Sorry America
Football is Cancelled.

JOHN CHINO | JULY 11, 2019
The Hard Market

A few of us are getting together for a drink after work to celebrate the end of the world…
Hard Market

• Hard Markets are characterized by decreased limits, increased retentions and sky high premiums and in some cases no coverage at all.
But we have no problem in CA public schools…

Schools Excess Liability Fund (SELF)
Not-for-Profit governed by membership
Founded in 1986

Three Million Students including at least 50,000 high school football players and another 3,000 college players.

SELF provides $50,000,000 in limits with NO restriction or exclusion for Concussion, CTE or TBI.
Crazy Volatility for 30+ Years…

Top Line Underwriting Roller Coaster 1971-2005

More of a “kiddie” ride from ‘06 to now
• Joint Powers Authority (JPA) Law

JPA’s in CA since 1949
Added the power to “insure” in the 70’s (1975)
Not regulated under the insurance code (1976)

» JPA’s provide administrative services;
» JPA’s can procure insurance, excess insurance & reinsurance;
» JPA’s use a Memorandum of Coverage (MOC) to document coverage provided to members
JPA’s Are Unlike Individual Self Insured Accounts in Several Important Ways

They have access to more carriers

JPA’s are not only larger than most self insured entities; they are typically more sophisticated.

JPA’s will have a large staff of experts with skills including claims management, litigation management and risk control; which not only reduces risk but makes them extremely attractive to the market.

JPA’s have access to the world wide insurance market including:

• Insurance Companies
• Excess Insurance Companies
• Reinsurance (Treaty/Facultative)

SELF was able to approach some 60 insurance carriers for their recent renewal
Clouds on the horizon…

- **Concussions**
  - *TBI* – Sudden Event
  - *CTE* – Long Term Effect
  - Small % of defense on Summary Judgment

- **Issues**
  - Equipment
  - Practice Time
  - Concussion Protocols

Same Companies have inserted restrictive and/or exclusionary language in reinsurance of SELF

And Underwriters are asking more questions about Football and other high impact sports…
Liability Insurance is Expensive

JURY AWARDS - More punitive damage awards now start with a "$." A health and beauty product manufacturer is challenging a $6.14 billion award to 22 women who claimed its product caused their cancer.

TRAUMATIC BRAIN INJURY - TBI-related ER visits increased by more than 50% over six years. The lifetime cost of treatment runs anywhere from $85,000 to $3 million.

WORKPLACE VIOLENCE - About 1.7 million people experience violence at work every year. Employers can be held responsible if they knew or should have known about active threats or flawed security measures.

SOCIAL MEDIA - Disciplinary action over an employee’s social media posts may violate The National Labor Relations Act. The NLRB has previously sued corporations for social media policies that restrict employees’ use of personal accounts.

AUTONOMOUS VEHICLES - Self-driving cars make it harder to determine who’s at fault in an accident. The driver, auto manufacturer and software developer may all be drawn into a claim.

HIGH IMPACT

MEDICAL COST INFLATION - The price of medical care services rose 2.3% from 2018 to 2019, while the change in all consumer items only rose 1.8%.

LITIGATION FUNDING - More than a third of U.S. law firms used litigation financing in 2017 – up from only 7% in 2013.

DISTRACTED DRIVING - In 2017, 3,166 people were killed in accidents caused by distracted driving. Proliferation of mobile devices and constant connectivity is driving up accident frequency.

SOCIAL RESPONSIBILITY - Juries increasingly seek to hold corporations liable for damages, discounting individual responsibility for any harm done.

SHARING ECONOMY - The sharing sector may be $335 billion in size by 2025, but outsourcing to gig workers muddies responsibility for product safety and service quality.

LOW IMPACT

Note: The Risk Matrix is produced by the Risk and Insurance® editorial team. Liberty Mutual Insurance is the presenting sponsor and has no responsibility for the content.
The Reptilian Legal Strategy

Western States have seen exponential (double digit) increases in liability loss trends for several years and this is believed to be the “new normal”.