

Filing A Notice of Appeal of a Labor Commissioner Decision

If an employee has a wage and hour dispute with his or her employer in California, the employee may file a claim with the California Department of Industrial Relations, Division of Labor Standards Enforcement. These matters are often settled or resolved without a hearing, or may be decided at an informal hearing. If the matter goes to hearing, the Labor Commissioner will issue an Order, Decision, or Award (ODA), which will be sent to each party.

Templates and Forms

- [Notice of Appeal \(DSLE-537\)](http://www.dir.ca.gov/dlse/DSLE-537.pdf) (<http://www.dir.ca.gov/dlse/DSLE-537.pdf>)
- [Civil Case Cover Sheet \(CM-010\)](https://www.courts.ca.gov/documents/cm010.pdf) (<https://www.courts.ca.gov/documents/cm010.pdf>)
- [Proof of Service by First Class Mail \(POS-030\)](https://www.courts.ca.gov/documents/pos030.pdf) (<https://www.courts.ca.gov/documents/pos030.pdf>)

A party disagreeing with the ODA may appeal this decision to the Superior Court. Unlike most appeals, where the court only reviews the evidence presented at the initial hearing and whether the applicable procedure was properly followed, the appeal of an ODA requests a new hearing in court. This new hearing is heard *de novo* (meaning “anew”), and the Superior Court considers nothing that took place at the prior Labor Commissioner hearing.

The appeal may be raised by either party; however, if the party raising the appeal is not successful, the court will assess and award costs and reasonably incurred attorney fees to the losing party. For purposes of this determination, an employee is considered successful if he or she is awarded any amount above \$0. California Labor Code § 98.2(c).

If an employer files the appeal, the employer must post a bond from a licensed surety, or deposit cash with the court in the amount awarded to the employee in the ODA. If the employer is found liable, and does not pay the employee within 10 days, the employee may claim the amount of the new award, up to the bond or deposit amount from the court.

If an employer files an appeal to the Superior Court, the Labor Commissioner may represent the employee at the hearing.

Step-by-Step Instructions

1 Complete the Required Forms

Instructions for completing the necessary forms are included at the end of this packet.

Important: The [Notice of Appeal \(DSLE-537\)](http://www.dir.ca.gov/dlse/DLSE-537.pdf) (<http://www.dir.ca.gov/dlse/DLSE-537.pdf>) cannot be filed without a copy of your ODA (Order, Decision, or Award). In Sacramento, you must also include a copy of the complaint and any answer filed with the Labor Commissioner.

2 Make Copies

Make four (4) copies of each:

- [Civil Case Cover Sheet \(CM-010\)](https://www.courts.ca.gov/documents/cm010.pdf) (<https://www.courts.ca.gov/documents/cm010.pdf>)
- [Notice of Appeal \(DSLE-537\)](http://www.dir.ca.gov/dlse/DLSE-537.pdf) (<http://www.dir.ca.gov/dlse/DLSE-537.pdf>) (with attached ODA, complaint, and answers, if any)

In the Sacramento County Superior Court, because documents are scanned into a computer, any multiple page original documents are left unstapled, while each copy is stapled. In courts that do not electronically scan, all are stapled, and the original is two-hole punched at the top of the page for insertion into a folder.

3 Have Your Documents Served

The person who is serving your [Notice of Appeal \(DSLE-537\)](http://www.dir.ca.gov/dlse/DLSE-537.pdf) (<http://www.dir.ca.gov/dlse/DLSE-537.pdf>) for you must complete a proof of service form, typically a [Proof of Service by First Class Mail \(POS-030\)](https://www.courts.ca.gov/documents/pos030.pdf).

(<https://www.courts.ca.gov/documents/pos030.pdf>) For more information, see our guide on [Serving Documents by Mail](http://www.saclaw.org/resource_library/serving-documents-by-mail/). (http://www.saclaw.org/resource_library/serving-documents-by-mail/)

The Proof of Service should be completely filled out, but not signed. **Make a copy of the unsigned Proof of Service before proceeding.**

The server must then mail a copy of the [Notice of Appeal \(DSLE-537\)](http://www.dir.ca.gov/dlse/DLSE-537.pdf) (<http://www.dir.ca.gov/dlse/DLSE-537.pdf>) (with attached ODA), [Civil Case Cover Sheet \(CM-010\)](https://www.courts.ca.gov/documents/cm010.pdf) (<https://www.courts.ca.gov/documents/cm010.pdf>), and an unsigned copy of the [Proof of Service by First Class Mail \(POS-030\)](https://www.courts.ca.gov/documents/pos030.pdf). (<https://www.courts.ca.gov/documents/pos030.pdf>)

Both the Labor Commissioner, at the address shown on the ODA, and the other party (or the other party's attorney, if represented), must be served.

The person doing the serving then signs the Proof of Service and gives it back to you.

4 File Your Documents

The Appeal Packet is filed in the drop box in Room 102 in the Sacramento Superior Court at 720 Ninth Street. Fill out and attach the [Civil Document Drop-Off Sheet](http://www.saccourt.ca.gov/forms/docs/cv-drop-off-sheet.pdf) (<http://www.saccourt.ca.gov/forms/docs/cv-drop-off-sheet.pdf>) and date stamp the back of the original packet. A supply of Civil Document Drop-Off Sheets and a date stamp machine are located near the drop box.

Following the instructions posted at the drop box, place the unstapled original document packet plus two (2) copies of the packet in the drop box, along with a check or money order for the filing fee. Provide the court with a self-addressed stamped envelope with sufficient postage to facilitate the return of your documents to you. The court will process the paperwork, and return the copies, stamped "Endorsed/Filed," to you. The court will retain the original papers for its file.

At the date of this Guide there is a \$435 filing fee, unless your fees were waived. [The current fee schedule](http://www.saccourt.ca.gov/fees/docs/fee-schedule.pdf) (<http://www.saccourt.ca.gov/fees/docs/fee-schedule.pdf>) is available on the Sacramento County Superior Court's website.

If you are the employer, you must deposit or post bond for the amount awarded on the ODA with the court. No bond is required for an employee.

The court will set and notify the parties and the labor commissioner of the new hearing.

Fee Waivers

If you qualify for a fee waiver, you may file a request with the court at the same time as filing your notice of appeal. For more information, see our [Fee Waiver Guide](https://www.saclaw.org/resource_library/fee-waiver/) (https://www.saclaw.org/resource_library/fee-waiver/) .

5 Attend the Hearings

The hearing will be held at the date, time, and department indicated on the notice of hearing sent by the court. The hearing will be informal, just like the prior hearing, but will be heard by a judge of the Superior Court. Nothing that took place at the prior hearing will be considered by the court. At the end of the hearing the court will issue a judgment that supersedes the prior ODA.

For More Information

In the Law Library:

Wage and Hour Manual for California Employers, KFC 575 .S55 2023

On the Web:

California Department of Industrial Relations

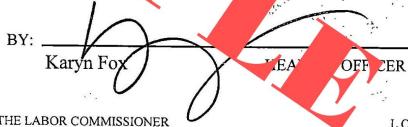
Policies and Procedures for Wage Claim Processing (<https://www.dir.ca.gov/dlse/Policies.htm>)

Samples

Notice of Appeal

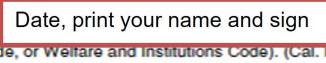
<p>Check the box for "Superior Court of the State of California" (the other two courts were eliminated after the creation of this form).</p> <p><input checked="" type="checkbox"/> SUPERIOR COURT OF THE STATE OF CALIFORNIA <input type="checkbox"/> MUNICIPAL COURT OF THE STATE OF CALIFORNIA <input type="checkbox"/> JUSTICE COURT OF THE STATE OF CALIFORNIA</p> <p>COUNTY OF <u>Sacramento</u></p> <p>JUDICIAL DISTRICT</p> <p>PLAINTIFF <u>Waldo Worker</u></p> <p>DEFENDANT <u>Edward Employer</u></p>		<p>FOR COURT USE ONLY</p>
<p>Write the name of the county in which you are filing.</p>		
<p>Write the name of the plaintiff in the Labor Commissioner case (typically the employee)</p>		
<p>Write the name of the defendant in the Labor Commissioner case (typically the employer)</p>		
<p>Write the case number from the Labor Commissioner case.</p>		
<p>Write the date of the ODA</p> <p>NOTICE OF APPEAL</p> <p>NOTICE OF APPEAL of the Order, Decision or award of the Labor Commissioner in State Case Number <u>14-01324</u>.</p> <p>Dated <u>9/19/2014</u> and served upon the undersigned appellant, <u>Edward Employer</u> Write your name</p> <p>on <u>9/22/2014</u> is given and filed pursuant to Labor Code Section 98.2.</p> <p>Appellant attached as Exhibit "A" a copy of the Order, Decision or Award appealed and requests that the Clerk of the Court set the cause for hearing before the above-entitled court, where it shall be heard <i>de novo</i> in accordance with Labor Code Section 98.2, and that the Clerk of the Court give Notice of time, date and place of the new trial to each of the following parties and the Labor Commissioner's office at the places listed below. Appellant certifies that a copy has been mailed to the Respondent, as shown below.</p>		
<p>Write the ODA was mailed to you (this date is on the ODA)</p>		
<p>APPELLANT (OR ATTORNEY) (NAME, ADDRESS, TELEPHONE NUMBER) <u>Edward Employer</u> <u>916-555-9876</u> Write your name, address, and telephone number.</p>		
<p>OFFICE OF THE LABOR COMMISSIONER (ADDRESS AND TELEPHONE NUMBER) STATE LABOR COMMISSIONER <u>2031 Howe Avenue, Suite 100</u> <u>916-555-1234</u> Write the address and phone number of the State Labor Commissioner.</p>		
<p>RESPONDENT (OR ATTORNEY) (NAME, ADDRESS, TELEPHONE NUMBER) <u>Waldo Worker</u> <u>916-555-1234</u> Write the other side's name, address, and telephone number.</p>		
<p>Dated <u>10/7/2014</u> _____ Signature of Appellant</p>		
<p>Date and sign</p>		
<p>State of California Department of Industrial Relations Division of Labor Standards Enforcement DLSE 537 (REV. 3/83) NOTICE OF APPEAL – English L.C. 88 85 35611</p>		
<p>Attach a copy of the ODA. In Sacramento, also attach a copy of the complaint and any answers filed in the Labor Commissioner case.</p>		

Notice of Appeal (DSLE-537)

LABOR COMMISSIONER, STATE OF CALIFORNIA		Plaintiff:	Defendant:
Department of Industrial Relations Division of Labor Standards Enforcement 100 Paseo de la Antonio, Ste. 120 San Jose, CA 95113 FAX(408) 277-9643		For Court	
Plaintiff:		Court	
Defendant:			
State Case Number		ORDER, DECISION OR AWARD OF THE LABOR COMMISSIONER	
<p>1. The above-entitled matter came on for hearing before the Labor Commissioner of the State of California as follows:</p> <p>DATE: <input type="checkbox"/> CONTINUED TO: _____</p> <p>CITY: _____</p> <p>2. IT IS ORDERED THAT:</p> <p>\$ _____ for wages (including lawful deductions) \$ _____ for liquidated damages pursuant to Labor Code Section 1194.2 \$ _____ Reimbursable business expenses \$ _____ for interest pursuant to Labor Code Section(s) 98.1(c), 1194.2 and/or 2802(b), \$ _____ for additional wages accrued pursuant to Labor Code Section 203 as a penalty and that same shall not be subject to payroll or other deductions. \$ _____ for penalties pursuant to Labor Code Section(s) _____ which shall not be subject to payroll or other deductions. \$ _____ other (specify): \$ _____ TOTAL AMOUNT OF AWARD</p> <p>3. The herein Order, Decision or Award is based upon the Findings of Fact, Legal Analysis and Conclusions attached hereto and incorporated herein by reference.</p> <p>4. The parties herein are notified and advised that this Order, Decision or Award of the Labor Commissioner shall become final and enforceable as a judgment in a court of law unless either or both parties exercise their right to appeal to an appropriate court* within ten (10) days of service of this document. Service of this document can be accomplished either by certified or class mail or by personal delivery and is effective upon mailing or at the time of personal delivery. If service on the parties is made by mail, the ten (10) day appeal period shall be extended by five (5) days. For parties served outside of California, the period of extension is longer (See Code of Civil Procedure Section 1015). In case of appeal, the necessary filing fee must be paid by the appellant and appellant must, immediately upon filing an appeal with the appropriate court, serve a copy of the appeal request upon the Labor Commissioner. If an appeal is filed by a corporation, a non-lawyer agent of the corporation may file the Notice of Appeal with the appropriate court, but the corporation must be represented in any subsequent appeal by an attorney, licensed to practice in the State of California. Labor Code Section 98.2(c) provides that if the party seeking review by filing an appeal to the court is unsuccessful in such appeal, the court shall determine the costs and reasonable attorney's fees incurred by the other party to the appeal and assess such amount as a cost upon the party filing the appeal. An employer is successful if the court awards an amount greater than zero.</p> <p>PLEASE TAKE NOTICE: Labor Code Section 98.2(b) requires that as an addition to filing an appeal of an Order, Decision or Award of the Labor Commissioner, the employer shall first post a bond or undertake with the court in the amount of the ODA; and the employer shall provide written notice to the other parties and the Labor Commissioner of the posting of the undertaking. Labor Code Section 98.2(b) also requires the undertaking contain other specific conditions or disclaimers under the bond. While this claim is before the Labor Commissioner, you are required to notify the Labor Commissioner of any changes in your business or personal address within 10 days after any change occurs.</p> <p>* Superior Court of California County of San Mateo UNLIMITED COURT CASE 400 County Center First Floor, Room A Redwood City, CA 94063</p> <p>LABOR COMMISSIONER, STATE OF CALIFORNIA</p> <p>BY:  Karyn Fox HEARINGS OFFICER</p> <p>DATED: _____ DLSE 535 (Rev. 1/12)</p> <p>ORDER, DECISION OR AWARD OF THE LABOR COMMISSIONER</p> <p>L.C. 98</p>			

Sample Order, Decision or Award (DLSE 535)

Civil Case Cover Sheet

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address) Edward Employer 123 Any Street Sacramento, CA 95814		CM-010 FOR COURT USE ONLY
TELEPHONE NO.: 916-555-9876 FAX NO.: _____		
ATTORNEY FOR (Name): In Pro Per		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Sacramento STREET ADDRESS: 720 Ninth Street MAILING ADDRESS: 720 Ninth Street CITY AND ZIP CODE: Sacramento, CA 95814 BRANCH NAME: Civil		
CASE NAME: Worker v. Employer		
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited <input type="checkbox"/> Limited (Amount demanded exceeds \$25,000 or less) (Amount demanded is \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	CASE NUMBER: _____ JUDGE: _____ DEPT.: _____
<i>Items 1-6 below must be completed (see instructions on page 2).</i>		
1. Check one box below for the case type that best describes this case:		
Contract <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)		
Case type is Unlimited, and description is "Other judicial review"		
Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)		
2. This case <input type="checkbox"/> is <input checked="" type="checkbox"/> is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management.		
a. <input type="checkbox"/> Large number of separately represented parties d. <input type="checkbox"/> Large number of parties in other cases b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. <input type="checkbox"/> Coordinated cases c. <input type="checkbox"/> Substantial amount of documentary evidence f. <input type="checkbox"/> Constantly changing parties		
3. Remedies sought (check all that apply): a. <input type="checkbox"/> monetary b. <input checked="" type="checkbox"/> nonmonetary		
4. Number of causes of action (specify): 1		
5. This case <input type="checkbox"/> is <input checked="" type="checkbox"/> is not a class action suit.		
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)		
Date: 10/7/2014		
Edward Employer  (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)		
Date, print your name and sign  (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.		
• Plaintiff must file this cover sheet with the court (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions. • File this cover sheet in addition to any cover sheet required by local court rule. • If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding. • Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.		
<small>Form Adopted for Mandatory Use Judicial Council of California CM-010 [Rev. July 1, 2007]</small>		CIVIL CASE COVER SHEET <small>Cal. Rules of Court, rules 2.30, 3.220, 3.400-3.403, 3.740; Cal. Standards of Judicial Administration, std. 3.10; www.courtinfo.ca.gov</small>

Civil Case Cover Sheet (CM-010)

(<http://www.dir.ca.gov/dlse/DLSE-537.pdf>)

