
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.

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.

The forms needed to request a hearing *de novo* of a Labor Commissioner ODA are:

- [Civil Case Cover Sheet \(CM-010\)](http://www.courts.ca.gov/documents/cm010.pdf) (<http://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>)

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](https://www.saclaw.org/resource_library/serving-documents-by-mail/). (https://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 of 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 \(https://www.dir.ca.gov/dlse/Policies.htm\)](https://www.dir.ca.gov/dlse/Policies.htm)

Samples

Notice of Appeal

Check the box for "Superior Court of the State of California" (the other two courts were eliminated after the creation of this form).

FOR COURT USE ONLY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
 MUNICIPAL COURT OF THE STATE OF CALIFORNIA
 JUSTICE COURT OF THE STATE OF CALIFORNIA

Write the name of the county in which you are filing.

COUNTY OF Sacramento

Write the name of the plaintiff in the Labor Commissioner case (typically the employee)

PLAINTIFF Waldo Worker

Write the name of the defendant in the Labor Commissioner case (typically the employer)

DEFENDANT Edward Employer

Write the case number from the Labor Commissioner case.

NOTICE OF APPEAL

Write the date of the ODA

NOTICE OF APPEAL of the Order, Decision or award of the Labor Commissioner in State Case Number 14-01324

Dated 9/19/2014 and served upon the undersigned appellant, Edward Employer Write your name

on 9/22/2014 is given and filed pursuant to Labor Code Section 98.2.

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 de novo 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 and a copy has been mailed to the Respondent, as shown below.

Write the ODA was mailed to you (this date is on the ODA)

APPELLANT (OR ATTORNEY) (NAME, ADDRESS, TELEPHONE NUMBER):
Edward Employer 916-555-9876
123 Any Street
Sacramento, CA 95814

Write your name, address, and telephone number.

OFFICE OF THE LABOR COMMISSIONER (ADDRESS AND TELEPHONE NUMBER):
 STATE LABOR COMMISSIONER
2031 Howe Avenue, Suite 100
Sacramento, CA 95825

Write the address and phone number of the State Labor Commissioner.

RESPONDENT (OR ATTORNEY) (NAME, ADDRESS, TELEPHONE NUMBER):
Waldo Worker 916-555-1234
321 Another Street
Sacramento, CA 95815

Write the other side's name, address, and telephone number.

Dated 10/7/2014

Signature of Appellant

Date and sign

State of California
 Department of Industrial Relations
 Division of Labor Standards Enforcement
 DLSSE 537 (REV. 3/93) NOTICE OF APPEAL - English L.C. 98
 85 35611

Attach a copy of the ODA. In Sacramento, also attach a copy of the complaint and any answers filed in the Labor Commissioner case.

Notice of Appeal (DSLE-537)

LABOR COMMISSIONER, STATE OF CALIFORNIA Department of Industrial Relations Division of Labor Standards Enforcement 100 Paseo de Antonio, Ste. 120 San Jose, CA 95131 FAX(408) 277-9643	For Cause Court
Plaintiff:	Defendant:
State Case Number	ORDER, DECISION OR AWARD OF THE LABOR COMMISSIONER

1. The above-entitled matter came on for hearing before the Labor Commissioner of the State of California as follows:
DATE: _____ CONTINUED TO: _____
CITY: _____

2. IT IS ORDERED THAT:


\$ _____ for wages (with lawful deductions)
 \$ _____ for liquidated damages pursuant to Labor Code Section 1194.2
 \$ _____ Reimbursable business expenses
 \$ _____ for interest pursuant to Labor Code Sections 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 203 which shall not be subject to payroll or other deductions.
 \$ _____ other (specify): _____
\$ _____ TOTAL AMOUNT OF AWARD

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.

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 the appropriate court* within ten (10) days of service of this document. Service of this document can be accomplished either by first 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 1013). 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 employee is successful if the court awards an amount greater than zero.

PLEASE TAKE NOTICE: Labor Code Section 98.2(b) requires that as a condition to filing an appeal of an Order, Decision or Award of the Labor Commissioner, the employer shall first post a bond or undertaking 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 for dissolution 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.

* Superior court of California county of san mateo
 UNLIMITED COURT CASE
 400 County Center First Floor, Room A
 Redwood City, CA 94063

LABOR COMMISSIONER, STATE OF CALIFORNIA
 BY: 
 Karyn Fox, DEPUTY CHIEF OFFICER

DATED: _____
 DLSE 535 (Rev. 1/12) ORDER, DECISION OR AWARD OF THE LABOR COMMISSIONER L.C. 98

Sample Order, Decision or Award (DLSE 535)

Civil Case Cover Sheet

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): **Edward Employer**
123 Any Street
Sacramento, CA 95814

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
 Unlimited (Amount demanded exceeds \$25,000) **Limited** (Amount demanded is \$25,000 or less)

Complex Case Designation
 Counter **Joinder**
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER:
JUDGE:
DEPT.:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort
 Auto (22)
 Uninsured motorist (46)

Other P/IPD/WD (Personal Injury/Property Damage/Wrongful Death) Tort
 Asbestos (04)
 Product liability (24)
 Medical malpractice (45)
 Other P/IPD/WD (23)

Non-P/IPD/WD (Other) Tort
 Business tort/unfair business practice (07)
 Civil rights (08)
 Detamation (13)
 Fraud (16)
 Intellectual property (19)
 Professional negligence (25)
 Other non-P/IPD/WD tort (35)

Employment
 Wrongful termination (36)
 Other employment (15)

Real Property
 Eminent domain/inverse condemnation (34)
 Wrongful eviction (33)
 Other real property (26)

Unlawful Detainer
 Commercial (31)
 Residential (32)
 Drugs (38)

Judicial Review
 Assault/torture (05)
 Petition re: arbitration award (11)
 Writ of mandate (02)
 Other judicial review (39)

Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)
 Antitrust/Trade regulation (03)
 Construction defect (10)
 Mass tort (40)
 Securities litigation (28)
 Environmental/Toxic tort (30)
 Insurance coverage claims arising from the above listed provisionally complex case types (41)

Enforcement of Judgment
 Enforcement of judgment (20)

Miscellaneous Civil Complaint
 RICO (27)
 Other complaint (not specified above) (42)

Miscellaneous Civil Petition
 Partnership and corporate governance (21)
 Other petition (not specified above) (43)

2. This case is 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. Large number of separately represented parties d. Large number of causes of action
b. Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. Conflicting interests in other courts
c. Substantial amount of documentary evidence f. Substantive issues
3. Remedies sought (check all that apply): a. monetary b. nonmonetary
4. Number of causes of action (specify): 1
5. This case is 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 (TYPE OR PRINT NAME) (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.

- 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.

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Form Adopted for Mandatory Use by the Judicial Council of California
CM-010 (Rev. July 1, 2007)

ESSENTIAL FORMS™

CIVIL CASE COVER SHEET

Cal. Rules of Court, rules 2.36, 3.070, 3.400-3.403, 3.740; Cal. Standards of Judicial Administration, std. 3.10; www.courtinfo.ca.gov

Civil Case Cover Sheet (CM-010)

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

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