

ATTACHMENT “3”

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February 4, 2021

To: GL1 Program Members

From: Gina Dean, CEO

Re: Stakeholder Message to GL1 Members

As most of you are aware, the liability insurance industry is in a hard market cycle, which initially impacted California public entities, but is now affecting public entities across the country. As PRISM members begin their budgeting process, I want to take this opportunity to provide some background information on the state of the market and the status of the GL1 Program. Also attached are talking points and an information sheet that we hope you will find useful in communicating to your stakeholders.

### Background

The liability insurance industry continues to see significant increases in plaintiff demands, jury verdicts, and high dollar claims – a continuation of what we have seen for the last several years. Claims that used to resolve for \$5M-\$10M are now costing public entities and their insurers \$20M-\$30M+. The so called Social Inflation that has had a huge impact on these costs continue to deplete the liability market's surplus, limiting the capacity and availability of reinsurers willing to write California public entity business. To illustrate this point, in 2015, PRISM considered 17 reinsurers for renewal of the GL1 Program, that combined had \$170M in capacity to offer. Looking ahead to the 2021/22 renewal, seven of those reinsurers no longer write public entity business in California, reducing the available capacity in the market to about 1/3<sup>rd</sup> of what it was in 2015. Those that are willing to continue their participation are increasingly judicious as to where they place coverage. More and more we are seeing coverage modifications either in the form of sub-limits, aggregated coverage layers, certain coverages being provided on a claims-made basis, and/or exclusions or significant limitations on coverage. At the same time and for the same reasons, self-insured and pooled programs across the state are seeing a depletion in funding. This trend is affecting all public entities: counties, cities, schools, and special districts.



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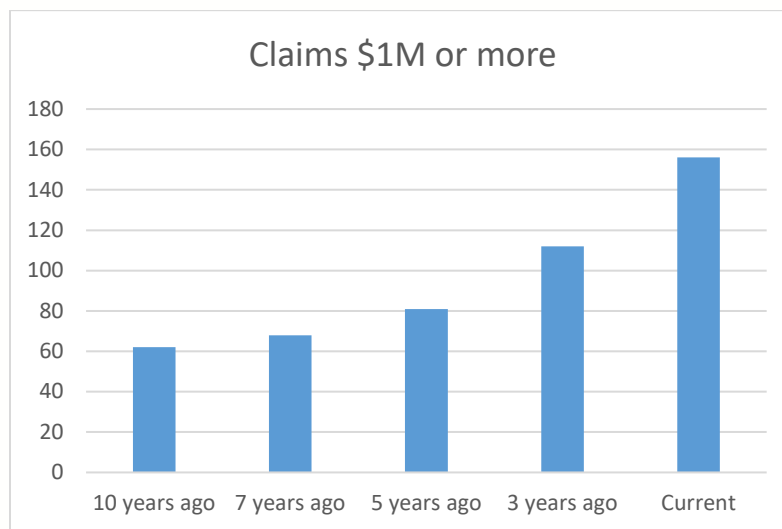
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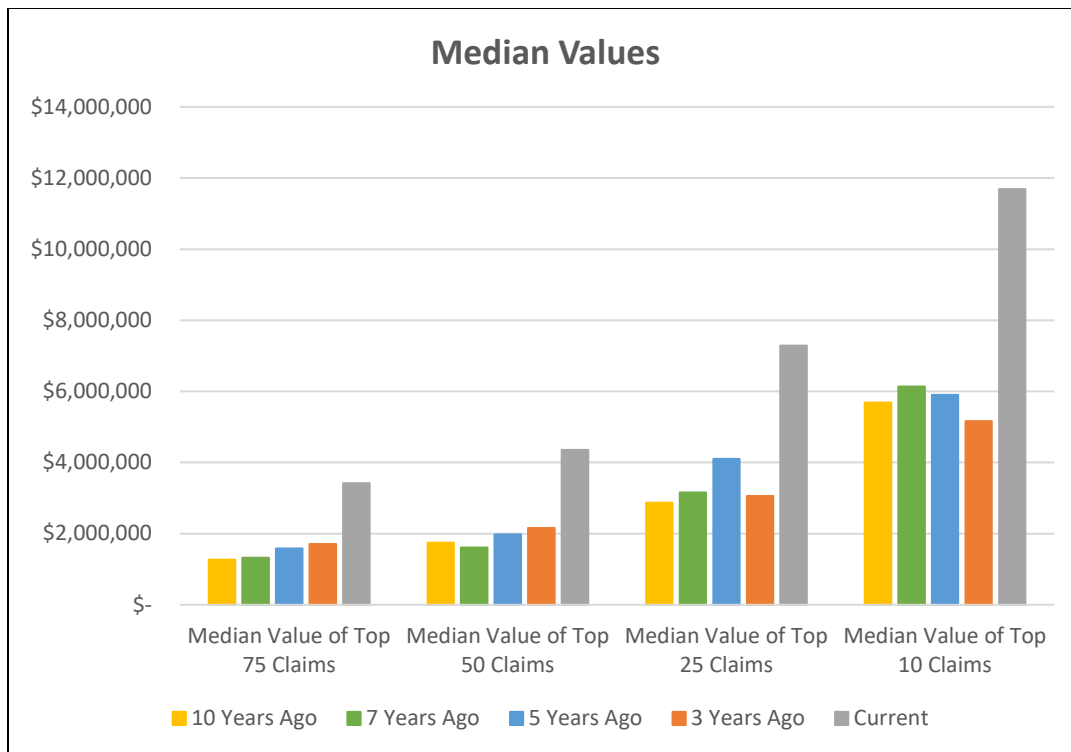
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As these issues affect the insurance industry, they also affect PRISM. We are experiencing an issue of both frequency and severity of claims. For example, the following graph depicts the frequency of claims valued over \$1M incurred by PRISM over the last 10 years. The graph highlights the fact that until just three years ago, the frequency of claims is what you would expect as a “normal” trend especially considering the Program’s growth during that time; however, the significant increase in frequency of high-value claims from then until now, was certainly unforeseen by the industry.



In addition to the increase in claims frequency, the following graph highlights the increase in the median value of claims in the Program over the last 10 years. Again, the graph highlights the “normal” inflation of claims from 10 years ago, which changed significantly starting three years ago.





One final graph, this one a depiction of Social Inflation of claims, is from an Advisen study on the Median Cost of a Single-Fatality claim. The graph highlights the increasing cost of a death claim; however, does not even contemplate a life care plan expense that can be one of the most expensive components of a serious injury claim.

Exhibit 1:



## Safety in Numbers

Thankfully for members of the GL1 Program, our size creates stability and offers economies of scale that could not be realized without being in a pool. We are able to leverage the volume we bring to the reinsurance markets to benefit all Program members.

That being said, the Program will still see moderate rate increases again this year, which are a reflection of our own losses and of the market. The amount of increase for individual members is dependent upon your entity's claims experience. If you are one of the lucky ones who have not yet experienced this new reality in claim trends, you can expect to see increases but to a lesser degree. The PRISM Committees and Board have dedicated time and resources to ensure premiums are equitable amongst the members, based on an allocation that takes into consideration each individual member's potential exposure **and** claims experience.

## The Big Picture

If we have learned from history, we know that joint powers authorities (pooling) have been the answer to turbulent markets. By staying the course, we will all benefit from our economies of scale, our leverage in the reinsurance markets, and our sharing of best practices to help manage risk and hard markets.

While PRISM's premiums will increase for 2021/22, the premiums are still less costly than an entity would likely be faced with outside of PRISM. Recent membership applications have led to growth of the Program and has also allowed us to test the competitiveness of the GL1 Program. The three new members that joined GL1 in the last two years saved between 17-51% on their premiums, dependent upon the stand-alone market or the JPA that they came from. In addition to premium savings, those entities also avoided coverage restrictions and limitations that were quoted outside of PRISM.

## Member's Response

There are several steps that can be taken during these turbulent times:

1. First, communicate the state of the market to all of your stakeholders, so there is an understanding that this is an industry-wide problem.
2. The severity of claims is on the rise. If you are not yet participating in the Optional Excess Liability (OEL) Program, consider doing so.
3. Anticipate an increase in your own SIR funding being suggested by your actuary, and resist the temptation to increase your SIR in the face of these severity trends.
4. Defend the claims that are defensible.
5. Ensure you have selected legal counsel with the proper expertise for the type of case to be defended (police liability, sexual assault and molestation, employment practices liability, etc.) and ability to defend claims against well known, experienced plaintiff's counsel.

6. In a hard market environment, the quality of loss data will undergo additional scrutiny. Make sure your data is in good condition.
7. Finally, manage your individual risk by taking advantage of the best practices programs and service partner programs we offer.

As always, if you have questions or need additional information to better understand the current environment or to communicate to your internal management and governing officials, please let us know.



## **Talking points for the GL1 Program**

### **Individual Claim Examples**

To describe the effects of social inflation on claims, below are several summaries of recent jury verdicts and settlements, many of which involve members of PRISM's GL1 and GL2 Programs:

- Jurors awarded \$45.4 Million against a southern California county to a girl who suffered sexual abuse for two years in a home where she was left despite evidence showing that an accused molester lived in the house.
- A southern California city was sued for dangerous condition of public property after a 16-year-old was struck by a car crossing a street at a crosswalk near his school. The driver of the vehicle was looking for an item that was on the floor of the passenger seat when he struck the teenager. The teen survived, but has multiple injuries including a brain injury. A jury found there to be a dangerous condition and awarded over \$23 Million against the City.
- A northern California county was sued after a family's vehicle was struck in an intersection late at night by a law enforcement vehicle that was responding to a call without lights and sirens on. Several members of the family were injured, and one young child was left with permanent brain damage. The case was settled for approximately \$27 Million.
- A southern California city agreed to pay \$12.5 Million to resolve a case in which a driver struck and killed a baby and injured the father of the child. The city was sued for dangerous condition of public property as the driver claimed his view was obstructed by foliage.
- A northern California city paid \$12 Million to settle a case in which a motorcyclist was struck in an intersection by a police car that was responding to a call. The injured motorcyclist lost a leg in the accident.
- A northern California county was sued for wrongful death after the decedent allegedly lunged at officers with a retractable knife and was then shot and killed by the officers. The county agreed to resolve the case for \$7 Million.
- Jurors awarded \$3.8 Million to a 72-year-old woman who was allegedly pushed by a city councilwoman. The plaintiff tumbled over a stack of chairs and suffered bruises and a torn rotator cuff.

### **Aggregate Claims Trends**

- PRISM tracks loss development for all the program years on a quarterly basis. In the years 2015-2017, the GL1 Program averaged \$8.6 Million of quarterly loss development. We began to see unprecedented amounts of development each quarter in 2018. During the years 2018-2020, the Program has experienced average quarterly loss development of \$19 Million.

- The natural result of this significant change in losses is that PRISM has adjusted forecasts and rates to account for new loss trends, as have our carriers. We continue to anticipate rate increases to reflect the increased claims costs.

## **Benefits of Being in a Pool**

### **Economies of scale benefits**

- Access to insurance options. PRISM's size provides more leverage in the insurance market. PRISM has been able to secure unique reinsurance agreements largely due to the Program's premium volume.
- Maintaining broad coverage. Public agencies with stand-alone placements are seeing reductions in their coverage limits and/or exclusions. Although the liability program continues to face the potential for coverage restrictions, PRISM has largely been able to maintain broad coverage in the Program.

### **Equitability**

- PRISM's members with large loss experience have better coverage and premium options in the pool than finding coverage alone, but members with less severe loss experience also receive benefits from pooling as they recognized and rewarded through premium reductions.
- PRISM's premium allocation includes a surcharge for members who impact pool rates with large claims. To offset increasing costs for members who are not contributing large claims, PRISM updated the allocation models in 2020 to provide those surcharges back as a credit to members with good loss experience. Over \$5 Million in premium credits were provided to GL1 Program members based on their loss experience.
- PRISM's allocations utilize an Ex Mod, which accomplishes a similar goal of shifting premium in the Pool Layer between members based on loss experience. Premium will be shifted away from members with better claims experience to members with more adverse loss experience.

## **General Market Information**

- The liability market continues to harden. We continue to see a significant increase in Plaintiff demands and high dollar liability claims. Jury verdicts (and settlements) are much higher than they have been in years past and that is affecting the industry's surplus.
- There are many factors causing this including tactics Plaintiff's counsel are using (such as the use of the Reptile Theory) to drive up claims verdicts and settlements. The selection of appropriate defense counsel, who are experienced in dealing with these tactics, has never been more important.



- Markets continue to be more judicious with how and where they deploy their capacity and/or limit their exposure. The size, stability, and premium volume of the GL1 Program have attracted markets that may not consider participation otherwise.
- Claims trends have affected PRISM, just as they have affected the industry.
- The total number of claims in the GL1 Program over \$1 Million in the last five years has nearly doubled. This is a big indication of how jury verdicts (and settlements) are increasing!
- We have always been proactive in our management and approach to making funding decisions, and this remains the same today. Members can expect moderate pool rate increases for 2021/22.
- We are not unique in experiencing rate increases for liability coverage as the claims environment in California and across the nation is increasingly adverse for public entities.
- The size and diversity in membership in our program, 127 members with over \$6 Billion in payroll, provides much greater stability than smaller programs or individual risks offers due to our spread of risk.
- The benefits of pooling shine brightest during a hard market when our economies of scale, our leverage in the reinsurance markets and our sharing of best practices help manage risk.

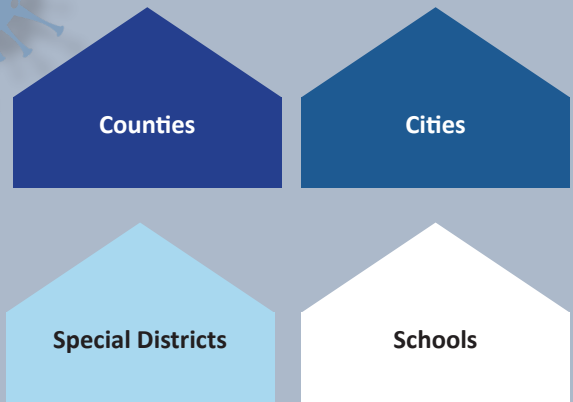


# GENERAL LIABILITY 1 MARKET OVERVIEW: Hard Times

The liability industry is in a hard market cycle for California public entities. Markets that are willing to continue their participation are increasingly judicious as to where they place coverage and we are continuing to see coverage modifications either in the form of sub-limits, increased pressure to accept aggregated coverage layers, certain coverages being provided on a claims-made basis, and/or exclusions or significant limitations on coverage. Self-insured programs are seeing a depletion in funding due to higher claims payouts.

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- There are many factors driving up claims verdicts and settlements, including tactics Plaintiff’s counsel are using (such as the use of the Reptile Theory).
- The selection of appropriate defense counsel, who are experienced in dealing with these tactics, has never been more important.
- The total number of claims in the GL1 Program over \$1M in the last five years has nearly doubled. This is a big indication of how jury verdicts (and settlements) are increasing!
- Industry-wide, reinsurance markets are forcing communicable disease exclusions due to COVID – 19 on public entity renewals. So far, the GL1 Program has been able to avoid this restriction only because of our scale and long-term relationships with markets.

## All Entities have been Affected by the Hard GL Market



## Median Claims Values (in millions)



## PRISM Benefits

- ✓ The size and diversity of membership in our program provides much greater stability due to our spread of risk.
- ✓ The GL1 Program membership remains stable and continues to grow year over year.
- ✓ PRISM has always been proactive in our management and approach to making funding decisions, and this remains the same today.
- ✓ Our captive insurance company, PRISM ARC, has played an important role in our ability to prudently assume this risk.
- ✓ Our LPT partner for two years ago, remains a partner with us as a guaranteed reinsurance market for the next three years. This is very valuable in a hard market.

*The benefits of pooling shine brightest during a hard market when our economies of scale, our leverage in the reinsurance markets, and our sharing of best practices help manage risk.*

