

Information & Assistance Unit guide 8

How to file a serious & willful misconduct petition (Labor Code Section 4553)

This petition should be filed if you have been injured because of serious and willful misconduct by your employer.

This petition must be filed within 12 months of the date of injury.

A serious and willful petition can only be filed if you have a pending Workers' Compensation Appeals Board (WCAB) case at your local district office. To open a WCAB case, you must file an application for adjudication of claim (see I&A guide 4). When you are ready to have a WCAB hearing, you must also file a declaration of readiness to proceed (see I&A guide 5).

Serious and willful misconduct can be very difficult to prove. Because of the technical nature of this petition, you may need legal advice. A blank form you can use to write out your petition is attached. Also attached is a sample that may be used as a guide.

Send the original to your local WCAB office and copies to all the parties.

Submit the following documents with your form filing in the order shown:

- ✓ [Document Cover Sheet](#)
- ✓ [Document Separator Sheet](#) (for Petition for increased benefits for Serious & Willful Misconduct)
- ✓ [Petition for Serious & Willful Misconduct](#)
- ✓ [Verification](#)
- ✓ [Document Separator Sheet](#) (for Proof of Service By Mail)
- ✓ [Proof of Service By Mail](#)

Keep copies of your filings for your records.

All documents filed with the WCAB must include a document cover sheet and document separator sheet. Please see I&A guides 17 and 18 to learn how to complete these forms. In addition all forms must be typed or handwritten in block letters to insure legibility. Additional form instructions can be found on the EAMS OCR handbook at http://www.dir.ca.gov/dwc/eams/SampleFiles/EAMS_OCR%20handbook.pdf.

If you need help, call an [Information and Assistance \(I&A\) office](#), or attend a [workshop for injured workers](#). The local I&A phone numbers are attached to this guide. You can get information on a local workshop from the I&A office or on the Web at www.dwc.ca.gov.

Information & Assistance Unit guide 8

If you do not have the name and address of your insurance company to complete a form, please link to <http://www.dir.ca.gov/DWC/EAMS/EAMS-LC/EAMSClaimsAdmins.asp>.

The information contained in this guide is general in nature and is not intended as a substitute for legal advice. Changes in the law or the specific facts of your case may result in legal interpretations different than those present here.

When sending documents to a district office, please make sure they are not folded or stapled. Send them in a large manila envelope. Please see the EAMS OCR forms handbook for further instructions.

WORKERS' COMPENSATION APPEALS BOARD DISTRICT OFFICES

ANAHEIM, 92806-2131

1065 N PacificCenter Drive, Suite 170
Information & Assistance Unit (714) 414-1800

BAKERSFIELD, 93301-1929

1800 30th Street, Suite 100
Information & Assistance Unit (661) 395-2514

EUREKA, 95501-0481 * Satellite office *

100 "H" Street, Suite 202
Information & Assistance Unit (707) 441-5723

FRESNO, 93721-2219

2550 Mariposa Street, Suite 4078
Information & Assistance Unit (559) 445-5355

LONG BEACH, 90802-4339

300 Oceangate Street, Suite 200
Information & Assistance Unit (562) 590-5240

LOS ANGELES, 90013-1105

320 W 4th Street, 9th Floor
Information & Assistance Unit (213) 576-7389

MARINA DEL REY, 90292-6902

4720 Lincoln Boulevard, 2nd and 3rd floors
Information & Assistance Unit (310) 482-3858

OAKLAND, 94612-1499

1515 Clay Street, 6th Floor
Information & Assistance Unit (510) 622-2861

OXNARD, 93030-7912

1901 N Rice Avenue, Suite 100
Information & Assistance Unit (805) 485-3528

POMONA, 91768-1653

732 Corporate Center Drive
Information & Assistance Unit (909) 623-8568

REDDING, 96002-0940

250 Hemsted Drive, 2nd Fl, Ste. B
Information & Assistance Unit (530) 225-2047

RIVERSIDE, 92501-3337

3737 Main Street, Suite 300
Information & Assistance Unit (951) 782-4347

SACRAMENTO, 95834-2962

160 Promenade Circle, Suite 300
Information & Assistance Unit (916) 928-3158

SALINAS, 93906-2204

1880 N Main Street, Suites 100 & 200
Information & Assistance (831) 443-3058

SAN BERNARDINO, 92401-1411

464 W Fourth Street, Suite 239
Information & Assistance Unit (909) 383-4522

SAN DIEGO, 92108-4424

7575 Metropolitan Drive, Suite 202
Information & Assistance Unit (619) 767-2082

SAN FRANCISCO, 94102-7014

455 Golden Gate Avenue, 2nd Floor
Information & Assistance Unit (415) 703-5020

SAN JOSE, 95113-1402

100 Paseo de San Antonio, Suite 241
Information & Assistance Unit (408) 277-1292

SAN LUIS OBISPO, 93401-8736

4740 Allene Way, Suite 100
Information & Assistance Unit (805) 596-4159

SANTA ANA, 92701-4070

605 W Santa Ana Boulevard, Bldg 28, Suite 451
Information & Assistance Unit (714) 558-4597

SANTA BARBARA, 93101-7538 * Satellite office *

130 E Ortega St.
Information & Assistance Unit (805) 568-1390

SANTA ROSA, 95404-4771

50 "D" Street, Suite 420
Information & Assistance Unit (707) 576-2452

STOCKTON, 95202-2314

31 E Channel Street, Suite 344
Information & Assistance Unit (209) 948-7980

VAN NUYS, 91401-3370

6150 Van Nuys Boulevard, Suite 105
Information & Assistance Unit (818) 901-5374

STATE OF CALIFORNIA
DWC DISTRICT OFFICE

DOCUMENT COVER SHEET



Is this a new case? Yes No Companion Cases Exist Walkthrough Yes No

More than 15 Companion Cases

Date:(MM/DD/YYYY)

SSN: _____

Specific Injury

Case Number 1 _____

Cumulative Injury (Start Date: MM/DD/YYYY) (End Date: MM/DD/YYYY)
(If Specific Injury, use the start date as the specific date of injury)

Body Part 1: _____

Body Part 3: _____

Body Part 2: _____

Body Part 4: _____

Other Body Parts: _____

Please check unit to be filed on (check only one box)

ADJ DEU SIF UEF INT RSU

Companion Cases

Specific Injury

Case Number 2 _____

Cumulative Injury (Start Date: MM/DD/YYYY) (End Date: MM/DD/YYYY)
(If Specific Injury, use the start date as the specific date of injury)

Body Part 1: _____

Body Part 3: _____

Body Part 2: _____

Body Part 4: _____

Other Body Parts: _____

Specific Injury

Case Number 3

Cumulative Injury

(Start Date: MM/DD/YYYY)

(End Date: MM/DD/YYYY)

(If Specific Injury, use the start date as the specific date of injury)

Body Part 1: _____

Body Part 3: _____

Body Part 2: _____

Body Part 4: _____

Other Body Parts: _____

Specific Injury

Case Number 4

Cumulative Injury

(Start Date: MM/DD/YYYY)

(End Date: MM/DD/YYYY)

(If Specific Injury, use the start date as the specific date of injury)

Body Part 1: _____

Body Part 3: _____



Body Part 2: _____

Body Part 4: _____

Other Body Parts: _____

Specific Injury

Case Number 5

Cumulative Injury

(Start Date: MM/DD/YYYY)

(End Date: MM/DD/YYYY)

(If Specific Injury, use the start date as the specific date of injury)

Body Part 1: _____

Body Part 3: _____

Body Part 2: _____

Body Part 4: _____

Other Body Parts: _____



Specific Injury

Case Number 6

Cumulative Injury

(Start Date: MM/DD/YYYY)

(End Date: MM/DD/YYYY)

(If Specific Injury, use the start date as the specific date of injury)

Body Part 1: _____

Body Part 3: _____

Body Part 2: _____

Body Part 4: _____

Other Body Parts: _____

Specific Injury

Case Number 7

Cumulative Injury

(Start Date: MM/DD/YYYY)

(End Date: MM/DD/YYYY)

(If Specific Injury, use the start date as the specific date of injury)

Body Part 1: _____

Body Part 3: _____

Body Part 2: _____

Body Part 4: _____

Other Body Parts: _____

Specific Injury

Case Number 8

Cumulative Injury

(Start Date: MM/DD/YYYY)

(End Date: MM/DD/YYYY)

(If Specific Injury, use the start date as the specific date of injury)

Body Part 1: _____

Body Part 3: _____

Body Part 2: _____

Body Part 4: _____

Other Body Parts: _____



Specific Injury

Case Number 9

Cumulative Injury

(Start Date: MM/DD/YYYY)

(End Date: MM/DD/YYYY)

(If Specific Injury, use the start date as the specific date of injury)

Body Part 1: _____

Body Part 3: _____

Body Part 2: _____

Body Part 4: _____

Other Body Parts: _____

Specific Injury

Case Number 10

Cumulative Injury

(Start Date: MM/DD/YYYY)

(End Date: MM/DD/YYYY)

(If Specific Injury, use the start date as the specific date of injury)

Body Part 1: _____

Body Part 3: _____

Body Part 2: _____

Body Part 4: _____



Other Body Parts: _____

Specific Injury

Case Number 11

Cumulative Injury

(Start Date: MM/DD/YYYY)

(End Date: MM/DD/YYYY)

(If Specific Injury, use the start date as the specific date of injury)

Body Part 1: _____

Body Part 3: _____

Body Part 2: _____

Body Part 4: _____

Other Body Parts: _____



Specific Injury

Case Number 12

Cumulative Injury

(Start Date: MM/DD/YYYY)

(End Date: MM/DD/YYYY)

(If Specific Injury, use the start date as the specific date of injury)

Body Part 1: _____

Body Part 3: _____

Body Part 2: _____

Body Part 4: _____

Other Body Parts: _____

Specific Injury

Case Number 13

Cumulative Injury

(Start Date: MM/DD/YYYY)

(End Date: MM/DD/YYYY)

(If Specific Injury, use the start date as the specific date of injury)

Body Part 1: _____

Body Part 3: _____



Body Part 2: _____

Body Part 4: _____

Other Body Parts: _____

Specific Injury

Case Number 14

Cumulative Injury

(Start Date: MM/DD/YYYY)

(End Date: MM/DD/YYYY)

(If Specific Injury, use the start date as the specific date of injury)

Body Part 1: _____

Body Part 3: _____

Body Part 2: _____

Body Part 4: _____

Other Body Parts: _____



Specific Injury

Case Number 15

Cumulative Injury

(Start Date: MM/DD/YYYY)

(End Date: MM/DD/YYYY)

(If Specific Injury, use the start date as the specific date of injury)

Body Part 1: _____

Body Part 3: _____

Body Part 2: _____

Body Part 4: _____

Other Body Parts: _____



Specific Injury

Case Number 16

Cumulative Injury

(Start Date: MM/DD/YYYY)

(End Date: MM/DD/YYYY)

(If Specific Injury, use the start date as the specific date of injury)

Body Part 1: _____

Body Part 3: _____

Body Part 2: _____

Body Part 4: _____

Other Body Parts: _____



District office codes for place of venue

| <i>Legend</i> | |
|---------------------|-----------------|
| Abbreviation | Office |
| AHM | Anaheim |
| ANA | Santa Ana |
| BAK | Bakersfield |
| EUR | Eureka |
| FRE | Fresno |
| GOL | Goleta |
| LAO | Los Angeles |
| LBO | Long Beach |
| MDR | Marina del Rey |
| OAK | Oakland |
| OXN | Oxnard |
| POM | Pomona |
| RDG | Redding |
| RIV | Riverside |
| SAC | Sacramento |
| SAL | Salinas |
| SBR | San Bernardino |
| SDO | San Diego |
| SFO | San Francisco |
| SJO | San Jose |
| SLO | San Luis Obispo |
| SRO | Santa Rosa |
| STK | Stockton |
| VNO | Van Nuys |

Use this document to complete forms, but do not file this document with your forms.

Body Part Code List

The body part codes listed below are used to complete forms that require the listing of the part of the body that is in issue. Please do not file this document with your forms.

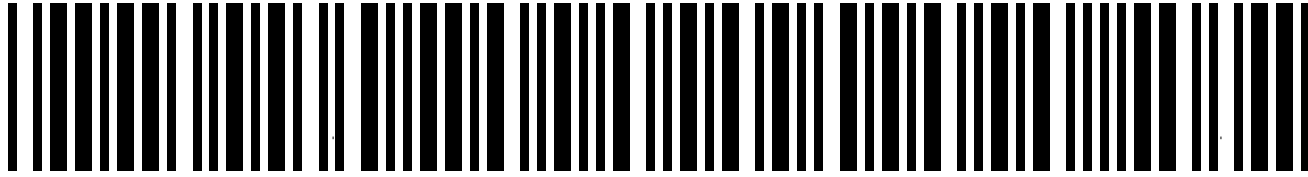
| | | | |
|-----|---|-----|---|
| 100 | Head - not specified | 500 | Lower extremities - not specified |
| 110 | Brain | 510 | Legs - above ankles, not specified |
| 120 | Ear - not specified | 511 | Thigh femur |
| 121 | Ear - external | 513 | Knee Patella |
| 124 | Ear - internal including hearing | 515 | Lower leg tibia and fibula |
| 130 | Eye - including optic nerves and vision | 518 | Leg - multiple parts any combination of above parts |
| 140 | Face - not specified | 519 | Leg - not specified |
| 141 | Jaw - including chin and mandible | 520 | Ankle malleolus |
| 144 | Mouth - including lips, tongue, throat and taste | 530 | Foot not ankle or toe |
| 145 | Teeth | 540 | Toes |
| 146 | Nose - including nasal passages, sinus and smell | 598 | Lower extremities - multiple parts any combination of above parts |
| 148 | Face - multiple parts any combination of above parts | 700 | Multiple parts more than five major parts use only in fifth position of listing of body parts |
| 149 | Face - forehead, cheeks, eyelids | 800 | Body system - not specific |
| 150 | Scalp | 801 | Circulatory system - heart -other than heart attack, blood, arteries, veins, etc. |
| 160 | Skull | 802 | Circulatory system - Heart attack |
| 198 | Head - multiple injury any combination of above parts | 810 | Digestive system - stomach |
| 200 | Neck | 820 | Excretory system - kidneys, bladder, intestines, etc |
| 300 | Upper extremities - not specified | 830 | Musculo-skeletal system - bones, joints, tendons, muscles, etc. |
| 310 | Arm - above wrist not specified | 840 | Nervous system - not specified |
| 311 | Arm - upper arm humerus | 841 | Nervous system - stress |
| 313 | Arm - elbow head of radius | 842 | Nervous system - Psychiatric/psych |
| 315 | Arm -forearm radius and ulna | 850 | Respiratory system - lungs, trachea, etc. |
| 318 | Arm - multiple parts any combination of above parts | 860 | Skin dermatitis, etc. |
| 319 | Arm - not specified | 870 | Reproductive systems |
| 320 | Wrist | 880 | Other body systems |
| 330 | Hand - not wrist or fingers | 999 | Unclassified - insufficient information to identify body parts |
| 340 | Fingers | | |
| 398 | Upper extremities - multiple parts any combination of above parts | | |
| 400 | Trunk - not specified | | |
| 410 | Abdomen - including internal organs and groin | | |
| 411 | Hernia | | |
| 420 | Back - including back muscles, spine and spinal cord | | |
| 430 | Chest - including ribs, breast bone and internal organs of the chest | | |
| 440 | Hips - including pelvis, pelvic organs, tailbone, coccyx and buttocks | | |
| 450 | Shoulders - scapula and clavicle | | |
| 498 | Trunk - use for side; multiple parts any combination of above parts | | |

Use this document to complete forms, but do not file this document with your forms.

STATE OF CALIFORNIA
DWC DISTRICT OFFICE

SAMPLE

DOCUMENT COVER SHEET



Is this a new case? Yes No Companion Cases Exist Walkthrough Yes No

More than 15 Companion Cases

TODAY'S DATE

Date:(MM/DD/YYYY)

SSN: **YOUR SOCIAL SECURITY NUMBER**

Specific Injury

EAMS CASE NUMBER

Case Number 1

DATE OF INJURY

Cumulative Injury

(Start Date: MM/DD/YYYY)

(End Date: MM/DD/YYYY)

(If Specific Injury, use the start date as the specific date of injury)

IF NEW CASE LEAVE BLANK

Body Part 1: _____

USE CODE FROM BODY PART CODE LIST, SEE PAGE 8

Body Part 3: _____

Body Part 2: _____

Body Part 4: _____

WHEN MORE THAN 5 BODY PARTS USE BODY PART NUMBER 700 IN THIS FIELD

Other Body Parts: _____

Please check unit to be filed on (check only one box)

ADJ DEU SIF UEF INT RSU

Companion Cases

Specific Injury

Case Number 2

Cumulative Injury

(Start Date: MM/DD/YYYY)

(End Date: MM/DD/YYYY)

(If Specific Injury, use the start date as the specific date of injury)

Body Part 1: _____

Body Part 3: _____

Body Part 2: _____

Body Part 4: _____

Other Body Parts: _____

DOCUMENT SEPARATOR SHEET



Product Delivery Unit

Document Type

Document Title

Document Date

MM/DD/YYYY

Author

Office Use Only

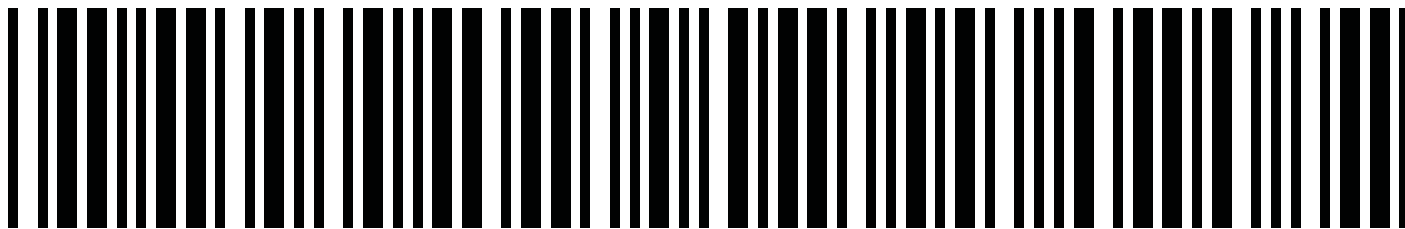
Received Date

MM/DD/YYYY



DOCUMENT SEPARATOR SHEET

SAMPLE



Product Delivery Unit

ADJ

Document Type

LEGAL DOCS

Document Title

PETITION FOR INCREASED BENEFITS FOR SERIOUS AND WILLFUL MISCONDUCT

Document Date

DATE YOU FILLED OUT THE FORM

MM/DD/YYYY

Author

YOUR NAME

Office Use Only

Received Date

MM/DD/YYYY

NAME:

STREET:

CITY, STATE, ZIP CODE:

TELEPHONE #:

**STATE OF CALIFORNIA
WORKERS' COMPENSATION APPEALS BOARD**

| | |
|-----|-------------|
| | Applicant, |
| vs. | |
| | Defendants. |

WCAB#:

PETITION FOR BENEFITS FOR SERIOUS
AND WILLFULL MISCONDUCT OF
EMPLOYER PURSUANT TO LABOR
CODE SECTION 4553

Sample

NAME: *your name*
STREET: *your address*
CITY, STATE, ZIP CODE:
TELEPHONE #: *your telephone number*

STATE OF CALIFORNIA WORKERS' COMPENSATION APPEALS BOARD

your name

Applicant,

vs.

your employer

Defendants.

WCAB#: *EAMS/CASE NUMBER*

PETITION FOR BENEFITS FOR SERIOUS
AND WILLFULL MISCONDUCT OF
EMPLOYER PURSUANT TO LABOR
CODE SECTION 4553

Explain in your own words why you feel you are entitled to these benefits

your signature

date mailed

VERIFICATION

STATE OF CALIFORNIA

County of _____

I, the undersigned, say that I am _____, a party to this action. I have read the foregoing Petition for Benefits for Serious and Willful Misconduct of Employer Pursuant to Labor Code Section 4553 and know the contents thereof, and that the same is true of my own knowledge, except as to the matters which are therein stated upon my information or belief, and as to those matters that I believe to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____ at _____, California.

Petitioner

April 2014

VERIFICATION

STATE OF CALIFORNIA

County of your county

I, the undersigned, say that I am your name , a party to this action. I have read the foregoing Petition for Benefits for Serious and Willful Misconduct of Employer Pursuant to Labor Code Section 4553 and know the contents thereof, and that the same is true of my own knowledge, except as to the matters which are therein stated upon my information or belief, and as to those matters that I believe to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date mailed at your city , California.

 your signature
Petitioner

DOCUMENT SEPARATOR SHEET



Product Delivery Unit

Document Type

Document Title

Document Date

MM/DD/YYYY

Author

Office Use Only

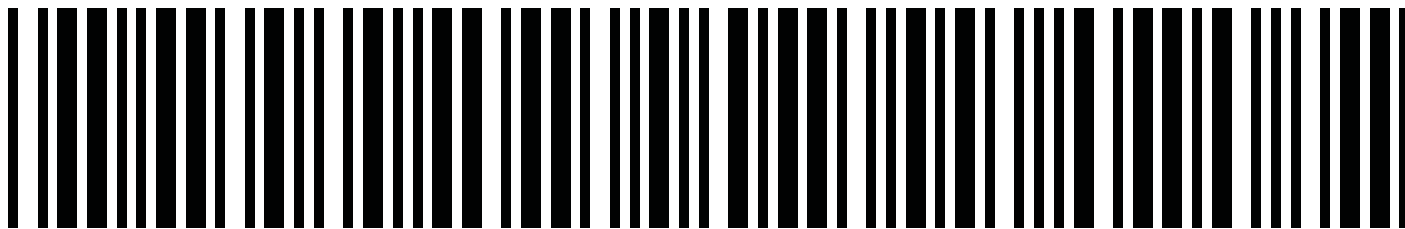
Received Date

MM/DD/YYYY



DOCUMENT SEPARATOR SHEET

SAMPLE



Product Delivery Unit

ADJ

Document Type

LEGAL DOCS

Document Title

PROOF OF SERVICE

Document Date

DATE YOU FILLED OUT THE FORM

MM/DD/YYYY

Author

YOUR NAME

Office Use Only

Received Date

MM/DD/YYYY

Proof Of Service By Mail

I declare that:

I am (resident of/employed in) the county of _____ California. I am over the age of eighteen years, my (business/residence) address is:

On _____, I served the attached _____ on the _____ in said case, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully paid, in the United State mail at

_____ addressed as follows _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on

(date) _____, at _____ California.

Type or print name _____

Signature _____

SAMPLE

Proof Of Service By Mail

I declare that:

I am (resident of/employed in) the county of YOUR COUNTY California. I am over the age of eighteen years, my (business/residence) address is:

PUT YOUR HOME ADDRESS HERE

On TODAY'S DATE, I served the attached NAME OF DOCUMENT on the

INSURANCE COMPANY

in said case, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully paid, in the United State mail at

CITY WHERE YOU MAILED THIS

addressed as follows

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on

(date) TODAY'S DATE, at CITY California.

Type or print name PRINT YOUR NAME

Signature SIGN YOUR NAME