



SISC

Self-Insured Schools of California
Schools Helping Schools

The Language of the JPA

Second Edition

August 2024



The Language of the JPA

Our first edition of this booklet was published in August of 2023. We are proud to present a second edition with additional terms and a broader perspective with respect to the language used by our fellow JPA professionals.

The purpose of this publication is to help familiarize our SISC members with the financial, insurance and legal terminology that is commonly used in our day-to-day interactions with the various aspects of the property and liability division.

Since publication of the first edition, our industry continues to be full of complexities. The economic and legal environment present constant challenges that give all of us the opportunity to be lifelong learners. Hopefully this booklet serves as an aide in that pursuit, particularly for those who may be new to the insurance and/or self-insurance world. As our industry evolves, so does our language.

We have included basic terms that a property and liability focused employee might run across from the finance, health and benefits, and workers' comp arenas. Our work as adjusters and risk managers often overlaps with these fields and it is good to have some familiarity with terminology typically used.

We want to thank those who have assisted with the publication of this year's edition. First of all, a thank you to Dr. David Ostash, CEO of SISC who supports all of us here at SISC and encourages initiative. John Stenerson, Deputy Executive Officer with the SISC Health & Benefits program, lent the services of Nicole Mata, Director for SISC Health Benefits, who contributed to the content for this year's edition, as did Kim Sloan, SISC Chief Financial Officer, and Gabriel Rodriguez, Executive Director with the SISC Workers' Compensation program.

This booklet is not meant to be an exhaustive compilation of all the terms frequently used in the adjusting, risk management or safety and loss field. As always, members should consult with your own district risk management professionals and/or administrative legal counsel should you have questions regarding the proper utilization of the terms outlined in this booklet.

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AB 218

A bill that was approved in California by the Governor on October 13, 2019, and became law on January 1, 2020. The bill expanded the definition of childhood sexual abuse to include childhood sexual assault. The bill increased the time limit for commencing an action for recovery of damages suffered as a result of childhood sexual assault to 22 years from the date the plaintiff attains the age of majority or within five years of the date the plaintiff discovers or reasonably should have discovered that the psychological injury or illness occurring after the age of majority was caused by sexual assault, whichever is later. (See Code of Civil Procedure section 340.1 as amended per AB 452).

AB 452

A bill that was approved in California by the Governor on October 10, 2023, and became law on January 1, 2024. The bill amended the Civil Code of Procedure to remove any time limit for the commencement of any actions for recovery of damages suffered as a result of childhood sexual assault. The bill's provisions apply to any claim in which the childhood sexual assault occurred on and after January 1, 2024. (See Code of Civil Procedure section 340.1)

Abuse of process

The improper and tortious use of a legitimately issued court process to obtain a result that is either unlawful or beyond the process's scope. (1)

Action

The legal demand of one's right to recover from another person or party made before a court; a lawsuit. (3)

Actuarial

Highly trained specialists who perform all the mathematical functions underlying insurance operations. (2)

Affidavit

A voluntary declaration of facts written down and sworn to by a declarant, usually before an officer authorized to administer oaths. (1)

Americans with Disabilities Act (1990)

A federal statute that prohibits discrimination in employment, public services, and public accommodations against any person because of a person's disability ("a physical or mental impairment that substantially limits one or more of the major life activities"). Under the ADA and related regulations and caselaw, major life activities include those that an average person in the general population can perform with little or no difficulty, such as seeing, hearing, sleeping, eating, walking, traveling, and working. The statute applies to both private and governmental entities but not to a private employer having fewer than 15 employees. (1)

Appeal

A proceeding undertaken to have a decision reconsidered by a higher authority; especially, the submission of a lower court's or agency's decision to a higher court for review and possible reversal. (1)

Assumption of the risk

The act or an instance of a prospective plaintiff's taking on the risk of loss, injury, or damage. (1)

Bailment

Relationship involving transfer of possession and control by bailor to bailee in which bailee accepts responsibility for the property. (3)

Balance Sheet

A summary of the organization's assets, liabilities and owner's equity as of a specific point in time. (10)

Benchmarking

The process of comparing an organization's business processes and performance measures to another organization's processes and performance measures to provide a "snapshot" of the organization's performance and where it is relative to another standard. (10)

Bifurcate

To divide into two separate parts, as in bifurcation of a trial to determine liability separately from damages. (3)

Breach of contract

The failure, without legal excuse, to fulfill a contractual promise. (2)

CSA

Childhood Sexual Assault.

California Civil Rights Department

The California Civil Rights Department (CRD) enforces California's civil rights laws. The department began in 1959 with the creation of the Fair Employment Practices Commission. In 1963, California passed the Rumford Fair Housing Act. In 1980, California passed the Fair Employment Practices Act. The Rumford Fair Housing Act and the Fair Employment Practices Act measures were combined in 1980 to create the Fair Employment and Housing Act (FEHA) which gave rise to the Department of Fair Employment and Housing (DFEH). In July of 2022, the department changed its name to the Civil Rights Department (CRD) to reflect its broadening scope of duties related to enforcing anti-discrimination laws. (7)

Captive insurer

An insurer formed as a subsidiary of a parent company, organization, or group that provides all or part of the insurance of its parent company or companies. (13)

Case of first impression

A case that presents the court with an issue of law that has not previously been decided by any controlling legal authority in that jurisdiction. (1)

Certificate of Insurance

A document acknowledging that an insurance policy has been written, and setting forth in general terms what the policy covers. (1)

Claims-Made policies

Claims-made policies are not as common as occurrence policies and are generally used in connection with professional liability insurance, such as directors' and officers' insurance and medical and legal malpractice insurance. The primary difference between an occurrence and claims-made policy is the coverage trigger. The occurrence form covers the losses that occur during the policy period regardless of when the tortious act that gives rise to the damage or injury occurred or when the claim was ultimately reported to the insurer. The claims-made form, on the other hand only covers claims that are made within the policy period. (5)

Class action

A lawsuit in which one person or a small group of people represent the interests of an entire class of people in litigation. (4)

Coinsurance (Health Benefits)

The percentage of costs of a covered health care service you pay (20 percent, for example) after you have paid your deductible. Generally speaking, plans with low monthly premiums have higher coinsurance, and plans with higher monthly premiums have lower coinsurance. (6)

Coinsurance (Property)

An insurance-to-value provision in many property insurance policies providing that if the property is underinsured, the amount the insurer pays for a covered loss is reduced. (2)

Comparative negligence

A plaintiff's own negligence that proportionally reduces the damages recoverable from a defendant. (1)

Contractual indemnity

Indemnity that is expressly provided for in an agreement. (1)

Coordination of benefits

A way to figure out who pays first when two or more health insurance plans are responsible for paying the same medical claim. (6)

Cross complaint

A claim asserted by a defendant against another party to the action. Also termed (in some jurisdictions) cross-petition. A claim asserted by a defendant against a person not a party to the action for a matter relating to the subject of the action. (1)

Cumis counsel

An independent attorney hired by a defendant in a lawsuit in which the damages may be covered by the defendant's insurer but a conflict of interest between the defendant and the insurer makes it unreasonable for an attorney selected by the insurer to represent the defendant. The term derives from *San Diego Fed. Credit Union v. Cumis Ins. Society, Inc.*, 162 Cal. App. 3d 358 (1984) in which the concept was first clearly articulated. The case has been superseded by statute: California Civil Code section 2860. (1)

Declaratory relief

A unilateral request to a court to determine the legal status or ownership of a thing. (Also see Civil Code of Procedure section 1060.) "The declaration may be either affirmative or negative in form and effect, and the declaration shall have the force of a final judgement." (1)

Deductible

The amount you pay for covered services before your insurance plan starts to pay. With a \$2,000 deductible, for example, you pay the first \$2,000 of covered services yourself. After you pay your deductible, you usually pay only a copayment or coinsurance for covered services. Your insurance company pays the rest. Generally, plans with lower monthly premiums have higher deductibles, plans with higher monthly premiums usually have lower deductibles. (6)

Default

To be neglectful; especially, to fail to perform a contractual obligation. To fail to appear or answer. To enter a default judgment against (a litigant). (1)

Deposition

A witness's out-of-court testimony that is reduced in writing (usually by a court reporter) for later use in court or for discovery purposes. (1)

Directed verdict

Decision of the court, made after plaintiff's case has been heard, that defendant is entitled to prevail because plaintiff has not proven his or her case. (3)

Discovery

The process used to reveal facts and preserve testimony and evidence in a lawsuit. See Civil Code of Procedure section 2016.010. (1)

Dissent

Disagreement by one or more judges with the majority decision of the court, usually accomplished by a written dissenting opinion. (3)

Dual purpose trip

An employee trip having both business and personal purposes. (13)

Due diligence

Actions taken to investigate documents and records of a business and/or person prior to examination of a proposed action before it is undertaken. (10)

Equal Employment Opportunity Commission (1964)

An independent federal commission that investigates claims of employment discrimination based on race, color, religion, sex, national origin, or age and enforces anti-discrimination statutes through lawsuits. It was created by Title VII of the Civil Rights Act of 1964. (1)

Enjoin

To legally prohibit or restrain by injunction. (1)

Errors and Omissions Insurance

Provides indemnification to the insured from liability to others as a consequence of negligent acts, errors or omissions in connection with the performance of some obligation voluntarily undertaken for a third party. It is similar to professional liability insurance as it covers the insured's liability for inadvertent mistakes; such as that of an insurance broker who promises a customer he will procure insurance and thereafter fails to do so or provides insurance other than the type agreed to. (5)

Estoppel

Inability of a person to assert a legal position as a result of certain prior inconsistent action on their own part. (3)

Excess insurers

Excess insurers write policies that provide coverage over the limits of the insured's primary policy. Excess insurance does not pay a loss until the loss amount exceeds the underlying policy limits (or a certain sum, if the underlying policy does not provide coverage). (2)

Ex parte contacts

Contacts in which only one party is heard. (2)

Exculpatory

Anything which tends to exonerate. In an agreement, language intended to relieve one party of the consequences of his or her acts. (3)

Force majeure

An event or effect that can be neither anticipated nor controlled; especially an unexpected event that prevents someone from doing or completing something that he or she has agreed or officially planned to do. (1)

Formulary

A list of prescription drugs covered by a prescription drug plan or another insurance plan offering prescriptions drug benefits. (6)

Good faith

In insurance, consideration given to the insured's interests that is at least equal to the insurer's interests in handling a claim. (2)

Government Claims Act

The Government Claims Act (also referred to as The California Tort Claims Act) became effective on September 20, 1963. Government Code sections 810 through 996.6 outline what a claimant needs to do before a government entity can be sued. In general, a claim must be submitted within six months of the date of accrual for personal injury, personal property damage and wrongful death. A claim must be submitted within one year of the date of accrual for breach of contract, damage to real property, and equitable estoppel. The Government Claims Act is complex and it is always wise to consult with counsel on issues related to claim filings. (9)

Guardian ad litem

A guardian, usually a lawyer, appointed by the court to appear in a lawsuit on behalf of an incompetent or minor party. (1)

Hard market

A market in which insurance is less available than normal, resulting in higher rates. (13)

Health Maintenance Organization (HMO)

A type of health insurance plan that usually limits coverage to care from doctors who work for or contract with the HMO. It generally won't cover out-of-network care, except in an emergency. An HMO may require you to live or work in its service area to be eligible for coverage. HMOs often provide integrated care and focus on prevention and wellness. (6)

Hearsay

Testimony by a witness based not on his or her own observations but on what someone else said, offered in evidence to prove the truth of what was said. (3)

IBNR

Incurred but not reported (IBNR) represents the liability for unpaid claims not reflected in the case reserve estimates for individual losses. The two components to IBNR reserves are pure IBNR and broad or bulk IBNR; pure IBNR are those claims that have occurred but have not yet been reported as of the evaluation date; and, broad or bulk IBNR is the additional development on known claims or the increase in reserve value as the claims are investigated and settled. (10)

Idiopathic condition

A medical condition arising from an obscure or unknown cause or a medical condition that is peculiar to an individual. (13)

Income statement

A report of the organization's financial performance for a stated period of time. (10)

Incurred losses

The amount equal to paid losses and losses for which the insurer is liable but has not yet paid. (2)

Independent contractor

A person who contracts with a principal to perform some tasks, according to his or her own methods, and who is not under the principal's control regarding the physical details of the work. (13)

Injunction

A court order commanding or preventing an action. (1)

Insurance agent

A legal representative of one or more insurers for which the representative has contractual agreements to sell insurance. See Civil Code section 2332 regarding Principal/Agent relationship. (2)

Insurance broker

An independent business owner or firm that sells insurance by representing customers rather than insurers. (2)

Insurance guaranty funds

State funds that pay the claims of insolvent licensed insurers in the particular state. (2)

Interrogatory

A written question submitted to an opposing party in a lawsuit as part of discovery. (1)

Law of large numbers

In probability and statistics, the larger the number of units independently exposed to loss, the more accurate the ability to predict loss results arising from those exposure units. (10)

Leased workers

Workers provided by a business, whose primary job is to provide such workers, to another business. (13)

Liable

Responsible or answerable in law. Legally obligate (i.e., liable for the taxes.) (1)

Libel

A defamatory statement expressed in a fixed medium, especially writing but also a picture, sign, or electronic broadcast. (1)

Loss prevention

A risk reduction technique that lowers the expected frequency of loss from a potential loss exposure. (13)

Loss ratio

An insurer's incurred losses (including loss adjustment expenses) for a given period divided by its earned premiums for the same period. (2)

Loss reduction

A risk control technique that lowers the expected severity of losses from a particular loss exposure. (13)

Malicious prosecution

The improper institution of legal proceedings against another with malice and without probable cause. See Judicial Council of California Civil Jury Instruction 1501. (4)

Manuscript policies

Nonstandard custom policies developed for one specific insured or for a small group of insureds, such as a business association with unique coverage needs. (2)

Medical loss ratio

A basic financial measurement used in the Affordable Care Act to encourage health plans to provide value to enrollees. If an insurer uses 80 cents out of every premium dollar to pay its customers' medical claims and activities that improve the quality of care, the company has a medical loss ratio of 80 percent. A medical loss ratio of 80 percent indicates that the insurer is using the remaining 20 cents of each premium dollar to pay overhead expenses, such as marketing, profits, salaries, administrative costs, and agent commissions. The Affordable Care Act sets minimum medical loss ratios for different markets, as do some state laws. (6)

Moral hazard

A condition that may lead a person to intentionally cause or exaggerate a loss. (2)

Morale hazard

A condition of carelessness or indifference that increases the frequency or severity of loss. (13)

Motion for judgment notwithstanding the verdict

A party's request that the court enter a judgment in its favor despite the jury's contrary verdict because there is no legally sufficient evidentiary basis for a jury to find for the other party. (1)

Motion for Summary Judgment

A request that the court enter judgment without a trial because there is no genuine issue of material fact to be decided by a fact finder – that is, because the evidence is legally insufficient to support a verdict in the non-movant's favor. (1)

Motion in limine

A pretrial request that certain inadmissible evidence not be referred to or offered at trial. (1)

Motion to dismiss

A request that the court dismiss the case because of a settlement, voluntary withdrawal, or a procedural defect. (1)

Mutual Insurance Company

This is a company whose fund for the payment of losses consists not of capital subscribed or furnished by outside parties, but of premiums mutually contributed by the parties insured. (5)

Nonwaiver agreement

A signed agreement indicating that during the course of investigation, neither the insurer nor the insured waives rights under the policy. (2)

Occupational disease

Disease that is caused by and is peculiar to an industrial setting. (13)

Occupational injury

An injury that arises from a worker's employment. (13)

Order to show cause

An order directing a party to appear in court and explain why the party took (or failed to take) some action or why the court should or should not impose some sanction or grant some relief. (1)

Out-of-pocket maximum/limit

The most you have to pay for covered services in a plan year. After you spend this amount on deductibles, copayments, and coinsurance for in-network care and services, your health plan pays 100 percent of the costs of covered benefits. The out-of-pocket limit doesn't include monthly premiums, anything you spend for services your plan doesn't cover, out-of-network care and services, and costs above the allowed amount for a service that a provider may charge. (6)

Patent

The right granted by the United States government to an inventor or applicant for a limited time period to exclusively own and control a new, useful, and nonobvious invention. (4)

Permanent total disability (PTD)

A disability caused by a work-related injury or disease that renders a worker unable to return to gainful employment. (13)

Precedent

A previously decided case that, because it deals with the same issues as a pending case, governs the court's decision in the pending case. (3)

Preferred Provider Organization (PPO)

A type of health plan that contracts with medical providers, such as hospitals and doctors, to create a network of participating providers. You pay less if you use providers that belong to the plan's network. You can use doctors, hospitals, and providers outside of the network for an additional cost. (6)

Public adjuster

An organization or person hired by an insured to represent the insured in a claim. (2)

Punitive damages

Damages awarded in addition to actual damages when the defendant acted with recklessness, malice, or deceit; specifically, damages assessed by way of penalizing the wrongdoer or making an example to others. (1)

Qualified immunity

Immunity from civil liability for a public official who is performing a discretionary function, as long as the conduct does not violate clearly established constitutional or statutory rights. (1)

Reinsurer

The insurer that assumes all or part of the insured risk exposures of the primary insurer in a contractual agreement. As distinguished from an excess insurer. (2)

Remedy

The means by which a right is enforced or the violation of a right is prevented or compensated. (3)

Res judicata

Latin, a thing decided or adjudged; legal doctrine that prevents the relitigation of a case by the same parties after it has been finally decided by a court. (3)

Reservation of Rights letter

An insurer's letter that specifies coverage issues and informs the insured that the insurer is handling a claim with the understanding that the insurer may later deny coverage should the facts warrant it. A failure to cite a specific policy exclusion or term could lead to a waiver of the coverage defense on the part of the insurance carrier or risk pool. (2)

Respondent superior

The doctrine holding an employer or principal liable for the employee's or agent's wrongful acts committed within the scope of the employment or agency. (1)

Retention

A risk management technique by which losses are retained by generating funds within the organization to pay for losses. (2)

SAM

Sexual assault and molestation.

Slander

A defamatory assertion expressed in a transitory form, especially speech; especially, false and defamatory words that are said in reference to another, such as those charging criminal conduct, imputing horrible or loathsome disease, alleging malfeasance or incompetence in reference to the person's reputation. (1)

Soft market

A highly competitive market for insurance, prompting insurers to lower rates. (13)

Spoilation of evidence

The destruction or significant alteration of physical evidence. (13)

Standing

The legal right to sue on a claim; a person must have a sufficient stake or interest in a controversy in order to have standing to sue with regard to that controversy. (3)

Stare decisis

Latin, to stand by a decision; it is the policy of the courts to follow prior decisions on a particular point of law. (3)

Statute of Limitations

Statute that prescribes the time within which a legal action may be commenced and after which time no further legal action is possible. (3)

Statutory liability

Liability that is created by a statute (or regulation) as opposed to common law. (1)

Stay

Court order that freezes a legal proceeding and prevents it from going forward; may be used to stop the enforcement of a judgment or of another court order. (3)

Stipulation

Presentation of certain undisputed facts into evidence by mutual agreement of the parties. (3)

Stock company

This is a company organized according to the usual form of business corporations, having capital stock divided into shares that, with current income and accumulated surplus, constitutes the fund for the payment of losses. Its policyholders pay fixed premiums and are not normally members of the corporation unless they also happen to be stockholders. (5)

Strict liability

Liability that does not depend on proof of negligence or intent to do harm, but that is based instead on a duty to compensate the harm proximately caused by the activity or behavior subject to the liability rule. (1)

Structured settlement

A settlement in which the defendant agrees to pay periodic sums to the plaintiff for a specified time. (1)

Subrogation

Right of one (subrogee) who has paid, in connection with a legal obligation to do so, a debt on behalf of another (subrogor), to stand in the subrogor's shoes in making demand on a third party to recoup that payment. (3)

Summary Judgment

Prompt disposition of a lawsuit, on motion of either party, available where only legal issues rather than fact issues are in dispute. (3)

Temporary partial disability (TPD)

A disability caused by a work-related injury or disease that temporarily limits the extent to which a worker can perform job duties; the worker is eventually able to return to full duties and hours. (13)

Temporary total disability (TTD)

A disability caused by a work-related injury or disease that renders an injured worker unable to perform any job duties for a period of time; the worker eventually makes a full recovery and can resume all job duties. (13)

Tender

To present for acceptance or offer. (14)

Third party administrator

A firm that contracts to provide administrative services to other businesses and that is often hired to handle claims by organizations that have self-insurance plans. (2)

Title VII of the Civil Rights Act of 1964 (Title VII)

This law makes it illegal to discriminate against someone on the basis of race, color, religion, national origin, or sex. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit. (8)

Toll

As in statute of limitations, to show facts that prevent its barring the action and postpone its expiration. See *Artis v. District of Columbia*/138 S.Ct 594 "Stop the clock." (3)

Tort

From the Latin "tortus" for twisted; refers to any civil wrong for which a legal remedy is available, usually involving the recovery of money damages. (3)

Trade secret

A practice, method, process, design or other information used confidentially by an organization to maintain a competitive edge. (4)

Trademark

A distinctive design or set of words that legally identifies a product or service as belonging to a certain organization. (4)

Traumatic brain injury (TBI)

Traumatic brain injury (TBI) happens when a sudden, external, physical assault damages the brain. It is one of the most common causes of disability and death in adults. TBI is a broad term that describes a vast array of injuries that happen to the brain. The damage can be focal (confined to one area of the brain) or diffuse (happens in more than one area of the brain). The severity of the injury can range from a mild concussion, to a severe injury that results in coma or even death. (12)

Treble damages

Damages that, by statute, are three times the amount of actual damages that the fact-finder determines is owed. Also termed triple damages. (1)

Unilateral contract

A contract in which only one party makes a promise or undertakes the requested performance. (4)

Utilization Management (Health and Benefits)

In healthcare, utilization management is the techniques and policies for evaluating the necessity of medical treatments and services on a case-to-case basis. (11)

Unpaid claims liability

The value of the unpaid portion of incurred claims includes (1) unreported claims; (2) reported but unprocessed claims; and (3) processed but unpaid claims. (10)

Venue

The locale in which the lawsuit may be brought. (2)

Verdict

A jury's finding or decision on the factual issues of a case. (1)

Vicarious liability

Liability that a supervisory party (such as an employer) bears for the actionable conduct of a subordinate or associate (such as an employee) based on the relationship between the two parties. Also termed imputed liability. (1)

Voir dire

Latin, to speak the truth. Examination of jury panel to select members of the jury. (3)

Writ

A court's written order, in the name of a state or other competent legal authority, commanding addressee to do or refrain from doing some specified act. Typically issued by a court of appeal while a case is pending in the lower court. (1)

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