimant.

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.

See 'CT Claims' on page 2

### 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.

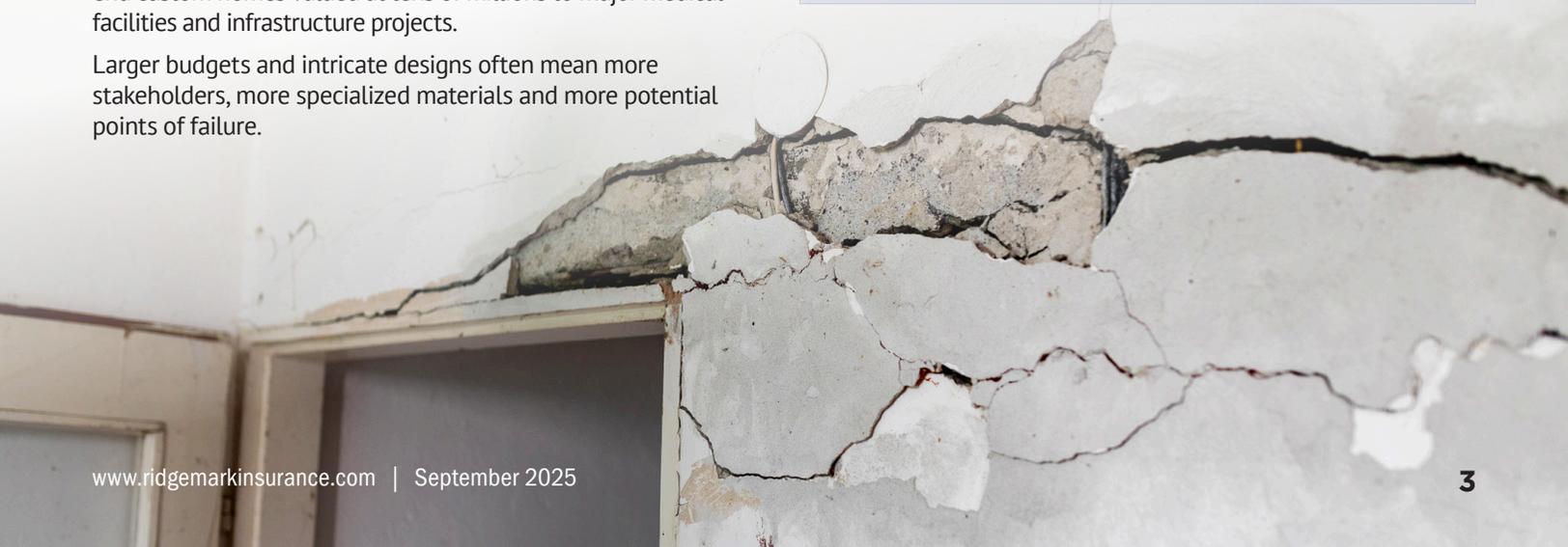
## What you can do

**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.



# EEOC Focuses on Religious Accommodations, Bias

THE U.S. Equal Employment Opportunity Commission has stepped up enforcement actions tied to religious rights in the workplace, reflecting a broader federal focus on preventing religious bias and ensuring accommodations for workers of faith.

This year, the EEOC has issued appellate decisions, filed lawsuits and settled cases that highlight employers' obligations under Title VII of the Civil Rights Act. The law bars religious discrimination and requires reasonable accommodation for religious practices unless doing so would create undue hardship.

At the same time, the U.S. Office of Personnel Management (OPM) has issued memos on religious accommodations and religious expression in federal workplaces. This could be a precursor to the EEOC adopting similar guidance for private employers.

Here's a look at the rapid-fire changes and how employers need to tread carefully to ensure proper treatment of this protected class.

## Growing enforcement actions

A number of new cases highlight the EEOC's stance that employers must engage in a good-faith dialogue with workers requesting accommodation. The agency recently publicized two appellate decisions:

*Augustine V. v. Department of Veterans Affairs* – The agency found that a Muslim physician should have been allowed time off to attend weekly prayers.

*Andy B. v. Federal Reserve Board of Governors* – The EEOC concluded that the Federal Reserve should have granted a Christian law enforcement officer's request for a religious exemption after requiring staff to get inoculated with the COVID-19 vaccine to continue working.

Other cases show the range of issues arising in workplaces:

- A Washington staffing firm agreed to pay \$217,500 after declining to hire a Muslim applicant who asked about attending Friday prayer.
- A North Carolina dental practice settled for \$61,000 after refusing to allow an employee to wear a skirt over her pants, in line with her beliefs.
- The EEOC sued a hotel for religious discrimination and retaliation, alleging that when an employee requested scheduling accommodation due to his religious beliefs, the hotel denied the request and reduced his working hours.

## Federal workplace rules could spill into private sector

In July 2025, the OPM sent out a memo instructing federal agencies to take a "generous approach" to approving religious accommodations, citing examples such as flexible schedules, prayer breaks, telework and dress-code adjustments.

A follow-up memo emphasized that employees must be allowed to engage in private religious expression in the workplace – including prayer groups, religious conversations during breaks

and displaying religious materials – unless those activities interfere with business operations.

While these memos apply only to federal agencies, attorneys note they may foreshadow future EEOC guidance for private employers.

## What employers should do

Employment attorneys caution that employers who mishandle accommodation requests face a growing risk of EEOC action or private lawsuits. Here are steps employers can take:

- **Take requests seriously.** Requests should trigger a documented, interactive process.
- **Review policies.** Ensure handbooks and procedures include clear language on religious accommodations and anti-discrimination protections.
- **Train managers and supervisors.** Understand your obligations under Title VII and know how to recognize when religious accommodation may be required.
- **Apply the "substantial burden" standard.** Do not deny accommodation unless you can demonstrate a substantial burden, supported by evidence of significant cost or operational impact.
- **Avoid retaliation.** Ensure workers who request accommodation are not penalized.
- **Purchase employment practices liability insurance.** This coverage can help pay for discrimination or accommodation lawsuits, including attorneys' fees, court costs, settlements and judgments.



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

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